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The influence of the National Association of Manufacturers of post world war II labor legislation

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THE INFLUENCE OF THE NATIONAL ASSOCIATION OF MANUFACTURERS ON POST WORLD WAR II LABOR LEGISLATION

A comparison of N. A. M. Testimony before Congress in 1947 and 1948 with the Provisions of the Taft-Hartley Law and with Recent Proposals to Repeal the Law.

by

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CHAPTER I

INTRODUCTION

The National Association of Manufacturers is a group of 16,000 firms dominated by a minority which is numbered at most in the hundreds.[1] It is run by the top executives of the latter group. This small group of individuals appears to exert a tremendous influence on American thinking and American legislation. It uses such methods as pressure on Congress through testimony before Congressional committees and through lobbying activities. The ground which this paper will attempt to cover will deal with the Taft-Hartley Law and attempts to revise it.

N. A. M. activity reached a high point in 1947, prior to the passage of the Taft-Hartley Act. What was the effect of N. A. M. activity on the enactment of that law and in the period following? To what extent did N. A. M. philosophy enter the Act? How effective were N. A. M. exertions against the drive to repeal the Act? These are the questions which this paper will deal with, using the following methodology.

The methods I have adopted may be divided primarily into three parts. First is an analysis of N. A. M. labor philosophy

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1 Cleveland, A. S., N. A. M., Spokesman for Industry?, Harvard Business Review, Vol. 26, p. 353-371, May 1948

and legislative desires, as expressed both in hearings before Congressional committees and in official platforms and Association literature. Second is a study of post-World War II labor legislation and bills. An attempt is made at correlating N. A. M. wishes and recent legislation in order to discover the incidence of acceptance of N. A. M. views in the latter. Some evidence has been included relating to N. A. M. participation in the drawing up of the Hartley Bill. N. A. M. testimony before Congress after the passage of the Taft-Hartley Act is looked at to see to what extent Taft-Hartley failed to satisfy N. A. M. desires. The attitude of the unions is also presented so that a clearer picture of the struggle may be obtained.

Finally, the labor activities of the Eighty-First Congress are analyzed in order to note the degree of success of N. A. M. activities at a time when public opinion appeared to be against those parts of the Taft-Hartley Law which expressed N. A. M. philosophy. The final correlation is thus between the labor bills introduced in Congress in 1949 and N. A. M. philosophy.

It is hoped that this paper will show that: 1) N. A. M. desires that the severest type of restrictions be placed on labor, and 2) N. A. M. influence on the labor policy of the United States has been far out of proportion to that which it should be in a

democracy which purports to give an equal voice to all.

Chapter II

TESTIMONY OF IRA MOSHER BEFORE THE SENATE LABOR COMMITTEE OF THE EIGHTIETH CONGRESS

Testifying before the Senate Committee on Labor and Public Welfare, Ira Mosher, Chairman of the Executive Committee of the National Association of Manufacturers, presented industry's argument in favor of curbing the growing power of American labor unions. This labor committee had been holding hearings from January to April, 1947, for the purpose of formulating new labor legislation. Testimony given included that of fourteen representatives of the National Association of Manufacturers and affiliated firms.[3] In addition to Mr. Ira Mosher, speaking for the N. A. M. itself, two representatives of organizations directly affiliated and subordinate to the N. A. M. in the National Industrial Council, testified. These were Mr. Edwards of the National Electrical Manufacturers Association, and Mr. Craigmile of the Illinois Manufacturers Association. Representatives of members of the N. A. M. Board of Directors that testified included Mr. Bleicher of the De. Soto Corporation, Mr. Sharp, General Counsel of Jones and Laughlin Corporation, Charles E. Wilson of General Motors, and the Vice-Rresident and General Counsel of the

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[3] Senate Committee on Labor and Public Welfare hearings, Eightieth Congress First Session, Labor Relations Program, Parts 1-5, April, 1947

Chrysler Corporation. Also testifying was Leo Wolman, Columbia Professor and well-known spokesman for N. A. M. philosophy.

On February 15, Ira Mosher appeared before the Labor Committee for the prupose of urging the passage of a piece of labor legislation that would restrict"monopoly unionism". He testified as Chairman of the Executive Committee of the N. A. M. He is also Vice-Chairman of the N. A. M. Legislative Policy Committee. The testimony of the N. A. M. affiliates mentioned above coincided to a large extent with that of Mr. Mosher. Since Mr. Mosher, as the only official N. A. M. representative, sums up the arguments of the others, his testimony alone will be analyzed.

Mr. Mosher's testimony, for purposes of analysis, may be divided into three parts: general statements as to N. A. M. principles with regard to business, labor, and the public; obstacles in the way of ideal employer-employee relationships; the urging of legislation to relieve these alleged obstacles, with specific recommendations.

General Statements.

In his general statements, Mr. Mosher first attempts to put himself in the position of being the spokesman, not for the big industrial firms, but for the thousands of small firms employing less than five hundred people, who compose seventy-five per cent of N. A. M. membership. The small companies, he maintains, have suffered most under the old labor laws (the Clayton, the Norris-Laguardia, and the Wagner Acts) and therefore he is taking their part. He next states that he is also

seeking the public interest, since "what is good for the public is good for business". This is an improvement over its corollary of what is good for business is good for the public, but it carries the same implication, that the welfare of the country's business interests is inextricably tied to the country's welfare as a whole, because the business class is the heart and soul of the political, economic and social life of the country.

Mosher next turns to labor, denying that the N. A. M. is seeking punitive legislation or special favors. He says: "We do not seek to restrict the choice of employees if they wish to bargain collectively, nor do we seek to impose restraints on the unions which would in any way interfere with their legitimate activities". He discusses the impracticability of outlawing strikes, agreeing that the right to strike should be maintained as a last resort when collective bargaining between employer and employee breaks down. This is immediately qualified, however, when he adds that there must be an orderly procedure which will prevent the right from being "abused and misused". Furthermore, says Mr. Mosher, the solution"is not in legislating agreements between labor and management. Agreements must come from these parties themselves". The solution, he says, is rather to "create the conditions which enable management and employees to deal directly with each other, and to settle their problems right where they arise". He continues, "Take away the external obstacles which interfere with the fundamental relationship that exists between employers and employees".

Mr. Mosher begins to get down to cases. In how many ways can

the right to strike be "abused"? What are the implications of his suggestion to deal with labor disputes "right where they arise"? Ending his "we are all brothers" Chamber of Commerce speech, he delineates four specific obstacles in the way of what he considers to be ideal employer-employee relationships.[4]

Obstacles to Industrial Peace-Legislative Recommendations.

Mr. Mosher's four obstacles to industrial peace are:

1. "Government intervention, whether it be through compulsory arbitration, permanent mediation boards, legislation which destroys collective bargaining agreements, or politically directed fact-finding.

2. "The obstruction of industry-wide bargaining[5] and of secondary boycotts.[6]

3. "Union objectives which conflict with the best interests of the employees, which crop out as strikes that have nothing to do with wages, hours, and working conditions, strikes which are not the result of employees' wishes and which are forced upon employees through compulsory unionism.

4. "The inequities which result from one-sided obligations and responsibilities under existing laws".

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4 U. S. Senate Sommittee on Labor Hearings, op. cit., p. 930

5 Collective Bargaining covering entire industry rather than one plant or company, such as bargaining between the United Mine Workers and the Southern Coal Operators Association.

6 A boycott against Plant B by workers of Plant A in order to force Plant B to put pressure on Plant A to settle a dispute.

These four points are now discussed by Mr. Mosher with recommendations for remedial legislation. As regards government intervention, Mosher condemns all federal regulatory boards, argues against the proposed Federal Mediation Board, maintains that labor is always running to such boards for favorable decisions. As for fact-finding boards, he condemns then as biased, "unjustified interference by the government for wage-fixing purposes".

On industry-wide bargaining, he says: "Our position is that collective baragining, to be effective at the plant level, to stimulate plant level harmony, and to protect the consumer against monopolistice power to exploit, to protect the public against industry-wide strikes and government operation of industry should be limited to the employees of a single employer". In response to Senator Taft's question of whether he would deprive a craft union of the right of setting a union scale in the town in which that particular local operated, Mosher replied that "to create a wage scale is monopolistic and the public pays...." The committee had before it some proposals to outlaw industry-wide bargaining over a large area, but to let local city and town unions operate as they will. Mosher commented that "those proposals don't go far enough". Mosher's recommendation is therefore for complete decentralizational unions, but the local itself should be split into its component parts, if his recommendations are carried out.

Moving to secondary boycotts, Mosher feels that "those who engage in secondary boycotts ought to be refused the protection of the Wagner Act. They ought to be made subject to injunction".... When

Taft mentioned that in the bill as it stood at the time, the boycott was legal in a case where employees refuse to cross picket lines established by a union representing a majority of the employees of the plant where the picket line is, Mosher questioned the wisdom of excepting even that situation.

Mosher next talks about unfair union objectives. Here he refers to jurisdictional strikes[7], sympathy strikes[8], strikes against the government, and strikes to force an employer to violate the law, force the recognition of an uncertified union, enforce featherbedding[9], or strikes in violation of contract. Mosher says, "They are not legitimate union activities....They do not do anybody any good---the union member least of all". He asks for the following remedies: 1. Permit the employer full freedom to discipline and discharge those who participate in or instigate these activities. 2. Withdraw the protection of the Wagner Act and the Norris-Laguardia Act from those who engage in or instigate those actions. 3. Enable those who are damaged by such actions to recover through civil suits against the individuals involved, and if such actions are sponsored directly or instigated by a union, against the union itself.

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7 A strike arising over a dispute between unions as to which union has jurisdiction over a particular job. It is an attempt to force an employer to give the job to a particular union.

8 A strike by workers in Plant B to aid striking workers in Plant A by forcing employer B to bring pressure on employer A.

9 "Featherbedding" is the forcing of an employer to hire extra workers for jobs which a company maintains unnecessary, such as in the case of a spare driver on a truck.

On the decision to go on strike, Mosher asks that such decision be made by fifty-one per cent of the total number of employees in a unit, including non-union employees. A failure or inablity to vote is thus a vote against the strike. Mosher also said that he personally would go even further, and require the fifty-one per cent approval of the entire plant before any unit could strike.

On responsibility under the law, Mosher, of course, emphasized his desire to have unions more accountable in the courts and more liable to injunction.

Evaluation of Mosher's testimony.

In evaluating Mr. Mosher's testimony, we see that he presents the gist of his testimony when he says: "Of course, all through my brief I am arguing for getting collective bargaining back on the plant level, which is the only place where it can be adequately handled".

This is indeed the N. A. M. program, which is to destroy the centralized power of the union movement. Mosher's program, for instance, would completely disrupt the craft unions. A carpenter's local would no longer maintain the same wage scale for two carpenters living on the same street, one of whom works for company A doing the same sort of work the other does for company B. In the industrial unions, the powerful United Automobile Workers, for example, would be split into a dozen different unions. It would meet a Ford or a Hoffman at the bargaining table with far less power than its opponent. This is beaause there would be a Ford Automobile Workers Union and General Motors Automobile Workers Union instead of a United Automobile Workers Union.

