

1953

Why Business Men Violate the Law

Robert E. Lane

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Robert E. Lane, Why Business Men Violate the Law, 44 J. Crim. L. Criminology & Police Sci. 151 (1953-1954)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

WHY BUSINESS MEN VIOLATE THE LAW¹

Robert E. Lane

The author is Assistant Professor of political science at Yale University. He has contributed to sociological as well as political science journals and is the author of *Problems in American Government, An Introduction to Political Analysis* (1952). The current article is part of a larger study of the regulation of business men.
—EDITOR.

Recent interest in the problem of illegality in the business community focusses attention on the considerable scope of this phenomenon. Thus, in 1951, the National Labor Relations Board formally ordered 115 firms to cease certain illegal practices and informally adjusted another 796 cases.² In the same year the Federal Trade Commission investigated 869 cases of deceptive practices and found business management guilty of illegal practices in 107;³ the Wage and Hour and Public Contracts Divisions of the Department of Labor inspected 33,479 establishments and found 56 percent of them guilty of violations of the law.⁴ Of course these represent only a fraction of the cases of violation, but they insistently raise the question: why do some businessmen violate these laws while others do not? This paper is an attempt to contribute to the growing evidence and doctrine in this field. It is based upon the following sources of information: (a) interviews with top management in twenty-five New England industrial firms, (b) interviews with seven leaders of governmental regulatory agencies, (c) analysis of the cases reported in *Federal Trade Commission Decisions, Decisions and Orders of the National Labor Relations Board*, court cases arising from these decisions and court cases arising from the action of the Wage and Hour and Public Contracts Divisions of the Department of Labor, (d) a statistical study of the violations of trade practice and labor relations regulation in the New England shoe industry.

THE ECONOMICS OF VIOLATION

Most business men and most responsible government officers, at least from the sample interviewed, believe that business men run afoul of the law for economic reasons—they may want to “make a fast buck.”⁵

1. I wish to express my debt to Professor V. O. Key for a number of most helpful suggestions and to Professor James Fesler for a valuable review of this article. I also wish to acknowledge the assistance given me by personnel in the New England Regional Office of the National Labor Relations Board and by the research staff of the Wage and Hour and Public Contract Divisions of the Department of Labor. For the conclusions and for the interpretation of the data I alone should bear the responsibility.

2. National Labor Relations Board, *Annual Report*, 1951, Appendix B, p. 299.

3. Federal Trade Commission, *Annual Report*, 1951, p. 49.

4. U.S. Department of Labor, Wage and Hour and Public Contracts Division, *Annual Report*, 1951, Appendix Table C, p. 53.

5. An exceptionally good statement of this position was contained in a letter to the

They are led to transgress because, to be specific, if they adopt an advertising campaign which overstates the facts, or reclassify their personnel into "management" positions (and so avoid the overtime provisions of the Fair Labor Standards Act), or if they get rid of the union (and the union demands) their profit positions will reflect these acts in a favorable manner. Thus the manufacturers of bottling crowns may agree, illegally, to fix a scale of prices and standardize their products,⁶ a jewelry manufacturer illegally fixes his discount rates so as to attract chain retail outlets without regard to savings in costs to himself,⁷ a Southern textile manufacturer fires two employees seeking to establish a union and therefore a union wage scale.⁸

But there are two difficulties with this simple economic explanation. In the first place, it probably doesn't cover some of the cases where management-union relations are involved. Thus an important life insurance company finds itself involved with the National Labor Relations Board because one of its supervisors fired a man who had testified previously before the Board. Why? Not because of economic reasons but because he had made the supervisor "look silly" in public.⁹ The other objection to the economic motivation argument is that it really doesn't explain much. Two firms with similar opportunities for breaking the law may show different records, one violates the law, another does not. Why? The simple explanation based on economic motivation does not tell us.

