In re Debs and *National Labor Relations Board v. Jones & Laughlin*—A Comparative Activity

Prepared by David Vigilante

For use in conjunction with "The Debs Case: Labor, Capital, and the Federal Courts of the 1890s," by David Ray Papke, available at http://www.fjc.gov/history/home.nsf. A unit in the Teaching Judicial History Project, developed by the Federal Judicial Center in partnership with the American Bar Association's Division for Public Education.

Activity Objectives

By studying the Supreme Court decision in *In re Debs* and the Court's decision in another labor-related case following enactment of the Norris-LaGuardia Act, students will be able to:

- assess the factors that account for a change in the way the federal courts viewed workers' rights to organize; and
- examine the connections between historical events in the labor movement and the larger social, economic, and political trends.

Essential Questions

- Should the government have the right to restrict labor unions?
- Should laborers have a legal right to organize and bargain for wages and improved working conditions?
- How did the Norris-LaGuardia Act empower unions?
- What were the differences in the Supreme Court's decision in *In re Debs* and *National Labor Relations Board v. Jones & Laughlin*?
- What factors contributed to a change in the way the federal government and courts responded to strikes and labor boycotts?

Legal Issues

The rise of American industry in the post Civil War era pitted business interests against the rising aspirations of labor. During this era, the courts actively supported business while restraining labor through the use of injunctions to end strikes and boycotts. Federal courts interpreted the Sherman Anti-Trust Act's prohibition of conspiracies in restraint of trade as a legitimate weapon against labor as well as corporate trusts. Despite the fact that the Clayton Anti-Trust Act of 1914 exempted labor from prosecution under antitrust acts, the Supreme Court, in a 1921 decision, interpreted the Clayton Act to permit restrictions on unions involved in secondary boycotts.

During the Great Depression, public opinion shifted in favor of unions and in favor of workers' right to organize. Several legal questions arose on the proper role of the judiciary, including:

- What course should federal courts take in the adversarial relationship of management and labor?
- How did the Supreme Court justify the reversal of precedent in dealing with organized labor?
- Was the Supreme Court following a policy of judicial restraint or judicial activism in dealing with labor/management relations in the *In re Debs* case? In *Jones & Laughlin*?
- In the *In re Debs* case, was the Court responding to political pressure or adhering to constitutional principles?
- In the 1937 *Jones & Laughlin* decision, was the Court responding to political pressure or adhering to constitutional principles?

Estimated Time Frame

Four days.

Recommended Prep Work

Before introducing this lesson, students must have a clear understanding of the Pullman strike of 1894 and the issues involved in the federal courts' support of injunctions to restrict strikes and secondary boycotts. Teachers should review David Ray Papke, "The *Debs* Case: Labor, Capital, and the Federal Courts of the 1890s" (available at http://www.fjc.gov/history/home.nsf). Teachers may want to assign "The *Debs* Case: A Short Narrative" (pp. 1–8) as homework.

Students should also be familiar with the New Deal and economic policies enacted in an attempt to end the Great Depression.

Prepare copies of the following documents and student worksheets:

1. Document 1, *In re Debs* (1895) (pp. 53–56)
2. Student Worksheet 1, Questions Before the Court, *In re Debs*
3. Document 2, The Sherman Anti-Trust Act
4. Document 3, *Duplex Printing Press Company v. Deering* (1921)
5. Document 4, Norris-LaGuardia Act (1932) (p. 63)
6. Document 5, *National Labor Relations Board v. Jones & Laughlin* (1937)
7. Student Worksheet 1, Questions Before the Court, *NLRB v. Jones & Laughlin*

(*Note*: Page numbers refer to the PDF version of "The *Debs* Case: Labor, Capital, and the Federal Courts of the 1890s," by David Ray Papke, available online at http://www.fjc.gov/history/home.nsf.)

Description of the Activity

Step 1 (1–1½ days)

Review the previously studied *Debs* case and the role of the federal courts in labor–management disputes. If necessary, prepare a short lecture based on David Papke's "The *Debs* Case: A Short Narrative" (pp. 1–8).

Divide the class into small groups and distribute Document 1, Justice David Brewer's opinion for the unanimous Supreme Court decision in *In re Debs*. After discussion of the court's opinion, have each group, using Student Worksheet 1, record its responses to the questions before the court. Collect the worksheets and hold for later use.

