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Cover Page Footnote

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The History Books Tell It? Collective Bargaining in Higher Education in the 1940s

William A. Herbert¹

Introduction

There is a common misconception that the history of unionization and collective bargaining in higher education began only after the enactment of public sector collective bargaining laws in the 1960s, and the 1970 National Labor Relations Board (NLRB) decision² to begin asserting jurisdiction over private non-profit higher education institutions.³ As Timothy R. Cain has demonstrated, however, faculty unionization in higher education dates back to the turn of the 20th century,⁴ with collective bargaining beginning in the 1940s.

This article presents a history relating to collective bargaining in higher education during and just after World War II. The history demonstrates the differences in how higher education institutions responded to assertions of associational rights and collective bargaining.

The article begins with an examination of collective bargaining concerning non-academic employees in the 1940s including the collective bargaining program instituted at the University of Illinois in 1945, and places that program in the context of the early history of public sector collective bargaining. The article presents other examples of institutional acceptance of and

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² *Cornell University*, 183 NLRB 329 (1970).

³ DeCew, J. W. (2003). *Unionization in the academy: Visions and realities*. pp. 3-5. New York: Rowman & Littlefield Publishers; Ladd, E. C. and Lipset, S. M. (1973). *Professors, unions, and American higher education*. pp 1-5. Carnegie Commission on Higher Education.

⁴ Cain, T. R. (2010) The first attempts to unionize the faculty. *Teachers College Record*, 112(3), 876-913.

resistance to collective bargaining for staff at other institutions in the 1940s. Lastly, the article explores the role of the little-remembered United Public Workers of America (UPWA) and its predecessor unions in the birth of faculty collective bargaining, prior to UPWA's destruction during the domestic Cold War.

The period chosen for study is not intended to diminish the importance of the legal changes of the 1960s and 1970s. Those changes created enforceable statutory protections against anti-union retaliation, procedures for resolving issues of representation, and a mandate for collective bargaining with a certified or recognized union. The granting of *de jure* rights set off a massive expansion of organizing and collective bargaining on campuses, and confirms the centrality of labor law in shaping and influencing the strategies and tactics of faculty, staff, unions, and employers. The interrelationship between law and labor strategies in other industries has been demonstrated elsewhere.⁵

Freedom of association is a central element of workplace democracy, a concept that dates to the Progressive Era and the New Deal.⁶ During the presidency of Woodrow Wilson, a 1915 report by the United States Commission on Industrial Relations declared that “[p]olitical freedom can exist only where there is industrial freedom; political democracy only where there is industrial democracy.”⁷ As historian Nelson Lichtenstein has explained, industrial or workplace democracy is “predicated upon a thoroughly republican sense of democratic governance.”⁸ Shared governance in the academy is one form of workplace democracy, distinct in history and form from collective bargaining.⁹ Abraham Edel’s phrase “academic democracy” highlights the relationship between shared governance and democracy for academic labor.¹⁰ Academic democracy can be extended through the mechanism of collective bargaining.

⁵ Tomlins, C. L. (1985). *The state and the unions: Labor relations, law, and the organized labor movement*. Cambridge, UK: Cambridge University Press; Forbath, W. E. (1991). *Law and the shaping of the American labor movement*. Cambridge, MA: Harvard University Press.

⁶ McCartin, J. A. (1997). *Labor’s great war: The struggle for industrial democracy and the origins of modern American labor relations, 1912-1921*. Chapel Hill: University of North Carolina Press; Lichtenstein, N. (2003). *State of the union: A century of American labor*. Princeton, NJ: Princeton University Press.

⁷ Quoted in: McCartin. *Labor’s Great War*. p 12.

⁸ Lichtenstein. *State of the Union*. p. 32.

⁹ Gerber, L. G. (2014). *The rise and decline of faculty governance: Professionalization and the modern American university*. Baltimore, MD: Johns Hopkins University Press.

¹⁰ Edel, A. (1990). *The struggle for academic democracy: Lessons from the 1938 “revolution” in New York’s City Colleges*. p 163. Philadelphia: Temple University Press. “Such historical evidence suggests that there is no inherent conflict between democratic governance and collective bargaining by unions. Where general staff agreement exists on a specific policy, unity and mutual support are almost automatic. If there is disagreement, it is not on the principle of governance mechanisms but on specific policy, just as there may be disagreement between different points of view within a governing senate.”

The different institutional approaches described in this article underscores an essential point: colleges and universities have genuine choices with respect to unionization and collective bargaining, and the choices they make reflect their values.¹¹ Values are also on display in the choices made by unions, faculty, and staff concerning whether and how to organize, the issues they consider primary, and their approach to unit composition.

When an institution voluntarily recognizes a union after a showing of majority support from its employees, abstains from litigation to defeat or delay a unionization effort, or remains neutral during a representation election, it is demonstrating strong respect for the right of employee self-organization on campus. In contrast, institutional expenditure of time and resources to deprive individuals of union representation or to defeat a unionization effort reflects very different values. They indicate a desire to maximize control, dominance, and unilateral authority that outweighs any concern for democratic rights in the workplace.

Non-Academic Employee Collective Bargaining

University of Illinois: An Early Programmatic Embrace of Collective Bargaining

An important early example of voluntary institutional embrace of workplace democracy on campus was the creation of a collective bargaining program by the University of Illinois in 1945 for over 2,000 non-academic employees. It was adopted by the university's elected Board of Trustees, which was controlled by a Republican majority. Board President Park Livingston was an attorney for a dairy company. Other members of the Board majority were Chicago Title and Trust Vice-President Chester R. Davis, First National Bank farm manager Frank H. McKelvey, and St. Elizabeth Hospital chief of staff Dr. Martin G. Luken.¹² The collective bargaining program was adopted decades before similar rights were granted to other Illinois public employees.¹³

The university's collective bargaining program was an outgrowth of union activity by non-academic employees, along with a 1942 report by a business consulting firm, which found deficiencies and recommended changes in the university's business practices.¹⁴ The Board of

¹¹ Gross, J. (2012). *A shameful business: The case for human rights in the American workplace*. Ithaca, NY: ILR Press.

¹² Walker, W. (1942, October 21). Republicans see chance to win board at U. of I. *Chicago Tribune*, p. 7; Park Livingston made president of u. of i. board. (1943, March 21). *Chicago Tribune*, p. 34.

¹³ Glink, M. J. (1979, December). Issues in school labor relations. *Chicago-Kent Law Review*, 55(3), 629.

¹⁴ U. of I. board makes changes. (1943, September 5). *Decatur Herald*, p. 6.

Trustees had approved the hiring of the firm in December 1941 to conduct a survey of the university's business operations.¹⁵

After the consultant's report was presented to the university, Illinois Attorney General George F. Barrett, a Republican, charged that the report was being suppressed by University President Arthur C. Willard at the behest of the Democratic political machine. In response to Barrett's allegation, President Willard stated he was studying it and was preparing recommendations for the Board of Trustees.¹⁶

The consultant's report was critical of university personnel policies and practices toward academic and non-academic employees.¹⁷ It found that the university had "a serious labor relations problem" with non-academic staff reflected in ongoing unionization efforts, and recommended the creation of a business manager position to handle non-academic labor relations.¹⁸ The report treated faculty working conditions separately, emphasizing the need for performance standards, with salary increases, promotions, honors, and recognition being based on merit rather than seniority.¹⁹ It also recommended the creation of a new position, Vice President of Education and Research, to supervise the selection and promotion of faculty.²⁰

President Willard disagreed with many parts of the report including its criticisms of university employment policies and the consultants' suggestions concerning labor relations.²¹ In his responsive recommendations to the Board of Trustees, President Willard stated that on-campus unionization is "not a surprising trend in view of the policy of the Federal Government"

¹⁵ Minutes. (1941, December 16). Meeting of the Board of Trustees of the University of Illinois. pp. 726-727. University of Illinois Archives, available <http://www.trustees.uillinois.edu/trustees/minutes/1941/1941-12-16-uibot.pdf>.

¹⁶ Barrett Makes New Attack on U. of I. Trustees (1942, September 17). *Chicago Tribune*, p. 20. Attorney General Barrett had previously alleged that the political machine was dominating university operations. Those allegations were ultimately rejected in an investigatory report by the American Council of Education. Report Clears University of 'Political' Count. (1943, January 24). *Decatur Herald*, p. 12.

¹⁷ Booz, Fry, Allen, & Hamilton. Report. Survey of business administration and organization, University of Illinois. RS 0209806, Box 1, University of Illinois Archives (hereinafter "Survey and Report"); Minutes. (1942, November 27). Meeting of the Board of Trustees of the University of Illinois, pp. 178-187. University of Illinois Archives, available at <http://www.trustees.uillinois.edu/trustees/minutes/1942/1942-11-27-uibot.pdf>.

¹⁸ Survey and Report, 65, 192; Minutes. (1942, November 27). Meeting of the Board of Trustees of the University of Illinois, pp. 178-187. University of Illinois Archives, available at <http://www.trustees.uillinois.edu/trustees/minutes/1942/1942-11-27-uibot.pdf>.

¹⁹ Survey and Report, 177-178.

²⁰ Survey and Report, 179.

²¹ Willard, A. C. Review and analysis of this survey together with recommendations by the president of the University of Illinois. pp. 161, 168-169. RS 0209806, Box 1, University of Illinois Archives (hereinafter "Willard Recommendations").

toward labor rights. He emphasized that “[t]he University, obviously, could not refuse the right of employees to organize when they so desire” and that the university has a firm and reasonable policy with respect to unionized labor.²²

Willard described the report’s proposed performance standards for faculty as “naïve,” and he recommended continuation of the university’s “progressive policies of appraising research distinction and teaching excellence according to standards necessarily unique to institutions of higher learning.”²³ He also rejected the idea of a new administrative position to supervise faculty selection.²⁴ On November 27, 1942, the Board of Trustees adopted a resolution approving Willard’s recommendations, and directed continued research into improving the efficiency of university operations.²⁵

After a Republican majority was elected to the Board of Trustees, and Park Livingston became Board President, the Board created a special administrative committee in 1944 to reexamine the workplace policies and practices toward non-academic staff. The committee was chaired by University Comptroller Lloyd Morey and it included the Director of Non-Academic Personnel, the Director of the Physical Plant, and a professor who had previously chaired the University Civil Service Committee.²⁶ After soliciting suggestions for workplace policy changes from various sources, including representatives from the Twin City Federation of Labor, the administrative committee formulated a proposed university collective bargaining program.

University Comptroller Morey played a leading role in developing the proposed collective bargaining program after purportedly “becoming liberal in his labor policy” in reaction to the 1942 report.²⁷ Morey was an experienced certified public accountant with broad knowledge of fiscal affairs.²⁸ His leadership role in creating a collective bargaining program contradicts a common stereotype of administrators with fiscal responsibilities.

²² Willard Recommendations, pp. 169, 177.

²³ Willard Recommendations, p. 162.

²⁴ Willard Recommendations, p. 162.

²⁵ Minutes. (1942, November 27). Meeting of the Board of Trustees of the University of Illinois, pp. 178-187. University of Illinois Archives, available at <http://www.trustees.uillinois.edu/trustees/minutes/1942/1942-11-27-uibot.pdf>; U. of I. trustees back Willard on Booz report. (1942, November 28). *Chicago Tribune*, p. 13.

²⁶ Minutes. (1945, June 30). Meeting of the Board of Trustees of the University of Illinois. p. 506. University of Illinois Archives, available at <http://www.trustees.uillinois.edu/trustees/minutes/1945/1945-06-30-uibot.pdf>; University of Illinois Policy and Rules Relating to Compensation and Working Conditions of Nonacademic Employees, Effective July 1, 1945. RS 0501001, Box 7, University of Illinois Archives, (hereinafter “UI Policy and Rules”).

²⁷ Griffith, C. R. Letter. (1945, February 2). Letter to University of Minnesota Vice President of Academic Administration Malcolm M. Willey. RS 0501001, Box 1, University of Illinois Archives.

²⁸ Morey, L. (1932). Accounting procedures for universities and colleges. *Accounting Review*, 7 (1).

The draft program, which included binding grievance arbitration for non-academic employees, was circulated for comment to university administrators and labor representatives. The proposed program was opposed by University Provost Coleman R. Griffith, who had received a letter from a University of Minnesota administrator describing that institution's opposition to a similar program. Not surprisingly, Illinois labor representatives strongly supported the adoption of the UI collective bargaining system, which included exclusive representation based upon majority status.²⁹

On June 30, 1945, the Board of Trustees adopted a new Policy and Rules Relating to Compensation and Working Conditions of Nonacademic Employees (hereinafter "UI Policy and Rules"), which became effective July 1, 1945.³⁰ The collective bargain program was a precursor of the modern-day collective bargaining system maintained by the Nevada System of Higher Education Board of Regents for faculty and other professional employees.³¹ Both programs were adopted by university systems without a state or federal statutory mandate.