That is why, too, Mosher is so anxious for the government to stay out of the picture after it accomplishes the breakup of the unions, as industry is confident that it can maintain the upper hand at the bargaining table. Mosher, in calling for a return to the old direct employer-employee relationship of the guilds, may be wistfully dreaming of a situation which is no longer akin to reality. On the other hand, he may fully realize that he is calling for a situation in which true collective bargaining, based on equality, can no longer exist. Since Mr. Mosher and the N. A. M. are realists and not dreamers, the latter is more likely to be true. These desires of the N. A. M. achieve a foothold in the Taft-Hartley Act, as we will see, though even that law did not realize fully the N. A. M. labor program.

Chapter III

INDUSTRY VERSUS LABOR;

THE LEGISLATIVE DEVELOPMENT OF THE TAFT-HARTLEY LAW

Our first step in observing the Taft-Hartley Act will be to trace its legislative growth and development. By doing this, we will be able to see the tug-of war between labor and industry transferred from the industrial plant to the halls of Congress. Congressmen who are spokesmen for industry, and Congressman speaking for labor constituencies, vie with each other for the votes of those Congressmen who are caught in between. Both sides appeal in the name of the"public interest". It will also be seen that N. A. M. desires and proposals crop up frequently in committee reports and proposed amendments and bills. The achievements of labor, however, are limited to some slight success in convincing Congress to beat down by narrow margins several of the worst of the N. A. M.-backed proposals.

The House and Senate labor committees held hearings from January to April in 1947. The first action on the floor of Congress was initiated on April 12, when the House committee reported out the Hartley labor bill[10] by a vote of eighteen to four.[11] Principle features

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10 House Report 3020 , Eightieth Congress, 1st session, 1947

11 Congressional Record, Eightieth Congress, First Session, Vol. 93, p. 3375 April 12, 1947

of this bill were the banning of the closed shop, regulations to prevent Communists from gaining control in unions, and the banning of most industry-wide bargaining. Also, government injunctions against critical strikes were provided for, as well as a three-member labor-management relations board to replace the National Labor Relations Board. In this bill a clear victory for industrial spokesmen, such as Chairman Fred Hartley himself[12] is fairly obvious. The end of the closed shop, industry-wide bargiaining and industry-wide strikes are in high correlation with legislation requested by the N. A. M.

On April 17, the House voted approval of the Hartley bill, 308-107.[13] The bill in its final form included a ban on industry-wide bargaining, jurisdictional strikes, secondary boycotts, the closed shop,[14] compulsory dues checkoff,[15] and communist labor union officers. Also included

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12 After defeat in the election of 1938, he was chosen head of the Tool-Owners' Union, well-known association of industrialists.

13 Congressional Record, Eightieth Congress, First Session, Vol. 93, p.3671

14 A system whereby the plant can hire only union members, as provided for in the contract with a union.

15 Preliminary deduction of union dues from the payroll by the company in collaboration with the union.

were injunctions in national emergency disputes, union financial reports, making unions suable, and a proposal to replace the National Labor Relations Board with a mediation agency. A breakdown of this vote finds 22 Republicans and 84 Democrats voting against the bill, and 215 Republicans and 93 Democrats voting in favor of it. While this vote would seem to show that the Democrats were not opposed to the bill as a party, the picture is somewhat muddled by the fact that most of the Democrats voting for it were Southern Democrats, while the rest of the party followed the Administration and voted heavily against the bill.

Thus we see that the House of Representatives as a whole gave its approval to the N.A.M.'s ideas on labor legislation. Our analysis of the vote showed that the Republican Party wholeheartedly supported the industrialists' view, while even the Democrats were not opposed as a party to that view.

On the same day, the Senate Labor Committee reported out the Taft Labor Bill[16]. This Bill was much milder than the House bill. For example, it contained no provision banning industry-wide bargaining.[17] It is even a little milder than Senator Taft had desired. Therefore, Taft offered a series of amendments on the Senate floor, in an attempt to"stiffen" the labor bill.[18] Three of his amendments were accepted by the Senate. These were, first, damages by an employer against a union

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16 S1126, Congressional Record,Eighteth Congress, First Session, Vol.93,p3613

17 See Senate Report 105, Eighteth Congress, First Session

18 Congressional Record, Op. cit. Vol. 93, p. 3614

for jurisdictional strikes and secondary boycotts (passed by a vote of 65-26);[19] secondly, welfare funds could not be administered exclusively by unions, and involuntary check-offs were banned, by a vote of 48-40. The third amendment adopted was one which stopped unions from "coercing" workers to join. Rejected by one vote was the crucial amendment banning industry-wide bargaining, on a vote of 44-43. Senator Ives of New York led the Republican opposition. Sixteen Republicans voted against Taft, thirty-one with him. The Democrats split, twelve for and twenty-eight against. A motion by Senator Morse, Oregon Republican, to split the bill into four parts was beaten, fifty-nine to thirty-five. This would have enabled some provisions of the Omnibus Bill to have been thrown out by Presidential veto.

We see, then, that the N. A. M, did not have the same degree of effectiveness in the Senate as it did in the House, especially on the question of industry-wide bargaining. Senator Taft is the one, in this case, to be pointed out as agreeing in principle with the N. A. M. The Senator represents the industrial interests of Ohio, a state which, along with Delaware and New Jersey, is noted for its fostering of huge industries through such means as ultra-lenient tax laws. Senator Taft, however, was unable to gain the full backing of his Republican colleagues, among whom are several pro-labor Senators, such as Langer and Morse. In addition, other Republican Senators more or less in agreement with industry that labor needed to be curbed, were unwilling to go as far as

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19 Congressional Record, op. cit. Vol. 93, p. 5116

ending the strength of the national industrial union, as the industry-wide bargaining ban would do.

Senator Taft's Omnibus Labor Bill passed by a vote of sixty-eight to twenty-four on May thirteenth.[20] In general, Administration Democrats voted against the bill while less loyal Southern Democrats voted for it. Only three of the Republicans dared to vote against Taft. These were Langer of North Dakota, Malone of Nevada, and Wayne Morse of Oregon. Like the Hartley Bill, the Taft Bill outlawed the closed shop, banned communistic union officers, contained an eighty-day national emergency injunction, took conciliation away from the Labor Department, guaranteed "free speech" for employers and defined "unfair" union practices. The Bill now went to a Joint-Conference Committee to resolve its differences with the Hartley Bill.

By a vote of seven to three the Joint-Senate House Conference Committee voted out a compromise bill.[21] In it, House conferees dropped their fight against industry-wide bargaining and made other concessions toward a union-curbing bill that might survive a veto. The bill included a ban on the closed shop. It allowed the union shop only when all workers to be affected vote to demand it, and permitted an eighty-day injunction against emergency strikes. It kept restrictions against the following : Communist union officers, secondary boycotts, jurisdictional strikes, and featherbedding strikes. It enlarged the National Labor

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20 Congressional Record, Eightieth Congress, First Session, Vol. 93, p.5117

21 Senate Report 510, Eightieth Congress, First Session

Relations Board from three to five members, and transferred conciliation services from the Labor Department to an independent agency.

This compromise bill, of course, is the Taft-Hartley Law. It was passed by the House by the landslide vote of three hundred and twenty to seventy-nine.[22] Only sixty-six Democrats, twelve Republicans and Mr. Marcantonio, American Labor Party, voted against the bill. In the Senate, also, the bill was passed by a vote of fifty-four to seventeen.[23] Here fifteen Democrats voted against the bill and only two Republicans, Senators Langer and Morse.

The N. A. M. point of view therefore won out in most instances, the notable exception being in the field of industry-wide bargaining. The realization that the bill might not be able to survive a Presidential veto in the Senate if the House provision banning such bargaining were accepted by the conference committee led the latter committee to throw out this provision from the House bill, while approving of the rest. Congress then voted overwhelmingly in favor of what amounted to perhaps sixty-five per cent of N. A. M. desires. Of the Senate Republicans, the "middle-of-the-roaders" had been won over to industry by this mild compromise.

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22 Congressional Record, Eightieth Congress, First Session, Vol. 93,p.6361

23 Ibid., p. 6536

Although overwhelmingly approved, the bill ran into a Presidential veto on June 20. President Truman, in his veto message,[24] said that it would increase labor strife, and weaken national unity. It would cause "more government intervention in our economic life", encourage "distrust, suspicion and arbitrary attitudes", subject labor questions to "unworkable" legal procedure, "discriminate against workers by arbitrarily penalizing them for all critical strikes", and "increase disruptive effects of Communists in our labor movement". He referred to his recommendations of January sixth, 1947, in his State of the Union Message, in which he asked for an end to jurisdictional strikes and "unjustified" secondary boycotts, Labor Department aid in arbitration, social legislation to alleviate the workers' insecurity, and a joint commission to study the entire field.

The President's message accomplished nothing in the House, where his veto was overridden, 331-83.[25] A group of liberal Senators filibustered in the Senate, while President Bunting of the National Association of Manufacturers called for quick enactment.[26] N. A. M. wishes were finally gratified on June twenty-third, when the Senate overrode the veto 68-25, and the Taft-Hartley Bill became law as the "Labor-Management-Relations Act, 1947".[27] Truman's veto had won over only

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24 Facts on File Yearbook, 1947, p. 192

25 Congressional Record, Eightieth Congress, First Session, Vol. 93, p. 7489

26 Facts on File Yearbook, 1947, p. 192

27 Congressional Record, Eightieth Congress, First Session, Vol. 93, p. 758

two Senators who had voted for the bill on June sixth, Lucas and Sparkman. Senator Malone joined the two other Republicans who had defied Taft.

To analyze the voting outlined above, it does seem fairly conclusive that the policy of the Republican Party in the field of labor relations was similar to that of the N. A. M. On the other hand, the policy of the President, as leader of the Democratic Party seemed to be opposed to the industrialists' views. However, he was unable to convince his party in Congress to follow his leadership in the face of heavy N. A. M. pressures and propaganda.

Now that the bill was passed, a warning was sounded that more drastic labor legislation would be needed if strikes continued to appear. This threat came from N. A. M.'s Bunting, President Shreve of the Chamber of Commerce, and Congressman Hartley. An end to "name-calling" by labor was also asked.[28]

Thus the Taft-Hartley Bill was enacted into law. N. A. M. propaganda had been successful. Labor propaganda, on the other hand, had had little if any effect. Labor publications had time after time urged that certain restrictions on unions not be passed by Congress,[29] but to no avail. President Murray of the Congress of Industrial Organizations, had termed the bill "the first step toward the development of fascism in America".[30] Yet the N. A. M. succeeded in winning over Congress. Let us go on to see to what extent the Taft-

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28 New York Times, June 25, 1947, p. 21

29 American Federationist, May 1947, p. 4.

30 CIO News, April 28, 1947, p. 12.

Hartley Law is in correlation with N. A. M. philosophy, point by point, as expressed in the committee hearings.