Step 2 (1–1½ days)

Remind the class that federal courts considered labor unions a monopoly in restraint of trade. Read the excerpt from the Sherman Anti-Trust Act of 1890 (Document 2) that the courts used to justify prosecution of labor for violating federal law. Ask the class what congressional statute during the Progressive Era protected organized labor from being prosecuted under antitrust laws. If necessary, read to the class Section 6 of the Clayton Anti-Trust Act.

Clayton Anti-Trust Act of 1914

> SEC. 6. That the labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.
>
> Source: *U.S. Statutes at Large* 38 (1914): 730–31.

Briefly discuss the implications of the Clayton Act. How has congressional action on behalf of labor limited the courts in dealing with strikes affecting interstate commerce? Why did Samuel Gompers, president of the American Federation of Labor, refer to the Clayton Act as "labor's Magna Carta"?

Distribute Document 3, *Duplex Printing Press Company v. Deering*, and discuss the findings of the Supreme Court in the majority opinion written by Justice Mahlon Pitney.

- Did the officers of Duplex Printing Press Company have the right to seek an injunction against the union?
- Was the union's secondary boycott exempt from prosecution under the Clayton Anti-Trust Act?
- To what extent was the majority decision in the *Duplex* case similar to that of the unanimous Court decision in *In re Debs*?
- What steps could unions take to secure protection from judicial decisions favoring management?

Conduct a brainstorming activity, asking the class to consider how a serious economic depression might affect labor unions. Would unions traditionally lose membership during a depression or would they become stronger? How might public opinion of the rights of workers be affected by high unemployment and declining wages?

Have the class read Document 4, an excerpt from the Norris-LaGuardia Act of 1932, enacted by Congress in the last year of the President Herbert Hoover's administration.

- How did the Norris-LaGuardia Act amend the judicial code in dealing with labor?
- What impact did the economic conditions of the nation have on the enactment of this statute?
- What protections were extended to labor?

Step 3 (1 day)

Reassemble the class into the small groups that were formed for the first activity in the lesson. Within groups, have students read Document 5, an excerpt from the Supreme Court decision in *National Labor Relations Board v. Jones & Laughlin*. Ensure that students are aware of the context in which this decision was rendered. The Supreme Court had declared several major New Deal economic and social laws unconstitutional and seemed on the brink of challenging additional measures. Following Franklin Delano Roosevelt's landslide victory in the election of 1936, the President announced in February 1937 a plan to increase the membership of the Supreme Court as a means of securing appointments that could change the make-up of the Court in his favor. Although the "Court-packing" plan failed, the Court seemed to reverse course and upheld other New Deal legislation. The Supreme Court's decision in the *Jones & Laughlin* case was delivered in the midst of the Court-packing controversy.

After discussion of the Court's opinion, have each group, using Student Worksheet 2, record its responses to the questions before the Court. Return the

worksheets the groups completed for *In re Debs* and have students within their groups examine the two worksheets.

- Are there any similarities in the majority decisions rendered in the two cases?
- What are the basic differences?
- In the *In re Debs* decision, what rights did the government have to prosecute individuals who interfered with interstate commerce?
- In the *Jones & Laughlin* decision, how did the Court interpret labor's right to participate in a strike against a company involved in interstate commerce?
- What circumstances may have convinced the Court in *NLRB v. Jones & Laughlin* to guarantee the rights of laborers to organize and bargain collectively?

Assessment

Use peer evaluations combined with teacher observations to assess group work.

Offer students the opportunity of selecting an assessment strategy from one of the following, or another approved form:

1. Construct a graphic organizer illustrating the judiciary's role in major labor/management disputes between the 1890s and the 1930s. In a short essay, explain factors that played a role in changes in policy.
2. Write an *amicus curiae* brief supporting one of the parties in the *National Labor Relations Board v. Jones & Laughlin* case. Support your arguments with specific references to judicial decisions and congressional acts.
3. Assuming the persona of Eugene V. Debs, write an editorial expressing your views on the majority decision in *National Labor Relations Board v. Jones & Laughlin.*

Evaluate the assignment based in part on how well students incorporate documents referenced in the lesson.

Alternative Modalities and Enrichment Activities

Create a timeline of major events in American labor history—from the Great Railroad Strike of 1877 to the National Labor Relations Act of 1935—including Supreme Court cases that impacted the labor movement in both a positive and negative way. Ask students: How do you account for the shift in federal policy from injunctions to restrict union activity to encouragement of collective bargaining?