The stated purposes of the UI Policy and Rules were to ensure harmonious labor-management relations, "to have happy industrious employees who will give courteous, efficient service," and to provide a means for establishing workplace terms and conditions comparable to the private sector.³² Upon its approval, Board President Livingston stated that the program constituted the first time that a large university had explicitly embraced collective bargaining.³³ The UI Policy and Rules deserves close attention because it was the most explicit early systematic institutional acceptance of collective bargaining in higher education.

The UI Policy and Rules created a detailed program for union representation and collective bargaining for most university non-academic staff. It called for voluntary recognition and negotiations with unions that demonstrated majority support, as well as negotiations with

²⁹ Willey, M. M. Letter. (1945, January 30). Letter to University of Illinois Provost Coleman R. Griffith. RS 0501001, Box 1, University of Illinois Archives; Griffith, C. R. Letter. (1945, February 2). Letter to Willey. RS 0501001, Box 1, University of Illinois Archives.

³⁰ Griffith, C. R. Letter. (1945, February 2). Letter to Willey. RS 0501001, Box 1, University of Illinois Archives; Minutes. (1942, November 27). Meeting of the Board of Trustees of the University of Illinois, pp. 178-187. University of Illinois Archives, available at <http://www.trustees.uillinois.edu/trustees/minutes/1942/1942-11-27-uibot.pdf>.

³¹ Nevada System of Higher Education, Professional Employee Collective Bargaining Regulations, Codification of Board Policy Statements, Chapter 4 available at <http://system.nevada.edu/tasks/sites/Nshe/assets/File/BoardOfRegents/Handbook/T4CH04ProfessionalStaffCollectiveBargainingRegulations.pdf>.

³² UI Policy and Rules, §I (1).

³³ Illinois U. adopts new labor program. (1945, July 2). *Lincoln Evening Journal*, p. 3.

individuals and non-majority groups of employees. Any agreement reached with an individual employee could not violate the terms of a collectively negotiated contract.³⁴

The university's general policy stated:

The University recognizes the principle of collective bargaining with respect to all nonacademic employees not in administrative positions as designated in section XV. The University will negotiate with any individual, group of individuals, or organization acting on behalf of any group of employees when such person or agency presents evidence that he or it represents more than fifty per cent (50%) of the employees of the group or classification employed by the University, and that he or it is authorized to represent them. The determination of the appropriate unit for collective bargaining and of the majority representation in that unit shall be made by the Department of Labor of the State of Illinois in case of lack of agreement on these points.³⁵

The policy and rules prohibited union solicitations during working hours but it did not ban union representatives from being on campus for organizing purposes.³⁶ It also granted paid union leave for appointed or elected representatives to participate in meetings and conferences during their workday.³⁷ The program included a grievance procedure ending in arbitration before a five-member tripartite panel.³⁸ Suspensions could be grieved but they were not subject to arbitration, and discharge was subject to civil service rules rather the grievance arbitration process.³⁹

The workplace conditions subject to mandatory collective negotiations under the policy were limited to compensation, hours of work, and work on Sundays.⁴⁰ With respect to compensation, it provided for payment of a prevailing wage for groups of non-academic employees on campus.⁴¹ All bargaining proposals had to be submitted to the Office of Nonacademic Personnel, which was authorized to negotiate with collective bargaining representatives or unrepresented individual employees.⁴² The UI Policy and Rules also included

³⁴ UI Policy and Rules, § I(3).

³⁵ UI Policy and Rules, § I(2).

³⁶ UI Policy and Rules, § I(4).

³⁷ UI Policy and Rules, § II(2).

³⁸ UI Policy and Rules, § XIII.

³⁹ UI Policy and Rules, §§ XIII(5) XIII (7).

⁴⁰ UI Policy and Rules, § II(1).

⁴¹ UI Policy and Rules, §§ I(7) III(1), III(2).

⁴² UI Policy and Rules, §II(1, 3).

unilateral terms relating to holidays, vacations, disability benefits, leaves of absences, seniority, retirement benefits, and death benefits.⁴³

Notably, faculty were not subject to the UI Policy and Rules. Unlike the non-academic staff, there is no evidence that university faculty at that time sought unionization and collective bargaining. Decades earlier, the faculty had formed American Federation of Teachers (AFT) Local 41 in 1919, with the assistance of the Twin City Federation of Labor, but that effort lasted only two years before becoming dormant. The short-lived union focused on issues such as wages and tenure, but it did not seek change through collective bargaining.⁴⁴

Faculty dissatisfaction with compensation and status continued to exist at the time of the adoption of the UI collective bargaining program for non-academic staff. In 1943, Arthur H. Winakor published an article in a scholarly journal demonstrating that faculty compensation at the university had not kept pace with the cost of living over the prior three decades.⁴⁵ Winakor's article was an individualized effort to persuade the university to make improvements in faculty compensation.

A more dramatic public protest by a faculty member took place in April 1945 when a distinguished scholar Ernest K. Bernbaum resigned suddenly. In resigning, Bernbaum decried the university's "materialistic" redirection away from liberal education toward vocational training, and the lack of consistency in faculty compensation.⁴⁶ Among his complaints was the university's resource allocation towards sports and airfields "for the encouragement of adolescent hysteria."⁴⁷ He also described the faculty salary statistics referenced by Board President Livingston at a April 6, 1945 Board of Trustees' meeting as being "heartless and deceptive."⁴⁸ The university responded to his complaint over salary disparities by stating that

⁴³ UI Policy and Rules, §XI-XIII.

⁴⁴ Eaton, W.E. (1975). *The American federation of teachers, 1916-1961: A history of the movement*, p.31, Carbondale and Edwardsville, IL: Southern Illinois University Press; Cain, T.R. (2010). Learning and labor: faculty unionization at the University of Illinois, 1919-1923, *Labor History*, 51:4, pp. 550-554.

⁴⁵ Winakor, A. H. (1943, December). The Illinois faculty dollar: Real income of the faculty of the university of Illinois. *Journal of Higher Education*, 14 (9), pp. 473-476.

⁴⁶ Teacher quits, hits 'material trend' at U.I. (1945, April 9). *Chicago Tribune*. p. 23; Staff critic's attack on U. of I. called untrue. (1945, April 10). *Chicago Tribune*. p. 19; Charges U. of I. trustees 'color' cultural issue. (1945, April 13). *Chicago Tribune*. p. 14.

⁴⁷ Staff critic's attack. p. 19.

⁴⁸ Minutes. (1945, April 6). Meeting of the Board of Trustees of the University of Illinois pp. 178-187. University of Illinois Archives, available at <http://www.trustees.uillinois.edu/trustees/minutes/1945/1945-04-06-uibot.pdf>; Charges U. of I. trustees. p. 14.

such determinations are made “based on merit and outstanding service and not necessarily based merely on length of tenure.”⁴⁹

The UI Policy and Rules led to negotiated contracts with unions representing non-academic employees on campus. The university’s program survived despite the 1945 veto by Governor Dwight H. Green of a bill that would have granted collective bargaining rights to all state and local government employees.⁵⁰

The UI Policy and Rules and Public Sector Collective Bargaining History

The UI Policy and Rules fits squarely within the context of the early history of public sector collective bargaining, which began during the New Deal.

The earliest public-sector collective bargaining program was established by the federal Tennessee Valley Authority (TVA), which became effective in September 1935.⁵¹ The TVA’s policy, unlike the UI Policy and Rules, included an explicit prohibition against discrimination and retaliation for being a member or non-member of a union.⁵² The TVA policy formed the basis for collective bargaining with unions representing blue collar, white collar, and professional employees.⁵³

In a September 1940 speech at the opening of a TVA dam, President Franklin D. Roosevelt praised the labor-management partnership effectuated through collective bargaining.⁵⁴ Two years later, FDR’s Attorney General Francis Biddle stated in a radio address that the TVA’s successes were the direct result of collective bargaining that led to “an attitude of trust and understanding.”⁵⁵

⁴⁹ Staff critic’s attack. p. 19.

⁵⁰ Governor vetoes public workers’ bargaining bill. (1945, July 26). *Alton Evening Telegraph*; Glink. *Issues in school*. p. 627.

⁵¹ Reeves, F. W. (1936, April). Personnel administration in the Tennessee Valley Authority. *Southern Economic Journal* 2 (4), pp. 61-74; Greene, L. S. (1939, May). Personnel administration in the Tennessee Valley Authority. *The Journal of Politics* 1 (2), pp. 171-194.

⁵² “Tennessee Valley Employee Relationship Policy,” § 5, reprinted in Reeves, “Personnel Administration,” 71.

⁵³ Brookshire, M.L & Rogers, M.D. (1977) *Collective bargaining in public employment: the TVA experience*, p. 5. Lexington, MA. Lexington Books.

⁵⁴ Roosevelt, F. D. (1940, September 2). Address at Chickamauga Dam celebration, Near Chattanooga, Tennessee, retrieved from *The American Presidency Project*, <http://www.presidency.ucsb.edu/ws/?pid=16001>.

⁵⁵ Biddle, F. (1942, January 10). *Power for victory: An address by the Honorable Francis Biddle, Attorney General of the United States* [transcript]. Retrieved from U.S. Department of Justice Archive, <https://www.justice.gov/sites/default/files/ag/legacy/2011/09/16/01-10-1942.pdf>

In Ohio, the University of Akron in 1942 voluntarily recognized and started negotiating contracts with State County Municipal Workers of America (SCMWA) Local 38, a public sector affiliate of the Congress of Industrial Organizations (CIO), for a unit of maintenance and custodial workers.⁵⁶ The contracts included uniform minimum and maximum salary ranges, the use of seniority for promotions, a regular work day, a 44 hour workweek, two weeks of vacation, and 11 days of paid sick leave after one year of service.⁵⁷ The agreements also included a clause prohibiting discrimination based on race, creed, union activities or membership in “any specific group.”⁵⁸ The grievance procedure did not end in binding arbitration. Instead, it provided for a final grievance decision by the university president.⁵⁹ The University of Akron-SCMWA collective bargaining relationship continued for several years, resulting in negotiated salary increases for unit members.⁶⁰

Other examples of public sector collective bargaining in education in the 1940s are discussed in the article’s later discussion of UPWA and its predecessor unions. By 1955, the UI Policy and Rules was described in a New York City Department of Labor report as one “of the most complete programs” and the only one applicable to state workers. The report was based on a national survey of then existing public sector collective bargaining relationships.⁶¹

In contextualizing the UI Policy and Rules in public sector labor history, it is important to highlight that the adoption of the UI Policy and Rules by elected Republican Trustees contradicts a narrative being propagated by present-day revisionists hostile to collective bargaining. In that narrative, public sector collective bargaining is portrayed as a strategic gift to labor from Democratic politicians beginning in the late 1950s. Among the many other examples of early public sector collective bargaining that undermine the revisionist narrative is the contract signed by Republican Philadelphia Mayor Robert E. Lamberton with a union representing employees in

⁵⁶ Agreement between the University of Akron and State, County and Municipal Workers of America, CIO, Local 38. (1942, December 23). Art. II. BLS Collective Bargaining Agreements, Collection 6178-022, Reel 157, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library; Agreement between the University of Akron and State, County and Municipal Workers of America, CIO, Local 38. (1944, January 31). Art. II. BLS Collective Bargaining Agreements, Collection 6178-022, Reel 181, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library, (hereinafter “University of Akron Agreements”).

⁵⁷ University of Akron Agreements, Art. V, VI, and VII.

⁵⁸ University of Akron Agreements, Article II.

⁵⁹ University of Akron Agreements, Art. IV.

⁶⁰ Minutes, Board of Directors, the Municipal University of Akron, (1945, December 14), p. 354, (1946, January 6), p. 358 (1946, December 20), p. 438, (1947, December 16), p. 529, (1948, January 23) p. 536, Archival Services – University Libraries, University of Akron.

