Labor Hall of Fame

John R. Commons: pioneer of labor economics

Teacher, author, theorist, and observer, this progressive social scientist and his followers influenced a broad range of labor legislation in the first half of the 20th century

JACK BARBASH

John R. Commons has contributed in one way or another to practically every piece of social and labor legislation that has been enacted in the 20th century. Either directly or through students and colleagues at the University of Wisconsin, Commons has made his mark on such diverse aspects of American labor as apprenticeship, vocational education, workers' compensation, job safety, factory inspection, social security, unemployment compensation, unionism, collective bargaining, civil service, and—not least—the administration of labor law.

Commons belongs in Labor's Hall of Fame because he was the first great American economist—or perhaps better, social scientist—to put his science in the service of improving the conditions of labor. "More than any other economist [Commons] was responsible for the conversion into public policy of reform proposals designed to alleviate defects in the industrial system."[1] Indeed, Commons understood better than most not only that injustice hurt working people, but also that the alleviation of injustice was essential to the stability of the society as a whole.

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Progressive beginnings

Born in 1862, Commons came of age in the Progressive era of American history, characterized by Theodore Roosevelt's Square Deal and Woodrow Wilson's New Freedom. He said he was "born again" when he moved from his native Ohio to Wisconsin[2] and met Governor Robert M. La Follette, another great Progressive who "opened up. . .a noble idea of patriotism for the state wherein there should be no corruption in politics, no control of governors and legislatures by the lobbyists of corporations, no machine controlling the party conventions. Instead there should be a resurrection of the early American idealism of government by the people themselves."[3] The politician and the professor became collaborators in what came to be known as the Wisconsin Idea: a partnership between the State Government and the university. . .in "instruction, research, extension [and] economics."[4]

Wisconsin became a great State laboratory for social policy experimentation. Later, students of Commons were to be New Deal innovators, most notably in unemployment insurance and social security. Commons tells his life story:[5]

> My first introduction to the problem of the relation of law to economics was in the classes of Professor [Richard T.] Ely at Johns Hopkins University, 1888. In 1899 I investigated, for the United States Industrial Commission, the subject of

New Labor Hall of Fame

This is the first of several articles, commissioned by Friends of the Department of Labor, about members of the Labor Hall of Fame, which honors posthumously Americans who have contributed most to enhance the quality of life of American workers. The Labor Hall of Fame is an activity of Friends of the Department of Labor, an independent membership organization established in 1987 "to support the traditional programs and goals of the U.S. Department of Labor, and to generally support the cause of improved labor-management relations."

The first four persons elected to of the Labor Hall of Fame, were:

Samuel Gompers (1850–1924), the first president of the American Federation of Labor.

John R. Commons (1862–1945), a pioneer in making the field of labor economics a respectable area of study.

Cyrus S. Ching (1876–1967), the first director of the Federal Mediation and Conciliation Service.

Frances Perkins (1880–1965), Secretary of Labor during the economic recovery period of the Depression, who helped establish numerous landmark social programs, including the Social Security Act.

Elected to the Labor Hall of Fame on April 12 were:

John L. Lewis (1880-1969), propagator of unionism in industry and longtime president of the United Mine Workers.

A. Philip Randolph (1889-1979), founder of the Brotherhood of Sleeping Car Porters and respected civil rights leader.

George Meany (1894-1980), founding president of the AFL-CIO.

James P. Mitchell (1900-1964), popular Secretary of Labor from 1953 to 1961, and a proponent of progressive management in industry and Government.

A panel composed of national leaders from unions, industry, academia, and government, and chaired by Monsignor George Higgins, makes the selection to the Labor Hall of Fame. Former Secretary of Labor W. J. Usery, Jr., chairs Friends of the Department of Labor. The Hall of Fame is housed in the north lobby of the Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, DC 20212. Friends of the Department of Labor invites Hall of Fame nominations. They may be submitted to Friends of the Department of Labor, Box 2258, Washington, DC 20013.