Pushing the economic argument further, however, perhaps "need" rather than "opportunity for gain" is the criterion, perhaps if one firm is in a more desperate situation than the other it will be more likely to violate the law. Or it may be that a firm which will abide by the law when it is prosperous, will violate the law when it is necessitous.¹⁰

To support this point of view take the case of a small tool-making organization in Chicago in the immediate postwar period. In 1947

author from Corwin Edwards, Director of the Bureau of Industrial Economics of the Federal Trade Commission: "I think the economic explanation of violations of law is the principal one. Inadequate enforcement certainly carries a heavy responsibility but by decreasing the risk it strengthens the economic incentive to violate. Though there are some cases where the law is difficult to obey, these seem to me to be relatively few as compared to those in which it is merely more profitable not to obey." (Quoted with permission of Mr. Edwards.)

6. *Crown Manufacturers Association of America et al.*, 45 F.T.C. 89 (1948).

7. *Jacques Kreislser Manufacturing Corporation et al.*, 45 F.T.C. 136 (1948).

8. *Sellers Manufacturing Company and Textile Workers Union of America*, C.I.O., 92 NLRB 279 (1950).

9. *John Hancock Mutual Life Insurance Company and Samuel Kohen, An Individual*, 92 NLRB 122 (1950).

10. Violations of price control and rationing seems to be less related to financial need than to the opportunity to make more than "ordinary" profits. See MARSHALL B. CLINARD, *THE BLACK MARKET*, New York, Rinehart & Company, 1952, pp. 313-326.

when this firm employed 25 men and enjoyed relative prosperity, the International Association of Machinists organized the firm and, in an election, won the contractual right to represent the employees in collective bargaining. By 1949, however, the number of employees had fallen to 12 and the firm was in a serious position. It was at this point that the President of the firm decided to terminate his relationship with the union and, illegally, refused to bargain collectively with them. Although he later explained that this was because he doubted whether the union really represented the men, his letter to the union explaining his position gave other reasons. The union wage scale, he said, is "responsible for placing our industry in a non-competitive and embarrassing position . . . During the period of the time in question, our company sustained very substantial losses . . . It is for these reasons that we were obliged to terminate our contract and withdrew recognition from the Union."¹¹

Is a weak or declining financial position a common cause for violation? In order to find out the relationships between the fortunes of a firm and violation of the law, a study of the 275 shoe manufacturing firms in New England was made and the records of violators of labor relations laws and trade practices laws analyzed. Since data on the financial position of these firms was difficult to obtain, reported number of employees was used to indicate growth and decline. The record is as indicated in Tables I and II.¹²

TABLE I

Growth and Decline of Labor Relations and Trade Practices Violators and Non-Violators in the Shoe Industry over a Ten to Fifteen Year Period (1936-1950)*

Group	Declined %	No Change %	Grew %
Labor relations violators	26	31	42
Misrepresentation cases	50	38	12
Non-violators (random)	31	31	38

(* Only those for whom there are data over a ten year period are here recorded.)

11. *Toolcraft Corporation and Die and Toolmakers Lodge 113, International Association of Machinists*, 92 NLRB 655 (1950).

12. The data on growth and decline of shoe firms is taken from the roughly annual *Directory of New England Manufacturers*, Boston, George D. Hall Co., 1936-1950. Data included information on (a) twenty-four violators of labor relations regulations, (b) ten violators of misrepresentation provisions of the trade practices laws, and (c) a control group of 18 firms, selected at random, which violated neither law.

Since the National Labor Relations Act was most likely to be violated where there were union men in the shop, inquiry was made to ascertain the extent of unionism in the New England shoe industry. There were 47 non-violating firms petitioning for elections during this period (1935-1950) and most other firms included a few union men. Thus the presence of union men was not a highly selective factor.

By concentrating on the time period immediately before and after the violation a more precise analysis is possible:

TABLE II
Relation of Growth and Decline of Firms to Violation of Labor Relations
and Trade Practices (misrepresentation) Laws.

Group	Year of Violation and Preceding Year			Year Subsequent to Violation and Following Year		
	(no. of employees)			(no. of employees)		
	Declined %	No Change %	Increased %	Declined %	No Change %	Increased %
Labor relations violators . .	7	73	20	25	50	25
Misrepresenta- tion cases . .	25	75	0	33	67	0

These data reveal several new aspects of the problem. For one thing, it seems apparent that violation of the trade practices laws is more closely associated with economic decline than is violation of the labor relations laws. Violation of these trade practices laws is associated with decline before the event, thus suggesting a causal relationship, and declines after the violation, thus suggesting that apprehension and conviction are in some way punishing to a firm. On the other hand the complex of events which caused the Chicago tool firm to break the law seems not to have been prevalent in the New England shoe industry; here economic condition was more or less irrelevant to the question of law-breaking.