Instead of having students read the excerpts of *In re Debs* (Step 1) and *National Labor Relations Board v. Jones & Laughlin* (Step 3), shorten the reading

by selecting passages to assist students who may have difficulty reading the decisions in these two cases.

Alternative Content Areas

This curriculum could also be used in specialized U.S. history courses on the American labor movement and American Government classes exploring the judiciary.

Involving a Judge

Invite a judge to speak to the class on the role of the judiciary in cases involving conflicts between management and labor in both historical and contemporary settings.

Standards Addressed[1]

U.S. History Standards (Grades 5–12)

Era 6—The Development of the Industrial United States (1870–1900)

Standard 3B: The student understands the rise of national labor unions and the role of state and federal governments in labor conflicts.

Era 8: The Great Depression and World War II (1929–1945)

Standard 2B: The student understands the impact of the New Deal on workers and the labor movement.

Standards in Historical Thinking

Standard 1: Chronological Thinking

F. Reconstruct patterns of historical succession and duration in which historical developments have unfolded, and apply them to explain historical continuity and change.

Standard 2: Historical Comprehension

F. Appreciate historical perspectives—the ability (a) describing the past on its own terms, through the eyes and experiences of those who were there, as revealed through their literature, diaries, letters, debates, arts, artifacts, and the like; (b) considering the historical context in which the event unfolded—the values, outlook, options, and contingencies of that time and place; and (c) avoiding "present-mindedness," judging the past solely in terms of present-day norms and values.

1. National Standards for History, National Center for History in the Schools, University of California Los Angeles, 1996. Available online at http://nchs.ucla.edu/standards/.

Standard 3: Historical Analysis and Interpretation

D. Draw comparisons across eras and regions in order to define enduring issues as well as large-scale or long-term developments that transcend regional and temporal boundaries.

Standard 5: Historical Issues-Analysis and Decision-Making

B. Marshal evidence of antecedent circumstances and current factors contributing to contemporary problems and alternative courses of action.

C. Identify relevant historical antecedents and differentiate from those that are inappropriate and irrelevant to contemporary issues.

Specialized Concerns

Reading and comprehension of Supreme Court decisions may prohibit use of the documents in classes where students are reading below grade level. In such cases, teachers may have to abandon using excerpts for the two Supreme Court cases and instead relate the central arguments presented in each case through an interactive lecture/discussion approach. With special effort, the readings may be adapted and introduced in a Socratic seminar approach.

Glossary

abate	put down, defeat
appellant	the accuser, plaintiff
boycott	joining together to refuse to have any dealings with a company or organization
collective bargaining	negotiation between an employee and union representatives usually over wages, hours, and working conditions
court of equity	a court that has jurisdiction in cases where a complete remedy cannot be had under common law; equity jurisdiction is based on established rules of fairness rather than specific laws
enjoin	to halt or demand a stop to an action
exigency	state of affairs that makes urgent demand; that which is required
injunction	a legal order from a court prohibiting a person or group from carrying out a particular action
interstate	between or among states
intrastate	within a state

judicial activism	belief that judges should interpret the Constitution and the laws to serve what they believe are the vital needs of contemporary society
judicial restraint	belief that judges should adhere to the letter of the Constitution and the laws and not let their own philosophy determine their decisions
militia	part of the organized armed forces that may be called upon in an emergency
pecuniary	financial
plaintiff	one who begins a lawsuit seeking a remedy for an injury; the complaining party in a lawsuit
restraining order	a preliminary legal order to keep a situation from changing pending a decision to file an injunction
secondary boycott	a union attempt to stop doing business with a company because it is doing business with another company whose workers are on strike

Document 1

In re Debs

Opinion of the Supreme Court

The case presented by the bill is this: The United States, finding that the interstate transportation of persons and property, as well as the carriage of the mails, is forcibly obstructed, and that a combination and conspiracy exists to subject the control of such transportation to the will of the conspirators, applied to one of their courts, sitting as a court of equity, for an injunction to restrain such obstruction and prevent carrying into effect such conspiracy. Two questions of importance are presented: First. Are the relations of the general government to interstate commerce and the transportation of the mails such as authorize a direct interference to prevent a forcible obstruction thereof? Second. If authority exits, as authority in governmental affairs implies both power and duty, has a court of equity jurisdiction to issue an injunction in aid of the performance of such duty? . . .

