senting 11 percent of the workers under collective bargaining agreements.[27]

The *Inland Steel* decision of the National Labor Relations Board held that pensions was an appropriate subject for collective bargaining. The union's NLRB charge had not begun as a pension demand but as a question of compulsory retirement. Inland Steel had unilaterally established a contributory pension including compulsory retirement in 1936. The company refused to bargain with the steelworkers on a compulsory retirement grievance on the ground that as part of the pension plan the issue was outside the legal scope of collective bargaining. The steelworkers, accordingly, filed a charge with the NLRB alleging an illegal refusal to bargain. The board upheld the union position and by 1948 the Federal courts had for practical purposes affirmed the board's holding. "Wages," the NLRB ruled, "must be construed to include emoluments of value, like pension and insurance benefits, which may accrue to employees out of their employment relationship." [28] The Seventh Circuit Court of Appeals upheld the NLRB in subjecting the pension plan to mandatory bargaining but preferred to base its affirmation on the phrase "other conditions of employment" [29] in section 8(a) of the Taft-Hartley Act, which defines the subject matter of the collective bargaining obligation. The Supreme Court subsequently refused to grant certiorari.[30]

Although John L. Lewis "had long been convinced of the need for a welfare and pension program for miners," the demand for a welfare fund was first advanced in the 1945 bituminous coal negotiations.[31] But, as Lewis reported, "the plan was rejected by the operators and not pressed by mine workers." [32] In the 1946 negotiations, the demand for a welfare fund was reinstated. The fund as first proposed was to be used for medical care, hospitalization, life and health insurance, rehabilitation, "economic and in distress cases" and "if money is left * * * cultural and educational work among the mine workers." [33] The mineowners refused again and a strike ensued which lasted from April 1 to May 22, 1946. The U.S. Government, acting through J. A. Krug, Secretary of the Interior, seized the mines. Krug and Lewis thereupon entered into an agreement on May 29 which established a welfare and retirement fund from a 5-cents-a-ton contribution. Lewis first demanded that the fund be managed by the union alone, but Krug, balking, would "not take the responsibility of arranging for a health and welfare fund to be administered solely by the union." According to Louis Stark, *New York Times* reporter, "The Administration fear[ed] the reaction of public opinion to such a decision." [34] A strike broke out again November 20 on Lewis' charge that a Government interpretation relating to the fund was breaching the con-

[27] U.S. Department of Labor, Bureau of Labor Statistics, *Health and Insurance and Pension Plan Coverage in Union Contracts, Late 1960*, Rept. No. 228, 1962, table I, p. 2; see also U.S. Department of Labor, Bureau of Labor Statistics, *Labor Mobility and Private Pension Plans*, Bulletin 1407, 1964, p. 52, table 1, and p. 5, chart I.

[28] *Inland Steel Co.* v. *United Steelworkers of America, CIO* (77 NLRB 4) (1948).

[29] *Inland Steel Co.* v. *NLRB* (170F. 2d 251 (1949)).

[30] Certiorari denied, 336 U.S. 960 (1949); see also A. Norman Somers and Louis Schwartz, "Pensions and Welfare Plans: Gratuities or Compensation," *Industrial and Labor Relations Review*, October 1950, p. 87; Deering, *Industrial Pensions, op. cit.*, p. 43.

[31] U.S. Congress, Senate, Committee on Labor and Public Welfare, Subcommittee on Welfare and Pension Funds, *Welfare and Pension Plans Investigation, Final Report*, 84th Cong., 2d sess. (Washington, D.C.: Government Printing Office, 1956), p. 167.

[32] Louis Stark, "Lewis' Statement on Welfare Fund," *New York Times*, May 14, 1946.

[33] *Ibid.*

[34] Louis Stark, *New York Times*, May 23, 1946.