Comparing the figures for trade practice violation and labor relations violation suggests that the two laws do not appear in the same light to industrialists busy in the processes of making the nation's goods. For one thing, the labor relations laws are more recent than the trade practice laws and most of the violations (63 percent) occurred during the first three and a half years of the National Labor Relations Act. Thus, it might be said that violation of recent laws is less related to the prosperity of the firms than violation of the older established (and accepted) laws of the land. But there is another factor. The trade practices acts, prohibit false advertising, misleading statements, price fixing, illegal discounts and related activities. These activities, however, seem closer to the normally accepted ideas of "immoral" or "criminal" behavior and their prohibition corresponds more to the business man's concept of right and wrong. Therefore, in addition to the recentness of the law, there is a question of the closeness of the law to the moral judgments of the business men who must live within it.¹³

13. For a confirming opinion see Clinard, *op. cit.*, p. 298.

There are other pieces of evidence which tend to support the idea that the more profitable firms do not violate some laws as easily and quickly as the less profitable firms. An analysis of the incidence of violation of the Fair Labor Standards Act (1938) shows that there is a higher proportion of violations in those industries suffering relative hard times. This seems also to be true of price control legislation, for, during the war, "compliance with price control regulations seemed to be more satisfactory among firms with rising profits than among those with declining profits."¹⁴

AMBIGUITY, IGNORANCE, AND DIFFICULTY OF COMPLIANCE

In one sense, it is quite unfair to management to consider a large number of the recorded cases as willful violations of the law. In all those instances culminating in "leading cases" no one knows the law until the court has spoken. While these cases may indicate a propensity to probe the law's farthest limits, this is quite different from deliberate infraction of a known law. Following this line of reasoning, the officers of the Cement Institute can hardly be thought guilty of illegal motives when they administered their basing point system, since the system had a history of several decades during which it was regarded as legal.¹⁵ Nor can the management of the Mt. Clemens Pottery Company be considered guilty of illegal design for not paying overtime on the basis of portal to portal rates, since, until the court spoke, their employees were not thought to be on the job until they were, in fact, working for the company.¹⁶

But setting aside questions of ambiguous laws (and all laws are ambiguous at their margins), may there not be many cases where management runs afoul of the law simply because they are not aware of its stated provisions? Can management be expected to keep posted on the variety of national and state laws affecting their operations? Some business men interviewed thought that this was a serious matter, and among the executives of the smaller companies a few expressed regret over the amount of time necessary to preserve a law-abiding record. The agencies themselves show a recognition of this problem of unintentional violation, the Federal Trade Commission stating:

It is manifestly difficult to draft a statement of policy on a broad base which does

14. GEORGE KATONA, *PRICE CONTROL AND BUSINESS*, Bloomington, Indiana, The Principia Press, 1946, p. 241.

15. See *Federal Trade Commission v. Cement Institute et al.*, 333 U.S. 683 (1948).

16. See *Anderson et al., v. Mt. Clemens Pottery Company*, 328 U.S. 680 (1946).

not afford an evasive device to the wilful violator while seeking to avoid unduly harsh treatment of the unintentional or casual violator.¹⁷

Even more specific is the Wages and Hours and Public Contracts Divisions statement:

The Divisions knew that violators generally may be placed in three groups—those who wilfully violate; those who are in violation because of ignorance of the law; and those who inadvertently misapply provisions of the law, thus committing technical violations.¹⁸

On the other hand, most of the business men interviewed felt that, with the help of their lawyers and the loose-leaf services, they were unlikely to be caught off guard by unfamiliar legislation. Speaking of violators of the price control laws during the war, one observer says, "it appears unlikely that, after the initial period, many business men are ignorant of the provisions" of the law.¹⁹ There are no data on this question of "knowledge of the law among violators," but we will attempt to get at it indirectly.