⁶¹ Extent of Recognition and the Bargaining Unit in Public Employment, (reprinted, 1960, March) Monograph Serial No. LR 3, p. 11 City of New York Department of Labor.

the municipal Public Works Department.⁶² The early public sector agreements were the direct result of demands by government workers in unions affiliated with the CIO or the American Federation of Labor (AFL).⁶³

The revisionists also erroneously assert that President Franklin D. Roosevelt opposed unionization in the public sector despite the collective bargaining that took place at the TVA and other federal agencies during the New Deal.⁶⁴ The sole basis for their claim stems from a letter dated August 16, 1937 in which FDR acknowledged the legitimacy of public sector unionization but decried militancy, and emphasized that the scope of collective bargaining in the public sector is limited due to existing legislation.⁶⁵ Federal employee unions applauded the letter at the time, with Jacob Baker, president of United Federal Workers of America (UFWA), describing it as a “significant document” that recognizes the need for federal workers to unionize.⁶⁶ Four days after the letter was issued, a representation election was held among civilian employees working at the Philadelphia Navy Yard that was described at the time as “an experiment to see how the Federal Government may comply with the Wagner Act.”⁶⁷

Next, the article examines the collective bargaining relationship established at Fisk University for its non-academic staff. Fisk University was one of at least three historically black colleges and universities (HBCU) that negotiated agreements with unions in the 1940s.

Collective Bargaining for Non-Academic Labor at Fisk University

In 1948, Fisk University voluntarily recognized the Nashville Service and Maintenance Union, Local 338, Building Service Employees International Union to represent its maintenance

⁶² Agreement between City of Philadelphia and Local 222, American Federation of State County Municipal Employees. (1940, December 30). BLS Collective Bargaining Agreements, Collection 6178-022, Reel 181, pt. 2, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library, Ithaca, NY.

⁶³ Spero, S. D. (1948). *Government as employer*. pp. 212-227. New York, NY: Remsen Press. The early public sector collective bargaining agreements were reached in the face of a hostile state judiciary. Slater, J. E. (2004). *Public workers: Government employee unions, the law, and the state, 1900-1962*, pp. 71-96. Ithaca, NY: ILR Press.

⁶⁴ DeSalvio, D. (2015). *Government against itself: Public union power and its consequences*. pp. 43-50. Oxford, UK: Oxford University Press.

⁶⁵ Roosevelt, F. D. (1937, August 16). Letter on the resolution of federation of federal employees against strikes in federal service, retrieved from *The American Presidency Project*, <http://www.presidency.ucsb.edu/ws/?pid=15445>; Herbert, W. A. (2011). Public sector labor law and history: The politics of ancient history. *Hofstra Labor and Employment Law Journal* 28 (2), pp 335, 353-356.

⁶⁶ Roosevelt bars federal strikes. (1937, September 6). *New York Times*, p. 14.

⁶⁷ Independents win in Navy Yard vote. (1937, August 20). *New York Times*, p. 17.

and service workers following a card check.⁶⁸ The card check procedure was adopted based on advice the university received from Willard S. Townsend, United Transport Service Employees International President, concerning three categories of employees: faculty and instructors, clerical workers, and maintenance workers.⁶⁹

Townsend was a founding leader of the national railroad redcap union, and the first African-American elected to the CIO's National Executive Board.⁷⁰ In a memorandum to University President Dr. Charles S. Johnson, Townsend explained that the recommended procedure for determining representation status would avoid "a lot of unnecessary headaches and will be in keeping with good trade union practices without embarrassment to your office."⁷¹ The values underlying Fisk's decision to grant voluntary recognition and engage in collective bargaining were succinctly summed up by Dr. Johnson's assistant George St. John, Jr. as giving "Fisk's moral endorsement to the principle of unionization."⁷²

At the time that Local 338 sought voluntary recognition, it identified 20 other higher education institutions with negotiated collective bargaining agreements, including the University of Illinois.⁷³ Before the question of voluntary recognition was presented to the Fisk Board of Trustees, St. John, Jr. contacted university presidents at Brown University, Northwestern University, University of Minnesota, Radcliffe College and Bennington College seeking information about their respective collective bargaining relationships, and requesting copies of negotiated contracts.⁷⁴

⁶⁸ Conference Memorandum. (1948, January 13); St. John, G., Jr. (1948, March 6). Memorandum to Dr. Charles S. Johnson. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

⁶⁹ Townsend, W.S. (1948, January 9). Memorandum to Dr. Charles S. Johnson. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

⁷⁰ Granger, Lester B. (1944, 4th Qtr.) Phylon profile, II: Willard S. Townsend. *Phylon*, 5(4), pp. 331-333.

⁷¹ Townsend, W.S. (1948, January 9). Memorandum to Dr. Charles S. Johnson. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

⁷² St. John, G., Jr. (1948, March 6). Memorandum to Dr. Charles S. Johnson. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

⁷³ Deans, W.A. Letter. (1947, November 24). Letter to Dr. Charles S. Johnson; Deans, W.A. Letter. (1947, December 8). Letter to Dr. Charles S. Johnson. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library. The colleges and universities identified as having collective bargaining agreements with the union were: Bennington College; Brown University; Chicago Theological Seminary; George Washington University; Harvard University; Illinois Institute of Technology; Milwaukee Downer College; Northwestern University; Massachusetts Institute of Technology; National College of Education; Princeton University; Radcliffe College; Russell Sage College; Simons College; Smith College; State College of Washington; Tufts College; University of Illinois; University of Minnesota; and Vassar College.

⁷⁴ St. John, G., Jr. Letter. (1948, March 11). Letter to Henry M. Wriston et al. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

This was Fisk's first set of negotiations with a labor union,⁷⁵ which the National Urban League Department of Industrial Relations Director Julius A. Thomas described as "a new development in the organization of Negro workers in the South."⁷⁶ During the negotiations, Fisk continued to seek and receive information from other institutions.⁷⁷ President Johnson also continued to rely on advice from labor leader Townsend concerning the union's wage demands.⁷⁸ During the bargaining, the Fisk Comptroller expressed concerns that the primary union negotiator was largely unfamiliar with the operation of an educational institution.⁷⁹ Nevertheless, the negotiations ultimately led to a contract for a bargaining unit of Fisk non-academic employees.

The article next turns to a striking counterpoint to the voluntary recognition and collective bargaining for non-academic labor in the 1940s: Columbia University's successful crushing of an effort by a small group of non-academic employees to unionize under a state collective bargaining law.

Counterpoint: Columbia University's Institutional Resistance

In the 1940s, Columbia University engaged in fierce legal resistance to a unionization effort by 13 maintenance and service workers employed in an off-campus commercial loft building in Manhattan owned by the university.⁸⁰ The commercial non-academic purpose of the off-campus building is revealed by the tenants: a dance ballroom, a bowling alley, and a restaurant.⁸¹

In December 1942, Local 32-B, Building Service Employees International Union filed a representation petition with the New York State Labor Relations Board seeking to represent 13

⁷⁵ Johnson, C.S. Letter. (1948, October 20). Letter to Julius A. Thomas. Papers of Charles S. Johnson, Box 67, Folder 6, Fisk University John Hope and Aurelia E. Franklin Library.

⁷⁶ Thomas, J.A. Letter. (1948, October 13). Letter to Donald Wyatt. Papers of Charles S. Johnson, Box 67, Folder 6, Fisk University John Hope and Aurelia E. Franklin Library.

⁷⁷ Olson, C.L. Letter. (1948, July 7). Letter to George St. John, Jr.; Thorpe, R.W. Letter. (1948, July 13). Letter to George St. John, Jr.; Cochran, F. M. Letter. (1948, July 7). Letter to George St. John, Jr. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

⁷⁸ Johnson, C.S. Letter. (1948, June 3). Letter to Willard S. Townsend; Johnson, C.S. Letter. (1948, June 28). Memorandum to George St. John, Box 67, Folder 5, Papers of Charles S. Johnson Fisk University John Hope and Aurelia E. Franklin Library.

⁷⁹ Creswell, I.T. (1948, October 9). Memorandum to Dr. Charles S. Johnson. Box 67, Folder 6, Papers of Charles S. Johnson Fisk University John Hope and Aurelia E. Franklin Library.

⁸⁰ *Trustees of Columbia University*, 6 SLRB 588 (1943) enf. *Trustees of Columbia University v. Herzog*, 181 Misc. 903 (N.Y. Co. 1943), *rev'd.*, 269 A.D.24 (1st Dept. 1945), *aff'd.*, 295 N.Y. 605 (1945).

⁸¹ *Trustees of Columbia University*, 6 SLRB at 596, 598.

workers employed by the university in the commercial loft building. The same union had led a successful strike on the Columbia campus by elevator operators and porters in 1936.⁸²

The petition was filed under New York's State Labor Relations Act,⁸³ which was enacted in 1937. The following year, New York voters approved an amendment to the New York State Constitution's Bill of Rights to expressly state: "Employees shall have the right to organize and to bargain collectively through representatives of their own choosing."⁸⁴

The New York State Labor Relations Act includes the following broad public policy statement:

In the interpretation and application of this article, and otherwise, it is hereby declared to be the public policy of the state to encourage the practice and procedure of collective bargaining, and to protect employees in the exercise of full freedom of association, self-organization and designation of representatives of their own choosing for the purposes of collective bargaining, or other mutual aid and protection, free from the interference, restraint or coercion of their employers. All the provisions of this article shall be liberally construed for the accomplishment of this purpose.⁸⁵

In response to the petition, Columbia University challenged the jurisdiction of the state agency to determine the question of representation. The university's argument rested on an interpretation of a provision of the statute exempting "employees of charitable, educational or religious associations or corporation."⁸⁶ The university asserted that the exemption was broad, unambiguous, and was intended to cover all university employees regardless of location, purpose, and responsibilities. It also argued that a broad reading of the exemption was consistent with state's historic public policy of protecting religious, charitable, and educational institutions.

The New York State Labor Relations Board rejected the university's jurisdictional argument. The agency found that an assertion of jurisdiction over the representation matter stemming from the university's wholly commercial enterprise was fully consistent with the legislative findings and public policies set forth in the state law, and the broad unqualified state constitutional provision protecting the right of workers to unionize and engage in collective

⁸² Strike ended at teachers college as wage settlement is concluded: services resumed in other buildings. (1936, March 16). *Columbia Daily Spectator*, p. 1.

⁸³ N.Y. LAB. LAW §§700, *et seq.*

⁸⁴ N.Y. CONST. Art. I, §17.

⁸⁵ N.Y. LAB. LAW §700.

⁸⁶ N.Y. LAB. LAW §715 (1937).

bargaining.⁸⁷ The agency ruled that the statutory exemption for educational and other organizations should be read narrowly, based on the Legislature's findings that the deprivation of the rights to organize and engage in collective bargaining led to strikes, unrest, depression of workers' purchasing power, and loss of business profits.⁸⁸

On appeal, however, the agency's assertion of jurisdiction over the representation question did not stand. Columbia University successfully argued before the courts that the statutory exemption was unambiguous and applied to all employees of charitable, educational or religious entities regardless of the purpose of the work or the employment duties and responsibilities.⁸⁹ In addition, the university persuaded the courts that the 1938 constitutional amendment was not intended to extend collective bargaining rights beyond what was already authorized by statute at the time of the amendment's ratification. The ruling effectively transformed an explicit constitutional source of workplace rights into an empty shell that required enabling legislation to give it substantive meaning.

The goal of the Columbia University's successful legal fight was to be completely free from the mandates of the state collective bargaining law. The victory meant that the university had the legal right to retaliate and discriminate against its service and maintenance workers for supporting a union or seeking to improve working conditions through collective means.

Columbia University's legal battle in the 1940s was a clear expression of its values concerning worker self-organization, even among blue collar employees working in one of its commercial properties. The university had the ability to choose other options, such as the one adopted by Beth Israel Hospital in 1939. Like Columbia, the New York City hospital could have sought to rely on the state statutory loophole to fight a unionization effort by its staff. Instead, the hospital voluntarily recognized SCMWA as the exclusive representative of all hospital employees besides the medical director and department deans.⁹⁰ The hospital and union negotiated a contract that provided for union representation of hospital staff during termination hearings, a two-month probationary period, minimum salaries, two weeks or more of vacation

⁸⁷ *Trustees of Columbia University*, 6 SLRB at 595.

⁸⁸ N.Y. LAB. LAW §700; *Trustees of Columbia University*, 6 SLRB at 595.

⁸⁹ *Trustees of Columbia University v. Herzog*, 181 Misc. 903 (NY Co. 1943), *rev'd*. 269 A.D. 24 (1st Dept. 1945), *aff'd* 295 N.Y. 605 (1945).