Chapter IV

THE LABOR-MANAGEMENT RELATIONS ACT OF 1947
(TAFT-HARTLEY ACT)
AND THE REFLECTION IN IT OF N. A. M. PHILOSOPHY

The main provisions of the Taft-Hartley Act[31] have been glimpsed at as we discussed the passage of the Act in the preceding chapter. In this chapter, our first job shall be to analyze more fully some of the main provisions of that Law which are related to N. A. M. testimony. While doing this, we will get a better idea of the full impact of the act as a disruptive element on unions. Correlating these provisions with Mr. Mosher's testimony we will see that some of them were directly discussed by Mr. Mosher. Others, however, while not mentioned directly by him at the time, reflect N. A. M. and industrialist philosophy in general.[32] Mr. Mosher comes out with a high batting average, at any rate. The effect on the American labor scene of Mosher's success can be great as will be seen in the final section of this chapter. The status of the economic battle between management and labor must also be considered if we are to consider the merits of the respective arguments.

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31 Text in Bureau of National Affairs, That New Labor Law

32 N. A. M. Pamphlet material, America Won't Stand for Monopoly

The Taft-Hartley Act.

The Taft-Hartley Act is divided officially into five titles. Title I officially amends the Wagner Act, and contains primarily the well-known Unfair Labor Practices section. Discussing the important sections, we have Sec. 8a3. Control of a union with a union shop contract over its members is limited to discharge for non-payment of dues only. Also, admission to the union cannot be refused anyone. The combination of these two means that disruptive elements within the union cannot be punished as long as they pay their dues. Section 8b4 prohibits a union from striking connected with a secondary boycott, secondary recognition strikes, inter-union disputes, and work task disputes. The latter two may be summed up in the term "jurisdictional strike". This provision refuses to recognize that some secondary boycotts, for example, can be perfectly justifiable, such as the picketing of a company which is doing "farmed out" work for the company being struck. The actions of the second company have a large bearing upon the possible success of the strike at the first company. [33] In jurisdictional disputes, it is sometimes true that an employer is caught between two conflicting unions.[34] There are other times, however, when the ban on jurisdictional strikes could be used by manufacturers to force down the wage scales of higher paid crafts where the former should be employed; or it could be used merely as a disruptive device to create conflict among the craft unions,

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33 Testimony of O. A. Knight, President, World Workers International, CIO, in Joint-committee on Labor-Management Relations Hearings, Eithtieth Congress, Second Session, Part 2, p. 771.

34 Americans Won't Stand for Monopolies, op. cit.

while the company itself would remain immune.

A no featherbedding provision, Sec. 8b6, could well add to unemployment figures if a depression comes. On the other hand, of course, unions have sometimes succumbed to the temptation of demanding more jobs than are within reason.

A "free speech" provision for employers will result in extensive propagandizing of the workers by the company on the company's point of view, with indirect threats, if carefully worded, being protected.[35]

Section 8d contains an elaborate provision for slowing up strikes by means of the cooling off period. Sixty-day notice is required before termination of contract. Any employee striking before the end of the sixty-day period is no longer legally an employee. The significance of this will be discussed shortly.

Continuing, there is a provision encouraging workers to present their grievances directly to the boss, rather than through the union. There is next a union decertification provision[36] providing that elections to decertify a union as the collective bargaining agent may be held at any time (though not more than once a year) at the request of anyone connected with the plant, even the employer. Added to this section is a provision that employees on strike who aren't entitled to reinstatement can't vote in a decertification election. This included any striker who strikes in connection with what the employer charges is an unfair labor

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35 Testimony of Mr. Johnstone, Assistant-Director, General Motors Division U. A. W. in Joint Committee on Labor-Management Relations Hearings, op. cit. p. 729.

36 Depriving a union of its protection under the law as the collective bargaining agent of the workers, leaving it legally powerless.

practice. It will be seen shortly how this fits into the pattern.

The section in regard to the union shop provides that it can only be instituted at the request of thirty per cent of the employees of the shop on a signed petition, who then gain the right to have an election in which an absolute majority of the total number of employees eligible to vote must be obtained. This, of course, does not then make the union shop compulsory, but merely gives the union the right to ask for it at the bargaining table, or strike if necessary, provided that various Taft-Hartley restrictions, such as the cooling-off period, are observed.

Restrictions on internal union affairs are provided in Section 9f, which requires unions to file reports on their officers and salaries, union dues and fees, union methods of election of officers, membership lists, and a record of the disbursement of funds. This insight into the union machinery and possible making public of union strike funds, etc., can do much harm to a union undergoing a prolonged and bitter strike[37] and is much welcomed by N. A. M. member firms.[38]

The injunctive provisions of the Taft-Hartley Law, as regards unfair labor practices,[39] provide for a suspension of the Norris-Laguardia Act so that the General Counsel of the National Labor Relations Board can secure a restraining order from the courts at any time after a charge is brought and a complaint issued. The injunction must be

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37 CIO News, April 21, 1947, p. 7

38 Time, Vol. 49, No. 26, June 30, 1947, p. 14

39 Labor Management Relations Act of 1947 Sec. S.10e, and 101.

obtained in secondary boycott cases. On a claim of danger of "irreparable injury" (the old injunction bugaboo of labor) a five-day restraining order can be obtained even before notice is given to the union of the matter.[40]

Other titles of the act deal with "national emergency" strikes,[41] legal responsibility of unions,[42] and the setting up of a Congressional Joint Committee on Labor-Management Relations.[43] The provision for an eighty-day injunction if in the opinion of the executive the health and safety of the nation is threatened is particularly dangerous to national unions. Remaining details of the provisions of the Taft-Hartley Act will be brought out in the following discussion of N. A. M. influence.

Correlation of N. A. M. Testimony with the Taft-Hartley Act.

Eleven sections of the Taft-Hartley Act can be closely associated to Mr. Mosher's testimony without any stretch of the imagination.

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40 This results in a breaking of the strike before the union even knows the charges against it.

41 Labor-Management Relations Act of 1947, Title II

42 Ibid., Title III

43 Ibid., Title IV

The use of a little reading-between-the-lines could increase this figure to a point where ninety per cent of the Act could be said to be in harmony with Mr. Mosher's desires or on the way to being so. However, we shall deal here only with his direct testimony. These correlating sections are 8b4, 9a, 9e, 10e, 101, 14b, 202, 203a, 301a, and 402.

Running through Mosher's list of unfair labor practices, referred to as "unfair union objectives", he asks that jurisdictional strikes, secondary boycotts, sympathy strikes, strikes to force the recognition of an uncertified union, featherbedding, and strikes in violation of contract be prevented, [redacted][44] This is accomplished by the Taft-Hartley Act.

Next we come to Mr. Mosher's recommendation for a minimization of government intervention. The Act complies in several provisions. There is 14b which allows state laws which prohibit the existence of any union security measures whatever. Section 202 separates all mediation functions in an independent Federal Mediation and Conciliation Service from the Labor Department. The following section gives full power to state mediation services wherever they are available.[45] The general aim of all this is to arrange for a minimum of government interference after labor unions have been curbed. It must be noted that at the same time, the N. A. M. is advocating a law which increases Federal power vis-a-vis the curbing of labor unions. That is to say, the N. A. M.

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44 Senate Labor Committee Hearings, Eightieth Congress, First Session Labor Relations Program, p. 927-971

45 Labor-Management Relations Act, 1947, Section 203a

wants a minimum of government interference with business, but a maximum of government interference versus labor.

Although Mr. Mosher spent a great deal of time in urging the elimination of all unions above the plant level, Congress would not go this far. It did not feel that it could take action against industry-wide bargaining(beyond injunctions in national emergency strikes) at this time. However, in setting up the Joint Committee on Labor-Management Relations (known as the "watch dog" committee) it specifically recommended that the Committee make a study of the effects of industry-wide bargaining.[46]

It has been pointed earlier that Mr. Mosher expressed the feeling in his testimony that union bargaining and strikes over union security provisions were not in the interest of employees. He would therefore hope to eliminate the closed shop and the union shop. The act does eliminate the closed shop. It places restrictions on the union shop as we have seen which are unfair.[47] The requirement of an absolute majority is not standard democratic procedure. Rather, only a simple majority is required in democratic elections and balloting, so that absentee votes will not count against either side.

Mr. Mosher expressed the wish in his testimony that the Norris-Laguardia Anti-injunction Act which the N. A. M. has been deprecating since 1932, could be suspended when unions engage in unfair labor practices.

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46 Labor-Management Relations Act, 1947, Section 203e

47 Testimony of Arthur Goldberg, General Counsel, CIO, in Joint Committee on Labor-Management Relations, op. cit., Part 2, p. 683

This was achieved in Sections 10e and 101. We may conclude that on the whole, although Mr. Mosher did not get everything he asked for (and who does?), he may well be satisfied with the Taft-Hartley Act.

Correlation of N. A. M.'s Labor-Relations Platform with the Taft-Hartley Act.

At the 1946 Congress of American Industry, an annual N. A. M. convention, the N. A. M. adopted as its official policy a set of statements entitled The Basic Principles Behind Good Employee Relations and Sound Collective Bargaining.[48] A quick look at these statements will convince us that they find a high degree of reflection in the Taft-Hartley Act.

The platform calls for the right of employees to join or not to join a union. Again, therefore, the call for the open shop is voiced. The Taft-Hartley Act, as we have seen, went most of the way along this line by banning the closed shop and making it as difficult as possible to institute the union shop.

The following points in the N. A. M. Platform are directly reflected in the Taft-Hartley Law. Point one of the platform calls for union responsibility under the law for collective bargaining,[49] but that such bargaining should take place only if the majority of the employees of a union wish to be represented by the union. Point two calls for union adherence to collective bargaining agreements, with all disputes to be settled by peaceful procedures. The latter statement, while apparently innocuous, is quite dangerous as it implies that strikes

should be stopped by injunction while "peaceful procedures" are being undertaken. The Taft-Hartley Law complies here in some respects, such as in the case of national emergency strikes. Point four calls for a forced vote, in the event of a strike, of all union members on the employers' last offer. "Free speech" for employers is also demanded. Here the Taft-Hartley Law is in 100% agreement. Point five demands that all strikes not directly concerned with wages, hours, and working conditions be illegal, such as jurisdictional strikes, sympathy strikes, strikes against the government, strikes to force employers to violate the law, strikes to force recognition of an uncertified union, strikes to enforce featherbedding or other work-restricted demands, or secondary boycotts." All of these points are in the unfair labor practices section of the Taft-Hartley Law.[50] Next, we have the N. A. M. desire to eliminate mass picketing and "any other form of coercion or intimidation". This point six of the N. A. M. platform corresponds with Section 8b1 of the Taft-Hartley Law, whose prohibition of coercion includes mass picketing. Finally, N. A. M.'s point seven says management should not be required to bargain with "foremen or other representatives of management". The Taft-Hartley Section fourteen says the same thing in slightly different words.