The hypothesis that ignorance and improper technical advice is a primary cause of violation is often supported by the belief that the smaller firms violate the law out of proportion to their numbers in the business population, partly, at least, because of poor legal counsel. A majority of the administrators polled expressed this point of view, and it is common among business men. But, if we examine the data of (Table III) the 275 shoe manufacturers in New England, this does not seem to be true, at least in this instance.

TABLE III
Per cent of violations of labor relations and trade practices legislation in New England shoe industry by size. 1933-1949.

Size groups (no of employees)	Per cent of size group who violated NLRA & LMRA	Per cent of size group who violated trade practice laws (misrepresentation)
Under 100	10.9	0
101-500	14.0	5.9
501-1,000	30.0	15.0
Over 1,000	11.1	33.3

Since there can be little doubt that large companies hire more and better counsel and are better informed on the law, these data should go far toward supporting those managers who claimed that "ignorance" of the law was not a legitimate excuse.²⁰

17. *Annual Report*, 1948, p. 116.

18. *Ibid.*, pp. 28-29.

19. MARSHALL B. CLINARD, *Criminological Theories of Wartime Regulations*, AMERICAN SOCIOLOGICAL REVIEW, Vol. II (June, 1946), p. 262.

20. In interpreting these data one caution should be considered. The large firm with more foremen is exposed to more opportunities for discriminatory firing under the labor relations law, misclassification under the wages and hours law, or other violations of labor

Could one, then, reverse the principle — larger companies with superior legal resources violate more, proportionately, than smaller companies? No, this is not possible either, as (Table IV) Figure 1 showing the relationship of size to wage and hour violations will quickly prove.

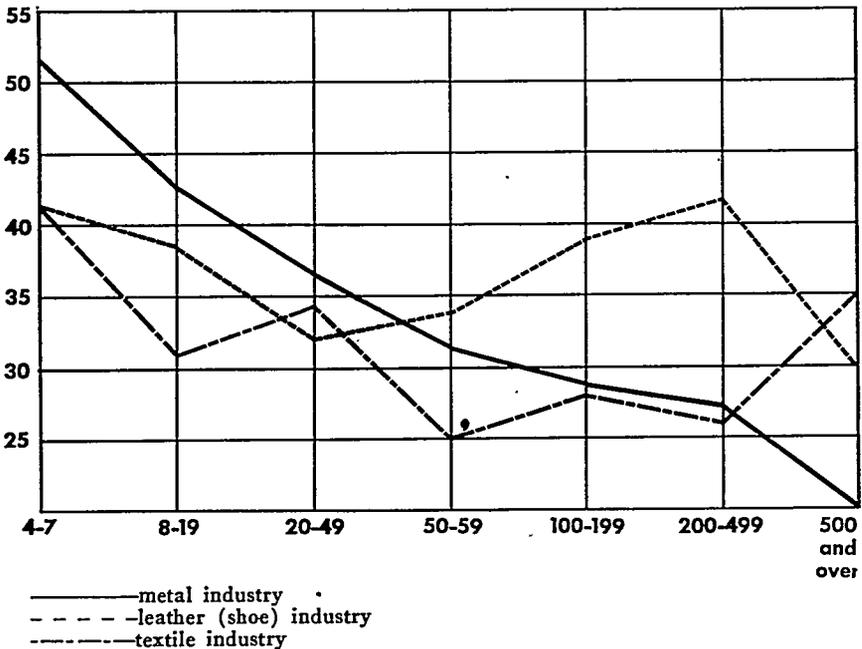
TABLE IV

Percent of inspected establishments in three industries in substantial violation of Fair Labor Standards Act and Public Contracts Act by size of establishment. (1948)

Number of Employees	Percent of Inspected Establishments in Substantial Violation		
	Textile and Related Products	Leather and Leather Goods	Metals and Metal Products
4- 7 employees	42	42	52
8- 19 "	31	38	43
20- 49 "	34	32	37
50- 99 "	25	34	33
100-199 "	28	38	29
200-499 "	26	42	27
500 or more employees	35	30	22

Figure 1. Relation of rate of violation of wage and hour laws (1948) to size of establishment in metal, shoe and textile industries.

