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LABOR'S VIEW OF PROPOSED CHANGES IN THE PRESENT NATIONAL LABOR RELATIONS ACT

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I HAVE been asked to discuss today what sort of changes I would like to see made in the Taft-Hartley Act,[1] and what sort of changes I would oppose. Labor relations legislation is, whether fortunately or not, a timely topic and I appreciate this opportunity to talk to you about it.

First, I would like to place this issue of Taft-Hartley revision in what I conceive to be its proper historical context. To begin with, let us consider how the Taft-Hartley Act came to be passed. This Act, adopted in 1947, was, as we all know, a drastic revision, in an anti-union direction, of the Wagner Act,[2] which had been passed twelve years earlier in 1935. Its enactment was the result, I think, of two factors: first, a long range propaganda campaign skillfully and persistently conducted by reactionary employers; and second, certain developments, particularly the post-war wave of strikes in 1946, which engendered widespread public hostility to unions. It was the coincidence of these two elements which, in my view, eventually led to the enactment of the Taft-Hartley Act.

As respects the propaganda campaign, such organizations as the National Association of Manufacturers (NAM) opposed the Wagner Act when it was passed in 1935, and sought its emasculation from that day onward. At first, the NAM and other employer associations advised their members that the Act was unconstitutional and to ignore it. When, to the surprise and chagrin of the Wall Street lawyers, the

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[1] Labor Management Relations Act, 1947, 61 STAT. 136, 29 U.S.C. §§ 142-44, 151-67, 171-82, 185-89, 191-97 (1952).

[2] National Labor Relations Act, 49 STAT. 449 (1935).

Supreme Court upheld the constitutionality of the Act in 1937,[3] the NAM and its sister organizations inaugurated a long range program to influence public opinion against the Wagner Act.

This propaganda campaign, using radio, cartoons, advertising and leaflets, and taking full advantage of the news and editorial columns of the employer oriented press, reached every community of the nation. At the same time, the employer organizations carried on an active campaign in Congress to revise the Wagner Act in line with their views. Indeed, most of the anti-union proposals which ultimately found their way into the Taft-Hartley Act had been before the Congress for eight or ten years before they were finally enacted.

This propaganda campaign against the Wagner Act, and really against the unions of the country, was not, however, initially successful. It did not meet with success until 1947, after what the public regarded as union excesses had created an atmosphere hostile to unions.

Let us look a little at what it was that the unions did in the years before 1947 which engendered the violent reaction against them which led to the Taft-Hartley Act. To begin with, during World War II most unions conscientiously and scrupulously observed the no-strike pledge which they voluntarily gave the government. One union, however, conspicuously did not observe the no-strike pledge, and its strikes in an industry vital to war production aroused widespread public resentment.

During the war period, collective bargaining agreements were regulated by the War Labor Board.[4] Even negotiated wage increases required the Board's approval. Thus, for several years there were no real tests of economic strength between unions and employers in most industries. The result was that by 1946 there was a backlog of potential labor disputes ready to break out when the no-strike pledge expired

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

[4] Exec. Order No. 9017, 7 FED. REG. 237 (1942).

and government controls were removed. The workers were, not unnaturally, determined in 1946 to preserve at least their war-time levels of take home pay, while many employers anticipated a recession due to decreased government spending.

For these reasons, 1946 saw a wave of economic strife. This situation gave the forces typified by the NAM their chance. The public paid little attention to the fact that one reason why strikes were so numerous in 1946 was that the unions involved had refrained from striking during the war. A majority of the press, always hostile to unions, took the opportunity to spread anti-union sentiment. The NAM's long propaganda campaign reached fruition when in 1947 the Congress enacted the Taft-Hartley Act over President Truman's veto.

From the circumstances which at least provided the occasion for its enactment, one would have expected the Taft-Hartley Act to concern itself with the resolution of labor disputes involving wages, hours and working conditions. For Labor Department figures show that 83.9 per cent of the total man hours lost by strikes in 1946 was due to disputes involving these issues. Another 13.4 per cent involved issues both of union organization and of wages and hours. Only 1.8 per cent was due solely to issues of union organization, and only 0.9 per cent was due to inter-union or intra-union problems. Thus, one might have expected the Taft-Hartley Act would re-enact something like the expired War Labor Disputes Act,[5] or re-institute wartime government controls over disputes involving wages, hours and working conditions.

This is not what happened, however. The Taft-Hartley Act is simply an amalgamation of various anti-union proposals which had been put forward in Congress over the years, and most of these anti-union provisions are quite unrelated to the causes of the 1946 strike wave. The Taft-Hartley Act provides, for example, that if the Labor Board conducts an election during a strike, the strikebreakers may

[5] 57 STAT. 163 (1943).

vote but the strikers may not.[6] Incidentally, President Eisenhower denounced this particular provision as union busting in his speech before the AFL convention in 1952. My point, however, is that this Taft-Hartley provision and others like it had no relation to the 1946 strikes which had made unions unpopular. Similarly, the restrictions placed by the Taft-Hartley Act on union security agreements,[7] and its invitation in Section 14(b) to the states to enact "right-to-work" laws,[8] had no rational relation to the 1946 strike wave.

