

Labor unions - Communist problem (1954)

Anti-Communist Provisions in Union Constitutions

WILLIAM PASCHELL AND ROSE THEODORE *

DURING VARIOUS PERIODS in its history, the labor movement has combated the Communist influence in different ways. Of fairly recent origin is the widespread adoption of formal constitutional provisions barring Communists by specific mention or by general bans against subversives.¹ Through the enforcement of such provisions, union membership or eligibility for union office is denied to Communists and their followers in many national or international unions in the United States.

Formal provisions barring Communists from international union office or having that effect were found in 59 of 100 national or international union constitutions recently analyzed by the Bureau of Labor Statistics.² The 59 unions had approximately 10,000,000 members; 40 of these, with nearly 6,000,000 members, applied anti-Communist restrictions to members or prospective members and to officers (see table). Many unions with no specific constitutional provisions banning Communists have made their stand on communism clear in other ways as evidenced in union periodicals and convention proceedings.

Historical Background

During the mid-1920's union constitutions did not contain formal provisions against Communists, as such, similar to those now in effect.³ However, provisos against membership in a dual or rival organization served the same purpose for many unions in those years.⁴ Communists sought control of the labor movement in the 1920's by utilizing tactics of "boring from within" framed by the Communist-dominated Trade Union Educa-

tional League (TUEL). The simultaneous maintenance of union membership and affiliation with the TUEL formed the basis for expulsions or other disciplinary measures against Communists on charges of dualism. Toward the end of the twenties, a policy of forming dual unions was established under auspices of the Trade Union Unity League (TUUL), which replaced the TUEL. In appraising the effectiveness of the anti-Communist campaign waged by long-established unions and supported by the American Federation of Labor, a noted labor historian observed that "by 1928 the Communists had been virtually squeezed out of every organization of labor."⁵

Little change in constitutional provisions relating to Communists took place during the 1930's. Only two international union constitutions effective in the mid-thirties were known to have specific provisions which made members of a "Communist organization" or of the "Communist Party" ineligible for union membership.

A number of significant developments occurred during this period. The labor movement entered upon a period of rapid growth, stimulated by the enactment of favorable Government legislation

*Of the Bureau's Division of Wages and Industrial Relations.

¹ In this connection, two reports of Congressional committees are of interest: Public Policy and Communist Domination of Certain Unions, Report of the Subcommittee on Labor and Labor-Management Relations to the Committee on Labor and Public Welfare (with individual views of Mr. Morse), U. S. Senate (82d Cong., 2d Sess.), Washington, 1953; and Subversive Influence in Certain Labor Organizations, Hearings before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws, Committee on the Judiciary, U. S. Senate (83d Cong., 1st and 2d Sess.) on S. 23, S. 1254, and S. 1006, Legislation Designed to Curb Communist Penetration and Domination of Labor Organizations, Washington, 1954. See also p. 1106 of this issue for summary of recent anti-Communist legislation.

² Most of the national and international union constitutions studied were effective in 1952-53 or later. Hereafter, international will be used to describe unions whether national or international in scope. Local union constitutions were not studied.

Of the 100 unions studied, 52 were affiliated with the American Federation of Labor and 23 with the Congress of Industrial Organizations; 25 were unaffiliated or independent unions. Membership of the 100 unions totaled approximately 15,000,000, or about 90 percent of American trade union membership exclusive of Government-worker unions. The latter were not included in this analysis.

³ Based on examination of past practices in: Handbook of American Trade Unions, Bureau of Labor Statistics Bull. 420, 1926 (covered 150 unions); Handbook of American Trade Unions, 1936 Edition, Bureau of Labor Statistics Bull. 618, 1936 (table, pp. 40-48, covered 148 unions); and Handbook of Labor Unions, by Florence Peterson, Washington, American Council on Public Affairs, 1944 (covered 182 unions).