Per cent of inspected establishments in substantial violation of Wages and Hours Laws 1948.



laws. Similarly, if a firm has many products it is exposed to more possibilities for violating the fair competition laws. The force of this consideration is weakened, however, by: (a) violations under some laws in some industries apparently decrease with size; (b) analysis of the actual cases shows that they are relatively rarely the product of low-level decisions.

There is, in fact, no clear relationship between size (and therefore legal services) and violation; each industry and each regulatory measure has a pattern of its own.²¹

If, as seems likely, management only very rarely violates the law because of ignorance of the relevant provisions, perhaps it is possible that management sometimes finds it genuinely difficult to comply with the known law. Does the law require the impossible? Of the twenty-five manufacturers consulted, none believed that they were handicapped by inadequate records, personnel, or facilities in complying with labor relations legislation. These laws were opposed on other grounds. One, the smallest (35 employees) felt that he was handicapped in obeying the wages and hours laws because he did not have the necessary records. None of the others felt that this was a burden. Although a number felt that trade practices regulation created hazards for them, only two felt that they were handicapped in complying because of lack of data or cost records. Of course, it is expensive to maintain such records, but often, as it turns out, these records have multiple uses and are only partly chargeable to government regulation.

On the basis of the above considerations we may say that although ambiguous provisions of the law and factually contested situations often lead to "violation" (in a technical sense) ignorance of the law and incapacity to respond seem, in most cases, to be relatively unimportant causes of violation.

VIOLATORS AND THEIR ASSOCIATES

The late Edwin H. Sutherland, a few years prior to his death, reformulated his theory of criminal behavior in order to explain violations of the law by business management.²² Central among his ideas is the doctrine of "differential association."²³ a doctrine which holds that men who associate with those who favor violation (or at least are indifferent to it) more than with those who oppose any violation of law, are more likely themselves to be violators. It is based on the common view that men pick up most of their opinions and orientations from

21. See KATONA, *op. cit.*, p. 165; CLINARD, *THE BLACK MARKET*, p. 325. This discussion on ignorance, size, and violation, although inconclusive, opens up a wide and fertile field for inquiry. What organization of information is necessary to keep a firm within the law? What size firm can best support such technical advice and counsel? What can government do for the small business man and how effective is the present effort? Do the trade associations perform valuable services in this area or, as some managers informed the author, do they merely repeat each other and the special loose leaf services (Prentice-Hall, Commerce Clearing House, etc.). Information along these lines might assist enforcement procedures in a manner that policing could not approach.

22. *WHITE COLLAR CRIME*, New York, The Dryden Press, 1949.

23. *Ibid.*, p. 234.

their associates and it has much evidence to support it in the criminological literature. Note, however, that there are two parts to the doctrine: positive association with men contemptuous of the law, and isolation from those who uphold legality even if the laws in question are distasteful.

But what kind of evidence of business friendship groups and their opinions on legality is available? Not much; the evidence must be circumstantial.

One approach might be to examine the policies of different firms in the same "interest groups," on the grounds that common association of directors and ranking officers might create a common pattern.²⁴ One clue to the rate of violation of the labor relations laws is given by the proportions between representation cases and unfair labor practice cases, the fewer unfair labor practice cases per representation case the more law-abiding the management. An analysis of the violation rates in the Mellon interest group, the du Pont interest group, the Cleveland interest group, and two firms associated with the Avery family (U. S. Gypsum and Montgomery Ward) shows that there is little common policy among the firms in each group. It doesn't appear that any common association (or even control) has an influence on attitudes toward the law. Incidentally, however, it is notable that the incidence of violation in the firms of these big business interests is markedly lower than the general rates for all business.