With so many N. A. M. ideas incorporated in the Taft-Hartley Law, we may well wonder whether the lawmakers left any of the N. A. M. program out. However, there are two vitally important steps in the

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48 See Appendix

49 Labor-Management Relations Act of 1947, Sec. 8b3

50 Ibid., Sec. 8

N. A. M. direction which Congress did not take. The first of these has already been discussed, namely the N. A. M. desire for a complete open shop with no legal provisions for a union shop whatsoever. The second, point three of their plank, deals with industry-wide bargaining. It calls for an end to all such bargaining as as "monopolistic practices in restraint of trade" and "inherently contrary to the public interest". Although the Hartley bill ended industry-wide bargaining and banned monopolistic strikes,[51] this was not included in the Taft-Hartley Law.

Union charges that the Taft-Hartley Act enacts into law the program adopted by the N. A. M. at their 1946 conference,[52] are substantially justified in view of the above correlation. In the words of Mr. Meany, Secretary-Treasurer of the American Federation of Labor, "the bill should be known as the N. A. M. Bill, which in fact it is".[53] Mr. Meany sums up the results indicated above with the following words: "The N. A. M. urged that the protection of law should be extended to strikes only when the majority of the employees in the bargaining unit, by secret ballot under impartial supervision, have voted for a strike in preference to acceptance of the latest offer of the employer. The Hartley bill accepts this propaganda in toto- in fact, word for word. This situation prevails all through the bill. Throughout the 68 pages

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51 This latter term is to be found on page 5 of Americans Won't Stand for Monopolies, and in Section 12 of the Hartley Bill.

52 American Federationist, May 1947, p. 4

53 Ibid., p. 5

of the Hartley bill we find the ideas and the very language of the N. A. M.'s anti-labor program lifted bodily and incorporated into the bill.[54]

The high degree of correlation between N. A. M. and Taft-Hartley which we have just seen leads to the suspicion that perhaps the N. A. M. was able to do more by way of influencing Congress than merely testifying before the committees. Such are the charges of many union leaders, as we shall see.

N. A. M. Influence on the Drawing-Up of the Hartley Bill.

Several charges were made in print that there was good reason for the similarity between the Taft-Hartley Law and the N. A. M. program. Richard Leonard, Vice-President of the U. A. W., C. I. O., charged that "Mr. Hartley authored the bill written by a Mr. Eisenman, a lawyer for the Chrysler corporation, assisted by a Mr. Morgan, another corporation attorney".[55] The C.I.O. editorialized on one William Ingles, attorney for Inland Steel, an N. A. M. affiliate.[56] Ingles had argued before the N. L. R. B. that pensions should be excluded from the collective bargaining area. The N. L. R. B. refused to do this, but Ingles was not licked. According to the C. I. O. News, he was an advisor to Hartley on the drawing up of the Hartley bill, and he saw to it that

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54 American Federationist, p. 5

55 C. I. O. News, April 21, 1947, p. 5

56 Ibid., p. 7

there was wording in the Hartley bill to protect companies in refusing to bargain on pension plans.

Irving Richter, legislative representative of U. A. W. C. I. O., backs up the above data on Ingles,[57] who he points out, is a $20,400 a year lobbyist for Inland Steel and Allis Chalmers, a past member of the N. A. M. Board of Directors.[58] Richter charged that Ingles worked out the Hartley bill in the House Labor Committee Office with Representative Guinn, Republican, of Westchester, N. Y. Richter also backed up the charge made by Leonard against Eisenman. This Chrysler lawyer worked with the Labor Committee as a special advisor for two weeks, he maintained. In addition, six N. A. M. lawyers were constantly in and out of the Committee rooms helping Representative Guinn draw up the bill. All this, incidentally, was done by the Republican majority of the committee, with the Democratic minority merely being presented with one "one" fait accompli" after another. According to Meany, the committee minority expressed itself vociferously against N. A. M. influence in drawing up the Hartley bill, but were unable to do anything about it.[59]

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57 C. I. O. News, April 21, 1947, p. 20

58 Senate Report, 1406, Part 3, Seventy-Sixth Congress, First Session

59 American Federationist, May 1947, p. 5

The above charges refer to Mr. Hartley and his bill in the House. Senator Taft on the other side of Congress evidently kept his hands cleaner, as he did not require the help of N. A. M. lawyers. Thus the Senate Bill, while basically conservative and with an outlook similar to that of the N. A. M. was not as directly under the influence of the N. A. M. policy makers. It might be said that in this case the similarity between many Taft provisions and the N. A. M. prggram was merely a coincidence of ideas.

Unfortunately, it was not the Senate Bill, but the House Bill which became the basis of the new labor law, [60] with one major exception. The exception was the lifting of the ban on industry-wide bargaining.

The N. A. M. was not yet through, however, in its fight to get 100% N. A. M. law. Opportunities for further pressure were to be available when the Joint Committee on Labor-Management Relations, to be set up under the Taft-Hartley Law would meet. Before this is dealt with, the Taft-Hartley Law must be brought into the light for the purpose of seeing how it affects the American economy.

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60 The bill sent back out of conference was H.R 3020, the Hartley Bill that came out of the House.

The Impact of the Taft-Hartley Law on the Balance between Management and Labor.

Before we pass on to testimony before the "watch dog" committee, it will be well to look at the overall picture of the Taft-Hartley Law in the national labor scene. A significant article in Business Week said: "Given a few million unemployed in America, given an administration in Washington which was not pro-union, and the Taft-Hartley Act could conceivably wreck the labor movement. These are the provisions that could do it:

"1. Picketing can be restrained by injunction.

"2. Employers can petition for a collective bargaining election.

"3. Strikers can be held ineligible to vote while the strike replacements cast the only ballots.

"4. If the outcome of this is a non-union vote, the government must certify and enforce it. Any time there is a surplus labor pool from which an employer can hire at least token strike replacements, these four provisions linked together can destroy a union."[61]

The above quotation is a good example of what the Taft-Hartley Act can do. The provisions cited are sections 10e and 9c especially. They show that while the emotional labor union appelation of "slave-labor" law to the Taft-Hartley Act has not thus far been justified, the Act can nevertheless be used as an extremely destructive weapon against labor in time of depression, or in the hands of a hostile Administration. It cannot be a "slave-labor" law in the strict

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61 Business Week, December 18, 1948, as quoted in The Nation, May 7, 1949

meaning of the term, since the Act includes a provision saying that no one may be forced to work against his will.[62]

During the hearing we have just discussed, the N. A. M. indicated that its motive in recommending legislation was to aid the well-being of the individual worker. This solicitude for the individual employee is also the concern of the Taft-Hartley Law, according to its preamble.[63] Thus the N. A. M. and the Taft-Hartley Act are in accord with each other in this respect. The question which we must investigate is whether or not they both are truly in accord with the worker's welfare.

The history of the N. A. M., as shown in other studies such as the Lafollette Report,[64] has not been the history of an orgainization with an interest in protecting the welfare of the employee and the general public. Are we, then, to believe that these are the motives of the Taft-Hartley Law? Or is that Law more in accord with the historical desire of the N. A. M. to weaken unionism? The N. A. M. counters with the argument that its desire to limit unions is in the public interest, inasmuch as union monopoly, grown to the extent where it dominates business and the country, is harmful both to the employee and the general public. In their literature they state that "employers and the government are tied up in knots" while union dictators are "tramping on employees' heads and customers' heads". Let us ask the question as to whether this fear of union power is justified.

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62 Labor-Management Relations Act, 1947, end of Title V

63 Senate Labor Committee, Eightieth Congress, op, cit. p.928

64 Seventy-Sixth Congress, First Session, Sen. Report No.6 pt.3

Is the existence of corporate monopoly being threatened by the growth of even bigger union monopolies? Although union strength is greater now than it ever has been in the past, corporations nevertheless made more money last year than ever before. "The total net income of 815 companies included in a survey of seventy manufacturing fields came to a record of $6,537,963,951 in 1948. This exceeded their previous peak returns of $5,190,222,641 in 1947 by 26%.[65] Evidently, the fight of the working man for a share of the profits pie is nowhere near threatening big industry with loss of a reasonable return on investment. Despite the fact that union membership and union voting strength are much higher than they were before, the above figures show that in terms of results, the balance is still on the side of management. The Taft-Hartley Law, instead of righting the balance, further tips it in the wrong direction, with the N. A. M. on hand to give it an extra push.

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65 New York Times, May 8, 1949

Chapter V

HEARINGS BEFORE THE "WATCH-DOG COMMITTEE

It will be remembered that several business interests were cited as indicating that they thought more stringent legislation would be needed in the future. The Taft-Hartley Law set up a joint Congressional committee to study the need of further labor legislation. This committee held hearings from May to June, 1948. During this period, fifteen representatives of N. A. M., or affiliates testified for more restrictive labor legislation, such as the banning of industry-wide bargaining, and exclusion, health, welfare, and pension plans from the legitimate area of collective bargaining.[66] Again an official N. A. M. representative strikes the keynote for the testimony of the other affiliates.

Official N. A. M. Testimony.

Official testimony for the National Association of Manufacturers before the Joint Congressional Committee on Labor-Management Relations (the "watchdog" committee) was given by Mr. R. S. Smethurst, testifying as the general counsel of the N. A. M., on May 26, 1948.[67]

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66 Joint Committee on Labor-Management Relations, Hearings, Eightieth Congress, Second Session, Parts I and II, pages 1081, 1062, 1053, 1203, 1207, 1231, 1249 and 1257

67 Ibid., Part I, p. 130

Mr. Smethurst's testimony may be divided into six parts; a general statement, and comment on the following five points indicated by the committee in its request for testimony: union shop elections, NLRB delays, industry-wide bargaining and strikes, union welfare and benefit funds, and union attemtpts to force employers to violate the law.

The general statement that Mr. Smethurst makes contains a number of themes central to N. A. M. post-Taft-Hartley Law philosophy. First of all, he says, the Taft-Hartley Law has not enslaved unions. Secondly, there has been unusual industrial peace since the passage of the law. The only exception to the latter point has been in the case of industry-wide strikes, and here he criticizes the Law for not having sufficiently regulated and controlled this type of strike. His last point follows this line in stating that all other labor difficulties which had occurred in the preceding year had occurred in areas where the Taft-Hartley Law did not regulate.

Next, Mr. Smethurst deals at length with the problem of union shop elections. Answering those who want the union shop to be approved without the necessity of elections, he argues that the present case-load burden on the NLRB is only temporary, due to the initial post-legislation rush. He adds that elections so far have not proven that workers overwhelmingly favor the union shop, as alleged, since the elections have only been conducted in small plants at this point. At any rate, he explains by analogy, one does not place a man in office permanently because he has been elected two or three times. Mr. Smet-

hurst therefore makes the following recommendation speaking for the N. A. M., saying: "We recommend that the law be amended not to permit such agreements without election, but to forbid any form of compulsory union membership or support". He asserted the need of "clear, unequivocal prohibition against all types of compulsory union membership agreements".

