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LEGISLATION

THE LANDRUM-GRIFFIN LABOR ACT

Introduction

Acclaimed by many as labor's Magna Carta,¹ the National Labor Relations Act,² more familiarly known as the Wagner Act, was enacted in 1935. Decidedly pro-labor, the act ignored the area of improper union activity while concentrating primarily on the question of improper employer conduct.³ Under the beneficent rays of such favorable legislation, the American labor movement experienced an extensive, if not unprecedented, expansion.⁴ Unhappily, with this tremendous increase in size and strength came, not unnaturally, however much deplored, the concomitant abuses. A scant twelve years after the passage of the Wagner Act, Congress felt constrained to enact the Labor Management Relations Act⁵ (Taft-Hartley Act) to remedy certain evils resulting from the practices of some unions and their officers.⁶ Foremost among the factors paving the way for the enactment of such restrictive measures was, undoubtedly, the rash of postwar strikes which plagued the nation in 1946.⁷ The chaos, created by the sudden disruption of the cooperative atmosphere which had prevailed in the labor-management field during the war years,⁸ focused public attention upon the subject of labor relations, and "engendered the violent reaction . . . which led to the Taft-Hartley Act."⁹

¹ McGranery, *A Jurist's View of Proposed Changes in the Present National Labor Relations Act*, 32 ST. JOHN'S L. REV. 8 (1957).

² 49 Stat. 449 (1935).

³ Glushien, *Federal Pre-emption In Labor Relations*, 15 FED. B.J. 4, 5 (1955).

⁴ "The organized labor movement as a whole was between 126 and 140 per cent larger in 1939 than in 1929 . . ." DERBER & YOUNG, *LABOR AND THE NEW DEAL* 16, 17 (1957).

⁵ 61 Stat. 136 (1947).

⁶ Note, *A Comparative Survey of the Wagner Act and the Taft-Hartley Bill*, 2 SW. L.J. 6 (1948).

⁷ Meany, *Labor's View of Proposed Changes in the Present National Labor Relations Act*, 32 ST. JOHN'S L. REV. 14, 16 (1957).

⁸ "[D]uring World War II most unions conscientiously and scrupulously observed the no-strike pledge which they voluntarily gave the government." *Id.* at 15.

⁹ Meany, *op. cit. supra* note 7, at 15.

Received with not unmixed emotions, the Taft-Hartley Act, with its objective of prescribing "the legitimate rights of both employees and employers in their relations affecting commerce,"¹⁰ was cheered by management as preserving "labor's right to organize and bargain collectively [but also providing] . . . a needed framework of 'ground rules' which would enable management to bargain with unions on an equal footing,"¹¹ while jeered by labor as a "Slave Labor Act" designed to emasculate the American labor movement.¹² However, neither the optimism of management¹³ nor the pessimism of labor¹⁴ were justified. Nowhere is this more clearly illustrated than in the *Report of the Senate Select Committee on Improper Activities in the Labor-Management Field*¹⁵ (McClellan Committee). The investigation conducted by the McClellan Committee sharply pointed up the necessity for remedial labor legislation, particularly in the areas of federal-state jurisdiction,¹⁶ hot cargo agreements¹⁷ and blackmail picketing.¹⁸

Federal-State Jurisdiction

According to the provisions of the National Labor Relations Act the jurisdiction of the National Labor Relations Board extended to all labor disputes affecting interstate commerce.¹⁹ During its formative period the Board was primarily concerned with determining the actual scope of its jurisdiction to remedy unfair labor practices.²⁰ On April 12, 1937, the Supreme Court, in reviewing the first five cases²¹ arising under the act, fully established the absolute, unqualified scope of the Board's jurisdiction over unfair labor prac-

¹⁰ 61 Stat. 136 (1947), 29 U.S.C. § 141(b) (1958).

¹¹ Abelow, *Management Experience Under the Taft Hartley Act*, 11 IND. & LAB. REL. REV. 360 (1958).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Despite the "Slave Labor Act," union membership has increased by more than 3,500,000 since its enactment. *Ibid.*

¹⁵ 85th Cong., 1st Sess. (1957).

¹⁶ See PETRO, POWER UNLIMITED—THE CORRUPTION OF UNION LEADERSHIP 248-50 (1959).

¹⁷ *Id.* at 225-26.

¹⁸ *Id.* at 222-24.