An analysis of the rates of violation of labor relations laws in the shoe industry gives some support to the differential association hypothesis. This may be found in the fact that in some shoe-manufacturing communities none of the shoe firms violate whereas in other shoe-manufacturing communities almost half of the firms get into trouble with the law. There may be several reasons for this, but it seems fairly conclusive that one of the reasons is the difference in attitude toward the law, the government, and the morality of illegality. Table V shows how these rates of violation vary in eight New England communities. It would be interesting, in this respect, to examine in more detail the special ideological environment of a business man operating in the "rugged individualist" city of Auburn, Maine. It seems probable that a manager who lunched and played golf with the business managers of Auburn, Maine, would feel differently and behave differently from

24. The sources of information on "interest groups" were: Temporary National Economic Committee, Monograph No. 29, *The Distribution of Ownership in the 200 Largest Non-Financial Corporations*, Washington, D.C., 1940, pp. 1514 ff.; and National Resources Committee, *The Structure of the American Economy, Part I, Basic Characteristics*, Washington, 1939, p. 158.

the manager who was surrounded by the business men of Brockton, Mass. This point of view was supported indirectly by the managers interviewed, who generally agreed that they followed community patterns of behavior, in terms of wage scales, vacations, union recognition, and so forth.

TABLE V
Per cent of firms violating labor relations laws in selected communities.

Place	No. of shoe firms	No. of violating firms	% of firms violating
Haverhill, Mass.	28	2	7.0
Lynn, Mass.	27	1	3.7
Brockton, Mass.	17	0	0.0
Boston, Mass.	16	0	0.0
Manchester, N. H.	10	3	30.0
Auburn, Me.	9	4	44.4
Lowell, Mass.	8	3	37.5
Cambridge, Mass.	5	2	40.0

But the idea of "differential association" has two parts to it: association with men whose attitudes encourage violation, and also isolation from men whose attitudes discourage violation. Is there any evidence of such isolation? How would you go about proving it?

There is evidence of such isolation, and, although it is not conclusive, it is worth looking at. In the first place, there is the question of reading matter which ranges in attitude from temperate periodicals, such as *The Harvard Business Review* and *Fortune*, to some trade journals which serve to keep alive government-business hostility beyond the point of usefulness. It is possible for men to immerse themselves in a section of the press so hostile to government that violation of the law must seem most appropriate. By the same token, they may isolate themselves from journals which preserve a balance between criticism and neutral reporting. These choices, furthermore, extend to selection of luncheon clubs, radio programs, daily papers, and other vehicles for attitudes and ideas.

The problem of isolation from divergent points of views is much more serious in small towns than in large cities with their cosmopolitan press, diversified social life, and greater tolerance for heterodoxy. Big city business management does, as a matter of fact, seem to accept restrictions of the law somewhat more readily than small town management. This is not only a common sense proposition, borne out by impressionistic observation of management in the twenty-five interviews, but it is also supported by our study of the shoe industry, as indicated by Table VI.

TABLE VI
Violators of labor relations and fair trade laws by size of town.

Size town	No. of shoe firms	No. of violators (labor relations)	Perc't (labor) violators of no. of firms	No. violators (trade practice)	Perc't (trade) violators of no. of firms
under 5,000	20	0	0	2	10.0
5,000- 10,000	34	8	23.6	3	8.5
10,000- 25,000	46	9	26.5	2	4.3
25,000-100,000	87	10	11.5	2	2.3
over 100,000	76	8	10.4	2	2.6

Again, it must be true that there are many factors at work but on the whole the results seem to confirm the differential association hypothesis.

THE PERSONAL EXPERIENCES AND PERSONALITY OF VIOLATORS

Even when we have accounted for the financial needs of a firm, and for the ambiguity or difficult requirements of the law, possible management ignorance with respect to the law, and social pressures, there still remains the personality and personal experiences of the individual managers. It is impossible and wrong to make of this matter a wholly fatalistic process whereby the situation of the firm, the incidence of the law, and the degree of social pressure combine to eliminate the power of decision among the firm's managers. We must include these more personal characteristics, too, even though they are not readily accessible.

One of the defects of the fatalistic interpretation of business violation is that it impersonalizes business leadership. While in the larger corporations there may be a tendency toward impersonalization through frequent group consultation, the use of legal counsel, guidance of cost accountants, reliance on market reports, and so forth, the marginal figures of Ford, Girdler, Rand, Avery, Weir and others suggest that, within the margin and without benefit of publicity, temperament and psychic factors are still important determinants of business policy. Among smaller firms this is even more certainly true.