As, under the constitution, power over interstate commerce and the transportation of the mails is vested in the national government, and Congress, by virtue of such grant, has assumed actual and direct control, it follows that the national government may prevent any unlawful and forcible interference therewith. But how shall this be accomplished? Doubtless, it is within the competency of Congress to prescribe by legislation that any interferences with these matters shall be offences against the United States, and prosecuted and punished by indictment in the proper courts. But is that the only remedy? Have the vast interests of the nation in interstate commerce, and in the transportation of the mails, no other protection than lies in the possible punishment of those who interfere with it? To ask the question is to answer it . . . . If all the inhabitants of a state, or even a great body of them, should combine to obstruct interstate commerce or the transportation of the mails, prosecutions for such offenses had in such a community would be doomed in advance to failure. And if the certainty of such failure was known, and the national government had no other way to enforce the freedom of interstate commerce and the transportation of the mails than by prosecution and punishment for interference therewith, the whole interests of the nation in these respects would be at the absolute mercy of a portion of the inhabitants of that single state.

But there is no such impotency in the national government. The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights intrusted by the Constitution to its care. The strong arm of the national government may be put forth to brush away all obstructions to the freedom of interstate commerce or the transpor-

tation of the mails. If the emergency arises, the army of the nation, and all its militia, are at the service of the nation to compel obedience to its laws.

But passing to the second question, is there no other alternative than the use of force on the part of the executive authorities whenever obstructions arise to the freedom of interstate commerce or the transportation of the mails? Is the army the only instrument by which rights of the public can be enforced, and the peace of the nation preserved? Grant that any public nuisance may be forcibly abated, either at the instance of the authorities, or by any individual suffering private damage therefrom. The existence of this right of forcible abatement is not inconsistent with, nor does it destroy, the right of appeal, in an orderly way, to the courts for a judicial determination, and an exercise of their powers, by writ of injunction and otherwise, to accomplish the same result . . . .

So, in the case before us, the right to use force does not exclude the right of appeal to the courts for a judicial determination, and for the exercise of all their powers of prevention. Indeed, it is more to the praise than to the blame of the government, that, instead of determining for itself questions of right and wrong on the part of these petitioners and their associates, and enforcing that determination by the club of the policeman and the bayonet of the soldier, it submitted all those questions to the peaceful determination of judicial tribunals, and invoked their consideration and judgment as to the measure of its rights and powers, and the correlative obligations of those against whom it made complaint. And it is equally to the credit of the latter that the judgment of those tribunals was by the great body of them respected, and the troubles which threatened so much disaster terminated.

Neither can it be doubted that the government has such an interest in the subject matter as enables it to appear as party plaintiff in this suit. It is said that equity only interferes for the protection of property, and that the government has no property interest. A sufficient reply is that the United States have a property in the mails, the protection of which was one of the purposes of this bill. . . .

We do not care to place our decision on this ground alone. Every government, instructed by the very terms of its being with powers and duties to be exercised and discharged for the general welfare, has a right to apply to its own courts for any proper assistance in the exercise of the one and the discharge of the other, and it is no sufficient answer to its appeal to one of those courts that it has no pecuniary interest in the matter. The obligations which it is under to promote the interest of all and to prevent the wrongdoing of one, resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court. . . .

That the bill in this case alleged special facts calling for the exercise of all the powers of the court is not open to question. The picture drawn in it of the vast interests involved, not merely of the city of Chicago and the state of Illinois, but of

all the states, and the general confusion into which the interstate commerce of the country was thrown; the forcible interference with that commerce; the attempted exercise by individuals of powers belonging only to government, and the threatened continuance of such invasions of public right, presented a condition of affairs which called for the fullest exercise of all the powers of the courts. If ever there was a special exigency, one which demanded that the court should do all that courts can do, it was disclosed by this bill, and we need not turn to the public history of the day, which only reaffirms with clearest emphasis all its allegations . . . .

It must be borne in mind that this bill was not simply to enjoin a mob and mob violence. It was not a bill to command a keeping of the peace; much less was its purport to restrain the defendants from abandoning whatever employment they were engaged in. The right of any laborer, or any number of laborers, to quit work was not challenged. The scope and purpose of the bill was only to restrain forcible obstructions of the highways along which interstate commerce travels and the mails are carried. And the facts set forth at length are only those facts which tended to show that the defendants were most engaged in such obstructions.