In the event that the Committee does not consider the above suggestion to be feasible, however, Smethurst had some supplementary recommendations ready. He suggested that there be an election only on the joint petition of the employer and the union, and that the union request be backed up by more than the present requirement of the signatures of thirty per cent of the workers. In addition he asked that industries where interstate commerce is not "directly and substantially affected" be specifically exempted. He stated that although the Taft-Hartley Law only permitted union-shop elections in such cases anyway, the NLRB had wrongly ruled otherwise. Mr. Smethurst is quick to point out, however, that while this applies to elections it does not apply to strikes outlawed in the Act, such as the jurisdictional strike, which can be ruled to affect interstate commerce if it extends beyond a single community.

The delays in National Labor Relations Board proceedings next come under the surveillance of Mr. Smethurst, who gives the following reasons as to why the NLRB is slow, namely, the giving of preference to union shop election cases over unfair labor practice cases, and the delaying of representation cases when unfair labor

practice cases are pending. He has the following remedial suggestions,[68] some of which, he adds, have not been officially approved yet by the N. A. M.: allow the General Counsel and courts to handle complaint cases as well as the NLRB; give the General Counsel power to certify the cases for quick action; in representation cases, let the state boards have jurisdiction whenever there is nay conflict over jurisdiction; leave substantially local industries alone; and finally, allow the courts to give declaratory rulings on interpretations of law.

On the question of industry-wide bargaining,[69] Mr. Smethurst follows fairly closely the testimony of Ira Mosher, N. A. M. Executive Committee Chairman, before the Taft Committee in the preceding year. He critises the government for allowing industry-wide bargaining to exist, declaring the Taft-Hartley Law to be inadequate in this respect. He recommends the complete prohibition of industry-wide bargaining, rather than letting it exist, as the Taft-Hartley Law does, and then having the government stepping in in emergencies. By eliminating this type of bargaining, he explains, industry-wide strikes will be ended. Here again, however, he sees that Congress may not be willing to do this. As alternatives, he suggests permitting this type of bargaining on a voluntary basis, but with industry-wide strikes outlawed, and the agreements negotiated being subjected to the Sherman Act. If no industry-wide agreement can be negotiated, he said, then plant or company-wide

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[68] Joint Labor-Management Relations Comm. Hearings, op.cit.p.137

[69] Ibid., p. 139

negotiations should be required, with no concerted action between employers or local unions. To go along with any industry-wide negotiation should be a no-strike pledge. After all these substitute recommendations, Smethurst went back to his original argument by maintaining that there is no industry where bargaining should be nation-wide, and that such procedure can only lead to the extremes of Great Britain and Scandanavia.

On the next topic[70] of health and welfare plans,[71] Mr. Smethurst feels that there should be "no legal obligation or no compulsion to bargain with reference to employee benefit plans". It should be unlawful for an employer to turn money over to a union for such a plan. This should be enacted immediately, but with time allowed for present plans to conform.

Lastly, Mr. Smethurst complains that the present remedy of withholding NLRB benefits from unions which force employers to violate the law is an insufficient means.[72] There should be adequate remedies at law, such as the seeking of an injunction against union action.

Smethurst now concludes with a statement to the effect that since we all know that any nation-wide strike which goes into effect produces paralysis, why go through the business of the Taft-Hartley Law, with its fact-finding boards, presidential review, courts, and so forth.[73]

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70 Joint Committee on Labor-Management Relations, op.cit. Part 1,p.143

71 Plans such as disability insurance and pensions, in which the employer or employer-employee contribute to the fund.

72 Joint Committee on Labor-Management Relations, op. cit.,Part 1,p.146

73 Ibid.,p.147

Why not just outright prohibit such a strike ahead of time? All the N. A. M. wants is that the Sherman Act should apply to unions.

To evaluate Mr. Smethurst's testimony; his testimony, like Mr. Mosher's the year before to the Senate Committee, is aimed at accomplishing the break-up of union organization into its smallest component parts, with its inevitable corollary of the diminishing of union strength. To accomplish this, he talks of the welfare of the employees as being something apart from the welfare of unions. He also employs double standards, such as saying that petitions for union shop elections on the local level do not affect interstate commerce, but that jurisdictional strikes on the same level do, and can therefore be outlawed. For Mr. Smethurst, as for Mr. Mosher, the Taft-Hartley Law is a step in the right direction, but does not go far enough.

Testimony of N. A. M. Affiliates.

In addition to Mr. Smethurst's testimony, there was testimony by representatives of two local manufacturers organizations which are members of the National Industrial Council, a unit instituted and directed by the N. A. M. These are the Associated Industries of Minneapolis,[75] and the Associated Industries of Missouri.[74]

G. B. Logan, General Counsel for the Associated Industries of Missouri, testified that: 1) All forms of compulsory union membership should be prohibited. 2) The employer should have sole determination

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74 Joint Committee on Labor-Management Relations, Op. cit., Part 1

75 Joint Committee on Labor-Management Relations, op. cit., Part 2,p.1062

of the terms of employee welfare funds. 3) Industry-wide bargaining should be broken up by the Sherman Act. 4) Any strike to gain any of the above objectives should be unlawful.

Testimony by other National Industrial Council members included a letter to Senator Ball and the Committee from J. W. Schroeder, General Manager of the Associated Industries of Minneapolis. He asked for the end of the union shop, the retention of the anti-communist affidavit provision of the Taft-Hartley Law, and the breaking up of industry-wide unions by employment of the Sherman Act.

Not only did Smethurst, Schroeder, and Logan testify, but in addition, there was testimony by the top executives of twelve N. A. M. member firms, most of them on the Board of Directors and part of the governing clique. Rather than analyze them all individually, especially since there was a high degree of coincidence in their recommendations, let us bring out the chief points in their collective testimony.

Chief N. A. M.-member recommendations centered around the control of employee benefit plans, such as welfare, insurance, and pension plans, a topic then being discussed by the committee. Without a dissenting voice, the nine of the group who discussed this problem asserted the "right of management to manage".[76] By this, explained, they meant the decision on the type, condition, and amount of employee benefit programs is the exclusive prerogative of management to decide. They therefore should not be able to be made the subject of collective bargaining.

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[76] Messrs. Knowlson, of Stewart Warner, Blood of Borg Warner, Bartlett of Hooker Electrical Chemical, Foster of Standard Oil of Ohio, Schroeder of the Associated Industries of Minneapolis, and also Bates, Creviston, Dempsey and Peterson. See Joint Hearings, above.

[77] Messrs. Logan, of the Associated Industries of Missouri, Stuart, Heidt of Bendix Aviation and Schroeder.

Such demands on the part of unions, or strikes to achieve those demands, should be outlawed.

Other recommendations of the above gentlemen are fairly repetitious of previous N. A. M. testimony, such as the abolishment of the union shop, requested by four of them.[77] The significance of the employee benefit plan testimony, however, is worth dwelling upon for a few minutes. It is well known that now, as the post-war boom approaches its end, the strategy of the union movement is no longer to seek wage increases primarily. It is rather to better the condition of workers and guarantee their security by means of obtaining expanded and liberalized employee benefit programs. This N. A. M. recommendation is therefore aimed at the destruction of recent union strategy. Had this recommendation been incorporated into law, an insistence on obtaining employee benefit programs by union representatives at the conference table would be construed to be an unfair labor practice. Striking on this issue would therefore be enjoined.

With the hearings before the "watchdog" committee, the labor activity of the Eightieth Congress came to an end. Next, we turn to the convening of the Eighty-First Congress in January, 1949, after a very significant event had taken place. That event was the election of Harry Truman in November of 1948, on a "Repeal Taft-Hartley" platform.

Chapter VI

THE LEGISLATIVE FIGHT IN THE EIGHTY-FIRST CONGRESS

The Administration Measure.

The bill planned by the Truman administration to repeal the Taft-Hartley Law was basically foreign to the philosophy and recommendations of the National Association of Manufacturers. However, the leverage which the N.A.M. had been exerting since 1946 both on the public and on Congress brought home to the Administration the need of compromising mildly in order to get a repealer bill through. The compromises took the form of some limitations in areas where charges of unfair practices committed by unions were often justified. Thus, the Administration decided on the so-called one-package bill, an arrangement whereby the Taft-Hartley Law would be repealed and the Wagner Act amended [redacted] in the same breath.[78] New amendments prohibit some secondary boycotts, such as those which result from an inter-union or intra-union dispute, and also prohibit jurisdictional strikes in which an employer is trapped between two unions and powerless to do anything about the situation.[79] Certainly, these limitations were heartily approved by the N. A. M. in its legislative recommendations.

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[78] New York Times, January 30, 1949

[79] New Republic, April 25, 1949, p. 6

It may be said, however, that although N. A. M. propaganda had its effect in this respect, many other groups were willing to accept these limitations, including a number of the unions themselves.[80]

A third limiting provision of the Administration measure pertains to the extremely important problem of the injunction, and its use in connection with national strikes which "imperil the health and safety" of the nation. The injunction provision of the Taft-Hartley Law is ended, but a thirty day cooling-off period is provided for in national emergencies, during which time a fact-finding board investigates and submits a report, including a recommendation. No specific provisions for the enforcement of the thirty day waiting period were provided for. However, the President requests the disputing parties to observe it, and the force of public opinion is then expected to operate.

This, again, is a far cry from the expressed desires of the N. A. M. Not only do private individuals not have the right to seek injunctions in the courts, but the government doesn't either. However, the principle of the national emergency strike is recognized, contrary to some union allegations that there has never yet been and there is no prospect of there ever being a strike in this country which would cripple the nation to the extent that the health of the citizenry would be endangered.[81] Adoption of this principle may be credited partly

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80 New York Times, May 8, 1949, News in Review section

81 New Republic, March 7, 1949, Supplement

to the N. A. M.'s frequent requests for the safeguarding of the "public interest" in such cases.[82]

The House Fight.

The Administration measure became the Lesinski bill in the House and the Thomas bill in the Senate. Hearings before the House and Senate Committees followed a pattern similar to that employed in the National Labor-Management Relations Act hearings, with the exception that the hearings were no longer dominated by manufacturers, but on the contrary had a heavy amount of union testimony. I say union testimony was heavy, and yet, only approximately twenty five per cent of those heard were union representatives. Closer to thirty five per cent of the testimony was that of business interests. Of this, seventy five per cent were manufacturing interests affiliated with the N. A. M. Mosher and Smethurst again testified, as did top executives from General Electric, Illinois Manufacturers Association, National Coal Association, and the American Mining Congress, all N. A. M. affiliates.