Among the variety of personal characteristics and experiences two may be considered here as representative of the wide range of factors of this kind: previous experience with regulation, and personal attitudes toward authority as expressed in the law. To take first, the matter of previous experience with regulation, how may this affect business responses to new and additional measures?

One approach is to find out whether the experience of violation and conviction leads to further violation or leads to a more law-abiding

pattern of behavior. Unlike the crime records, the records of business violation show that recidivism is infrequent; violation and apprehension is not the preface to future violation, it is likely to be the end of the matter. Thus, out of 200 violators of the National Labor Relations Act between December 1935 and August 21, 1947, only 13 or 6.5 percent were repeaters.²⁵ This pattern is also true of violators of the trade practice laws: there were 188 orders and stipulations in 1948-1949 but only four punitive orders indicating serious second offenders.²⁶

Another method of showing the effect of previous regulation on the rate of violation is to examine the effect of some of the newer regulatory measures in industries which have always been under close public supervision. If it is true that experience of regulation teaches management how to keep within the law, what to expect, what kind of legal counsel to hire, and, perhaps, what to do to minimize the impact of the regulation, we should expect these regulated industries to have lower rates of violation under the newer measures. In fact, this does seem to be the situation, at least with respect to the wages and hours laws. While seven percent of all inspected establishments were in "serious" violation of the Fair Labor Standards Act in the fiscal year 1948, the averages of certain industries accustomed to other forms of government regulation were:²⁷

But men do not react solely on the basis of what they "know" from such experiences to be true. They also respond to their inward feelings which sometimes transcend and override their knowledge. Among these feelings the emotional responses to authority have been singled out for much discussion by psychologists and their associates, so that it begins to appear that this is a central feature of individual adjustment to society. At least, for the discussion of men's responses to governmental regulation, attitudes toward authority might seem to be among the most important of all phases of emotional life.

For obvious reasons this line of analysis cannot be pursued in any detail—it would require psychoanalytic case studies for satisfactory

25. Calculated from a random sample taken from National Labor Relations Board, *Table of Cases Decided*, Volumes 1 through 74, December 7, 1939 through August 21, 1947, Washington, D.C., 1948.

26. *Federal Trade Commission Decisions*, Volume 45, July 1, 1948 to June 30, 1949.

27. Wage and Hour and Public Contracts Divisions, *Annual Report*, 1948, Table E, pp. 162-65.

Alcoholic beverages	2 percent
Heat, light, power, water.....	2 percent
Drugs, and medicines.....	3 percent

study—but a few fragments of information will suggest caution before we go out on this particular limb. One such piece of evidence comes from a study made of the violation pattern of seventy large corporations, where it was found that there was great consistency of behavior toward specific laws over long periods of time when the managing personnel changed several times over. It seemed to be the position of the firm, rather than any emotional qualities of its management which led it to violate. The obverse of this situation was shown in the fact that there was no tendency to react against a wide range of laws, no evident general anti-regulation animus, at any one time.²⁸

This is evidently a general pattern. In our sample of 275 New England shoe manufacturers there were 45 violations of the labor laws involving 35 firms and 20 violations of the trade practices laws, involving 14 firms. In addition there were two firms engaged in court cases under the wages and hours laws. In no instance did a firm violate more than one law. There was no evidence of a consistently “anti-regulation” or “anti-government” or “anti-authority” policy on the part of any firm or its management.

But caution along these lines does not mean rejection of the thesis. We know that men tolerate restrictive governmental authority in different degrees and express this difference in their decisions and behavior. When, for example, the National Labor Relations Board says of a firm, “. . . the Respondent, under the active personal leadership of its president, . . . frustrated its employees’ organizational efforts by a campaign of wilful unfair labor practices . . .”²⁹ we infer that this firm is guided by a man who has invested much emotional energy into a joint attack upon unions and the law. Something other than economic forces and social pressure is here at work.