⁴ For the historical and theoretical setting of radical unionism, see Left Wing Unionism, by David J. Saposs, New York, International Publishers, 1926 (p. 54, reference to use of dual union charges). For an account of how one union utilized charges of dualism to oust Communists, see The Needle Trades, by Joel Seligman, New York, Farrar and Rinehart, Inc., 1942 (pp. 174-178).

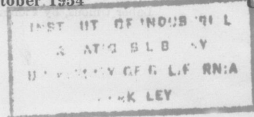
⁵ See Communism in Trade Unions, by Philip Taft, Monthly Labor Review, February 1954 (p. 139).

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and by the organizing drives of the newly formed CIO and the older AFL.⁶ The TUUL was formally dissolved in 1935, and Communists reverted to the old TUEL policy of "boring from within," later taking advantage of the situation in some of the then newly organized industries.⁷ A reexamination of constitutions effective after these events crystallized revealed the first significant trend toward adoption of anti-Communist provisions along the lines of those found in present-day union constitutions. About the early forties, 26 constitutions, mostly AFL, had provisions in effect relating to members or officers.⁸

A decade later, as shown by this study, the adoption of formal restrictive provisions against Communists had become an established practice. More than 60 percent of the AFL and CIO union constitutions analyzed included anti-Communist or anti-subversive provisions. Behind this development were such factors as the AFL's historic anti-Communist stand; amendments to the CIO's constitution permitting action against any pro-Communist affiliates and the subsequent expulsion, beginning in 1949, of 11 unions on charges of Communist domination; and the "anti-Communist affidavit" filing requirement in the Taft-Hartley Act for union officers.

Current union constitutional provisions barring Communists as members or as officers are generally found in membership admission or qualification sections and among officer eligibility requirements. However, a few Communist restrictions were found only (a) as part of the oath required to be taken by international officers, (b) among offenses listed in disciplinary or trial procedures, or (c) as special laws or resolutions which were appended to the regular constitutional articles.

Specific v. General Provisions

The word "Communist" was specifically incorporated in the restrictions contained in 47 of the 59 constitutions. Sometimes the word "Communist" was mentioned, either alone or in connection with other specific subversive groups, as follows:

Any member accepting membership in the Communist, Fascist or Nazi Party shall be expelled . . . Members charged with membership in the Communist, Fascist or Nazi Party shall be tried on said charges as provided for in the International Constitution.

Anti-Communist and anti-subversive provisions applicable to union membership or holding office, in 100 international union constitutions¹

Anti-Communist and anti-subversive provisions	Number		Percent	
	Constitutions	Members (thousands)	Constitutions	Members
Total constitutions analyzed.....	100	14,758	100.0	100.0
Holding office:				
No formal provision.....	41	4,761	41.0	32.3
Communists and/or subversives barred.....	59	9,997	59.0	67.7
Membership:				
No formal provision.....	60	8,945	60.0	60.6
Communists and/or subversives barred.....	40	5,813	40.0	39.4

¹ Includes 52 AFL unions, 23 CIO unions, and 25 unaffiliated unions. Constitutions of unions which organize Government workers primarily were not analyzed. Anti-Communist provisions were those which contained the word "Communist"; anti-subversive provisions did not specifically use the word "Communist" but were of such a general nature as to cover subversives of the "right" or "left."

² Includes 26 constitutions in which the anti-Communist or anti-subversive provisions referred to members only. In 18 of these, union membership was one of the requirements for eligibility to hold office, thus making membership provisions automatically applicable to officers; 7 contained no such requirement. However, for purposes of this study, it was considered unlikely that officers would be chosen who were not union members, or that officers would be less subject to anti-Communist or anti-subversive provisions than members; therefore, the 7 constitutions also were classified as affecting officers.

Frequently, provisions of a specific nature were accompanied by general restrictions against all subversive elements, whether "left" or "right." For example, one constitution contained the following clause:

No member shall be eligible for nomination or election or appointment to, or to holding office, or position, or to serve on any Committee in the International Union or a Local Union or to serve as a delegate therefrom who is a member, consistent supporter, or who actively participates in the activities of the Communist Party, Ku Klux Klan, or of any Fascist, Totalitarian, or other subversive organization, which opposes the democratic principles to which the United States and Canada and our Union are dedicated.