Testimony on the whole was much the same. Administration forces were confident that victory was at hand. But the Thomas-Lesinski bill, as it stood in January, 1949, passed away before it was really born, as top Republican Joe Martin of Massachusetts had predicted. N. A. M. philosophy and recommendations reasserted themselves on the floor of the House in early May, 1949. Their first vehicle of expression was the Wood bill. Wood, a Southern Democrat,

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[82] Senate Labor Committee, Eightieth Congress, Op. Cit. p. 927

was sponsoring a bill along with his fellow Southerners which was drafted at meetings of Republican House leaders.[83] Offered as an amendment to the Lesinski Bill, it agreed with N. A. M. labor principles to approximately the same degree as the Taft-Hartley Act. The key provision of injunctions in national emergency and unfair labor practice cases is kept. The closed shop ban is reenacted, with the exception that an employer may, if he wishes, notify the union that job openings are available and allow the union to send down candidates. This therefore, permits the hiring hall form of closed shop, provided the employer is willing.[84] Some other N. A. M. Taft-Hartley features are somewhat softened, though nowhere are there significant changes. There is even inclusion of some N. A. M. recommendations which are even more restrictive than what was provided for in the National Labor-Management Relations Act. Examples of this are the provision depriving Boards of Inquiry of the power of recommendation, and the provision allowing the General Counsel of the National Labor Relations Board to seek an injunction in an unfair practice case before a formal complaint is issued.[85]

Other features of the Wood bill advocated by the N. A. M. are as follows: the requirement of the signing of non-communist affidavits by all parties using the services of the NLRB, the keeping separate of the Federal Mediation and Conciliation Service from the Department of Labor, the outlawing of jurisdictional strikes and most boycotts, restraint on the use of union welfare funds, "free speech" for employers during

83 New York Times, April 15, 1949, p. 1

84 Boston Globe, May 4, 1949

85 New York Times, March 14, 1949, p. 1

labor disputes, holding unions legally responsible for the actions of all their members, and the outlawing of all political contributions by unions. Northern and Western Democrats managed to defeat the Wood bill by getting it recommitted by the narrow margin of three votes, though in an initial vote it had been passed, 217-203.[86]

The Sims Bill.

Tactics of Democratic compromise forces in the House resulted now in the introduction of the Sims Bill, not approved by the President, to counteract the Wood bill. (Parliamentary maneuvers resulted in the vote being taken on the Sims bill before a vote taken on Wood's proposal.) However, there was not a great deal of difference between the two. The Sims bill may be credited to House Speaker Sam Rayburn, a Southern Democrat and an Administration leader at the same time.[87]

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[86] Congressional Record, Eighty-First Congress, First Session, Vol. 95, p. 5641

[87] Perhaps a word or two might be said here about the role of the Southern Democrat as a proponent of N. A. M. philosophy. Since the Republican Party in the South has no power, Southern manufacturers and businessmen join the Democratic Party. The Partial disenfranchisement of the poorer classes of the South has enabled the industrial groups to establish predominant influence in the Southern section of the party. Against this background, representatives of the South in Congress vote conservatively on labor issues. Speaker Rayburn, therefore, was a good deal more willing to compromise on the Administration bill than other Administration leaders, and backed the Sims bill by which he hoped to satisfy Democratic campaign promises and please the"NAM'ers" at the same time.

The item that made the Sims bill closer to the Taft-Hartley Law and Wood bill than it was to original Administration proposals was its injunction provision. Administration forces in general and some labor unions had privately agreed that some further concessions might have to be made to get the Administration bill passed, and were willing to compromise on the following five points:

1. Government seizure in emergency strikes
2. Free speech for employers during labor disputes
3. Require both labor and management to bargain
4. Require the filing by unions of financial reports.
5. The signing of non-communist affidavits by both labor and management.[88]

The last four of the five proposals had been backed to the hilt by the N. A. M. The first proposal was strongly opposed by the Manufactureres, who felt that a provision of that type punished management when only labor was to blame. They advocated, therefore, not seizure but injunction. Speaker Rayburn complied with this desire by adding to the Sims bill the same Taft-Hartley-Wood provision for an eighty day injunction in national emergency strikes. For other strikes, a sixty day cooling off period was provided for, with enforcement of the provision by court order said to be implicit by some of the backers of the bill. The N. A. M. could claim with pride that even the bill of the Democratic Party contained key N. A. M. principles.

Since the Sims bill was not approved by the President, and since it was obnoxious to some liberal Democrats, such as Augustine Kelley, floor leader of the Lesinski bill, the bill lost more Northern Democratic

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88 New York Times, May 8, 1949, News in Review section

votes than it gained in Southern, resulting in its defeat by a vote of 211-183.[89]

It was now the turn of the Wood Bill again. Coalition forces of the House added some softening amendments on minor provisions to guarantee passage. These were: Unions were given more control of their men in the union shop; secondary boycotts against work "farmed out" by a struck company were allowed if provided for in the contract; the mandatory provision for the general counsel to seek an injunction in an illegal secondary boycott case was changed to a discretionary power; and an "economic" striker was given six months voting eligibility, though he had been replaced in his job.[90] The result of these amendments, which tended away from the N. A. M. point of view, was passage of the Wood Bill on May 3, 1949, by a vote of 217-203.[91] Breaking down the vote, we find:

	For	Against[92]
Republicans	146	22
Southern Democrats	67	29
Other Democrats	4	151
American Labor	0	1

The role of the conservative Southern Democrat becomes obvious.

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89 New York Times, May 8, 1949, News in Review Section

90 Ibid.

91 The Bill did not come to a vote until after the amendments were added, so this was the first vote on the Wood Bill.

92 Congressional Record, op. cit., Vol. 95, p. 5697

Complete disaster for Administration forces as a result of the above vote was staved off by the American Labor Party's Vito Marcantonio, who, by a quick parliamentary move, succeeded in having final passage postponed until the following day. Hard work and many promises resulted the next day in a vote to recommit the whole matter back to committee. This was done only after a promise by the Labor Committee that it would write a bill that both Northern and Southern Democrats could support. This presumably means that it will be necessary to include some N. A. M. principles in the final Administration bill. Meanwhile, the Taft-Hartley Law remains on the books. The vote for recommital, even at that, had just squeezed by by a vote of 212-209. Here is the break-down:[93]

	For	Against
Republicans	18	147
Southern Democrats	38	61
Other Democrats	155	1
American Labor	1	0

In the above vote, we see very little change over the previous alignment, but just enough to squeeze recommital through. Had this vote gone the other way, it would have meant that once more, N. A. M. philosophy would have been enacted into law. The vote for recommital was a chance for some Southern Democrats to go along with their party, without at the same time passing legislation to which industry was opposed. The switching of a half-dozen southern votes saved the Administration from complete defeat.

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93 Congressional Record, op. cit., Vol. 95, p. 5697

The Senate Proposals.

The Thomas Bill.

Let us pass now to the Senate, where the Administration measure is known as the Thomas Bill. Here the issue has not yet reached the floor of the Senate. Results in the House, however, forced the realization that N. A. M. and Southern Democratic influence would make itself felt in the Senate as well. On May 10, 1949, Senator Thomas, in an attempt at compromise that would still retain essential Administration bill features, expressed a willingness to revise his bill. Although holding fast on maintaining the spirit of the Norris-Laguardia Act as regards injunctions, he was willing to compromise somewhat on the closed shop, the location of the Federal Mediation and Conciliation Service, the non-Communist affidavits and the obligation of both parties to bargain collectively.[94] These amendments proceed a short way along the path of N. A. M. desires. Nevertheless, in not compromising on the injunction, and in retaining some closed shop features, it is a far cry from N. A. M. demands. Mr. Thomas also said he would rewrite the provision of his bill which barred states from passing anti-closed shop laws. Other conciliatory features of the Thomas Bill are the banning of jurisdictional

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94 New York Times, May 11, 1949

strikes and secondary boycotts which aren't carried on in support of wage or other economic demands.

The Taft Bill.

Even before the Thomas Bill had reached the floor, Senator Taft had introduced what he termed a compromise bill on May 4, 1949.[95] It preserved twenty-two Hartley features, while amending twenty-eight other provisions of that law. It softened the anti-closed shop provision, as did the Wood Bill, by permitting the hiring hall arrangement. It continued the arrangement of a separate Federal Mediation and Conciliation Service. It required both parties to bargain in good faith. The Office of General Counsel was abolished, a defeat for the N. A. M. Striking workers are assured the right to vote. However, the Bill retained the use of the injunction in both national emergency strikes and unfair labor practice cases. Injunctions in the latter case were to be sought at the discretion of the National Labor-Relations Board.

Senate Debate.

The Senate began its debate on labor legislation on Monday, June 6.

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95 Facts on File Yearbook, 1949, p. 148

The next three weeks consisted mostly of talk, with voting on only a few minor amendments. Worried Administration leaders, including Mr. Truman himself, showed signs of yielding from their previous stand of complete repeal without substantial modification. Barkley quoted the President as wanting the best bill he could get, and Lucas approved for discussion at a party caucus five amendments which were presented by Douglas and Hill.[96] They are as follows:

1. Provision for plant or industry seizure, for periods up to 90 days, in case of a national emergency labor dispute.

2. A guarantee of free speech for both employers and workers. The Administration bill covers only workers on that point.

3. The filing of financial reports by unions. There is no such provision in the Administration bill.

4. Requiring both unions and employers to bargain collectively in good faith. The Administration measure requires that only of employers.

5. The filing of non-Communist affidavits, by both union officers and employers. The Administration bill requires no such oaths.

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96 The Boston Globe, June 8, 1949, p. 1

These five amendments were whipped up in the preceding few days by Douglas, Hill, Humphrey, Thomas, Garret Withers of Kentucky and Republicans Aiken of Vermont and Morse of Oregon. The aim, of course, was to win over liberal Republicans and Moderate Southerners, as it appeared certain that the key votes in the Senate would be very close and would hinge on these men.

Before going into the voting on the Senate floor, it is interesting to note that an attempt was made by the Republicans to postpone debate on changing the Taft-Hartley law so that debate and ratification of the Atlantic Pact in the interest of "national security" could take place first.[97] This could have conceivably resulted in the disappearance of labor legislation in the last minute rush to adjourn.

Meanwhile, the Republican Policy Committee and Senator Taft have not been idle. The Taft plan, adopted by the Republican committee, has as its key provision the power of the President to get an injunction or to seize the plant in a national emergency strike.[98] The new bi-partisan plan of liberal Democrats and Republicans, discussed above, also provided for seizure, but with a basic difference. The Taft seizure plan is what is known as "token" seizure. That is, the government takes over in name, and the American flag is placed at the door. However, only the plant owners are allowed to negotiate with the union, with the government merely assuring the continued operation of the plant, and holding the owner's profits in reserve for his return.

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[97] Facts on File Yearbook, 1949, p.179

[98] New York Times, June 7, 1949, p. 1

The bipartisan plan would permit commitments by the government to unions while seized property was being administered by a federally designated agency. It would not only provide that all income from the operation of a seized company be held in trust for payment of general operating expenses, but also that any income remaining after expenses of operation "shall be covered into the treasury of the United States as miscellaneous receipts".[99] On June 22, Taft and the Republican policy committee declared this bipartisan plan to be entirely unacceptable.[100] Taft pointed out that he did not want to see another agreement like the one where Krug and Lewis set up the Miners Welfare Fund when the mines were in government possession several years ago.