REDUCING THE RATE OF VIOLATION

It is one thing to suggest the causes of violation; it is something else to discover the cures. Nevertheless it is curious, considering the talent and resources available both to the business community and the national government, that so little has been done to discover and promote such cures. Compared to the attention given to industrial relations business-government relations have almost been ignored. This state of affairs is reflected in the limited nature of suggestions for reducing the rate of

28. E. H. SUTHERLAND, *op. cit.*, p. 264.

29. *Salant & Salant, Incorporated and Amalgamated Clothing Workers of America*, CIO, 92 NLRB 345 (1950).

violation and minimizing business-government friction offered by business men and administrators.

When questioned on the most appropriate means of reducing friction and violation of the law, twenty-five managers interviewed on this problem suggested, in order of frequency, the following policies:

1. Stop the drift to socialism and the restriction of freedom.
2. Economize, cut the government payroll, balance the budget.
3. Increase governmental efficiency, pass Hoover recommendations, eliminate waste.
4. Increase government familiarity with business processes.
5. Cut controls to absolute minimum (allowing trade practice, or sweatshop, or anti-trust controls only—or none).
6. Reduce uncertainty by stabilizing rules and regulations.
7. Recruit a better grade of government personnel and reduce turnover.
8. Increase morality and honesty in government-business relations.

Regrettably, these suggestions were rarely supported with specific data, or an indication of how, had they been applied earlier, they might have reduced the rate of violations in the business community.

The seven highly placed administrators consulted on this general problem naturally turned toward other kinds of solutions. The principal suggestions might be summarized as follows:

1. The development of a more sympathetic attitude toward business problems on the part of administrators.
2. Enlargement of the educational program of government, attempting to convey information not only on the provisions of the law, but the reasons it was enacted and the goals it seeks to establish.
3. Establishment of greater consultative relationships with business, particularly with the key men in each industrial area.
4. Critical re-examination of administrative procedures to reduce duplication and unnecessary paper work.
5. Sympathetic liaison with the professions allied to business management—law, public relations, personnel, etc.

Both of these sets of “solutions” offer a useful agenda for consideration and discussion, but much remains to be done. In connection with this agenda, the preceding analysis of the causes of violation seems to indicate a more particular focus on certain kinds of situations and circumstances. These may be briefly outlined as follows:

1. While it is generally (but not universally) true that “economic” gain is necessary for violation to take place, marginal and declining firms are more likely to violate the law than prosperous firms. Any help the government can extend to these firms will, therefore, probably reduce the rate of violation.

2. Ambiguous laws lead to a higher rate of violation. In spite of occasional business opposition, therefore, it is desirable for responsible administrators to have authority to issue legally binding interpretations of the laws they administer, providing these are subject to adequate court review. Furthermore, administrators should weigh more heavily the effects of uncertainty in calculating whether or not to "stick their necks out."

3. Although it is rare that business men violate a law because they do not know of its provisions, the government could do much to improve the channels of information between management and the regulatory agencies. There is no reason that these should be monopolized by third parties or by the legal profession.

4. Since violation is a product, in part, of social pressure and community attitudes, government and business should jointly seek to build respect for law—even distasteful law enforced by a repugnant administration. Government cannot do this alone; business cannot do this without a record of fair dealing by the government. It is a task for both elements of society. Further study would quickly reveal the communities where this is most urgent.

5. Government should approach each manager as a unique individual with a unique set of experiences, a personality different from all others, confronted by a problem which looms large even though he be one of thousands in an official's lifetime. Only thus can the personal and individual nature of business decisions be understood and personal inclinations to violate be met and headed off by responsible government.

More could be said of a specific nature: better business bureaus and local Chambers of Commerce could do much to stop violation at its source; governmental cease and desist orders could often be recast so as to give more attention to what is proscribed and less to proving guilt; trade journals could reconsider the effects of hostile expressions which may build circulation but create a trade sentiment which breeds friction and violation: the impact of new laws could be lessened by a "dry-run" period of education and experimentation, and so forth. But, these suggestions like those of the business community and those of the administrators, need further study and research.

What is clear from all this, however, is the need for both business and government to reexamine their relationship and to attempt to recreate a mutual respect which will facilitate their partnership in a democratic society.