A most earnest and eloquent appeal was made to us in eulogy of the heroic spirit of those who threw up their employment, and gave up their means of earning a livelihood, not in defence of their own rights, but in sympathy for and to assist others whom they believed to be wronged. We yield to none in our admiration of any act of heroism or self-sacrifice, but we may be permitted to add that it is a lesson which cannot be learned too soon or too thoroughly that under this government of and by the people the means of redress of all wrongs are through the courts and at the ballot-box, and that no wrong, real or fancied, carries with it legal warrant to invite as a means of redress the co-operation of a mob, with its accompanying acts of violence. . . .

The petition for a writ of habeas corpus is denied.

[Document Source: *In re Debs*, 158 U.S. 564 (1895).]

Student Worksheet 1

In re Debs: Questions Before the Court

Issue: Conspiracy to subject the control of interstate transportation to the will of conspirators.

What power does the government have to prevent obstruction of interstate commerce?	
Does a court of equity have jurisdiction to issue an injunction to prevent obstruction of interstate commerce?	
What chance does the government have in a criminal trial in which the jury is composed of persons supporting the acts of the accused?	
What actions can the government legitimately take to end obstruction to freedom of interstate commerce and comply obedience of the laws?	
What are the alternatives to the use of force to enforce laws?	
Does the use of force to secure the constitutional guarantee of interstate commerce preclude the right of appeal to the courts? Explain.	
Was it the intent of the courts to prevent workers from leaving their jobs to assist fellow workers who perceived that they had been wronged? Explain.	
What recourse do workers have to redress grievances?	

Document 2

The Sherman Anti-Trust Act, 1890 (excerpt)

Chap. 647. An Act to protect trade and commerce against unlawful restraints and monopolies. July 2, 1890.

Sec. 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Sec. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

[Document Source: *U.S. Statutes at Large* 26 (1891): 209–10.]

Document 3

Duplex Printing Press Company v. Deering

In 1921, the United States Supreme Court, in a 6–3 decision, ruled that the Clayton Act did not insulate labor from antitrust legislation when a union was involved in a secondary boycott.

This was a suit in equity brought by appellant in the District Court for the Southern District of New York for an injunction to restrain a course of conduct carried on by defendants in that district. . . . in maintaining a boycott against the products of complainant's factory, in furtherance of a conspiracy to injure and destroy its good will, trade, and business,—especially to obstruct and destroy its interstate trade. . . .

The substance of the matters here complained of is an interference with complainant's interstate trade, intended to have coercive effect upon complainant, and produced by what is commonly known as a "secondary boycott,"—that is, a combination not merely to refrain from dealing with complainant, or to advise or by peaceful means persuade complainant's customers to refrain ("primary boycott"), but to exercise coercive pressure upon such customers, actual or prospective, in order to cause them to withhold or withdraw patronage from complainant through fear of loss or damage to themselves should they deal with it.

As we shall see, the recognized distinction between a primary and a secondary boycott is material to be considered upon the question of the proper construction of the Clayton Act. But, in determining the right to an injunction under that and the Sherman Act, it is of minor consequence whether either kind of boycott is lawful or unlawful at common law or under the statutes of particular States. Those acts, passed in the exercise of the power of Congress to regulate commerce among the States, are of paramount authority, and their prohibitions must be given full effect irrespective of whether the things prohibited are lawful or unlawful at common law or under local statutes.

The present case furnishes an apt and convincing example. An ordinary controversy in a manufacturing establishment, said to concern the terms or conditions of employment there, has been held a sufficient occasion for imposing a general embargo upon the products of the establishment and a nation-wide blockade of the channels of interstate commerce against them, carried out by inciting sympathetic strikes and a secondary boycott against complainant's customers, to the great and incalculable damage of many innocent people far remote from any connection with or control over the original and actual dispute—people constituting,

indeed, the general public upon whom the cost must ultimately fall, and whose vital interest in unobstructed commerce constituted the prime and paramount concern of Congress in enacting the anti-trust laws, of which the section under consideration forms after all a part.

Reaching the conclusion, as we do, that complainant has a clear right to an injunction under the Sherman Act as amended by the Clayton Act . . .