¹⁹ 61 Stat. 146 (1947), 29 U.S.C. § 160(a) (1958). "Affecting commerce" is defined as meaning: "in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce. . . ." 61 Stat. 138 (1947), 29 U.S.C. § 152(7) (1958).

²⁰ Humphrey, *The Changing Jurisdictional Standards of the National Labor Relations Boards: Have They Created a Penumbra Area Between Federal and State Jurisdiction?*, 15 FED. B.J. 30, 31 (1955).

²¹ NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937); NLRB v. Fruehauf Trailer Co., 301 U.S. 49 (1937); NLRB v. Friedman-Harry Marks

tices affecting commerce.²² However, the Supreme Court cautioned that the jurisdiction of the Board should be exercised sparingly in order to avoid encroaching upon local commerce. In *NLRB v. Jones & Laughlin Steel Corp.*,²³ Chief Justice Hughes warned:

[T]he scope of this power must be considered in the light of our dual system of government and may not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them in view of our complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government. . . . The question is necessarily one of degree.²⁴

In 1937, as the result of a letter dated July 12 from the Chairman of the New York State Labor Relations Board to the National Labor Relations Board, an understanding was reached as to the practical allocation of cases between them.²⁵ According to the agreement, the National Board was to exercise jurisdiction over the interstate industries, while the State Board would handle predominantly local and borderline situations.²⁶ Similar arrangements were entered into between the National Board and other state agencies.²⁷

Thus, the Board first declined jurisdiction where the industries were substantially local in character. By 1946 the Board was also declining jurisdiction over enterprises which, although theoretically within its purview, did not affect interstate commerce sufficiently to warrant the exercise of federal power.²⁸ The Board also refused to assume jurisdiction over certain local enterprises in states which had so-called "Little Wagner Acts" but refused to refrain in states which had no such legislation.²⁹ In 1950 the Board further restricted the area over which it would assert jurisdiction by announcing that it would act only in cases where the annual interstate sales or purchases of the enterprise involved reached certain minimum dollar values.³⁰ These standards were made more stringent in 1954.³¹

It was the impression of many federal and state courts that the states possessed the authority to regulate labor relations in areas where either the Board had declined jurisdiction or the employer's

Clothing Co., 301 U.S. 58 (1937); *Associated Press v. NLRB*, 301 U.S. 103 (1937); *Washington, Va. & Md. Coach Co. v. NLRB*, 301 U.S. 142 (1937).

²² *Humphrey, op. cit. supra* note 20, at 31-32.

²³ 301 U.S. 1 (1937).

²⁴ *Id.* at 37.

²⁵ See Appendix to *Bethlehem Steel Co. v. N.Y. State Labor Relations Bd.*, 330 U.S. 767, 794-96 (1947).

²⁶ Di Fede, *Problems of Federal-State Jurisdiction in Labor-Management Disputes*, 4 N.Y.L.F. 398, 399 (1958).

²⁷ *Ibid.*

²⁸ *Jenkins, Problems of Federal-State Jurisdiction in Labor Relations*, 31 *Rocky M.T. L. Rev.* 315, 317 (1959).

²⁹ *Ibid.*

³⁰ *Symposium—NLRB Jurisdictional Standards and State Jurisdiction*, 50 *Nw. U.L. Rev.* 190, 191 (1955).

³¹ *Id.* at 192.

operations did not meet the Board's jurisdictional standards.³² However, in 1947 and 1949 the Supreme Court, in two cases³³ involving representation proceedings by state boards, struck down the theory of concurrent jurisdiction, basing its decision on the potentiality of conflicts.³⁴

Section 10(a) of the Taft-Hartley Act was a step forward in the possible clarification of this problem. It granted the NLRB authority to cede jurisdiction to state agencies "unless the provision of the State or Territorial statute applicable . . . is inconsistent with the corresponding provisions of [the] . . . Act or has received a construction inconsistent therewith."³⁵ Unfortunately, however, no cession agreement was ever made with a state agency since no state law was found to have the requisite consistency with the federal act.³⁶

In 1950 this pre-emption doctrine was extended to cases involving unfair labor practice proceedings.³⁷ Three years later in *Garner v. Teamsters Union*³⁸ the Court further extended the doctrine to injunctions against picketing by unions.³⁹ It was not until 1957, however, that the full impact of the pre-emption doctrine became apparent. On March 25 of that year the Supreme Court combined three decisions, and developed a doctrine in the case of *Guss v. Utah Labor Relations Bd.*⁴⁰ Each of these cases posed the question of whether or not a state possesses the authority to exercise jurisdiction over labor disputes where the National Board had declined jurisdiction because of the predominantly local nature of the controversy. In each instance the Court replied in the negative, holding

³² Jenkins, *op. cit. supra* note 28, at 316.