Immigration, which took me to the headquarters of practically all the national trade unions. This led to a further investigation of restrictions of output by capitalistic and labor organizations. After 1901 I participated in labor arbitration with the National Civic Federation, representing "labor, employers, and the public," and, in 1906, with the same organization, in an investigation of municipal and private operations of public utilities. . . .In 1905 I drafted a civil service law and in 1907 a public utility law. . . .In 1906 and 1907, I investigated with others, for the Russell Sage Foundation, labor conditions in the steel industry at Pittsburgh. During 1910 and 1911, when the Socialists were in control of the city of Milwaukee, I organized for them a Bureau of Economy and Efficiency. In 1911 I drafted, and then participated for two years in the administration of, an Industrial Commission law for the State of Wisconsin, with the purpose of ascertaining and enforcing reasonable rules and practices in the relations between employers and employees. From 1913 to 1915, I was a member of the Industrial Relations Commission appointed by President Wilson. In 1923 I represented. . .four Western states before the Federal Trade Commission on the Pittsburgh Plus case of discrimination practiced by the United States Steel Corporation. . . .Between 1924 and 1926, I administered for two years, as chairman, a voluntary plan of unemployment insurance in the clothing industry of Chicago. This plan was similar to that which I had previously devised in 1923, for legislation. The plan, with improvements, was finally enacted in Wisconsin in 1932.

In 1907, Commons cofounded the American Association for Labor Legislation, the most important force behind the labor legislation of its generation.

A conservative radical

Commons sought radical change by conservative means. Government properly employed could play a creative and positive role in alleviating injustice in the workplace, a task that he felt could not safely be left solely to the workings of the market. But reform had to take place within "the foundations of capitalism":[6] "I was trying to save capitalism by making it good."[7]

The key to Commons' short-term strategy is found in the observation about reform in the Progressive era that "it was not that good and evil did not exist, rather that to diminish evil some sort of 'method of intelligence' must be used."[8] Commons helped install bill drafting as an expert process free from political patronage, corruption, and special interests. Wisconsin was thus the first State to establish a Legislative Reference Service—what some referred to as a "bill factory." "Before, legislators could look only to lobbyist lawyers to draft bills. Now, they could turn to investigators and lawyers paid by the state. [Charles McCarthy, the Service's legendary founder,]. . . .had or would get immediately almost everything one might need on all sides. . . . His

stubborn criticism of every detail forced me to the most careful self-criticism that I had ever known."[9]

Commons turned to trained professionals to administer labor policy. They would "apply to labor legislation the same study of causes, of processes and of effects that lies at the basis of our modern science."[10] Commons supported the practice of professionalism, training and educating several generations of public administrators in both Wisconsin and the Federal Government.

For Commons, collective bargaining applied not only to the workplace, but to the making and administration of the law. The administrative process becomes "as nearly a voluntary system of collective bargaining as the nature of our constitutional government will permit."[11]

Commons believed that the profit motive could be used "to promote the welfare of the whole community by giving employers incentives to comply with labor legislation."[12] His unemployment compensation legislation encouraged employers to prevent layoffs by gearing contributions to the employer's effectiveness in preventing unemployment. Similarly, he believed that accident rates could be cut if employer contributions were related to their success in reducing accidents and injuries.[13]

Commons followed the same conciliatory approach in labor relations. If there were employers who were sympathetic to unions, he would work with them to bring other employers around. His work with the National Civic Federation was grounded in just that principle.[14]

Commons was an incrementalist: "Too much progressivism and radicalism at a single dose"[15] brings political reaction. He was "opportunistic but pushed into danger by experimentation. If physical scientists risk their lives in experiments why should not an economic scientist risk his job?"[16]

Commons was not blind to the dangers of bureaucracy and the abuse of power. Therefore, the how of labor and social policy concerned him as much as the what. Commons acted to decentralize governmental power in creative ways. In what we today call tripartism, or the social contract, he sought to bring all interested parties into the making and application of policy. His commitment to professionalism led him to bring in a technically qualified civil service staff to administer the law, albeit with the advice of the interested parties. His idea of due process required government to investigate "all the facts in the case. . .before [a] decision is made. . .[and] provide a hearing in order that all facts be known."[17]

Commons was a voluntarist who believed and acted on the principle that government, even though primary, was only one of several institutions that needed to be enlisted in the pursuit of equity for working people. Private institutions like trade unions, collective bargaining, or employer personnel administration could all serve as instruments for equity in employment. The key concept in Commons' policy vocabulary was reasonableness. "Reasonableness," he said, is "idealism enforced by practicality [which could be] investigated and ascertained as actually in operation."[18]

Putting theory into practice

For Commons, there was "no antagonism between theory and practice, for a theory is only a tool for investigating practice, like a spade for digging up facts and converting them into an understandable system."[19] His point of view was based on his participation in collective activities as a printer, trade unionist, mediator, administrator, bill drafter, investigator, professor, and teacher.[20] His theorizing also reflected a religious upbringing which led him very early in life to speak out against injustice.

