

but a careful examination showed plenty of cases—in Chicago, for example—in which the label was used with dangerous laxity. It is certain that in many of these instances the label was counterfeited, the proof being that prosecutions were very common. In other cases the label had been given out carelessly, on the one condition that all dues were paid and no charges pending.

It also appeared that an extremely liberal definition of a tenement was in use. It is but fair, however, to say that as the union strengthens the abuses are less and less frequent. The testimony from several firms who have had experience with the label, as well as many contractors, confirm this view.

The head of a large firm in New York said to the writer: "I did everything that I could to get hold of the label on my own conditions, but it was refused until my shop became strictly a union shop, and I have been held rigidly to the contract. They have been straight and fair with me." This is also the testimony of a large firm in Boston.

Wholesale firms are often led to adopt the label because of the form of propaganda in use among the unions. In hundreds of country towns where trade unionism is strong an agitation is organized among the various unions, lecturers sent out, and literature distributed to induce the local traders to keep labeled goods in stock. This demand leads the trader to ask in the large cities from the wholesale departments that the label shall be put upon hats, garments, shoes, cigars, etc. If this demand becomes serious enough the firm, if a manufacturer, must unionize his shop and sign a contract to adhere strictly to union conditions.

The contract between manufacturer and union often contains a promise on the part of the union to do all within its power as a labor organization to advertise the labeled goods and otherwise benefit the manufacturer. The United Garment Workers of America has a contract with a large firm of clothing manufacturers in the west. This contract contains an admirable form of arbitration, which has proved entirely satisfactory. The head of the firm assured the writer that the label had subjected him to no trouble, and that he

had found the officials perfectly fair as to the conditions of the contract, which is as follows:

"Know all men by these presents: Agreement entered into between the firm of ———, party of the first part, and the United Garment Workers of America, party of the second part.

"In consideration of the use of the union trade label of the party of the second part, party of the first part agrees to abide by the following rules and regulations governing the uses of the same:

"First. All employees engaged in the manufacture of garments for the party of the first part shall be good standing members of the party of the second part.

"Second. All proper sanitary conditions shall be observed in all shops manufacturing garments for the party of the first part.

"Third. The said label shall be controlled by Local Union No. —, who shall attend to the proper issuance of the same.

"Fourth. The said label shall be in the sole charge of a responsible member of the party of the second part in the shop of said firm, and who shall report weekly to the respective unions, giving an account of the quantity of labels used.

"Fifth. Party of the second part agrees to do all within its power as a labor organization to advertise the labeled goods and otherwise benefit the business of the party of the first part.

"Sixth. The party of the first part agrees to pay for the printing of the labels used.

"Seventh. Should any difference arise between the party of the first part and the employees as to conditions of labor, it shall be adjusted by a committee of three selected by the firm and a committee of three from local union No. —. Should these committees fail to agree, then both committees shall select a seventh party, who shall decide any said question in dispute.

"This agreement to go into effect — and to terminate two years from date."

This contract gives the officials of the union much help in doing their own work, as it becomes the interest of the manufacturer to see to it that his workmen fulfill the conditions (paying dues, etc.), which the unions set. This is indeed the real influence which the advocates of the label seek to advance.

F. J. Stimson, in his Handbook to the Labor Law of the United States, says:

"To meet these cases the statute has very generally been passed allowing members of trade unions, or labor unions, or associated laborers in any shop or class, to adopt labels or trade marks to be used solely to designate the products of their own labor, or of the labor of members of their own trade unions or labor unions in alliance with them; and provision is usually made for the registration of such label or trade mark in the office of the secretary of state, and a penalty imposed for counterfeiting it; and in most of the above mentioned states remedies by injunction or equity process are expressly given the laborers or the labor union against the infringement of their trade mark or label, or unauthorized use of such trade mark by other persons. In fact, the Kentucky statute provides that such union label shall not be assignable at all.

"Such statutes are constitutional, and are not class legislation. (a) And it has further been held in Illinois, and denied in Pennsylvania, that a label declaring union made cigars to have been made by a first class workman, a member of . . . an organization opposed to inferior, rat shop, coolie, prison, or filthy tenement house workmanship, is not illegal as being immoral or against public policy within the meaning of the law of trade marks."

It will thus be seen that such praise or blame as the label may receive will be determined largely by general views upon the trade union itself. If it is conceded that labor organization is a necessity of the time, that it is especially necessary at the points where competition is most intense, it will not be denied that the label is an effective weapon to fortify the union in its struggle for a higher standard of living.

If the label is to win a larger and more strictly public sympathy, it is obvious that far greater effort must be made

to have it stand—as it stoutly claims to stand—for improved sanitation and other better conditions.

In trades like that of the garment makers, a label that should be confidently known to stand for definite improvement in the life of the worker, would attract a powerful public sympathy. There are many indications at hand that a growing public interest will soon demand from some source—from manufacturers, storekeepers, voluntary associations like the consumers' league, or from trade unions—a label that shall be an absolute guarantee that the goods upon which it is placed are not made in sweat shops. Every increased effort of the unions to have their label a sure symbol of higher standards of life and work among the wage earners is certain to command more cordial and more helpful recognition from the general purchaser.

The Illinois act of July 1, 1891, as amended by the act of July 1, 1895, and the Massachusetts act of 1893, are good illustrations of legislation regarding labels.

The Illinois act is as follows:

"Section 1. Whenever any person, or any association or union of workingmen, has heretofore adopted or used, or shall hereafter adopt or use, any label, trade mark, term, design, device or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workingmen, or by a member or members of such association or union, it shall be unlawful to counterfeit or imitate such label, trade mark, term, design, device or form of advertisement, or to use, sell, offer for sale, or in any way utter or circulate any counterfeit or imitation of any such labels, trade mark, term, design, device or form of advertisement.