[Document Source: *Duplex Printing Press Co. v. Deering*, 254 U.S. 443 (1921).]

Document 4

Norris-LaGuardia Act (excerpt)

An Act To amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no court of the United States, as herein defined, shall have jurisdiction to issue any restraining order or temporary injunction in a case involving or growing out of a labor dispute, except in a strict conformity with the provisions of this Act; nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in this Act.

Sec. 2. In the interpretation of this Act and in determining the jurisdiction and authority of the courts of the United States, as such jurisdiction and authority are herein defined and limited, the public policy of the United States is hereby declared as follows:

Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; . . .

[Document Source: *U.S. Statutes at Large* 47 (1932): 70.]

Document 5

National Labor Relations Board v. Jones & Laughlin Steel Corp., April 12, 1937

During the New Deal, the Franklin Roosevelt Administration secured congressional passage of a number of acts to bring an end to the Great Depression. The National Labor Relations Act of 1935 guaranteed workers the right to organize unions in industries that operated in both interstate and intrastate commerce. The act prohibited employers from dismissing workers who chose to join a union or in any way discriminating against anyone because of union membership. The constitutionality of the law was challenged in the courts. The Supreme Court upheld the National Labor Relations Act in a case brought by Jones and Laughlin Steel Corporation in a 5–4 decision. Chief Justice Charles Evan Hughes wrote the opinion for the majority in the case.

In a proceeding under the National Labor Relations Act of 1935, the National Labor Relations Board found that the respondent, Jones & Laughlin Steel Corporation, had violated the Act by engaging in unfair labor practices affecting commerce. . . . The unfair labor practices charged were that the corporation was discriminating against members of the union with regard to hire and tenure of employment, and was coercing and intimidating its employees in order to interfere with their self-organization.

. . . The Act is challenged in its entirety as an attempt to regulate all industry, thus invading the reserved powers of the States over their local concerns. . . . The [corporation argued that] the authority of the federal government may not be pushed to such an extreme as to destroy the distinction, which the commerce clause itself establishes, between commerce "among the several States" and the internal concerns of a State. That distinction between what is national and what is local in the activities of commerce is vital to the maintenance of our federal system. . . .

We think it clear that the National Labor Relations Act may be construed so as to operate within the sphere of constitutional authority.

. . . [T]he statute goes no further than to safeguard the right of employees to self-organization and to select representatives of their own choosing for collective bargaining or other mutual protection without restraint or coercion by their employer.

That is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its own officers and agents. Discrimination and coercion to

prevent the free exercise of the right of employees to self-organization and representation is a proper subject for condemnation by competent legislative authority. Long ago we stated the reason for labor organizations. We said that they were organized out of the necessities of the situation; that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equality with their employer. . . . Congress could seek to make appropriate collective action of employees an instrument of peace rather than of strife.

. . . When industries organize themselves on a national scale, making their relation to interstate commerce the dominant factor in their activities, how can it be maintained that their industrial labor relations constitute a forbidden field into which Congress may not enter when it is necessary to protect interstate commerce from the paralyzing consequences of industrial war? We have often said that interstate commerce itself is a practical conception. It is equally true that interferences with that commerce must be appraised by a judgment that does not ignore actual experience.

Experience has abundantly demonstrated that the recognition of the right of employees to self-organization and to have representatives of their own choosing for the purpose of collective bargaining is often an essential condition of industrial peace. Refusal to confer and negotiate has been one of the most prolific causes of strife. This is such an outstanding fact in the history of labor disturbances that it is a proper subject of judicial notice and requires no citation of instances.

. . . Our conclusion is that the order of the Board was within its competency and the Act is valid as here applied. . . .

[Document Source: *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).]

Student Worksheet 2

NLRB v. Jones & Laughlin: Questions Before the Court

Issue: Was the National Labor Relations Board's power to regulate industry constitutional?

Does the legislature have the power to establish labor standards that private industry must follow? Explain.	
Did the provisions of the National Labor Relations Act violate the commerce clause of the Constitution? Explain.	
Did the enactment of the National Labor Relations Act usurp the delegated powers of the states? Explain.	
What actions can the government legitimately take to protect workers?	
Can unions legally call a strike against a company that is involved in interstate commerce? Explain.	
Why is it necessary to safeguard the rights of employees?	
What are the causes of labor strife? How can they be prevented?	