⁹⁰ Agreement between Beth Israel Hospital Association and State, County and Municipal Workers of America, CIO, New York District. (July 27, 1939), ¶¶ 1 and 2, BLS Collective Bargaining Agreements, Collection 6178-022, Reel 181, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library (hereinafter "Beth Israel Agreement").

leave after one year of service, sick leave with pay and free hospitalization after one year of service, and eight holidays.⁹¹

Columbia had another clear alternative: to pursue a labor relations policy like the one adopted by Yale University. In 1941, Yale University voluntarily recognized and commenced negotiations with another CIO union representing a unit of over 690 janitors, maids, maintenance workers, and campus police, following an election conducted by the Connecticut State Board of Mediation and Arbitration.⁹² During the four months of negotiations, the union led a one-day strike of 400 workers over the issue of a union shop, which received support from some Yale faculty members.⁹³ The parties reached their first contract in February 1942, ten months before Columbia University's blue-collar workers sought representation under New York's collective bargaining law.⁹⁴

Columbia's ultimate court victory in 1945 against statutory coverage of the workers in its commercial properties under New York law was short-lived. As will be demonstrated below, exemptions in the New York State Labor Relations Act for institutions of higher education began to be eliminated through legislative action.

Legislative Responses to Columbia University's Court Victory

In 1946, the New York State Legislature passed a bill proposed by the Joint Legislative Committee on Industrial Labor Conditions to modify the statutory exemption relied upon the courts. Under the modification, the State Labor Relations Law became applicable to workers employed in commercial and industrial buildings owned or operated by charitable, religious and educational institutions for profit-making. Columbia resisted the legal change by organizing a group of religious and charitable organizations in an unsuccessful effort to persuade Governor Thomas E. Dewey to veto the legislation.⁹⁵

Two decades later, the general exemption for educational, religious, and charitable entities to the mandates of the New York State Labor Relations Act was eliminated by an amendment

⁹¹ Beth Israel Agreement, ¶¶ 3, 4, 5, 6, and 7.

⁹² Elkin, D.S. (1995). *Labor and the left: The limits of acceptable dissent at Yale University, 1920's to 1950's*, pp. 149-150, 153-154 (Doctoral dissertation, Yale University), available at Tamiment Library and Robert F. Wagner Labor Archives, New York University.

⁹³ Elkin, *Labor and the left*, pp. 154-157.

⁹⁴ Elkin, *Labor and the left*, p. 166.

⁹⁵ Coykendall, F and Goetze, F. A. Letter (1946, March 28). Letter from Columbia University Board of Trustees President Frederick Coykendall and Columbia University Treasurer Frederick A. Goetze to Governor Thomas E. Dewey N.Y. Laws of 1946, Ch. 463, Legislative Bill Jacket, New York State Library.

introduced by Republican State Senator Thomas Laverne. Senator Laverne considered the amendment to be “one of the most important labor bills” passed concerning private sector collective bargaining since the 1937 enactment of New York’s collective bargaining law.⁹⁶ The elimination of the exemption meant that faculty and staff at private colleges and universities would have statutory protections to freely associate in the workplace, unionize, and the right of union representation for purposes of collective bargaining.

The positions taken by religious and educational institutions to the 1968 legislation provide a revealing display of differing values. The Diocese of New York of the Protestant Episcopal Church approved of the legislation because it was consistent with its pro-labor position, and its opposition to racial and economic inequality.⁹⁷ Cornell University, on the other hand, opposed the legislation. The substance of Cornell’s arguments reveals a hostility to collective bargaining as a matter of principle, charging that it would lead to divisiveness and financial costs:

At a time when society places a great premium upon acquisition of college and professional training collective bargaining can have a definitely divisive effect upon the staff and employees of the university to the detriment of its educational programs. Collective bargaining can mandate substantial added cost (sic) for Cornell at a time when Cornell already is operating at a substantial deficit largely in order to provide adequate salaries (sic.) and fringe benefits for its staff and employees. To repeat unrestricted collective bargaining at this time at Cornell University is not necessary to the welfare of the working man.⁹⁸

In contrast, New York University and Union College supported the legislation, while acknowledging that collective bargaining might lead to increased costs. Each viewed collective associational rights as having a higher value than financial concerns. A statewide organization of private institutions, the Association of Colleges and Universities of the State of New York, played it safe by submitting a letter stating that it did not oppose the amendment.⁹⁹

⁹⁶ Laverne, T. Memorandum (1968, June 3). Memorandum from State Senator Thomas Laverne to Acting Counsel to the Governor Michael Whiteman N.Y. Laws of 1968, Ch. 890, Legislative Bill Jacket, New York State Library.

⁹⁷ Lassee, J.V..P Letter (1968, June 7) Letter from Christian Social Relations John V.P Lassee, Jr. to Robert Douglass N.Y. Laws of 1968, Ch. 890, Legislative Bill Jacket, New York State Library.

⁹⁸ Stamp, N.R. Telegram. (1968, June 5). Telegram from Cornell University Counsel Neal R. Stamp to Acting Counsel to the Governor Michael Whiteman. N.Y. Laws of 1968, Ch. 890, Legislative Bill Jacket, New York State Library.

⁹⁹ De Capriles, M. Letter (1968, June 10). Letter from New York University General Counsel Miguel de Capriles to Acting Counsel to the Governor Michael Whiteman; Ingallis, L.W. Letter (1968, June 5) Letter from Association of Colleges and Universities Executive Vice President Lester W. Ingallis to Acting Counsel to the Governor Michael Whiteman; Martin, H.G. Letter. (1968, June 5). Letter from Union College President Harold G. Martin to Acting Counsel to the Governor Michael Whiteman, Laws of 1968, Ch. 890, Legislative Bill Jacket, New York State Library,

In signing the legislation, Governor Nelson A. Rockefeller underscored its importance:

These workers will now enjoy the full protection of the State Labor Relations Act so that they may bargain collectively with their respective employers through representatives of their own choice. These basic rights and privileges have long been enjoyed by nearly all other workers in the State and the bill recognizes that it is no longer appropriate to distinguish between categories of employers with regard to the protection of these essential rights.¹⁰⁰

The import of the change in New York law to higher education did not last very long. Some universities continued to resist unionization efforts under New York law by claiming that the NLRB had exclusive jurisdiction over non-profit educational institutions.¹⁰¹ The jurisdictional argument was aimed at avoiding the applicability of the state law, which is broader and more protective of collective organizational activities than the federal law. Ultimately, the institutions were successful in persuading the NLRB in 1970 to start asserting jurisdiction, thereby preempting the state collective bargaining law.¹⁰² This led to the massive growth nationwide in unionization efforts on private sector campuses, which has been resisted by some institutions who argue that their faculty and student employees are not covered by the federal law.¹⁰³

Next, the article examines the birth of *de facto* academic collective bargaining at institutions of higher learning in the 1940s, led by Left-led unions prior to the onslaught of McCarthyism.

Academic Collective Bargaining

United Public Workers of America and the Birth of Academic Collective Bargaining

The beginning of academic collective bargaining can be traced to Left-led unions prior to the anti-Communist purge of the late 1940s and early 1950s. The first collective bargaining agreements applicable to faculty were negotiated following the chartering by State, County, and Municipal Workers of America (SCMWA) of the Teachers Union (TU) as SCMWA Local 555

¹⁰⁰ Rockefeller, N.A. Memorandum (1968, June 22) Memorandum filed with Senate Bill 4874-E, Laws of 1968, Ch. 890, Legislative Bill Jacket, New York State Library.

¹⁰¹ *Syracuse University*, 32 SLRB No. 52 (1969); *Colgate University*, 32 SLRB No. 66 (1969); *New York University*, 32 SLRB No. 89 (1969); *Hamilton College*, 33 SLRB No. 3 (1970); *Ithaca College*, 33 SLRB No. 6 (1970).

¹⁰² *Cornell University*, 183 NLRB 329, (1970).

¹⁰³ Herbert, W. A. (2016). The winds of changes shift: Recent growth in bargaining units and representation efforts in higher education," *Journal of Collective Bargaining in the Academy*, 8, p. 14.

in September 1943,¹⁰⁴ and the CIO's 1946 merger of SCMWA with United Federal Workers of America (UFWA) to form UPWA.¹⁰⁵

UPWA and its predecessor unions played important roles in advancing collective bargaining in education and other fields in the 1940s. They sought to organize wall-to-wall educational units that included faculty and staff for purposes of collective bargaining, and they successfully negotiated some of the first contracts covering teachers and faculty. These breakthroughs contradict Max Kampelman's claim that "no innovation in collective bargaining techniques or demands can be attributable to" unions like UPWA that had been alleged to be Communist-dominated.¹⁰⁶

The accomplishments of UPWA and its predecessor unions have been overshadowed by the political, organizational, and personal damage caused by McCarthyism. These unions are best known in history for being accused of Communist-domination, subjected to congressional and state legislative investigations, and purged from the CIO in 1950.¹⁰⁷ The darkness resulting from Cold War hysteria has left the organizing, advocacy, and bargaining by these unions largely unexamined, except with respect to their defense against political persecution on the federal, state, and local levels.¹⁰⁸

The American Federation of Teachers and the Roots of Faculty Unionization

Faculty unionization in higher education, however, did not begin with UPWA and its predecessor unions. Unionization began with the formation of the American Federation of Teachers (AFT) in 1916, and its chartering of the first college AFT Local at Howard University in 1918.¹⁰⁹ In New York, the AFT chartered the New York City Teachers Union (TU) as Local 5,

¹⁰⁴ State County Municipal Workers of America Charter of Local No. 555. (1943, September 13). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015 MB, Box 2, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁰⁵ Slater, *Public workers*, pp. 126-127..

¹⁰⁶ Kampelman, M. M. (1957). *The Communist party vs. the C.I.O.: A study in power politics*. p. 254. New York, NY: Frederick A. Praeger.

¹⁰⁷ Murphy, M. (1990). *Blackboard unions: The AFT and the NEA 1900-1980*. p. 65. Ithaca, NY: Cornell University Press ("Finally on 9 January 1950 the UPWA was formally tried and condemned by an investigating committee of the CIO, which charged that the union was 'consistently directed toward the achievement of the program or purposes of the Communist Party rather than the objectives and policies sent forth in the constitution of the CIO.'").

¹⁰⁸ In a recent social history of teaching in the United States, two scholars omitted any reference to these unions and their accomplishments, while acknowledging that "McCarthyism was unjustified, illegal, and a shameful chapter in American history" that "did intimidate teachers and once again slowed the momentum of teacher organizations to negotiate in good faith with their school districts." Parkerson, D. and Parkerson, J. A. (2014). *Transitions in American education: A social history of teaching*. pp. 189-90. London, UK: Routledge Taylor & Francis.

¹⁰⁹ Eaton, *The American federation of labor*, pp. 12-17, 31-33; Cain, *Learning and labor*, p. 547.

which opened its membership to teachers and faculty in higher education.¹¹⁰ Among the TU's objectives were promoting good teaching, teacher participation in school administration, and the prevention of discrimination based on race, gender, religion, or political beliefs.¹¹¹

In 1935, the TU formed a College Section and one of its members chaired the AFT's national Academic Freedom Committee.¹¹² TU President Charles J. Henley emphasized in 1936 that educational administrators will have to accept collective bargaining for faculty and public school teachers.¹¹³ TU's College Section later became New York College Teachers Union, AFT Local 537, with approximately 1,000 members in chapters at public and private campuses, making it "the biggest union of college educators in America."¹¹⁴ Many college instructors in New York celebrated opportunities to interact with blue collar workers from other unions, which they felt led to "a leveling of distinctions."¹¹⁵

In the 1930s, there were dozens of AFT college faculty locals organized across the country. The AFT locals sought improvements in faculty wages at public and private institutions, and advocated for academic freedom and tenure protections.¹¹⁶ In 1941, the AFT expelled the TU, Local 537, and the AFT's Philadelphia local over ideological differences including the mission

¹¹⁰ Zitron, C. L. (1968). *The New York City Teachers Union, 1916-1964: A story of educational and social commitment*. p. 15. New York, NY: Humanities Press; The constitution of the teachers union revision as recommended by the executive board and approved by the members at the general meeting. (1931, November 19). Article III, §3, Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 49, Folder 639f5. Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹¹¹ The constitution of the teachers union revision. Article II, §§ 1 and 4.

¹¹² Zitron. *The New York City Teachers Union*, p. 28.

¹¹³ Herbert, W.A. and Apkarian, J. (2017). Everything passes, everything changes: unionization and collective bargaining in higher education, *Work in Perspective*, p. 30, Labor and Employment Relations Association.