³³ *Bethlehem Steel Co. v. N.Y. State Labor Relations Bd.*, 330 U.S. 767 (1947); *La Crosse Telephone Corp. v. Wisconsin Employment Relations Bd.*, 336 U.S. 18 (1949).

³⁴ *Ibid.* See generally Di Fede, *Problems of Federal-State Jurisdiction in Labor-Management Disputes*, 4 N.Y.L.F. 398 (1958).

³⁵ 61 Stat. 146 (1947), 29 U.S.C. § 160(a) (1958).

³⁶ Cosgrove, *Pending: A National Labor Policy*, 34 NOTRE DAME LAW. 165, 167 (1959).

³⁷ *Plankinton Packing Co. v. Wisconsin Employment Relations Bd.*, 338 U.S. 953 (1950) (mem. opinion). The Court again reaffirmed its rulings in the *Bethlehem* and *La Crosse* cases that where the employer's operations affect interstate commerce, the NLRB would assert jurisdiction; the states are not permitted to process such matters.

³⁸ 346 U.S. 485 (1953).

³⁹ *Ibid.* The Court stated that "the reasons for excluding state administrative bodies from assuming control of matters expressly placed within the competence of the federal Board also excludes state courts from like action." *Id.* at 491.

⁴⁰ 353 U.S. 1 (1957). This case concerned an employer's refusal to bargain collectively with a union which represented a majority of the employees in an appropriate unit; *Amalgamated Meat Cutters Union v. Fairlawn Meats, Inc.*, 353 U.S. 20 (1957), and *San Diego Bldg. Trades Council v. Garmon*, 353 U.S. 26 (1957), were appeals from state court injunctions—in *Fairlawn*, against picketing by non-representative unions for recognition and, in *Garmon*, a contract including a union security clause.

that the state boards and courts were without jurisdiction even if the National Board would not act.

By virtue of the NLRB minimal monetary standards as set forth in 1950 and 1954,⁴¹ and the *Guss* doctrine as expounded by the Supreme Court, a large number of smaller enterprises have been effectively excluded from the coverage of the Taft-Hartley Act. The parties so excluded from federal coverage could not bring their disputes to state agencies or state courts. Thus, they were said to be in "no-man's land."

The Labor-Management Reporting and Disclosure Act of 1959⁴² (Landrum-Griffin Act) attempts to remedy this situation and to provide a forum for all labor disputes, regardless of the size of the enterprise involved. Subsection (c) has been added to Section 14 of the National Labor Relations Act to eliminate the possibility of a case falling into "no-man's land."⁴³ The amendment grants the NLRB discretion to decline jurisdiction over any labor dispute involving any class or category of employers where the effect on commerce is insubstantial. It permits the Board to do this pursuant to either rule of decision or published rules. State and territorial courts, however, are expressly given authority to exercise jurisdiction over disputes which the Board declines under such decisional or published rules.⁴⁴

Hot Cargo Agreements

Before passage of the Taft-Hartley Act, unions engaged in "secondary boycotts" as a means of exerting economic pressure. The "secondary boycott" may be described as follows: union *A* has a labor dispute in plant *A*. The employer in plant *A* would be known as the primary employer. In order to exert pressure on the primary employer, union *A* pickets plant *B* which may either supply *A*'s raw materials or handle his finished product but is otherwise a complete neutral in the dispute between union *A* and employer *A*. The employer in plant *B* is known as the secondary employer. By the picketing, union *A* hopes to induce the employees of the secondary employer to strike or refuse to handle the goods of the primary employer, *A*. Essentially it is a boycott, but of a secondary rather than a primary nature.⁴⁵

⁴¹ See *Symposium—NLRB Jurisdictional Standards and State Jurisdiction*, 50 *Nw. U.L. Rev.* 190 (1955), for a competent coverage and analysis of the jurisdictional standards as set forth by the NLRB.

⁴² 73 Stat. 519 (14 U.S. CODE CONG. & AD. NEWS 2953 (1959)).