Reactionary employers and their allies in Congress simply took advantage in 1947 of anti-union public sentiment to secure the enactment of miscellaneous anti-union measures which they had been pushing for many years. That these measures were largely irrelevant to the 1946 situation made no difference. The 1946 strikes provided the occasion for anti-labor legislation, but did not shape its content.

Now, we are again in the midst of a period when unions are receiving abundant adverse publicity. This time it is occasioned not by strikes, of which there have been very few recently, but by the grossly improper activities of officials of a number of unions, disclosed at hearings of the Senate Anti-Racketeering Committee. These activities have included improper use of union funds, sometimes amounting to outright embezzlement, improper relations with employers and various kinds of racketeering.

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[6] "Employees on strike who are not entitled to reinstatement shall not be eligible to vote." Labor Management Relations Act, 1947, § 9(c)(3), 61 STAT. 144, 29 U.S.C. § 159(c)(3) (1952). "Any employee who engages in a strike within the sixty-day period specified in this subsection shall lose his status as an employee of the employer engaged in the particular labor dispute . . . but such loss of status for such employee shall terminate if and when he is re-employed by such employer. *Id.* at 144, 29 U.S.C. § 159(d)(4).

[7] Labor Management Relations Act, 1947, § 8(a)(3), 61 STAT. 140, 29 U.S.C. § 159(a)(3) (1952). "It shall be an unfair labor practice for an employer . . . by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization . . . ." *Ibid.*

[8] Labor Management Relations Act, 1947, § 14(b), 61 STAT. 151 (1947), 29 U.S.C. § 164(b) (1952). "Nothing in the Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law." *Ibid.*

Once more, therefore, as in 1946, the unions of this country are confronted by widespread adverse publicity, and the threat of hostile legislative action in consequence. I think there is rather more justification for public resentment this time than there was in 1946. Although crooks and racketeers are not the problem exclusively of unions, we feel shamed by the presence in our movement of even a few of these kinds of individuals and we will do everything possible within the framework of our constitution to eliminate them.

To return, however, to the point I was making, not only are unions once more facing a period of adverse publicity, as in 1946, but there are indications that once more the reactionary employer lobby, typified by the NAM and its allies in Congress, is seeking to exploit the opportunity to put on the books various anti-union schemes not all related to the abuses disclosed by the McClellan Committee. In a recent speech before the Senate, Senator Mundt, for example, declared that the McClellan Committee hearings indicated a need for legislation to protect individual workers against the use of assessments and dues money for political purposes in federal elections and to correct what he called the failure of the Taft-Hartley Act to deal adequately with secondary boycotts.

I hardly need tell you that these proposals have little relevance to the McClellan Committee hearings, or that the NAM was advocating these proposals years before the McClellan Committee was heard of.

As far as secondary boycotts are concerned, that is of course a very complicated subject; and the controversy over whether the Taft-Hartley Act provisions should be made more rigid or be liberalized has been going on for some years. I think myself that they should be liberalized; and that it is outrageous, for example, to require union workers in one plant to handle struck work from another plant. The point, however, is that the McClellan Committee hearings have touched only incidentally, and then not impartially, on the secondary boycott issue, and that it would appear Senator Mundt is simply seeking to use those hearings the way the 1946 strikes were used to promote the Taft-Hartley Act.

I favor, and have long favored, legislation to make the Taft-Hartley Act fair to unions, management and the public alike, and to eliminate the unfair, union busting provisions which were inserted in 1947. Beyond that, I would support sound legislation to meet existing evils that cannot otherwise be dealt with adequately; provided such legislation is properly tailored to meet these evils and is not designed to frustrate the legitimate activities and objectives of the trade union movement.

At the last session of Congress, the AFL-CIO strongly supported legislation to require full disclosure with respect to the administration of welfare funds, whether those funds are administered by unions alone or by unions and employers jointly, or by employers alone. This legislation failed of enactment solely because some employers declared themselves unwilling to reveal what they are now doing with the welfare funds they administer.

On the other hand, I will oppose every measure which seeks to weaken or hamstring or destroy honestly led, legitimate unions. To successfully combat racketeers, and for that matter unscrupulous employers, unions need to be stronger—not weaker.

It is one thing to eliminate from positions of authority and control traitors to true trade unionism and to make it difficult for would-be traitors to carry on their work of despoliation. It is another thing to seek to destroy the trade union movement itself. Our eye is not so dimmed and our hearing is not so impaired that we cannot tell the hands of Esau or recognize the voice of Jacob. We will not be tricked into giving our blessing to any attempt to render impotent the strength of the labor movement under the false representation that labor must be weakened in order to deal with the few unfaithful within its ranks.

The American trade union movement is made up of millions of men and women who see in it the hope of attaining, in an industrial society, the human dignity their Creator intended they should have. It is a living, vibrant, forceful movement that springs from the heart and the soul of those who toil and although its form may change it will never perish so long as it is true to the purposes of its birth—for

the source of its strength is man himself and his never-ending quest for greater fulfillment in life.

Yes, we in the labor movement have our few traitors to its cause and we welcome honest and sincere help in removing men of that ilk, but it might well be repeated here and now that we intend to nurture the continued growth and strength of the labor movement itself and will not sit idly by while those who would impede it go about their unholy and infamous task.

I rely on the good sense of the American people to insure that the present situation not be made the pretext for legislation designed to weaken or destroy the American labor movement.