Now to get unto the Senate floor, we find that there is the Taft bill, sponsored also by Senators Smith and Donnell, with its twenty-eight minor changes, being presented in two separate bills, one bill being reserved to cover national emergency strikes alone. The Administration Thomas bill repealing the present law with a few minor amendments, and the latter bill as amended by the five changes proposed by the "bipartisan Progressives". The official list of sponsors of the latter now broadened to include Republican Senators Tobey of New Hampshire and Margaret Chase Smith, making it 4 Democrats and 4 Republicans.[101] Senator Thomas opened the debate with a long speech, in which he indicated that he would accept the five changes of the

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[99] New York Times, June 8, 1949, p. 22

[100] Ibid.

[101] New York Times, June 7, 1949, p.14

bipartisan group. On the same day, the free speech, requirement to bargain , and the Communist affidavit amendments were introduced by the bipartisan group. The rest of the week consisted of talk.

The following week the Administration officially accepted the three amendments introduced by the bipartisan group, plus the financial statement amendment, and witha change in the Communist affidavit amendment to include Fascists.[102] These four amendments were easily passed, with Taft taunting the Administration that it was coming closer and closer to the acceptance of the Taft-Hartley Law. The Senate waited for the crucial fight over the injunction, which began on Thursday, June 16, 1949. After preliminary discussion, it was obvious that the Administration was willing to accept the one remaining bipartisan amendment, in which the President would have the right to seize struck plants with the implied right to operate the plant as if the government were the owner. Senator Withers, Democrat of Kentucky thought that Presidential seizure carried with it the implied right to enjoin strikes, but Morse vigorously opposed this,[103] as did Taft. Morse wanted the government barred from issuing injunctions in any labor dispute, and stated that the Norris-Laguardia Act would be applicable to the government unless Congress provided otherwise in specific cases. Only Congress, under his proposal, would authorize Presidential seizure by case. It is interesting to note here Morse's statement that he considered the right to strike so important that

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[102] Congressional Record, Eighty-First Congress, First Session, Vol. 95,p.7860

[103] Facts on File Yearbook, 1949, p. 188

"the public is not entitled to enjoy all the economic conveniences it enjoyed before an emergency dispute crisis," although essential services should be maintained in a crisis.

Taft held out for the option of injunction or seizure, the latter to be token in nature. The result was that the Douglas-Aiken bi-partisan seizure amendment was defeated, 55-27.[104]

The showdown vote finally came on Tuesday, June 28. It was a motion by Senator Lucas to strike all injunction provisions from the Taft amendment. This proposal was beaten down, 44-46, thus killing the chances for any major changes in the Taft-Hartley Act by two votes.[105] The breakdown was:

	For	Against
Northern Democrats	30	1
Southern Democrats	8	13
Republicans	6	32

Here again, it was clearly a case of Republican versus Democrats, with most Southern Democrats joining the Republicans, while some liberal Republicans moved to the Democratic side.

The rest after this was anti-climatic. The Senate went on

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104 Congressional Record, op. cit., Vol. 95, p. 8283

105 Ibid., p. 8662

to pass the Taft injunction-seizure amendment 50-40.[106] Two days later it accepted the Taft omnibus amendment, 49-45.[107] Then it went through the motions of passing the "repeal" bill, 51-42.[108] The Taft-Hartley Law was thus "repealed" by the Senate, but with the full set of new Taft provisions.

There were a few other votes which were taken which were not part of the main stream of voting. Senator Ives, New York Republican, offered an amendment providing for neither injunction nor seizure, but requiring the President to refer individual "national emergency" strikes to Congress for action. This was offered for the second time right after the defeat of the Lucas motion, but was defeated, 51-40,[109] though it had Administration support.

At the start of the above day's voting, the Administration had won its only victory when an amendment by Democratic Senator Holland of Florida to write injunctions but not seizure into the Administration bill was beaten, 54-37.[110] The Senate then went on to the Lucas, Taft, and Ives amendments.

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106 Congressional Record, op. cit., Vol. 95, p. 8668

107 Ibid., p. 8884

108 Ibid., p. 8884

109 Ibid., p. 8667

110 Ibid., p. 8657

The Final Taft Bill.

Let us now look at the main provisions of the Taft Bill (born Thomas and remaining so in name only) which had been passed by the Senate, and which preserves all of the essential provisions of the Taft-Hartley Law. The Taft Bill would: 1) Authorize sixty-day injunctions and/or plant seizures in national emergency strikes. 2) Continue the authorization of injunctions in unfair labor practice cases, but make them non-mandatory. 3) Extend the requirement of filing non-Communist affidavits to employers as well as union officers. 4) Make both unions and management file financial data. 5) Continue the closed shop ban, but let unions refer qualified workers for jobs. 6) Abolish union shop elections. 7) Continue the ban on secondary boycotts, but allow boycotts on work farmed out by struck plants. 8) Continue the mass picketing ban. 9) Require both unions and management to bargain. 10) Make it unnecessary for employers to bargain with foremen. 11) Continue free speech guarantees in unfair labor practice but not in representation cases. 12) Continue union liability for damages in breach of contract involving jurisdictional strikes, secondary boycotts, and acts of its agents. 13) Permit featherbedding. 14) Ban strikes by federal workers. 15) N. L. R. B. General Counsel' independence of the N. L. R. B. 16) Continue the Federal Mediation and Conciliation Service as a separate independent agency.

Here, then, is the picture as it stands in August, 1949. Taft-Hartley repealer legislation is dead, at least until the Eighty-second Congress of 1951. The Taft modifications which are not modifications, still under the name of the Thomas bill, is passed in the Senate. A labor bill is still being considered in the House labor committee. If nothing comes out of the House committee before adjournment, the Taft-Hartley Law will remain on the books as it stands. If something does come out it will probably be along the lines of the Sims bill, which is similar to the Taft bill. A final Taft-Sims bill (which ironically enough may still be called the Thomas-Lesinski bill) will come out of a House-Senate conference committee. It will be vetoed by Truman, and opposition forces will not be able to override his veto. Thus again we will have the same conclusion: the Taft-Hartley Act will still be on the books as the chief piece of labor legislation in the United States. This Law will then once again be an election issue, this time in the Congressional elections of 1950. Hope for a change in labor legislation must therefore lie in such an overwhelming defeat of the conservatives at the polls that the high pressure influence of business and manufacturing organizations, such as the National Association of Manufacturers and its affiliates, will be deprived of much of its force.

Correlation of the Bills with N.A.M. Testimony.

Now let us take an overall look at the correlation between N.A.M. desires and the legislation before Congress in the last five months. Mr. Mosher, in his testimony before the Senate labor committee in 1947, asked the committee to take away "the external obstacles which interfere with the fundamental relationship that exists between employers and employees." What are these "external obstacles?" What specific measures have we seen that Mr. Mosher desired, and has the recent flurry of bills acceded to his requests? Let us put these questions to both Mosher's and Smethurst's testimony.

Mosher.

One "external obstacle" which Mr. Mosher referred to was government intervention and interference. We find that in the Wood bill, N.A.M. criticism of "politically directed factfinding" is recognized by first taking away from the factfinding board the power of making recommendations, and secondly, allowing the President to seek an injunction before the board makes its report. The function of the board in the Wood bill, therefore, is merely to set down the facts in the case, with the knowledge that the President may take action even before the facts have been reported.

A good example of the significance of the above, which otherwise might appear to be trivial to the casual reader, is found in the threatened strike in the steel industry in July, 1949. President Truman, unwilling to invoke the national emergency provisions of the Taft-Hartley Law since he did not consider the situation to

be critical, contacted both the Steelworkers' Union and the steel companies and asked them to withhold action for a period of sixty days, during which time a factfinding board would investigate, hold hearings, and then report to the President with a complete analysis of the situation and recommendations for a remedy. The Union accepted this proposal, but most of the steel companies, in particular, the giant of them all, United States Steel, rejected this proposal, refused to have anything to do with a board that would have the power to recommend, and insisted that the President invoke the Taft-Hartley Law injunctive provision. Since the company had rejected the proposal, the Union prepared to strike. Not until the last minute, when a major strike was inevitable to all appearances, did Big Steel give in and agree to the President's factfinding board.[111] Industry, therefore, is afraid of the recommendations of an impartial board, which often has such a powerful effect on public opinion, and has worked hard to prevent the incorporation os such a provision into law.

Also on the question of factfinding, the Wood Bill provided for an independent Federal Mediation and Conciliation Service, due to N. A. M. objections that the Department of Labor is too pro-union.[112] The Wood Bill also keeps the Office of General Counsel separate from the National Labor-Relations Board itself, as requested by Mr. Mosher and the N. A. M. The Taft Bill also separates the Mediation Service,

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111 New York Times, July 14, 16, 1949, p. 1

112 Cyrus Ching, present director of the Service, heads a member firm of the N. A. M. He is less conservative than many of his business compatriots, however. (New Republic, February 21, 1949, editorial comment.)

but it abolishes the separate Office of General Counsel.

Another one of Mr. Mosher's "external obstacles" refers to the existence of unions which function beyond a single plant. This N. A. M. desire to eliminate all unions functioning on an inter-plant to an international level means full backing for any measures which severely limit or destroy the powers of such unions. Although the Eighty-First Congress did not seriously consider legislation to end industry-wide bargaining, it did in many instances provide measures to cripple national unions. In this category are the injunctive provisions and the secondary boycott provisions in the Wood, Sims, and Taft Bills. Much milder anti-boycott provisions are to be found in the Lesinski and Thomas Bills. As for the banning of industry-wide bargaining itself, the attempt to do this had been made in the Eightieth Congress. At that time, one of the first amendments offered from the floor to the bill reported out by the Senate Labor Committee was an amendment by Senator Taft to end industry-wide bargaining.[113] This was defeated by the margin of one vote. In the House, the original Hartley Bill had banned most industry-wide bargaining.[114] In the Eighty-First Congress, however, a little more moderation prevailed, as no Congressional group urged the break-up of industrial unions. Evidently, November 1948, had done some good.

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113 See above, p. 11

114 See above, p. 10

To continue with the correlation of the legislation with Mr. Mosher's testimony, Mosher next referred to union objectives which he considers to be "not in the best interests of employees". Into this category is thrown all union security measures.[115] On this matter we have the out-lawing of the closed shop in the Wood, Sims, and Taft Bills (though some loopholes were provided). Requests of the N. A. M. to outlaw the union shop, however, have not been followed. Also in this category of unfair unionism is the jurisdictional strike. All bills proposed this on this matter have agreed with the N. A. M., since they outlaw that type of strike.