⁴³ 14 U.S. CODE CONG. & AD. NEWS 2983 (1959).

⁴⁴ *Ibid.*

⁴⁵ Scolnik, *Hot Cargo Clauses*, 9 *LAB. L.J.* 71, 72 (1958).

Section 8(b)(4) of the Taft-Hartley Act⁴⁶ specifically proscribed such activity by declaring it an unfair labor practice to:

engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services. . . .⁴⁷

on products of any employer with whom the union is involved in a labor dispute. It will be noted that in order to fall within the prohibition of the Taft-Hartley Act two essential elements were required:

1) An unlawful object such as the forcing of an employer to cease doing business with any person.

2) An inducement or encouragement of the employees in the course of their employment.⁴⁸

In order to circumvent the prohibitions as laid down by the Taft-Hartley Act, labor unions began the practice of including hot cargo clauses in their contracts. The term hot cargo refers to a method of economic pressure used by labor unions for many years in support of their efforts to organize or to obtain various benefits from employers.⁴⁹ Basically the hot cargo clause is an agreement constituting a concession by an employer to a boycott.⁵⁰ It is an agreement in advance by the employer that his employees may refuse to perform some or all of their work, for the purpose of aiding another union in its dispute with another employer. For all practical purposes the hot cargo clause permitted the unions to engage in the very type of activity which section 8(b)(4)(A) was designed to prohibit. By it, the union achieved the desired secondary boycott but did not leave itself open to the charge of inducing the employees to engage in a strike or concerted refusal. The pressure was exerted on the employers themselves. The unions were then able to contend that since the secondary employer had agreed to such boycotts, there could be no violation of the law.

The Board was at first inclined to accept the union's contention. In the *Conway's Express*⁵¹ case the Board ruled that a hot cargo

⁴⁶ 61 Stat. 141 (1947), 29 U.S.C. § 158(b)(4) (1958).

⁴⁷ 61 Stat. 141 (1947), 29 U.S.C. § 158(b)(4) (1958).

⁴⁸ *NLRB v. United Bhd. of Carpenters*, 184 F.2d 60 (10th Cir. 1950) (dictum), cert. denied, 341 U.S. 947 (1951). See generally Scolnik, note 45 *supra*.

⁴⁹ Scolnik, *op. cit. supra* note 45, at 71.

⁵⁰ *Id.* at 71-72.

⁵¹ 87 N.L.R.B. 972 (1949). Two of the secondary employers had contracts providing in substance that the union reserved the right to refuse to handle "unfair goods." The union notified its shop stewards, employees of the secondary employers, of the provisions of the contract, and in reliance thereon the employees of these employers refused to handle the hot goods from the struck employer.

clause was a valid defense to a secondary boycott charge. The Board's decision was upheld by the United States Court of Appeals, Second Circuit.⁵² The court stated that:

Consent in advance to honor a hot cargo clause is not the product of the union's "forcing or requiring any employer . . . to cease doing business with any other person."⁵³

The later *Pittsburgh Plate Glass Co.*⁵⁴ case followed along the same line of reasoning. There, the contract provided that it would not be cause for discharge if the employees refused to handle "unfair goods." The Board not only followed the theory of the *Conway* case but added an additional element: that the refusal of the secondary employer's employees to handle "unfair goods" did not constitute a refusal to perform work "in the course of their employment" since the employer had consented to this by contract.⁵⁵

In the subsequent *McAllister Transfer, Inc.*⁵⁶ case, however, where, despite the contract, the secondary employers posted a notice to the effect that they had no dispute with any labor organization and that their obligation as common carriers required them to handle all freight tendered to them and directing their employees to handle the freight, the Board found a violation of Taft-Hartley when the employees continued to refuse to handle the goods. While the three-member majority were in agreement as to the fact that a violation did exist, they were divided as to their reasons for so finding. Two members were of the opinion that such clauses were contrary to the public policy expressed by the act and that employers could not in advance waive by contract a violation of the public policy implicit in the provision of section 8(b)(4)(A).⁵⁷ Chairman Farmer, on the other hand, took the view that such clauses were not against public policy, but found on the facts that the union had affirmatively induced and encouraged its members to refuse to handle *McAllister's* freight despite the secondary employer's instructions to the contrary. Farmer, in substance, took the stand that the hot cargo clause was not contrary to public policy, was not unlawful, but could not be enforced by a union's direct appeal to the employees.⁵⁸ Later, in the *Sand Door & Plywood Co.*⁵⁹ case, the Board again struck down the defense of the hot cargo clause. However, only one member found it to be contrary to public policy.⁶⁰ Two of the members followed the view of Chairman Farmer as set forth in the *McAllister Transfer, Inc.*

⁵² *Rabouin v. NLRB*, 195 F.2d 906 (2d Cir. 1952).

