The Origins and Purpose of the Wagner Act in Light of the Current Economic Crisis:

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The National Labor Relations Act (NLRA, or Wagner Act) was enacted in July, 1935, in the midst of the Great Depression. The timing is not coincidental for the Great Depression helped create the massive labor problems that gave impetus to the Wagner Act and also forged a critical mass of political and public support in favor of state-encouraged collective bargaining. Had the Great Depression not happened, or had it stopped short at a modest-sized recession, the Wagner Act would have never progressed beyond a talking point in progressive/left-wing circles.

Reflecting on these events and connections is interesting and worthwhile for its own sake. But taking a fresh look at the origins of the Wagner Act is also apropos in light of current events. I particularly have in mind the economic crisis (incipient depression?) that has been underway since late 2007 and the new legislation before Congress – the Employee Free Choice Act (EFCA) – that seeks once again to make it easier for workers to form unions and engage in collective bargaining. One is naturally led to ask: Could lightning strike twice? History suggests this answer.

Unions: The Orthodox View

There is a well-known joke in economics that goes:

Q: How many economists does it take to change a light bulb?

A: None. The free market will take care of it.

This parody accurately captures the core doctrine of orthodox economics and explains in a nutshell why the very large majority of economists and like-minded legislators and citizens oppose unions, collective bargaining and legislation such as the NLRA and EFCA. These economists model the labor market as akin to a competitive (auction) commodity market where demand, supply and the Invisible Hand determine the level of wages, employment and working conditions. Perhaps the crowning lesson of standard microeconomics is the First Fundamental Welfare Theorem which states that a competitive free market economy leads to the most efficient (Pareto optimal) utilization of resources.

This theorem has several important implications for policy regarding employees, unions and the labor market. First, free labor markets allocate and price labor resources efficiently (implying wages and employment are "optimal"). Second, free markets through flexible wage adjustments bring about full employment (obviating involuntary unemployment and the need for government intervention). Third, free markets protect employees from exploitation because competition prevents firms from underpaying (or overworking) people and employees can always escape bad conditions by quitting (obviating the need for unions and labor laws). Fourth, free markets lead to fair and just wages and conditions since workers are paid their contribution to production (called "marginal productivity justice"). Fifth and finally, unions in this situation harm economic efficiency, flexibility, and fairness by imposing monopoly-like wage gains, restrictive work rules, discriminatory membership conditions, and strikes. In the orthodox view, unions are essentially a monopolistic-like special interest group that imposes a large and destructive "tax" on consumers, firms and society as they redistribute wealth to a relatively small part of the workforce.

This view of unions predominated in the 1920s, much as it does today among mainstream economists. The union movement in that period (mostly craft unions of white men) was widely seen as monopolistic, discriminatory, boss-ridden, corrupt, and increasingly irrelevant in an age of mass production. Union density had slowly fallen during the 1920s to a level of about ten percent at the end of the decade and then fell further with the mass layoffs of the depression. Academics were predicting the demise of trade unions and public support for unions was tepid-to-hostile. The idea that public policy in the form of a NLRA-type bill should encourage and protect union-joining and widespread collective bargaining had little following in the early 1930s.

The Wagner Act as Heterodox Economics

By the mid-1930s the scene changed radically. Spontaneous strikes and union organizing drives were breaking out in the thousands; public perception of business turned highly critical while support for unions staged an amazing rebound; and in July 1935 the worst nightmare of employers came true – Congress enacted and President Roosevelt signed into law the NLRA. Within a few short years, one-third of the workforce and many key industries and business firms were unionized.

What happened? A full answer requires many pages and coverage of disparate events; the simple answer, however, is that Americans were sold on the idea that unions and collective bargaining would help end the Great Depression. The idea that unions are a useful device for restoring full-employment is so heterodox today that it is not even discussed let alone given credence among mainstream economists. Senator Wagner, institutional economists, and other

progressives made this pitch, however, and in the context of the mid-1930s they found a receptive audience.

The heterodox case for unions and the Wagner Act has several parts. First, the Invisible Hand story and First Fundamental Welfare theorem assume the economy is highly competitive and that flexible prices are capable to bringing about a demand/supply equilibrium (also known as "Say's Law"). The heterodox thinkers of the 1930s denied both propositions; that is, they argued the economy is riddled with monopolistic elements on the business side and that cutting wages as a way to cure unemployment only makes job losses grow. An economy, therefore, is not self-regulating and can get stuck in a vicious downward spiral (called "destructive competition"). Second, they argued that the cause of the depression was a shortfall of aggregate demand caused by a growing mal-distribution of income as profits and stock market returns far outpaced wage growth during the 1920s, leading to over-production and an ultimately a collapse. The solution to the depression, therefore, was to expand wages, paychecks, and household income and spending. Third, the reason wage growth during the 1920s lagged behind was because labor suffered an *inequality of bargaining power* – that is, the individual worker is no match for General Motors, leading to low wages and conditions. With the advent of mass unemployment in the 1930s, worker bargaining power became non-existent and wages and conditions raced to the bottom. Fourth, and finally, the view was that workers are not commodities but human beings and they deserve democratic voice, due process and fair treatment at work ("industrial democracy") and free markets do not provide these basic human rights.

Instead of a form of labor market monopoly, the heterodox economic theory of the 1930s portrayed unions as a valuable way to level the playing field, offset high monopolistic business

prices, bring democracy to industry, and – most importantly – raise wages, improve working conditions and gain protection from unfair dismissal so workers have bigger paychecks and more stable and satisfying jobs. Higher wages and stable, satisfying jobs, in turn, lead to a virtuous spiral of larger family incomes, more spending, more production, and more jobs until full employment is restored.

Lessons and Implications for Today

The passage of the Wagner Act was based on these heterodox economic principles and could not have succeeded without them. Over the next seven decades, however, this New Deal rationale for unions and the NLRA greatly receded. One reason is that a year after the Wagner Act was signed economist John M. Keynes published his masterpiece, *The General Theory of Employment, Interest and Money* (1936). It convinced economists and policymakers that they have an alternative, simpler and more efficient way to restore aggregate demand and end depressions – the use of expansive fiscal and monetary policies (e.g., more infrastructure spending, tax cuts, and lower interest rates). A second reason is that the experience with widespread unionism after World War II convinced many people that the orthodox story has a large element of truth – that is, unions *are* labor market monopolies that lead to wage inflation, production inefficiency, and numerous strikes. Hence, the 1980s-1990s seemed to replay the 1920s – small and declining union density, falling public support for unions, along with rising income inequality and stagnating wages.

Will EFCA be enacted into law? Will unions mount a major come-back? Can lightning strike twice?

This historical review of the Wager Act suggests the answer depends on three key factors. First, the public has to become convinced that the worsening income inequality and wage stagnation of recent years is an important cause of the current crisis. Second, the public also has to become convinced that other methods to raise wages and stimulate spending, such as traditional Keynesian fiscal and monetary policies, have failed or are inadequate. And, third, there also needs to be a labor-friendly voice in the White House, such as Franklin Roosevelt in the 1930s, who will encourage passage and then sign pro-union legislation.

Until mid-2008 all three conditions registered a clear "No" among the majority of voters; since then all three have to some modest and wobbly degree shifted in the direction of Yes. My judgment is that the shift in public attitudes and political power has not nearly gone far enough to get EFCA enacted. But mirroring the events of the 1930s, if the current economic crisis continues to deepen and persist, if the Obama administration in Washington sees political capital to be made in a more labor-friendly agenda, and if the plug can somehow be pulled on Fox News and Republican obstructionism, then history suggests EFCA and a union rebound become more likely.