Finally, Mr. Mosher states his objections to the inequities of "one-sided obligations" under the law. Connected with this in the Wood, Sims, and Taft Bills is the stipulation for the right of free speech for employers during labor disputes. This means, presumably, that the company may now propagandize their workers on management's position in the strike. Requirement for unions to bargain in good faith is also in the Wood, Sims, and Taft Bills. In those bills, also, is the principle of the legal responsibility of the unions for the actions of their members. This means, of course, that the unions are liable to suit in the courts for breach of contract by the union

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115 The following year, Mr. Mosher was backed up in this before the "watchdog" committee by Schroeder of the Associated Industries of Minneapolis, Stuart of Quaker Oats, as well as Logan of the Associated Industries of Missouri. (Congressional Joint Committee on Labor-Management Relations, Hearings, Eightieth Congress, Second Session, Parts 1 and 2.)

or by any of its members.

Smethurst.

Mr. Smethurst's testimony in 1948 before the "watchdog" committee followed to a large extent the pattern of Mr. Mosher's Senate testimony. One recommendation of Mr. Smethurst's in addition was that the General Counsel be given power to certify cases for quick action. This request was complied with in the Wood bill by allowing the General Counsel to get an injunction before the issuance of a complaint.

The request of Mr. Smethurst as well as those of representatives of nine N.A.M. firms regarding employee benefit programs was not carried out. The restrictions on the use of union welfare funds, which existed in the Taft-Hartley Law, is, however, continued in the Wood bill.

In general, the testimony of the fourteen other representatives of N.A.M. and member firms before the Joint Committee coincides with part of the testimony of Mosher and/or Smethurst.

Summary.

In summary of post-Taft-Hartley Law legislative proposals, we may say that the Thomas and Lesinski bills represented a non-NAM point of view. However, there were some concessions in the direction of mitigating possible evils in union practices, concerning which the N.A.M. may be said to have had its share of influence in bringing about. In the Wood, Sims, and Taft bills, N.A.M. influence is much more

predominant. This is especially true of the Wood Bill. Before it was amended somewhat, that Bill not only incorporated in it the principle features of the Taft-Hartley, but it also included some N. A. M. recommendations for increasing the restricted features of that law. Although amendments later slightly modified the drastic nature of the Wood Bill, it was still an expression of many N. A. M. wishes. But even the Wood Bill did not go as far as the N. A. M. desired, especially in the areas of industry-wide bargaining and employee-benefit plans.

Sincerity of the N. A. M.

We may now again ask the question, as we did after the hearings before the Eightieth Congress, as to whether the N. A. M. is sincere in its statements that what it is trying to do is to improve "real" collective bargaining. Senator Thomas of Utah, present chairman of the Labor Committee of the Senate, and leader of the minority on the committee during the Eightieth Congress hearings, has an interesting answer to this question, which he arrived at after listening to days of N. A. M. testimony. [116] He felt that despite their supposed devotion to the cause of collective bargaining, there is some reason to examine the sincerity of their recommendations. For example, Charles Wilson of General Electric was accompanied and advised in his testimony by Anderson, his personnel director, who, according

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116 Congressional Record, op. cit., Vol. 95, p. 4270

to testimony before the Senate Civil Liberties Committee, was in direct charge of the General Electric corps of detectives used in strike-breaking, and who destroyed evidence in the form of records wanted by the committee. He also announced his intention of continuing to employ detectives for such activities. The fact that Anderson is still employed by General Electric tends to indicate a continuation of former policy by G. E. One may suspect, therefore, that the recommendations of this corporation to the Labor Committee had as its purpose the reacquiring of old methods of pursuing anti-labor activities. They want a law which will make it possible for them to use such methods again.

Another gentleman that Mr. Thomas mentions is Reed of Weirton Steel, who also wanted merely to perfect collective bargaining. In the period before World War II, after the passage of the Wagner Act, Weirton Steel Company spent $11, 778.17 for industrial munitions, as well as hiring strike-breaking agencies.[117] These practices are hardly in the direction of true collective bargaining, since they indicate the company's intention to maintain their stand by force.

Another one that testified was Storey of Allis-Chalmers. Again the committee was assured of his devotion to the principle of collective bargaining. Senator Thomas, however, maintained that

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117 Senate Report Number Six, Part Three, Seventy-Sixth Congress, First Session, pp.62,63,77,and 204

he also was a strike breaker before World War II. Then there was a vice-president of the Chrysler Corporation, also a great believer in collective bargaining, who had said publicly even after the passage of the Wagner Act that he would bargain with unions for their own members only, even though the union had a majority in the plant. The Chrysler Company is another purchaser of industrial munitions. In 1935 alone, for example, it bought $7,000 worth of material from the Lake Erie Chemical Corporation.[118] Finally, we have Ira Mosher, himself, who, as Vice-President of the American Optical Company, also purchased industrial munitions from Lake Erie Chemical. He was the one who was personally in charge of industrial munitions for the company in 1935.[119]

As Senator Thomas says, "These are not very clean hands with which to come before a Senate committee with legislative recommendations."[120] Bills such as the Taft Bill will gradually allow these conditions to return, not because it expressly provides for them, but because it provides the opportunity for advantage-takers to get started.

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118 Senate Report, Number Six, Part Three, Seventy-Sixth Congress, First Session, pp. 46, 55, 66, 138, 195

119 Ibid., p. 77

120 Congressional Record, op. cit., Vol. 95, p. 4270

The Taft-Hartley Act may not be a "slave-labor" act in the strictest sense of the term, but it can lead to conditions closely akin to slavery. The Taft-Hartley guarantee of the right of workers to quit their job may prove meaningless under an economic situation where to quit means to starve, as is the case in a depression. Thus, in time of depression, employers will be free to practice their union-destroying techniques under the benevolence of the Taft-Hartley Act.

CHAPTER VII

CONCLUSION

There has been a high degree of correlation between N. A. M.'s ideas on proper labor relations and recent labor legislation in Congres. We have observed this through an analysis of the Taft*Hartley Law and recent bills attempting to repeal it, plus a comparison with an analysis of N. A. M. desires as expressed in testimony to Congress, as well as official pronouncements.

In testifying before Congressional committees previous to the passage of the Taft-Hartley Law, N. A. M. representatives expressed a desire for such legislation as the banning of the closed shop, industry-wide bargaining, jurisdictional and sympathy strikes, and secondary boycotts, making unions liable to damage suits and injunctions, and other restrictive legislation against labor unions. Congress accepted these recommendations, and many were incorporated into law.

During the fight to pass the Taft-Hartley Law, N. A. M. proposals cropped up time after time, to be passed by resounding margins. N. A. M. influence was particularly effective in the Republican Party and among the Southern Democrats, and was also more effective in the House than in the Senate. Only a coalition of Liberal Democrats and Republicans in the Senate on some key issues prevented complete N. A. M. program from being enacted into law.

The Hartley Bill did incorporate at one stage or another all of the major points of the N. A. M., but was somewhat modified by the Senate Bill. The final Taft-Hartley Act, however, was basically the Hartley Bill, and bore a very close resemblance to N. A. M. proposals.

The Taft-Hartley Act also was in close agreement with the official N. A. M. platform, as expressed at their 1946 convention. This platform, more general in nature than the testimony given by Ira Mosher and others before Congress, embodied the idea that union "bosses" worked against the best interests of employer, employee, and the public. It stressed the individual's right to act as an individual. This same basic idea is to be found in the Taft-Hartley Act, in such provisions as the barring of the closed shop, replacing of restrictions on the union shop, and the careful Federal scrutiny of union affairs.

Not only was there a similarity between N. A. M. and Taft-Hartley principles, but in some instances phraseology appeared to be duplicated. According to evidence obtained by the unions, this was due to the fact that the N. A. M. actually participated in the drawing up of the Hartley Bill.

After the passage of the Taft-Hartley Act, N. A. M. testimony again found willing ears in the "watchdog" committee. N. A. M. desires which were left out of Taft-Hartley were once again urged. Indications that these suggestions were being favorably considered came to naught with the election of 1948,

when Truman was elected on a "repeal Taft-Hartley" platform.

In the Eighty-First Congress, the success of the N. A. M. in instilling a large part of its philosophy into the Taft-Hartley Law was heavily underlined by its brilliant success in helping to prevent the repeal of that Law, even though its principles were presumed to have been defeated at the polls. Once again, N. A. M. principles turned up in varying degrees in most of the "repealer" bills and amendments presented to Congress. Some bills, such as the original Wood Bill, were more closely aligned to N. A. M. principles than the Taft-Hartley Law was, incorporating some suggestions made before the "watchdog" committee. The final outcome left the Taft-Hartley still on the books, and the Administration considered itself lucky at that!

We may conclude further from the above that the N. A. M. has proven itself a pressure group which carries far more weight than its size justifies numerically. It is its tremendous economic power and prestige that earns it votes in Congress. It has buried its anti-union principles deep on Capitol Hill. The recent unsuccessful fight of the Truman Administration on the floor of Congress underscores the difficulties involved in uprooting those principles.

APPENDIX

THE BASIC PRINCIPLES BEHIND GOOD EMPLOYEE RELATIONS AND SOUND COLLECTIVE BARGAINING (1946)

A Report by the Industrial Relations Program Committe of the National Association of Manufacturers

Approved by the Board of Directors, December 3, 1946

...The right of employees to join or not to join a union should be protected by law. In exercising the right to organize in unions or the right not to organize, employees should be protected by law against coercion from any source.

1. The union as well as the employer should be obligated by law, to bargain collectively in good faith, provided that a majority of the employees in the appropriate unit wish to be represented by the union.

2. The union as well as the employer should be obligated, by law, to adhere to the terms of collective bargaining agreements. Collective bargaining agreements should provide that disputes arising over the meaning or interpretation of a provision should be settled by peaceful procedures.

3. Monopolistic practices in restraint of trade are inherently contrary to the public interest, and should be prohibited to labor unions as well as to employers. It is just as contrary to the public interest for a union or unions representing the employees of two or more employers to take joint wage action or engage in other

monopolistic practices as it is for two or more employers to take joint price action or engage in other monopolistic practices.

4...the protection of law should be extended to strikers only when the majority of employees in the bargaining unit, by secret ballot under impartial supervision, have voted for a strike in preference to acceptance of thelatest offer of the employer. Employees and employers should both be protected in their right to express their respective positions.

5. No strike should have the protection of law if it involves issues which do not relate to wages, hours or working conditions, or demands which the employer is powerless to grant. Such issues and demands are involved in jurisdictional strikes, sympathy strikes, strikes against the government, strikes to force employers to ignore or violate the law, strikes to force recognition of an uncertified union, strikes to enforce featherbedding or other work-restricted demands, or secondary boycotts.

6. No individual should be deprived of his right to work at an available job, ... Mass picketing and any other form of coercion or intimidation should be prohibited.

7. Employers should not be required to bargain collectively with foremen or other representatives of management.

8. No employee or prospective employee should be required to join or to refrain from joining a union, or to maintain or withdraw his membership in a union, as a condition of employment. Compulsory union membership and interference with voluntary union membership

both should be prohibited by law.

9. ...The preservation of free collective bargaining demands that government intervention in labor disputes be reduced to an absolute minimum.

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