¹¹⁴ Zitron. *The New York City Teachers Union*. p. 28; Deery, P. (2014). *Red Apple: Communism and McCarthyism in Cold War New York*. p. 92. New York NY. Fordham University Press; Schrecker, E. W. (1986). *No ivory tower: McCarthyism & the universities*, pp. 52-53. Oxford, UK: Oxford University Press; Heins, M. (2013). *Priests of our democracy: The Supreme Court, academic freedom, and the anti-Communist purge*, p. 36. New York, NY: New York University Press; Handwritten Speech. (undated). Charles James Hendley Papers, Box 3, Folder 27, TAM. 109. Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹¹⁵ Dodd, B. V. (1954). *School of darkness*. p. 69, New York, NY: P.J. Kenedy & Sons.

¹¹⁶ Eaton, *The American federation of labor*, pp. 58-60; Cain, T. R. (2014). Organizing the professoriate: Faculty unions in historical perspective. *IHE Report*. Retrieved from: <http://ihe.uga.edu/about/ihe-report-article/organizing-the-professoriate-faculty-unions-in-historical-perspective>

and methods of teacher unions.¹¹⁷ Following the expulsions, Local 537 became “too weak to maintain an independent existence” and reverted back as the TU’s College Section.¹¹⁸

SCMWA, UFWA, and the TU: The Beginning of Faculty Collective Bargaining

SCMWA was chartered in 1937 by the CIO as one of two public sector unions, the other being UFWA. At the time of its creation, SCMWA had four policies and principles: improving the working conditions of its members; creating an “adequate negotiations machinery; “developing cooperative relationships with government employers; and establishing a better understanding between the public and government workers.¹¹⁹ It declared that it would seek those aims through moderate means of negotiations and education. Strikes and picketing were considered a violation of organizational principles.¹²⁰ SCMWA’s explicit early declaration of non-militancy in labor relations might have been aimed at aligning itself with FDR’s views as expressed in his August 1937 letter on unionization of government workers.¹²¹

SCMWA originally excluded educational employees from its membership, along with elected officials, managers, police and firefighters.¹²² However, the union quickly began organizing custodial workers in the New York City school system.¹²³ In West Virginia, SCMWA made an early effort at negotiating contracts on behalf of combined units of school teachers and non-educational employees. The organizing effort was blocked by a 1938 legal opinion by that state’s Attorney General, which concluded that the school districts did not have the legal authority to enter into collective bargaining agreements.¹²⁴

¹¹⁷ The ideological battles within the AFT resulting in the anti-Communist purge in 1941 have been the subject of many scholarly works, and need not be reexamined here. See, Schrecker, *No ivory tower*; Murphy, *Blackboard unions*; Heins, *Priests of our democracy*; Eaton, *The American federation of labor*, pp. 115-121; Cain, T.R. (2012). Unionised faculty and the political left: Communism and the American Federation of Teachers on the eve of the second world war. *History of Education: Journal of the History of Education Society* 41(4), 515-535.

¹¹⁸ Zitron. *The New York City Teachers Union*. p.35.

¹¹⁹ Regulations, Policies and Principles for the Functioning of the State, County and Municipal Workers of America. Article II, §§ 1 (a)-(c) 2. The CIO Files of John L. Lewis Part I: Correspondence with CIO Unions, 1929-1962, Reel 11. University Publications of America, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library, (hereinafter “Regulations, Policies and Principles”).

¹²⁰ Regulations, Policies and Principles, Article II, § 2.

¹²¹ Roosevelt, F. D. (1937, August 16). Letter on the resolution of federation of federal employees against strikes in federal service, retrieved from *The American Presidency Project*, <http://www.presidency.ucsb.edu/ws/?pid=15445>.

¹²² Regulations, Policies and Principles. Article III, §2.

¹²³ *Nolan and State, County & Municipal Workers of America, Local 119, C.I.O.*, 1 SLRB 584 (1938); Fogarty Wins Reinstatement with Back Wages. (1938, August). *Employee, National Organ of the State County and Municipal Workers of America, C.I.O.*, 1, (13), 1.

¹²⁴ Meadows, C. W. Letter. (1938, May 21). Letter from Attorney General Clarence W. Meadows to State Superintendent of Free Schools W.W. Trent, reprinted in Rhyne, C. S. (1946). *Labor unions and municipal*

In July 1943, SCWMA successfully negotiated the first collective bargaining agreement applicable to public school teachers.¹²⁵ Although historic in nature, it has been overlooked by scholars. The agreement was reached with the Board of Education of Gloucester City in New Jersey.¹²⁶ SCMWA's organizing strategy was like the one attempted in West Virginia: it sought a wall-to-wall unit. Under the contract, SCMWA was recognized as the sole and exclusive representative of a combined unit of teachers, janitors, secretaries, and attendance officers.¹²⁷ The contract prohibited newly appointed teachers from being paid at a higher rate than the rate of currently employed teachers with similar experience or below the minimum salaries set forth in the contract.¹²⁸ It also mandated the equalization of teaching duties among faculty.¹²⁹ Under the agreement, disputes were to be resolved through a grievance procedure ending in binding arbitration.¹³⁰

One month after the first contract was reached in Gloucester, TU President Henley wrote SCMWA President Abram Flaxer to encourage the CIO to expand its organizing of teachers and other school employees on a national scale, citing poor salaries, the lack of job security, and irregular schedules.¹³¹ The letter was the culmination of months of talks between the two unions, with the TU represented by its counsel Bella Dodd.¹³² At a September 1943 general membership meeting in New York City, the TU received its charter as SCMWA Local 555.¹³³ In announcing the meeting, the TU leadership acknowledged the difficulties ahead in trying to integrate TU

employee law. p. 287-288. Washington D.C.: National Institute of Municipal Law Officers, retrieved from [https://babel.hathitrust.org/cgi/pt?id=uc1.\\$b583514;view=1up;seq=1](https://babel.hathitrust.org/cgi/pt?id=uc1.$b583514;view=1up;seq=1).

¹²⁵ These teachers have first union contract (1944, November 23) *News of State County & Municipal Workers*, p. 7. Charles James Hendley Papers, Box 9, Folder 35, TAM. 109. Tamiment Library and Robert F. Wagner Labor Archives, New York University. The first contract negotiated for teachers by the AFT was with the City of Cicero school board in 1944, see: Parkerson and Parkerson. *Transitions in American education*. p. 188; Eaton, *The American federation of labor*, pp. 141-142. At the AFT's 1946 convention a resolution was passed to form a task force to study collective bargaining in the public schools. Eaton, *The American federation of labor*, p. 142.

¹²⁶ Agreement between Board of Education of Gloucester City and State, County and Municipal Workers of America, CIO, Local 410 (July 1, 1943). BLS Collective Bargaining Agreements, Collection 6178-022, Reel 157 Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library (hereinafter "Gloucester Agreement").

¹²⁷ Gloucester Agreement, Art. I(1) and II.

¹²⁸ Gloucester Agreement, Art. I(2), Schedule A.

¹²⁹ Gloucester Agreement, Art. VI.

¹³⁰ Gloucester Agreement, Art. VII.

¹³¹ Hendley, C. J. Letter. (1943, August 16). Letter to Abram Flaxer. Charles James Hendley Papers, Box 8, Folder 17, TAM. 109. Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹³² Dodd, *School of Darkness*, 147.

¹³³ State County & Municipal Workers of America, CIO Charter Local No. 555. (1943, September 13). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, Folder 639f5, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

members into SCMWA and the CIO.¹³⁴ At the time, the TU had approximately 2,000 members.¹³⁵

TU President Hendley's handwritten speech in favor of affiliating with SCMWA expressed concerns over barriers to successfully uniting teachers and non-educators into one union. He emphasized the need to overcome "snobbery" and "hoity-toity professionalism" in order for educators to align with state and municipal workers.¹³⁶ The perceived conflict between professionalism and unionism had been a limiting factor in college faculty organizing.¹³⁷ Hendley's views were consistent with SCMWA, in that they challenged stratified constructs and supported a united front between educators and non-academic staff. Those views were, and remain, a radical departure from the precept of professional exceptionalism prevalent in other faculty and teacher unions.¹³⁸

The newly chartered Local 555 had three chapters, with one dedicated to college teachers. Sarah Riedman, the former College Teachers Union President was made Local 555 vice president for colleges.¹³⁹ Riedman was a Brooklyn College biology professor, who was later terminated by the New York Board of Higher Education for refusing to answer questions about

¹³⁴ Riedman, S. and Hendley, C. J. To All Members of the Teachers Union and the College Teachers Union. (1943, September 16). Charles James Hendley Papers, TAM. 109, Box 8, Folder 17, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹³⁵ President's Report to the Fourth Biennial Convention, New York District, SCMWA. (1944, September 29-October 30). p. 16. Charles James Hendley Papers, TAM. 109 Box 8, Folder 16, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹³⁶ Hendley, C. J. Handwritten Speech. (undated). Charles James Hendley Papers, TAM. 109, Box 3, Folder 27, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹³⁷ Cain. Organizing the professoriate.

¹³⁸ Murphy. *Blackboard unions*. p. 226 ("Collective bargaining itself presented the NEA with its deepest concern: it was an ideological construct that fundamentally challenged the association's long-cherished concept of professionalism."); Gerber. *The rise and decline of faculty governance*. p. 112 ("The AAUP's long-standing commitment to the view of faculty as professionals rather than 'employees' and its role in the development of the 1966 *Statement on Government*, which emphasized the need for cooperative relations between faculty, administrators and governing boards, were the principal factors in its initial reluctance to support collective bargaining for faculty."); Academic Unionism Statement. AAUP Collective Bargaining Congress (2005) www.aaupcvc.org/academic-unionsim-statement. ("Academic unions are the most recent in a long line of collegial structures forged to protect the rights and professional roles of academics. Increasingly, tenure-track and contingent faculty, academic professionals, and graduate assistants have formed unions to ensure their professional standing and protect themselves from the threats and challenges presented by the corporatization of American colleges and universities.").

¹³⁹ Teachers Union, Local 555, State, County and Municipal Workers of America, C.I.O., press release. (1943, September 27). Charles James Hendley Papers, TAM. 109, Box 8, Folder 17, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

her associations during a hearing before a United States Senate Subcommittee, based on her objections under the First Amendment, the Fifth Amendment, and her right to privacy.¹⁴⁰

By affiliating with SCMWA, the TU was joining a union with collective bargaining experience, primarily with government employers. In addition to its contract with the Gloucester City Board of Education, SCMWA had negotiated dozens of other agreements resulting in written contracts, policies, and ordinances across the country.¹⁴¹ Its earliest negotiated agreement was with New York City for a departmental personnel policy creating a due process disciplinary procedures for public relief staff, which prohibited discrimination based on race, creed, and union activity.¹⁴² SCMWA had negotiated contracts with the University of Akron for a unit of maintenance and custodial workers.¹⁴³ It also had successfully bargained contracts for non-teaching staff at Ecorse Township School District No. 11,¹⁴⁴ City of Hamtramck Board of Education,¹⁴⁵ and Independent School District No. 2, Coleraine, Minnesota.¹⁴⁶ In support of its organizing drives, SCMWA had received a legal memorandum from CIO General Counsel Lee Pressman that debunked claims that municipalities lacked authority to enter in collective

¹⁴⁰ Heins. *Priests of Our Democracy*, pp. 142, 231; *Hearings Before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws, of the Committee on the Judiciary*, Senate, 82nd Cong. 281-283, Second Session on Subversive Influence in the Educational Process.

¹⁴¹ Spero, *Government as employer*. p. 217..

¹⁴² The policy was originally negotiated by SCMWA's predecessor union, the Association of Workers in Public Relief Agencies. Personnel policy of the emergency policy of the Emergency Relief Bureau. (1936, January 13). *E.R.B. News* 2(6). p. 2 in Charlotte E. Carr Papers, ca.1900-1956; MC 771, 2.11. Schlesinger Library, Radcliffe Institute, Harvard University; Relief bureau meets staff on grievances. (1935, August 27). *New York Times*, p. 15; Walkowitz, D. J. (1999). *Working with class: Social workers and the politics of middle-class identity*. p. 133. Chapel Hill, NC: The University of North Carolina Press.