⁵³ *Id.* at 912.

⁵⁴ 105 N.L.R.B. 740 (1953).

⁵⁵ *Id.* at 744.

⁵⁶ 110 N.L.R.B. 1769 (1954).

⁵⁷ *Id.* at 1779-82.

⁵⁸ *Id.* at 1788 (concurring opinion).

⁵⁹ 113 N.L.R.B. 1210 (1955).

⁶⁰ *Id.* at 1219 (concurring opinion).

case.⁶¹ More recently, in *Teamsters Union v. NLRB*,⁶² the United States Court of Appeals for the District of Columbia held that if a hot cargo clause is legal, a labor union can lawfully enforce it by appeals to its members. In discussing the union's conduct in urging its members not to handle the goods, the court said:

This was exactly what the carriers had agreed their employees would not be required to do. If an employer may lawfully agree that its employees will not be required to handle freight from a struck company, and such a situation arises, it is hard to see how it can be said that, simply because the employees do what they have the right to do, there was a strike or refusal to work. Nor can it be said that there was a "forcing" or requiring of an employer to cease doing business with another person, because the employer was only being compelled to live up to its own voluntary contract entered into in advance of the happening.⁶³

Thus, the advance agreement of the employer to the hot cargo clause vitiated the prohibitions of section 8(b)(4)(A). The Landrum-Griffin Act remedies the situation by making it an unfair labor practice for unions and employers to enter into hot cargo agreements and makes such agreements void whether executed before or after the new legislation takes effect. It prohibits all agreements whereby the employer "ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person. . . ." ⁶⁴ In other words, labor unions are no longer able to remove such activity from the unfair labor category merely by obtaining the employer's consent in advance.

Blackmail Picketing

Section 8(b)(1)(A) of the Taft-Hartley Act provides:

It shall be an unfair labor practice for a labor organization or its agents (1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7. . . .⁶⁵

Until 1957, the NLRB held that "restrain and coerce" regulated only the methods employed in picketing.⁶⁶ The objective of the picket

⁶¹ *Id.* at 1215.

⁶² 247 F.2d 71 (D.C. Cir. 1957).

⁶³ *Id.* at 74.

⁶⁴ 14 U.S. CODE CONG. & AD. NEWS 2985 (1959).

⁶⁵ 61 Stat. 141 (1947), 29 U.S.C. § 158(b)(1)(A) (1958). Section 7 states: "Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities. . . ." 61 Stat. 140 (1947), 29 U.S.C. § 157 (1958).

⁶⁶ See Note, 19 LA. L. REV. 709 (1959).

must be directly related to the interests of the strikers and not directed primarily at compelling other employees to forego rights protected by section 7. This was the Board's stated policy as laid down in the *National Maritime Union*⁶⁷ case where the Board said:

We are mindful of the fact that the . . . strike had as its purpose the accomplishment of an illegal objective; but we are not prepared to say . . . that a strike for an illegal objective necessarily "restrains" and "coerces" employees, as those terms were intended to be applied in Section 8(b)(1)(A).⁶⁸

The practical result of such a decision was to leave minority unions free to engage in any sort of picketing as long as the methods employed were peaceful. Whether the picketing is labeled recognition or organizational, and there is some doubt as to the validity of any such distinction,⁶⁹ the overall effect was the same. The object is either to force the employer to coerce his employees to join the union or else to force the employees to join in order to avoid the economic loss they would suffer as a result of the employer's reverses.⁷⁰ Thus, whatever the label may be, the picketing is nonetheless coercive.

As Professor Meltzer points out, coercive picketing has proved a most lucrative activity for the less desirable elements of the labor movement:

The recent disclosures by the McClellan Committee point to additional dangers. Coercive picketing, actual or threatened, has been the weapon of the shake-down artist, who will forego organization for the right price. Such tactics, unfortunately but inevitably, endanger the good name and the legally recognized privileges of decent as well as corrupt union leadership. Organization from the top by the employer also invites the sweetheart contract by which unscrupulous employers and so-called union leaders sell the men out. . . . [T]hese perversions of picketing and collective bargaining will be facilitated so long

⁶⁷ 78 N.L.R.B. 971 (1947).