Anti-subversive provisions, although not specifically mentioning Communists, were construed in this report as being effective against Communists. Of the 59 constitutions, 12 contained only such generalized restrictions. The following clause illustrates the language used in such provisions:

No person shall be eligible either to membership or to retain membership in this International or any local union affiliated with the International who shall be a

⁶ Brief History of the American Labor Movement, Bureau of Labor Statistics Bull. 1000, 1950 (pp. 22-27).

⁷ Handbook of American Trade Unions, 1936 Edition, op. cit. (pp. 13-16); and Communism in Trade Unions, op. cit. (p. 140).

⁸ Based on examination of union constitution provisions in Handbook of Labor Unions, by Florence Peterson, op. cit.

member of any organization having for its aim or purpose the overthrow, by force, of the Constitution and Government of the United States.

Other clauses of this kind, sometimes in combination with specific provisions, mentioned restrictions against members of organizations which included "fifth column"; "authoritarian"; advocates of a "foreign ideology"; any "front" organizations; or "any organization . . . opposed or hostile to the democratic form of government."

One provision, interpreted as an anti-subversive ban applicable to officers, reads:

No candidate shall be eligible for an office of the International Union unless . . . he is able and willing to execute all affidavits, under the direction of the General Executive Board, necessary to secure access to government agencies.

This provision presumably refers to the Taft-Hartley Act [sec. 9 (h)] requirement on the filing of anti-Communist affidavits by officers of unions seeking to use the facilities of the National Labor Relations Board.⁹ The Railway Labor Act which governs the labor relations of railroads and airlines does not have such an affidavit requirement.

Some union constitutions referred to "members" of the Communist Party or of subversive groups. Others mentioned "advocates," or "supporters" or similar adherents, without necessarily limiting the restriction to members only. Of the 59 constitutions studied, 18 were directed against Communist "members"; 11 against Communist "supporters" or "advocates"; and 30 against both Communist "members" and "adherents."

Coverage of Provisions

In 40 of the 59 union constitutions, anti-Communist provisions applied to union members,

⁹ Sec. 9 (h) of the Labor Management Relations Act, 1947, reads "No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under section 9 (a) (1) shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods. The provisions of section 36A of the Criminal Code shall be applicable in respect to such affidavits."

¹⁰ In virtually all constitutions which had anti-Communist provisions specifically involving international officers, the ban was specified as applicable to local union officers as well.

25 referring specifically to union members only, and 15, to both members and officers. The remaining 19 constitutions directed anti-Communist curbs against officers only.

In all 59 constitutions, anti-Communist provisions were construed as being applicable to international officers.¹⁰ Although 25 constitutional provisions referred to members only, they were considered as affecting officers as well because of the general requirement, whether explicit or implied, that elected officers must be dues-paying members. Most constitutions required that candidates for union office must have been union members for a specified number of years, usually immediately prior to their candidacy. Thus, provisions applying to members would automatically affect officers. The extent to which union membership was a prerequisite for union office is shown below for the 59 unions with anti-Communist provisions.

	<i>Membership required</i>
15 unions.....	1 year.
10 unions.....	2 years.
8 unions.....	3 years.
2 unions.....	4 years.
10 unions.....	5 years.
1 union.....	7 years.
3 unions.....	Time not specified.
10 unions.....	No provision.

Severity of Restrictions or Discipline

Most of the 59 constitutions clearly barred members or supporters of a Communist organization from acceptance into or maintenance of union membership, or from holding union office. Typically, the provisions specified that such persons "shall not be eligible nor allowed to hold [union] membership"; shall not be "eligible to hold any elective or appointive office"; shall not "be allowed to hold membership or office or be admitted to membership."

