

ous writing had disavowed. As a professor, he had written that the Norris Act did nothing more than prevent courts from *enjoining* aggressive union activity. On the Court he was to say that the Norris Act made such activity lawful for all purposes, so that aggressive union strikes and boycotts were freed of all legal control—actions for damages and criminal prosecutions, as well as petitions for injunctions.

Meanwhile the federal government and its bureaucracies also felt the Frankfurterian influence in the form of numerous of his Harvard Law School students. But that is by no means all. Great as his personal efforts and influence were, they were not so great as the influence of his major written work, *The Labor Injunction*. In exploring this fact, we shall come to a conclusion of perhaps considerable value.

The study mentioned above goes far to demonstrate that Frankfurter's book was thoroughly meretricious: massively and pretentiously documented though it appeared, the book was actually all show and no substance. Despite its mountainous footnotes, charts, and appendixes, the book was full of untruths, half-truths, and distortions; notwithstanding its scholarly appearance, in the end it was no more scholarly or cautious than the rabid editorials of the *Communist Daily Worker* or the *CIO News*. For exam-

ple, Frankfurter repeatedly charged employers and judges with anti-union animus but never bothered to examine why such animus developed. He referred over and over again to the "pernicious abstractions of liberty and property" but nowhere showed how those ideas had brought about vicious results.

### An Influential Book

Yet, with all its faults, *The Labor Injunction* has quite possibly been the most influential law book ever written in this country. Its main charges practically duplicate the five ruling myths of current labor policy mentioned earlier. Frankfurter said that in the antagonistic employer-employee relationship, employers were exploitative; unions were the only possible protective devices for the abused employees; but the common law judges, fired with anti-union passion and victimized by "pernicious abstractions," were making it impossible for the unions to do the great and good work that they alone could do.

If any person can be credited with a dominant role in fixing those ideas in the American mind, Felix Frankfurter was that person, and his book, *The Labor Injunction*, was the means. Even before it was published, courts cited it as authority for denying injunctions against vicious union conduct, in cases in which the obvious victims of such

conduct were employees or members of rival unions. In the succeeding fifty years since it was first published, *The Labor Injunction* has been cited as authority for noxiously pro-union decisions literally thousands of times.

Its scholarly influence has been at least as great as its legal influence. I have never read any significant work dealing with the labor-injunction since 1930 which does not bow first to Frankfurter's book. When the author of such a work blithely declares that the courts abused the labor-injunction in the "bad old days," he does not bother to cite a case as an example; still less does he try to *demonstrate* that such and such a case represented an abuse of the injunctive process. He merely cites *The Labor Injunction*—and proceeds from there to the most astoundingly outrageous legal proposals, confident that his premise is invincible because *The Labor Injunction* is his "authority."

The influence of *The Labor Injunction* spreads on and on. Since all the labor law teachers (and all the teachers of related subjects in economics, sociology, and politics) believe *The Labor Injunction* to be the gospel truth and say as much to their students, the students accept its wild accusations as gospel, too. They are in no position to check its accuracy. Till recently, they could find no fully and convincingly

documented refutation on the library shelves. Hence *The Labor Injunction* was bound to fix their opinions on the subjects it treated. If they dared write a term-paper on unionism and the law without citing *The Labor Injunction* as an authority, doubtlessly their teachers would slash biting comments about "lack of standard authority" with their red marker pens across the offending pages. And if in class a student were to challenge the fullness and fairness of the Frankfurterian research, how could he defend his extraordinary temerity? The instructor would cut him to bits, and the other students would munch placidly at the pieces.

### Write Books!

It has taken me a long time fully to absorb the meaning and implications of Mises' frequent exhortation: "write books!" A solid scholarly work on an important subject has a much longer life and greater influence than any living person has. It is in some important ways better than speeches, better than panel discussions, better than articles in popular journals, better than pamphlets, better than thin monographs, better than politicking, better than any other activity measured only in the average human life-span. The only thing that comes close to sharing the advantages of a solid scholarly book is a comprehensive and detailed ar-