Commons was not a systematic theorist, as the term is commonly understood. But it is nonetheless possible to construct a theory from his voluminous writings and accomplishments. The labor problem begins with "the peculiar nature of labor as a commodity."[21] Unlike other commodities, labor has a "soul":[22] the human mind is not "a passive receptacle of ideas; it [is] capable of making choices,. . . manipulating the external world,"[23] rather than being manipulated by it.

For employers, labor is a cost, and therefore, like any other commodity, it is subject to the laws of supply and demand in the labor market. Engineers see labor as a piece of machinery subject to the law of efficiency.[24] These viewpoints are valid to a degree, but incomplete. They fail to take into account the worker's goodwill, which "enlists the whole soul and all his energies in the things he is doing. It. . .cannot be broken up and measured off in motions and parts of motions for it is not science but personality. It is the unity of a living being."[25] Indeed, labor's goodwill is not only individual self-interest: "It also [is] labor's solidarity of interest" or what the French call "*l'esprit de corps*."[26]

The relationship between the "propertyless seller of himself on the one hand and a propertied buyer on the other"[27] creates an inequality of bargaining power because the worker is under the "imperious necessity of immediately agreeing"[28] with the employer. Like the economists, the courts have misperceived the individual worker and his employer as equals when there is, in reality, a great inequality.[29] Narrowing this inequality engaged Commons' theory and practice.

Commons turned to several remedies. The State, under democracy and equal suffrage, served as the primary source of correction.[30] Legislation, maintained Commons, goes beyond the legal face of things and looks at the real bargaining relationship. The elected legislators are able to recognize that the labor bargain is not only about wages, but in a very real sense about life itself, and they enact corrective legislation like health and safety rules, minimum-wage laws, and laws pertaining to unions and collective bargaining to protect life. Commons called for a new equity that would "protect the job as the older equity protected the business."[31] That is, he urged that standards and procedures be adopted to protect the workers' human condition.

Nor are the workers themselves altogether powerless to resist the weakening of their human condition. There is, to begin with, "a basic solidarity of interest as well as the individual laborer's self interest"[32] which causes workers to unify their resistance to efficiency measures. Workers resist engineering efficiency, at least in the short run, by restriction of output. Even without a union, "the laborer is bargaining while he is at work and his tacit offer to the employers is the amount of work he is turning out."[33]

Beyond restricting output, the modern laborer institutionalized his defenses in the form of unions. Unions engage in collective bargaining to establish rules of equity in the workplace. Commons called on his own experiences as a unionized printer to illustrate the beneficial effect of unions: "In the nonunion office the foreman was a dictator. He had his 'pets' to whom he gave his steady work; and he gave them the 'fat,' meaning the kind of work that paid better wages than other kinds of work. . . .But in the union office the foreman was restrained in these matters by rules agreed on by the labor union and the owners of the newspaper."[34]

The evolution of the union, from the small local shop to powerful national and international organizations, has been shaped by the widening markets for the goods produced by its members. Commons called collective bargaining a form of "industrial government with its legislative, executive and judicial branches, its common law and statute law, its penalties and sanctions."[35] The analogy was between the agreement reached through collective bargaining and the statute, the grievance process and common law, and arbitration and the judicial process.

Scarcity necessarily generates conflicts of interest over relative shares, but these conflicts can be resolved through bargaining. Mutual dependence can create order and a harmony of interests out of conflict. Of course, such harmony is not foreordained. But it arises out of a bargaining transaction when that transaction is a relationship between equals. This is in direct contrast to managerial transactions and transactions involving rationing, which are necessarily relationships among unequals.[36] Collective bargaining not only applies to terms of employment and rules in the workplace, but extends to public policy as well.