However, in five of the constitutions, the anti-Communist provisions were stated only as part of the local union trial and disciplinary procedure under which various alternative penalties could be invoked, ranging from reprimands or fines to suspension or expulsion; for example:

Any member of a Local Union advocating the overthrow of our form of government or affiliating himself with any group or organization which has for its purpose the destruction and overthrow of our government may have charges

preferred against him by any member and if found guilty after a hearing before the Local Union, shall be reprimanded, fined, suspended or expelled at the discretion of the Local Union, subject to the right of appeal to the International President.

One constitution called for a trial at the international union level but did not indicate the scope of possible action against offenders.

Although the remaining unions clearly banned Communists as members and/or officers, the duration of the ban was expressly stated in only 12 constitutions, 6 of which specified that Communists or members of other subversive organizations would be permanently barred from holding office. A typical clause reads:

Any member accepting membership in the Communist or Fascist Organizations shall be expelled from the . . . Union, upon proof of such affiliation and shall be permanently barred from holding office in this Union, and no members of such organization shall be permitted to have membership in this Union.

However, 3 of the 6 unions lifted the prohibitions against union membership if subversive membership connections were severed; for example:

. . . no members of any Communist, Fascist, Nazi or any other subversive political party or organization shall be permitted to have membership in our Union, unless they withdraw from such Communist, Fascist, Nazi or any other subversive political party or organization and forfeit their membership therein.

In 2 of the 12 constitutions, union members who were expelled because of Communist or subversive membership could not be readmitted to the union. Another union forbade membership permanently to those who had held office at some time in a subversive organization, unless reinstatement was allowed by the international union's executive board. One union refused membership to anyone who had been affiliated with any Communist organization within 5 years of application; another disqualified as candidates for office, for a period limited to 5 years, those who had been penalized under anti-Communist provisions.

One unique provision stated that any member "associating with anyone who is a Nazi, Fascist, Communist, or member of a dual union for the purpose of defeating the object and intent of the [union] . . . shall for the first offense be suspended for a period of not less than 6 months and not more than 24 months, or be fined \$50, or both, and for any subsequent offense shall be expelled . . . for 99 years."

Trial Procedure

Most constitutions provided that anti-Communist provisions would be enforced through local union trial machinery when members were involved, and through trials held at the international union level when international union officers were involved. At the international union level, the general executive board or a similar executive body usually conducts such trials. A few unions had special trial procedures for enforcement.¹¹

Anti-Communist or anti-subversive provisions in the constitutions studied were either linked directly to general trial procedures, or the implication was clear that such procedures would be utilized. Rarely, however, did union constitutions deal with the type of evidence that would lead to conviction. Among the few that presented some details, three specified that for verdicts of expulsion it was not necessary for those accused to admit membership but only for the trial committees to be convinced that, based upon the evidence, the accused held subversive membership or subscribed to such doctrines. Two other constitutions stipulated that allegations by an employer (or also by a nonunion member in one of these) would not be considered by the union in determining whether or not anyone charged did in effect hold such subversive membership. A number of constitutions specified that penalties would be imposed upon members who knowingly made false charges.

Two international union constitutions specified that locals failing to enforce anti-Communist bans might have their charters revoked. In several others, the international president and the general executive board were empowered to take jurisdiction or to reopen cases whenever it appeared that locals were not strictly enforcing such bans. However, whether or not such provisions appear, local unions are generally subject to the broad disciplinary powers of their parent unions for failure to comply with international union constitutional requirements.

¹¹ After a comprehensive study of union constitutions, one writer summarized the major steps in typical union discipline procedures (at the local level) as follows: "Making of charges by a fellow member, serving of notice on the accused, naming of a trial committee, holding of a hearing, reporting of recommendations to the local union for vote, and appealing to international officers and the international convention. The number of steps may vary according to the size or structure of the union." See *Disciplinary Procedures of Unions*, by Clyde Summers, in *Industrial and Labor Relations Review*, Ithaca, N. Y., October 1950. Of 154 international union constitutions studied, only 18 had no provisions for disciplinary procedures.