"Sec. 2. Whoever counterfeits or imitates any such label, trade mark, term, design, device or form of advertisement, or sells, offers for sale or in any way utters or circulates any counterfeit or imitation of any such label, trade mark, term, design, device or form of advertisement, or knowingly uses any such counterfeit or imitation, or knowingly sells or dis-

poses of or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which any such counterfeit or imitation is attached or affixed, or on which any such counterfeit or imitation is printed, painted, stamped or impressed, or knowingly sells or disposes of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, or keeps or has in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor, in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, shall be punished by a fine of not less than one hundred (100) dollars, nor more than two hundred (200) dollars, or by imprisonment for not less than three (3) months nor more than one (1) year, or by both such fine and imprisonment.

"Sec. 3. Every such person, association or union that has heretofore adopted or used, or shall hereafter adopt or use, a label, trade mark, term, design, device or form of advertisement, as provided in section one (1) of this act shall file the same for record in the office of the secretary of state, by leaving two (2) copies, counterparts or facsimiles thereof with said secretary, and by filing therewith a sworn statement specifying the name or names of the person, association or union on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, the class of merchandise and a particular description of the goods to which it has been or is intended to be appropriated, that the party so filing, or on whose behalf such label, trade mark, term, design, device or form of advertisement shall be filed, has the right to the use of the same, and that no other person, firm, association, union or corporation has the right to such use either in the identical form or in any such near resemblance thereto as may be calculated to deceive, and that the facsimile copies or counterparts filed therewith are true and correct. There shall be paid for such filing and recording a fee

of one (1) dollar. Any person who shall for himself, or on behalf of any other person, association or union, procure the filing of any label, trade mark, term, design, device or form of advertisement in the office of the secretary of state, under the provisions of this act, by making any false or fraudulent representations or declarations, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be recovered by or on behalf of the party injured thereby in any court having jurisdiction, and shall be punished by a fine not exceeding two hundred (200) dollars or by imprisonment not exceeding one year, or both such fine and imprisonment. The secretary of state shall deliver to such person, association or union so filing or causing to be filed any such label, trade mark, term, design, device or form of advertisement so many duly attested certificates of the recording of the same as such person, association or union may apply for, for each of which certificates said secretary shall receive a fee of one (1) dollar. Any such certificate of record shall in all suits and prosecutions under this act be sufficient proof of the adoption of such label, trade mark, term, design, device or form of advertisement. Said secretary of the state shall not record for any person, union or association any label, trade mark, term, design, device or form of advertisement that would reasonably be mistaken for any label, trade mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person union or association.

"Sec. 4. Every such person, association, or union adopting a label, trade mark, or form of advertisement, as aforesaid, may proceed by suit to enjoin the manufacture, use, display or sale of any such counterfeits or imitations; and all courts having jurisdiction thereof shall grant injunctions to restrain such manufacture, use, display or sale, and shall award the complainant in such suit, such damages, resulting from such wrongful manufacture, use, display or sale, as may by said court be deemed just and reasonable, and shall require the defendants to pay to such person, association or union the profits derived from such wrongful manufacture, use, display or sale; and said court shall also order that all such counter-

feits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court, or to the complainant to be destroyed.

"Sec. 5. Every person who shall use or display the genuine label, trade mark, or form of advertisement of any such person, association or union, in any manner not authorized by such person, union or association, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than two hundred dollars, or both. In all cases where such association or union is not incorporated, suits under this act may be commenced and prosecuted by any officer or member of such association or union on behalf of and for the use of such association or union.

"Sec. 6. Any person or persons who shall in any way use the name or seal of any such person, association or union, or officer thereof, in and about the sale of goods or otherwise, not being authorized to so use the same, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail of not less than three months nor more than one year, or by fine of not less than one hundred dollars nor more than two hundred dollars, or both.

"Sec. 7. The fines provided for in this act may be enforced before a justice of the peace in all cases where the party complaining shall so elect, and in case of conviction before such justice of the peace the offender shall stand committed to the county jail until the fine and costs are fully paid, under the provisions of section 8, article IX of an act to revise the law in regard to criminal jurisprudence, in force July 1, 1874, or otherwise."

CAUSES OF THE OPEN SHOP POLICY.

BY JOHN R. COMMONS.

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The open shop controversy, in its extreme form, is peculiar to America. The British labor delegates, in 1902, were surprised to see the bitterness of the American unionist toward the scab. This feeling has its roots in conditions and history peculiar to this country. For three generations the American workingman has been taught that the nation was deeply concerned in maintaining for him a high standard of living. Free traders objected that manufacturers would not pay higher wages, even if protected. Horace Greeley, who, as much as any other man, commended the American system to wage earners, admitted the force of the objection, but he held that socialism, or, as he called it, association, would share the benefits of the tariff with them. But this must come through the workmen themselves. Some of them tried it. The communistic experiments failed. They tried co-operation, education, politics. Neither did these seem to reach the high aims of protection. Meanwhile they were discovering the power of the strike. By this kind of association those who could hold together found themselves actually sharing the benefits of protection which Greeley mistakenly predicted for his fantastic kind of association.

But the gains from strikes were temporary. The federal laws which protected manufacturers against the products of foreign labor, permitted them to import the foreigners themselves. In many cases strikes were defeated by the immigrants, and in many more cases the immigrants went into the shops to share the gains won by the strikers, or gradually to displace them with their lower standards of living. With