Commons saw unions based on collective bargaining ("business unionism," according to Robert Hoxie, one of Commons' contemporaries) as better suited to the American environment than "revolutionary unionism" (Hoxie again), which sought to replace capitalism with socialism. Socialism was alien to the workers' own psychology, in which job rights meant shorter hours of labor and the freedom to escape from economic oppression rather than the socialists' "higher idealism" of owning the means of production.[37]

Nor is the employer-employee relationship wholly one of conflict: it is in the employer's own interest to recognize the importance of employee goodwill in promoting efficiency, "because it brings larger profits and lifts the employer somewhat above the level of competing employers by giving him a more productive labor force."[38] By way of example, Commons called attention to the newly emerging personnel departments, which "deal with every human relation within and without the establishment. [They are] the department of justice as well as the department of health and efficiency."[39]

All this may seem commonplace today, but it was far from commonplace when Commons wrote it some 75 years ago. For most of his life, Commons, who died in 1945, was at odds with both the conventional wisdom of economics and Marxist socialism. On the one hand, main-line economic theory has in general had little use for unions, collective bargaining, and labor legislation other than noting that such measures interfered with the influences of the market's "invisible hand." On the other hand, Marx, says Commons, "had not seen the movement of trade unionism through which laborers learned to organize, learned self-control, learned to negotiate with employers, learned that they need not fall back into the pauper condition that Marx predicted, but that by arbitration, they might make an agreement with the capitalists, that they might come to terms with the capitalists and divide the product between them."[40]

Research and teaching

Commons carried on much of his research as a participant in the behavior he was investigating. Participation was necessary to get the full flavor of the situation under investiga-

Commons was trained as an economist, but he found that economics alone was insufficient to explain the behavior of working people. So he became multidisciplinary, turning also to history, sociology, social psychology, and particularly law to illuminate the wider aspects of working. Several of his greatest works were in the fields of history[41] and law.[42] Commons and his company of scholars made the examination of labor academically respectable.

Although Commons might have been judged a failure as a public speaker, he was nevertheless a great teacher. He stirred students to think for themselves and find their own answers. Edwin E. Witte, who became the "father" of American social security, remembered how his fellow students, starting as rebels, came away from Commons' classes wanting "to improve what. . .was wrong but without destroying our political, economic and social structure," desiring to "know the facts,. . .to think in terms of remedies rather than criticisms and to learn from the people directly interested."[43] Commons, said Witte, taught by example rather than by preaching.

David J. Saposs, coauthor of the monumental *History*, recalled how Commons launched "his assistants and students on a project by outlining some general ideas [and then] letting them work on their own. . . .[He] aroused our curiosity and broadened our horizons through his analytical mind and provocative ideas."[44]

Selig Perlman, the distinguished labor movement theorist, characterized Commons as an "intellectual democrat

[who asked] genuine groping questions without any definite goal—a mere stabbing in this direction and in that. . .and then. . .a question or a series of questions would come forth which. . .touched the nerve of the situation."[45]

Frank P. Walsh, the chairman of the U.S. Commission on Industrial Relations, who had sharp disagreements with Commons, called him a "pygmy physically but a giant when it comes to intellect [and] the most accomplished political economist of his time."[46]

The keys to labor reform

Commons' key concepts in both theory and practice were equity, bargaining, reasonableness, pragmatism, and institutionalism. By equity, Commons meant fairness for employees in the employment relationship. Bargaining was the best way to achieve equity in the workplace and in public policy, because bargaining resolves conflict from positions of equality, not from command and obedience. Reasonableness tempered bargaining power with social intelligence and reason. Commons favored pragmatism or experience over utopianism in formulating policy: "Let us investigate and [then] come to an understanding as to what should and can be done."[47] Finally, Commons was an "institutional" economist. Individuals functioned economically mainly through unions, corporations, and the like. By contrast, main-line economists "in imitation of the physical sciences treated the individual like atoms [and] molecules."[48]

Commons had his critics, including some who thought he was too opportunistic, relied too much on voluntarism, failed to appreciate fully the macroeconomic forces which restricted voluntary choice, and had too much faith in the ultimate triumph of reasonableness. His greatness, however, is manifest in the fact that most of his theory and principles are relevant today. He learned how to ask the right questions and, more important, how to go out into the real world and search for answers in the lives of people as well as in books. When he found answers that satisfied him, even if only for the time being, he worked ingeniously, tirelessly, and educationally to put his answers into practice and start the research-policy cycle all over again.

An uncommon professor

John R. Commons was thus an uncommon professor. He was doer and thinker, investigator and theorist. He learned as much, and maybe more, from experience as from books. He learned as much from his students as he taught them. His universe reached beyond the classroom and library into the workplace, the trade union hall, the corporate board room, the halls of Congress and the legislature, and the social conscience. His achievements are to be found not only in books and articles, but in laws—in rules that touched the lives of people where they labored, lived, and learned. His students learned not only facts and theories from him; they also learned how to evaluate those facts and theories and how to draw theories from life, and not just from books. Commons was as much at home with labor leaders, businessmen, legislators, and just plain working people as he was with students and professors.