⁶⁸ *Id.* at 986.

⁶⁹ See Isaacson, *Organizational Picketing: What is the Law—Ought the Law to be Changed?*, 8 BUFFALO L. REV. 345, 347 (1959). "Organizational picketing is defined as picketing by a minority directed to employees in order to persuade them to become union members or to win their adherence to the union cause. Recognition picketing is picketing directed to an employer in order to compel recognition of a minority union—to bring pressure on an employer to bring pressure on the employees to join a picketing union." *Ibid.*

The distinction between them is not easy to draw. "Although organizational pickets presumably do not want recognition until they have organized a majority of the employees, the differences in the kind of pressure exerted and the ultimate objective are difficult to perceive. . . . [T]he distinction has arisen largely by way of rationalization by judges of their opinions; when they wish to enjoin picketing it is labeled 'recognition'; when they feel it should not be enjoined it becomes 'organizational.'" BUREAU OF NATIONAL AFFAIRS, INC., THE LABOR REFORM LAW 94 (1959).

⁷⁰ Meltzer, *Recognition-Organizational Picketing and Right-to-Work Laws*, 9 LAB. L.J. 55, 56 (1958).

as employers are subject to the threat of organizational or recognition picketing and the law and unions sanction its use.⁷¹

Until 1957, with rare exception,⁷² the Board found that the strikers themselves were primarily benefited as required by the rule of *National Maritime Union*. The Board then reversed its stand in *Curtis Brothers, Inc.*⁷³ and held that peaceful picketing by a minority union was unlawful when, although directed at the employer, its indirect effect was to coerce the employees. In that case, after the union had lost a representation election, it continued picketing which was at all times peaceful. The company filed an unfair practice complaint with the NLRB, charging that the union was picketing to force it to recognize the union as a bargaining agent for its employees and thus compel the employees to join the union or lose their jobs. The Board held that the picketing coerces the employers to illegally grant exclusive recognition to a minority. The Board's ruling was reversed by the Court of Appeals⁷⁴ which held that the prohibition was inapplicable to peaceful picketing, whether organizational or recognition. The issue was pending before the United States Supreme Court at the time the Landrum-Griffin Bill was enacted.

The solution to the problem as set forth by the Landrum-Griffin Act is to prohibit both organizational and recognition picketing:

(A) where the employer has lawfully recognized in accordance with this Act any other labor organization and a question concerning representation may not appropriately be raised under section 9(c) of this Act,

(B) where within the preceding twelve months a valid election under section 9(c) of this Act has been conducted, or

(C) where such picketing has been conducted without a petition under section 9(c) being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing: Provided, That when such a petition has been filed the Board shall forthwith, without regard to the provisions of section 9(c)(1) or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof. . . .⁷⁵

⁷¹ *Id.* at 58.

⁷² See *Pinkerton's Nat'l Detective Agency, Inc.*, 90 N.L.R.B. 205 (1950). The union struck to force the employer to discharge employees who were not union members, although there was no valid union security agreement between them. The Board found the strike to be an unfair labor practice since it was directed primarily at compelling an employee to forego rights protected under section 7.

⁷³ 119 N.L.R.B. 232 (1957).

⁷⁴ *Teamsters Union, Local 639 v. NLRB*, 36 CCH Lab. Cas. 65,030 (D.C. Cir. 1958).

⁷⁵ 14 U.S. CODE CONG. & AD. NEWS 2986 (1959).

Conclusion

Undoubtedly, clarification of the federal-state jurisdictional problem should prove equally beneficial to both labor and management. No longer will parties to a labor dispute find themselves in the rather frustrating position of having no forum in which their controversy may be aired and settled. The Landrum-Griffin Act should end once and for all the existence of the troublesome "no-man's land." Similarly, the prohibition of hot cargo contracts should prove most effective in closing all loop holes in the secondary boycott area. However, the relief intended by the restrictions on recognition and organizational picketing may not be forthcoming. For example, there is nothing to prevent one union from picketing an enterprise for a period of 29 days without filing a petition, then another union taking over for another 29 days, and so on ad infinitum.