¹⁴³ Agreement between the University of Akron and State, County and Municipal Workers of America, CIO, Local 38. (1942, December 23). Art. II. BLS Collective Bargaining Agreements, Collection 6178-022, Reel 157, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁴⁴ Agreement between Board of Education, Ecorse Township School District No. 11 and State, County and Municipal Workers of America, CIO, Local 292. (1941, October 23). BLS Collective Bargaining Agreements, Collection 6178-022, Reel 181, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁴⁵ Agreement between Board of Education, City of Hamtramck and State, County and Municipal Workers of America, CIO, Local 257. (1942, May 4). BLS Collective Bargaining Agreements, Collection 6178-022, Reel 181, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁴⁶ Agreement between Board of Education, Independent School District No. 2, City of Coleraine and State, County and Municipal Workers of America, CIO, Local 456, May 4, 257, BLS Collective Bargaining Agreements, Collection 6178-022, Reel 181, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library, Ithaca, NY.

bargaining agreements.¹⁴⁷ A detailed history of SCMWA's origin, organizing, and collective bargaining successes will have to await future scholarship.

SCMWA created a National Teachers Division in 1945 to focus on organizing educators into the CIO.¹⁴⁸ The new division appointed a committee that included City College professor Abraham Edel from City College and Queens College economics professor Vera Shlakman.¹⁴⁹ In the late 1930s, Edel had chaired the New York City College Teachers Union's Education Policies Committee, which had recommended changes in shared governance at New York City colleges.¹⁵⁰ The National Teachers Division Committee scheduled a meeting tied with the planned April 1945 TU Teachers Conference at the Commodore Hotel in New York City.¹⁵¹

Prior to the April 1945 conference, a special meeting was held with Doxey Wilkerson about effective organizing in the South. Wilkerson was an African-American, a former Professor of Education at Howard University, an AFT Regional Vice President, and President of AFT Local 440. He had resigned from the Howard University faculty in 1943 and declared his membership in the Communist Party.¹⁵²

During the 1945 meeting, Wilkerson emphasized that African-American teachers would support organizing campaigns; however, non-segregated teacher locals would be extremely difficult to establish in most parts of the South. He identified West Tennessee, Kentucky, and West Virginia as states where non-segregated teacher locals might be possible. With respect to higher education, Wilkerson recommended that the focus be on organizing new locals at HBCU

¹⁴⁷ Pressman, L., et al. Legal memorandum in support of power of municipalities to enter into collective agreements. (1942, March). The CIO Files of John L. Lewis Part I: Correspondence with CIO Unions, 1929-1962, Reel 11, University Publications of America, Catherwood Library, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁴⁸ Rackliffe, J. Letter to all teacher locals. (1945, February 27). Charles James Hendley Papers, Box 9, Folder 24, TAM. 109. Tamiment Library and Robert F. Wagner Labor Archive, New York University.

¹⁴⁹ Hendley, C. J. Letter. (1945, Feb. 13). Letter to John Rackliffe. Charles James Hendley Papers, TAM. 109, Box 9 Folder 24, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹⁵⁰ Edel. *The Struggle for Academic Democracy*, pp. 1, 7-8. Vera Shlakman was terminated from her faculty position by the Board of Higher Education in 1952 after refusing to answer questions before the Senate Internal Security Subcommittee. She later taught in the social work schools at Adelphi University and Columbia University. Vera Shlakman, professor fired during red scare, dies at 108 (2017, November 27). *New York Times*, p. B12.

¹⁵¹ Minutes. Meeting of National Teachers Division Committee. (1945, February 17). Charles James Hendley Papers, TAM. 109, Box 9, Folder 24, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹⁵² Murphy. *Blackboard unions*. p. 148; Cain. Unionised faculty. pp. 8-9.

institutions. He specifically mentioned West Virginia State College, Wilberforce University, Lincoln University, and Fisk University.¹⁵³

Collective Bargaining at Howard University and the Hampton Institute

Howard University. At the April 1945 National Teachers Division Conference, UFWA Local 10 Howard University Branch Chairman Dr. Joseph L. Johnson announced that a combined union of faculty and non-academic staff had proposed a contract to university administrators that would recognize Local 10 as the bargaining agent for faculty, department heads, librarians, maintenance workers, janitors, and custodians.¹⁵⁴ Dr. Johnson was a Professor of Physiology, and later Dean, at the Howard University College of Medicine.¹⁵⁵ He was an anti-lynching activist with the Southern Conference for Human Welfare, and later became active in the Progressive Party.¹⁵⁶

Local 10 was formed in June 1944 at the Howard University medical school under the leadership of Dr. Johnson with 41 doctors and 23 staff as members.¹⁵⁷ Thereafter, the unionization effort spread to the library staff and then to the rest of the university. Timothy R. Cain has found that “330 of 450 Howard employees eligible for membership had joined, including over half of the faculty.”¹⁵⁸ UFWA’s organizing on the Howard campus was consistent with the union’s policies and practices concerning collective bargaining and racial inclusion.¹⁵⁹

The formation of a wall-to-wall union at Howard University for purposes of collective bargaining was a significant break from the faculty-only AFT locals that previously existed at Howard. The earlier Howard faculty union was primarily concerned with faculty’s role in

¹⁵³ Minutes. (1945, March 30). Meeting of National Teachers Division. Charles James Hendley Papers, TAM. 109, Box 9, Folder 24, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹⁵⁴ Minutes. (1945, March 30). Report of Dr. Johnson on Howard University. Charles James Hendley Papers, TAM. 109 Box 9, Folder 24, Tamiment Library and Robert F. Wagner Labor Archives, New York University.

¹⁵⁵ Staff, MSRC. (2015). Joseph Johnson Papers, 1960-1970. *Manuscript Division*. Paper 109. Moorland-Spingarn Research Center, Howard University.

¹⁵⁶ To open crusade against lynching. (1946, September 23). *New York Times*. p. 16; Plan service for lynched negroes. (1946, August 3). *The Greenville News*. p. 12; Capital protests rule by Bilbo. (1946, October 17). *Tampa Bay Times*. p. 1; Horne, G. (1986). *Black & red: W.E.B. Dubois and the Afro-American response to the cold war, 1944-1963*. p. 88. Albany, NY: State University of New York.

¹⁵⁷ Cain, T. R. Faculty unionization at Howard University, 1918-1950. pp. 133-134 in Gasman, M. & Geiger, R. L. (eds.), *Higher Education for African Americans Before the Civil Rights Era, 1900-1964*. New Brunswick, NJ: Transaction Publishers.

¹⁵⁸ Cain. Faculty unionization at Howard University.

¹⁵⁹ Rung, M.C. (2002). *Servants of the state: Managing diversity and democracy in the federal workforce, 1933-1953*. pp. 61-62, 97, 100, 174-76. Athens, GA: University of Georgia Press.

university governance.¹⁶⁰ In contrast, Local 10's wall-to-wall character demonstrated values that rejected hierarchical constructs for collective bargaining in education.

The proposed combined collective bargaining agreement for faculty and staff announced by Dr. Johnson was not immediately attained. On December 12, 1945, non-teaching staff at Howard University voted 203-0 in favor of Local 10 representation in an election conducted by the NLRB, which led to the voluntary recognition and the commencement of bargaining for a unit of non-teaching staff.¹⁶¹ The NLRB's role in conducting the representation election was voluntary; the agency did not assert jurisdiction over the university until three decades later.¹⁶²

In April 1946, the university and Local 10 entered into a one-year contract for non-teaching employees only.¹⁶³ The union signatories were Local 10 President Dorothy M. Bailey, Local 10 Vice-President Dr. Johnson, who was also Chairman of the Howard University Branch, and Peggy Dudley, Negotiations Committee Chair.¹⁶⁴ Unlike Columbia University's administration, Howard University President Mordecai Wyatt Johnson was not an opponent of collective bargaining. He had urged the 1944 Howard University graduating class to become labor and civil rights organizers in the South.¹⁶⁵

The contract for the Howard University staff was bare-boned, reflecting the fact that it was a first contract, but remains significant as another early example of collective bargaining in higher education. It contained negotiated minimum salaries for four classifications: professional and scientific; sub-professional; clerical, administrative and fiscal; and crafts, protective and

¹⁶⁰ Cain. *The First Attempts*. p. 886-888; Cain. *Unionised faculty*. p. 5.

¹⁶¹ Labor Union at Howard. (1945, December 29). *Pittsburgh Courier*. p. 9.

¹⁶² See, *Howard University*, 224 NLRB 385, 386 (1976) ("In fact, the record reveals that the University has voluntarily recognized a number of labor organizations as collective-bargaining representatives of its employees and in due course has negotiated a number of collective-bargaining agreements.")

¹⁶³ Agreement between Local 10, United Federal Workers of America and Howard University. (1946, April 16). Art. I. Records of Walter Dyson, Box 2504, Folder *H.U. Unionization, 1937-47*, Howard University Archives, Moorland-Spingarn Research Center.

¹⁶⁴ Agreement between Local 10, United Federal Workers of America and Howard University. (1946, April 16). p. 6. Records of Walter Dyson, Box 2504, Folder *H.U. Unionization, 1937-47*, Howard University Archives, Moorland-Spingarn Research Center.

¹⁶⁵ Gilmore, G. E. (2008). *Defying dixie: The Radical roots of civil rights: 1919-1950*. pp. 398-99. New York, NY: WW. Norton & Co.

custodial.¹⁶⁶ It also included protections against retaliation for engaging in union activity, a maintenance of membership clause, and a grievance procedure ending in binding arbitration.¹⁶⁷

Local 10's efforts to negotiate a contract for a combined faculty and non-teaching staff bargaining unit at Howard University continued under the leadership of Dr. Johnson. On February 6, 1947, the faculty voted 130-1 voted to be represented by Local 10. Local President Dorothy Bailey explained that the overwhelming faculty support for unionization was the result of the "excellent relationship" between the university and the union following the April 1946 contact for the non-teaching staff.¹⁶⁸ In addition to her position as Local 10 President, Bailey was a UFWA Vice President, and later a member of UPWA's International Executive Board.¹⁶⁹

In June 1947, Howard University President Johnson announced that it had successfully negotiated a contract with Local 10 for a combined unit of faculty and staff.¹⁷⁰ The agreement included a grievance procedure with binding arbitration, a clause concerning tenure, and salary increases.¹⁷¹ Shortly thereafter, Local 10 President Bailey became a victim of McCarthyism. She lost her employment with the U.S. Employment Service, and was later denied reappointment as a security risk based on a decision by the Loyalty Review Board of the United States Civil Service Commission.¹⁷²

UPWA's organizing efforts at HBCUs continued, with delegates from Howard University and other HBCUs scheduled to attend a December 1947 conference of the National Teachers Division.¹⁷³ As late as December 1949, the National Teachers Division sent a representative to Howard University to meet with faculty and non-academic staff.¹⁷⁴ The collective bargaining

¹⁶⁶ Agreement between Local 10, United Federal Workers of America and Howard University. (1946, April 16). Art. IV(b) and Exhibit A. Records of Walter Dyson, Box 2504, Folder *H.U. Unionization, 1937-47*, Howard University Archives, Moorland-Spingarn Research Center.

¹⁶⁷ Agreement between Local 10, United Federal Workers of America and Howard University. (1946, April 16). Art. II, III, and VII. Records of Walter Dyson, Box 2504, Folder *H.U. Unionization, 1937-47*, Howard University Archives, Moorland-Spingarn Research Center.

¹⁶⁸ University faculty joins union by 130 to 1 vote. (1947, February 15). *York Gazette and Daily*. p. 2.

¹⁶⁹ Rung. *Servants of the state*, p. 153.

¹⁷⁰ C.I.O union covers entire college. (1947, June 7). *Louisville Courier-Journal*. p. 6.

¹⁷¹ Cain. Faculty Unionization at Howard University. pp. 136-137.

¹⁷² *Bailey v. Richardson*, 186 F.2d 46 (DC Cir., 1950), *aff'd.*, 71 S. Ct. 669 (1951); Caute, D. (1978). *The great fear: The anti-Communist purge under Truman and Eisenhower*. pp. 276-77. New York, NY: Simon & Schuster.

¹⁷³ Minutes. (1947, December 29 and 30). Conference of representatives of C.I.O. Teachers Unions. Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, Folder 639f32 Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁷⁴ Richardson, T. Letter. (1949, December 9). Letter from Anti-Discrimination Commission chairman Thomas Richardson to Rose Russell. Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015,

relationship between UPWA and Howard University, however, ended in the midst of the Age of McCarthyism, following the expiration of their contract.