Commons' singular courage was to urge prudence, reason, compromise, and discussion when all around him were manifestos, marches, and drama. This was no excuse for inaction; rather, he wanted to make sure that the action taken would work. He found his solutions in American ways and institutions, and, as no one else before, he challenged future doers and thinkers in the field of labor to go and do likewise. □

———*FOOTNOTES*———

[1] Joseph Dorfman, *The Economic Mind in America, 1918–1933*, Vols. 4–5 (New York, Viking Press, 1959), p. 377.

[2] John R. Commons, *Institutional Economics* (New York, Macmillan, 1934), p. 5.

[3] John R. Commons, *Myself* (Madison, WI, University of Wisconsin Press, 1964), p. 88.

[4] *Ibid.*, p. 97.

[5] *Institutional Economics*, pp. 2–3.

[6] *Ibid.*, p. 848.

[7] *Myself*, p. 143.

[8] Samuel Haber, *Efficiency and Uplift* (Chicago, University of Chicago Press, 1964), pp. 54–55.

[9] *Myself*, pp. 109–10.

[10] Roy Lubove, *The Struggle for Social Security, 1900–1935* (Cambridge, MA, Harvard University Press, 1968), p. 32.

[11] *Institutional Economics*, p. 852.

[12] *Ibid.*, p. 60.

[13] *Ibid.*, p. 60.

[14] L. B. Harter, *John R. Commons* (Corvallis, OR, Oregon State University Press, 1962), pp. 167 ff.

[15] *The Economic Mind*, p. 379.

[16] *Myself*, p. 48.

[17] John R. Commons, *Industrial Goodwill* (New York, McGraw-Hill, 1919), p. 16.

[18] *Myself*, p. 156.

[19] *Institutional Economics*, p. 722.

[20] *Ibid.*, p. 1.

[21] John R. Commons and John B. Andrews, *Principles of Labor Legislation* (New York, Harper Bros., 1936), p. 1.

[22] *Industrial Goodwill*, p. 20.

[23] *Institutional Economics*, pp. 16–17.

[24] *Industrial Goodwill*, p. 14.

[25] *Ibid.*, p. 20.

[26] *Ibid.*, pp. 19–20.

[27] *Principles of Labor Legislation*, p. 1.

[28] *Ibid.*, p. 1.

[29] *Ibid.*, p. 1.

[30] *Ibid.*, p. 1.

[31] John R. Commons, *Legal Foundations of Capitalism* (Madison, WI, University of Wisconsin Press, 1959), p. 307.

[32] *Industrial Goodwill*, p. 19.

[33] *Ibid.*, p. 23.

[34] John R. Commons, *The Economics of Collective Action* (New York, Macmillan, 1950), pp. 25–26.

[35] John R. Commons, *Trade Unionism and Labor Problems* (Boston, Ginn, 1921), p. vii.

[36] *Institutional Economics*, pp. 55 ff., 95 ff.

[37] John R. Commons, *Labor and Administration* (New York, Macmillan, 1923), pp. 49–50.

[38] *Industrial Goodwill*, p. 26.

[39] *Ibid.*, p. 105.

[40] *Ibid.*, p. 194.

[41] *Documentary History of Industrial Society* (Cleveland, OH, A. H. Clark, 1910–11) and *The History of Labor in the U.S.* (New York, Macmillan, 1918).

[42] *Legal Foundations of Capitalism*.

[43] Cited in Harter, *John R. Commons*, pp. 77–78.

[44] Cited in University of Wisconsin School for Workers, *Thirty-fifth Anniversary Papers* (Madison, WI, University of Wisconsin Press, 1960), pp. 10–11.

[45] Cited in Commons, *The Economics of Collective Action*, p. 5.

[46] Cited in Graham Adams, Jr., *Age of Industrial Violence, 1910–1915* (New York, Columbia University Press, 1966), p. 69.

[47] *Institutional Economics*, p. 117.

[48] *The Economics of Collective Action*, p. 15.

A note on communications

The *Monthly Labor Review* welcomes communications that supplement, challenge, or expand on research published in its pages. To be considered for publication, communications should be factual and analytical, not polemical in tone. Communications should be addressed to the Editor-in-Chief, *Monthly Labor Review*, Bureau of Labor Statistics, U.S. Department of Labor, Washington, DC 20212.