Hampton Institute. The All-Campus Union, UPWA Local 688, was formed at Hampton Institute in 1946 with a provisional charter. Among the primary organizers of the All-Campus Union was Hampton Institute Department of Social Sciences Chairman Roscoe E. Lewis who supported a combined faculty and staff unit to demonstrate that “a school is more than just its teachers.”¹⁷⁵ Lewis had been active in the Virginia Peninsula Teachers Union, AFT Local 607, which had been comprised of Hampton faculty members, public school teachers, and instructors from other institutions in the area.¹⁷⁶ Local 607’s membership committee described the union as “a non-strike, educational organization, utilizing the democratic techniques of conference, discussion and informed public opinion to support progressive movements in education.”¹⁷⁷ In 1944, Local 607 submitted proposals for institutional changes in faculty rank, tenure, and salaries, and a separate proposed statement of policies and principles to the Hampton Institute President and Board of Trustees.¹⁷⁸ Neither document advocated for collective bargaining.

Following the formation of the All-Campus Union, it persuaded the Hampton Institute Board of Trustees to develop a procedure to determine whether the union represented a majority of Hampton employees as a preliminary step to being recognized as the bargaining representative.¹⁷⁹ In November 1946, the All-Campus Union received its permanent charter from UPWA International Vice-President Thomas Richardson.¹⁸⁰

On June 12, 1947, the All-Campus Union signed a collective bargaining agreement with the Hampton Institute, effective July 1, 1947, for a combined unit of faculty and non-academic employees.¹⁸¹ The contract was for one year but would be automatically renewed for an additional year unless both parties agreed to terminate or modify it. The bargaining unit included

Box 39, Folder 639f32 Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁷⁵ Snow, Douglas A. (March 1950). Brunonians far and near. *Brown Alumni Monthly*, p. 25.

¹⁷⁶ Hampton dean says unions must clean up in interest of unity. (1941, October 11). *New York Age*, p. 8; Local 607 includes tidewater teachers not Hampton’s alone. (1943, April 17). *New York Age*, p. 2.

¹⁷⁷ Dear education worker. Memorandum. (undated), Folder *Virginia Peninsula Teachers Union Local 607*, Ralph P. Bridgman President’s Collection 1944-1948 Associations, Box 11, Hampton University Archives.

¹⁷⁸ Proposed System of Rank, Tenure, and Salaries for Hampton Institute Faculty (1944, January 27) and State of Policies and Principles for Hampton Institute (1944, December 12). Folder *Virginia Peninsula Teachers Union Local 607*, Ralph P. Bridgman President’s Collection 1944-1948 Associations, Box 11, Hampton University Archives.

¹⁷⁹ Trustees plan for increase in enrollment. (1946, May 1). *Newport News Daily Press*.

¹⁸⁰ Present charter to worker union at local college (1946, November 7). *Newport News Daily Press*, p. 12.

¹⁸¹ College union signs contract with CIO group. (1947, June 17). *Newport News Daily Press*. p. 9.

all full-time teachers, personnel workers, librarians who have worked for the school for more than one year, and full-time non-instructional employees. Excluded from the bargaining unit were directors of teaching divisions, department chairs, the librarian, deans, part-time teachers, part-time personnel workers and part-time librarians. Also excluded were executives and their assistants directly responsible to the college, president, part-time non-instructional employees, substitutes, students, and non-instructional workers employed for less than 30 days.¹⁸²

In announcing the contract, Hampton Institute's business manager Alonzo G. Moron praised the fact that the contract covered both faculty and non-educational employees. The contract provided for salary increases, a 40-hour work week, compensatory leave for overtime for some non-educational employees, a modified seniority clause for appointments and promotions, and vacation leave for non-educational employees based on length of service.¹⁸³ The significance of the contract was recognized by the Pittsburgh Courier, which published a picture that included members of both negotiating teams.¹⁸⁴ Later that year, Fisk University obtained a copy of the Hampton Institute contract with the All-Campus Union as Fisk considered granting voluntary recognition to a union to represent maintenance and service workers.¹⁸⁵

In 1949, Alonzo Moron took over as Hampton Institute's President and Brent Oldham became the new head of the Hampton Institute's All-Campus Union, Local 688, replacing William H. Moses.¹⁸⁶ Despite Moron's original support for the wall-to-wall union contract in 1947, he became hostile to unions and collective bargaining on campus after becoming president.¹⁸⁷

The relationship between the All-Campus Union and the Hampton Institute ended in 1950 following their contract's expiration¹⁸⁸ According to historian Hoda H. Zaki, "[t]here had been some antipathy on the part of some trustees toward the establishment of the union from the very beginning."¹⁸⁹ President Moron refused to continue to recognize the All-Campus Union or permit it to represent its members once the contract ended, on the grounds that UPWA had been

¹⁸² College union signs contract. p. 9.

¹⁸³ College Union signs contract. p. 9.

¹⁸⁴ Hampton signs with union. (1947, June 21). *Pittsburgh Courier*. p. 20.

¹⁸⁵ Creswell, I. T. Letter. (1947, December 29). Letter to Dr. Charles S. Johnson. Papers of Charles S. Johnson, Box 67, Folder 5, Fisk University John Hope and Aurelia E. Franklin Library.

¹⁸⁶ Zaki, H. M. (2007). *Civil rights and politics at Hampton Institute: The legacy of Alonzo G. Moron*. p. 39. Urbana, IL: University of Illinois Press; Oldham leader of campus union. (1949, April 10). *Newport News Daily Press*.

¹⁸⁷ Zaki. *Civil rights and politics at Hampton Institute*. p. 43.

¹⁸⁸ Zaki. *Civil rights and politics at Hampton Institute*. p. 42.

¹⁸⁹ Zaki. *Civil rights and politics at Hampton Institute*. p. 42.

expelled from the CIO because of alleged communist domination.¹⁹⁰ Later, Moron became a civil rights leader in the South. After participating in a seminar at the Highlander Center in 1957 along with Martin Luther King, Jr., Rosa Parks, and other activists, Moron began to be subjected to red-baiting.¹⁹¹

The article now turns to UPWA's collective bargaining representation of instructors working at New York trade schools in the late 1940s. Like the bargaining relationships at the two HBCUs, UPWA's representation of units of instructors at the trade schools was disrupted and destroyed by the domestic Cold War.

Collective Bargaining for Trade School Instructors in New York

During the late 1940s, SCMWA Local 555 organized and bargained for instructors employed at New York trade schools. In 1946 and 1947, Local 555 negotiated one-year contracts for theory and laboratory instructors at the American Radio Institute.¹⁹² It also negotiated one-year contracts in 1947 for full-time radio and television instructors at the New York Technical Institute, and instructors at the Pierce Radio School.¹⁹³ Local 555 archival records do not provide an explanation for why the units at the three trade schools were limited to instructors, unlike the combined units at Howard and the Hampton Institute.

The substantive terms of the trade school instructor contacts varied but had similarities. The agreements identified the workweek and workday of the instructors, defined salaries on a weekly basis, called for graduated increases over the year, and provided for paid leave, seniority rights, tenure after a period of probation, and just cause discipline. Disputes under the agreements were subject to a grievance procedure ending in binding arbitration.

Local 555's organizing of trade school instructors was fatally disrupted by a well-publicized special congressional subcommittee investigation of the union in late September and early October 1948. The six-day investigatory hearing was held at the United States federal courthouse in New York City in response to a complaint sent by an executive of another trade

¹⁹⁰ Zaki. *Civil rights and politics at Hampton Institute*, p. 43.

¹⁹¹ Zaki. *Civil rights and politics at Hampton Institute*, pp. 44-48.

¹⁹² Agreement between American Radio Institute, Inc. and the Teachers Union, UPWA Local 555, CIO. (July 22, 1946-July 22, 1947). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 30, Folder 639f6, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

¹⁹³ Agreement between New York Technical Institute and Teachers Union, Local 555, UPWA, CIO. (June 1, 1947-December 31, 1948); Agreement between Pierce School of Radio & Television and Teachers Union, Local 555, UPWA, CIO. (January 1-December 31, 1947). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, Folders 639f32 and 639f35, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

school, Radio-Electronics School of New York, in mid-August 1948. The complaint criticized Local 555 use of common union tactics and the union's political orientation.¹⁹⁴ The employer cited the union demands for voluntary recognition and collective bargaining, the strikes and picketing organized by the union, and the employer's claim that the union was Communist-dominated.¹⁹⁵

Following the complaint, the trade school employer and congressional investigators worked together to fulfill interrelated goals: to stop an ongoing unionization drive among teachers at the school, and to destroy a radical labor union focused on collective bargaining. The school's complaint became the pretext for the congressional subcommittee to subpoena Local 555 membership records, to question UPWA and Local 555 leaders under oath about their affiliations, and to investigate labor-management relations at other trade schools involving Local 555. Local 555's archival records indicate that the union's collective bargaining relationships with the other New York trade schools ended in 1948 following the expiration of the contracts.

We now turn to the last example of UPWA organizing and negotiating on behalf of faculty in the the1940s: the contracts reached for those working in the drama program at the New School of Social Research.

The First Faculty-Only Contract at the New School for Social Research

During the period Local 555 was under congressional investigation in 1948, the union organized the faculty at the Dramatic Workshop, a division of the New School for Social Research. Local 555 entered into a one-year contract with the New School beginning on September 30, 1948. Under the agreement, the school voluntarily recognized the union as the exclusive representative for the Dramatic Workshop's regularly employed full-time and part-time faculty members.¹⁹⁶ The contract represents the first known faculty-only collective bargaining agreement in higher education.

¹⁹⁴ *Investigation of Teachers Union Local No. 555, UPWA-CIO, Hearings Before a Special Subcommittee of the Committee on Education and Labor*, House of Representatives, Eightieth Cong., Second Session, pp. 34-58 (1948) (Testimony of Col. William B. Campbell, Executive Vice President, Radio-Electronics School).

¹⁹⁵ *Investigation of Teachers Union Local No. 555*, 35-36 (testimony of William B. Campbell).

¹⁹⁶ Agreement between the New School for Social Research and the Faculty Association of the Dramatic Workshop of the New School for School Research, Teachers Union, Local 555, UPWA-CIO. (September 30, 1948-September 30, 1949). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, Folder 639f13, United, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library (hereinafter "Dramatic Workshop Agreement").

The Dramatic Workshop was led by German-exile dramatist and radical Erwin Picator.¹⁹⁷ Its faculty included New School teachers, members of the Group Theatre including Lee Strasberg and Stella Adler, and other émigrés who were veterans of the German theatre.¹⁹⁸ Many drama students went on to become famous actors including Marlon Brando, Harry Belafonte, Rod Steiger, Elaine Stritch, and Shelley Winters.¹⁹⁹

Student enrollment at the Dramatic Workshop expanded considerably following World War II thanks to the G.I Bill.²⁰⁰ By 1947, enrollment had risen to approximately 1,000 students, the majority of whom attended part-time.²⁰¹ Problems began to develop following allegations of faculty missing classes and disorganization at the school.²⁰² Those problems were substantially exacerbated by the rapid rise of anti-communism, which directly impacted the New School and the Dramatic Workshop. For example, music composer Hanns Eisler, who had taught courses at the Dramatic Workshop, became a target of a 1947 public hearing of the House Committee on Un-American Activities.²⁰³

The 1948 contract between Local 555 and the New School was for the transitional year before the Dramatic Workshop became independent of the New School.²⁰⁴ It is unclear from the Local 555 archival record why it agreed to a contract limited to faculty at the Dramatic Workshop, rather than a combined unit with non-teaching employees.

The recognition clause defined “faculty members” as “all persons regularly employed as teachers in the Dramatic Workshop, including persons who perform non-teaching duties such as serving as student advisors, work in productions, and duties relating to the operations of the Production Office.”²⁰⁵ To be deemed regularly employed, a teacher had to be regularly assigned to teach at least two hours of class teaching per week. The two-hour teaching requirement was not applicable, however, to faculty in the art and technical departments.

¹⁹⁷ Rutkoff, P. M. and Scott, W. B. (1986). *New School: A History of the New School for Social Research*. p. 172, 176-179. New York, NY: Free Press.

¹⁹⁸ Rutkoff & Scott. *New School: A History*. p. 185.

¹⁹⁹ Rutkoff & Scott. *New School: A History*. p. 186.

²⁰⁰ Rutkoff & Scott. *New School: A History*. p. 190.

²⁰¹ Willett, J. (1978). Erwin Piscator: New York and the Dramatic Workshop 1939-1951. *Performing Arts Journal* 2(3), 6.

²⁰² Rutkoff & Scott. *New School: A History*. p. 192.

²⁰³ Rutkoff & Scott. *New School: A History*. p. 192; See, Wierzbicki, J. (2008). Hanns Eisler and the FBI. *Music & Politics* 2(2), pp. 1-31. The deportation of Eisler was the subject of a song written by Woody Guthrie, which was recorded decades later by Billy Bragg and Wilco on the album *Mermaid Avenue*.

²⁰⁴ Rutkoff & Scott. *New School: A History*. p. 194.

²⁰⁵ Dramatic Workshop Agreement Art. 1(2).

Consistent with the bilateral nature of collective bargaining, the contract set forth rights and prohibitions. The agreement included a salary schedule with minimum salaries for full-time and part-time teachers, paid holidays, sick leave with pay, maternity leave, and union security provisions.²⁰⁶ Disputes under the agreement were subject to binding arbitration before a tripartite panel.²⁰⁷

At the same time, the contract prohibited faculty with a schedule of 15 or more hours of teaching per week from accepting employment from a competitive school except with written permission. The agreement also prohibited faculty from offering private instruction to currently enrolled students or individuals who were students during the preceding year.²⁰⁸

The contract specified that production and repertory programs were at the core of the Dramatic Workshop's mission, and it mandated cooperation between faculty and Director Pictator. Pictator's difficulty in getting along with faculty and students might explain the following contract provision:²⁰⁹

Faculty members shall cooperate in the conduct of the production and repertory programs of the Dramatic Workshop by rendering services consistent with their professional backgrounds, the nature and extent of such services to be subject to mutual agreement between the faculty member and the Director of the Dramatic Workshop. Whenever such services have been agreed upon, faculty members shall perform and complete them in a manner consistent with the requirements of the program. It is understood that the production and repertory programs are an essential part of the operation of the Dramatic Workshop and the each faculty members will, to the best of his ability, participate herein and will agree to accept assignments, consist with his qualification, and to render services in connection with each program during the term of this Agreement. It is further understood that the foregoing provisions of the Paragraph (1) are inapplicable to persons employed in the Art and Technical Departments, whose duties and responsibilities may be assigned to them at the time their employment begins or is removed, provided that the terms of such employment are otherwise consistent with the terms of this Agreement.²¹⁰

As it began its transition to independence from the New School,²¹¹ the Dramatic Workshop negotiated a successor agreement with Local 555 in May 1949 with the union greeting the new

²⁰⁶ Dramatic Workshop Agreement, Art.2, 3, 7, 8, 9 and 13.

²⁰⁷ Dramatic Workshop Agreement, Art. 15.

²⁰⁸ Dramatic Workshop Agreement, Art. 4(2).

²⁰⁹ Rutkoff & Scott, *New School: A History*, 185.

²¹⁰ Dramatic Workshop Agreement, Art. 6.

²¹¹ Drama workshop gets new status. (1949, February 16). *New York Times* p. 32.

management and agreeing “to give ample consideration to requests which may be made by management to improve, at this time of change, the artistic and academic level of the School.”²¹²

The new agreement repeated many of the provisions of the first contract. The most significant changes were with respect to compensation, reflecting the financial difficulties facing the school. Under the agreement, teacher salaries would be paid semi-monthly except for October 1949.²¹³ In addition, the agreement had a salary schedule suggesting cleavages in the bargaining unit. The schedule set forth varying annual salaries for specifically named actors, directors, and other performing artists such as Margaret Wyler, Reiken Ben Ari, Kurt Cerf, Brett Warren, Carola Strauss, and Ted Post. It also listed salaries by title for certain presumably unfilled positions like Art Director, and Technical Director.²¹⁴

The financial condition of the Dramatic Workshop continued to deteriorate, leading it to default in paying teacher salaries. In December 1950, a negotiated agreement was reached between Local 555 and the Dramatic Workshop concerning payment of faculty salaries, which was followed by a February 1951 agreement requiring the school to assign all monies received from the Veterans Administration under the G.I. Bill to cover portions of faculty salaries in the spring semester.²¹⁵

Prior to Pictator returning to Germany in October 1951, and the school closing two years later, a final collective bargaining agreement was reached with Local 555. The contract was for a unit of all non-teaching full-time and permanent part-time employees.²¹⁶ The agreement included minimum salaries, job descriptions, hours of work, standards for employee discharge following probation, paid holiday and sick leave, and a grievance procedure ending in arbitration before one of two specifically designated public officials: Arthur Meyer and Stanley M. Isaacs.²¹⁷

²¹² Agreement between the Dramatic Workshop and Technical Institute, Inc. and the Faculty Association of the Dramatic Workshop, Teachers Union, Local 555, UPWA-CIO. (May 24, 1949-September 30, 1950), Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, Folder 639f32, United, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library, Ithaca, NY. (hereinafter Dramatic Workshop Agreement 1949)

²¹³ Dramatic Workshop Agreement 1949. Art. 10, Exhibit B.

²¹⁴ Dramatic Workshop Agreement 1949. Art. 10, Exhibit B.

²¹⁵ Memorandum and Agreement between Dramatic Workshop and Technical Institute and the Faculty Association of Dramatic Workshop. (1951, February 7). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, folder 639f32, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

²¹⁶ Agreement between Dramatic Workshop and Technical Institute and the Teacher Union, Local #555, United Public Workers of America - C.I.O. (January 1, 1950-June 15, 1950) Art. I. Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 39, folder 639f32, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library. (hereinafter Dramatic Workshop Agreement 1950)

²¹⁷ Dramatic Workshop Agreement 1950, Art. III, IV, VI, VII, XI, and XII.

The successful anti-communist attacks on UPWA, and the demise of the Dramatic Workshop, lowered the curtain on faculty collective bargaining in higher education, which did not resume until decades later when the AFT, the National Education Association (NEA), and the American Association of University Professors (AAUP) began organizing faculty for purposes of collective bargaining in the late 1960s and 1970s.

UPWA's Definition of Academic Freedom Included the Right to Unionize

In assessing UPWA's contributions to the representation of professors, school teachers and staff, it is important to consider the unique definition of academic freedom it developed in 1948, which included the right to join a trade union. At UPWA's second national convention in May 1948 in Atlantic City, Local 555 submitted a proposed resolution entitled "Statement on Academic Freedom." The proposal sought to redesign the concept of academic freedom to respond to the rising tide of "terror and intimidation" against teachers aimed at denying them a right to organize into unions and depriving them of other democratic rights.²¹⁸

At the convention, UPWA adopted an academic freedom resolution based largely on the proposal submitted by Local 555.²¹⁹ The UPWA resolution included a Bill of Rights that interwove economic rights, including the right to organize, with more traditional concepts of academic freedom. Noticeably absent from the Bill of Rights, however, was the freedom to research and publish:

- Teachers have the right to organize in defense of their economic interests, including the right to join a trade union, the right to strike, and the right to support the struggles of organized labor.
- Teachers are entitled to the same civil and political rights guaranteed for all other citizens. This includes the right to join and be active in any political party or organization of their choice. It includes the right as citizens to speak their minds and to act on public issues without fear of reprisal from their superiors.
- Teachers have the right and the responsibility to educate their students in the spirit of democracy. This includes the right and obligation to develop an atmosphere of free inquiry in the classroom; to encourage students to discuss all side of controversial

²¹⁸ Resolution submitted by the Teachers Union, Local 555, UPWAA-CIO to the National Convention of the United Public Workers of America-CIO. (1948, May 17). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 91, folder 691f5, United Public Workers of America (T.U.) 1948 CIO-UPWA convention, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

²¹⁹ Resolution on academic freedom, approved at U.P.W.-C.I.O. Second Biennial Convention. (1948, May 17). Teachers Union of the City of New York Records, 1916-1965, Collection No. 5015, Box 91, folder 691f5, Kheel Center for Labor-Management Documentation and Archives, Cornell University Library.

issues; to resist all efforts by big business and other vested interests to make the schools forum for the propagation of their own biased views.

UPWA's Bill of Rights, combined with its successes in collective bargaining, demonstrates its historical legacy as a radical leader in the unionization of faculty, teachers, and instructors in the 1940s. It challenged the construct of professionalism, and placed collective bargaining as a central value underlying the organizing of faculty and teachers. The content of its Bill of Rights demonstrates how advanced UPWA was regarding faculty collective bargaining in comparison to the AFT, NEA, and AAUP. While the AFT also focused on trade unionism and academic freedom before the 1950s, it is an overstatement to claim that it was "the most militant national organization representing teachers."²²⁰ At the same time, UPWA's failure to include research and publishing in its definition of academic freedom demonstrates that its focus on trade unionism was too narrow, resulting in it overlooking the importance of protecting faculty in fulfilling a core component of the mission of higher education.

Conclusion

This article has sought to broaden our knowledge of unionization and collective bargaining in higher education in the 1940s prior to the enactment of *de jure* rights under federal and state laws.

It has presented examples of institutions of higher education that embraced collective bargaining and reached agreements with unions over terms and conditions for faculty and staff in the absence of a legal mandate. It has shown that prior to the tsunami of McCarthyism, collective bargaining in higher education was supported or accepted by Republican university trustees in Illinois, trade unionists in UPWA and the AFT, administrators and faculty at HBCUs, the University of Akron, the New School, and other colleges and universities.

The examples from the 1940s are important precedent for institutions today seeking an alternative path to questions of representation that does not rely on the current or future state of labor law. These models can be emulated by institutions with values that respect the right of self-organization but seek to avoid the administrative processes of the National Labor Relations Board or a state labor relations agency. They are particularly relevant to institutions with religious affiliations who support the right to unionize but are concerned that government

²²⁰ Hutcheson, P.A. (2000). *A professional professoriate: Unionization, bureaucratization, and the AAUP*. p. 67. Nashville, TN: Vanderbilt University Press.

regulation of labor relations would constitute an interference with the free exercise of religion under the First Amendment.

At the same time, the inherent imperfection of voluntary recognition must be acknowledged. The continuation of voluntarily recognized relationships rests on institutional discretion following the expiration of a contract. This creates an asymmetrical power dynamic at the bargaining table for a successor agreement. As we saw, various collective bargaining relationships established after World War II were unilaterally terminated by institutions during the domestic Cold War after the expiration of the contracts.

There were also institutions during the 1940s that resisted union representation and collective bargaining. We saw how Columbia University successfully fought in court for the principle that it was entitled to be “union-free” because it was an educational institution. A contemporary parallel to that legal resistance is Columbia’s pending litigation challenging the employee status of its graduate and undergraduate assistants under the National Labor Relations Act.²²¹

Another more powerful example of institutional legal resistance in the 1940s was the use of congressional investigatory powers to discredit Local 555’s unionization efforts at trade schools in New York. It is likely that there were other colleges and universities that resisted unionization efforts. Those instances of resistance are reflective of principles that devalue democratic practices in the workplace and prioritize centralized authority.

The extensive violations of academic freedom in higher education during the domestic Cold War has been well documented by Ellen Schrecker and other scholars. This article has supplemented that scholarship by demonstrating that collective bargaining in the academy was a related victim during that era of persecution. The political climate led to the termination of early collective bargaining relationships and the destruction of UPWA, the only union that organized both faculty and staff for purposes of collective bargaining, and defined academic freedom to include trade unionism. Over a decade later, after the decline of McCarthyism and the granting of *de jure* unionization rights, other faculty unions began to advocate and organize for purposes of collective bargaining on campus.

A side effect of McCarthyism has been the loss of historical memory of the trade union ideals and accomplishments of UPWA and its predecessor unions. During their existence, they challenged the construct of professional exceptionalism through negotiated contracts for combined units of faculty and staff. The agreements were a direct result of advocacy by leaders

²²¹ *Trustees of Columbia University*, 364 NLRB No. 90 (2016).

and activists, who modeled their approach on the CIO's industrial unionism. Leaders like Charles Hendley understood that professionalism can be an ideological barrier to successful unionization in the field of education. They respected the education and training of faculty but did not accept that those qualities constituted a license to act and bargain as though a privileged class, and free to treat others working on campuses as invisible and nameless. The leveling in collective bargaining pursued by UPWA in the 1940s remains radical today.

It is impossible to determine the impact that UPWA would have had on organizing on college campuses and in the public schools following the 1940s, had Cold War hysteria not taken its devastating toll. What is clear is that the legacy of UPWA and its predecessor unions in organizing and negotiating have been largely untold, and warrant further scholarly study.

Appendix

Abbreviation	Explanation
AAUP	American Association of University Professors
AFL	American Federation of Labor
AFT	American Federation of Teachers
CIO	Congress of Industrial Organizations
HBCU	Historically Black Colleges and Universities
NEA	National Education Association
NLRB	National Labor Relations Board
SCMWA	State County Municipal Workers of America
TU	New York City Teachers Union
TVA	Tennessee Valley Authority
UI	University of Illinois
UFWA	United Federal Workers of America
UPWA	United Public Workers of America