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WHAT'S REALLY WRONG WITH T-H ACT

By SEN. WAYNE MORSE

I have been a member of the Senate Committee on Labor and Public Welfare ever since I came to the Senate. I am also a member of that committee's Subcommittee on Labor-Management Relations, which was created last year and empowered to conduct investigations of labor-management relations throughout American industry. Some of these investigations have been completed; others are still in progress.

Our investigations thus far have revealed that, while labor-management relations generally are good, nevertheless—in some segments of our industry — bad relations exist, and more important, those bad relations are actually stimulated and made more bitter by existing federal law.

One of the basic principles upon which our democracy is built is that of voluntary co-operation. Good labor relations are simply that — voluntary co-operation between management and labor for their mutual benefit and for the public good. One of the strongest proofs of the strength and vitality of our democracy is that, during World War II, American industry and labor united to complete successfully the largest production program in history without serious disruption either by strike or lockout, and accomplished this by voluntary co-operation.

Unfortunately, there are still industries in America which are tainted by the perverted philosophy of the robber baron who said, "The public be damned." It is in such industries that selfish, misguided employers, while asserting to the utmost their own rights, have still resisted to the utmost the constitutional and statutory rights of their employes.

These delinquent industries have made necessary the investigations undertaken by the Labor-Management Subcommittee and these industries have demonstrated that some federal laws encourage and implement the determination of some employers to deny to their workers the rights of self-organization and collective bargaining.

Three years of experience under the Taft-Hartley Act have proved that it is an act of legislative hypocrisy. On the one hand, and in the most pious phrases, it purports to protect and provide the means for enforcing the rights of self-organization and collective bargaining; whereas, on the other hand, by some of its terms, by the interpolation of "trick phrases," by the establishment of devious and endless procedures, and by a monstrous separation of powers which sets one part of the administrative agency against the other, it makes it possible for anti-social employers to frustrate and defeat these selfsame rights.

Proponents of the Taft-Hartley Act have frequently challenged its opponents to cite examples of the ways in which the law operates to impede and destroy labor organizations. As a result of the investigations of the Labor - Management Subcommittee, we have filled the record with such examples.

In the Northern states the textile industry is thoroughly organized. Most of the Northern textile manufacturers have recognized the permanence and value of labor unions, and, in consequence, wholesome and productive collective bargaining exists as a continuing process between employers and employes But in recent years the textile industry has begun to move into the South, and this movement is growing like a flood. In some respects the Southern movement of the textile industry is sound economically, and particularly so in the case of cotton textiles.

Ten years ago there was practically no organization among Southern textile workers, but during the war, and largely as a result of the voluntary co-operation to which I have previously referred, some Southern textile manufacturers recognized organizations representing their employes. In some Southern textile areas labor unions flourished. However, since 1947, largely because of the Taft-Hartley Act and its administration by the former general counsel and the Labor Board, the organization of Southern textile workers not only has come to a standstill but the employers are now engaged in stifling collective bargaining and destroying existing unions.

The most regrettable aspect of the deliberate destruction of organized labor in the Southern textile industry is that it is done, not contrary to but under cover of the Taft-Hartley Act. Let me cite a few examples which have been investigated by the Labor-Management Relations Subcommittee.

Let me tell you briefly the highlights of successful frustration of organization at the American Thread Company's mill in Tallapoosa, Georgia. Tallapoosa is a typical Southern mill town of about 2,000 inhabitants. It has only one real industry, the American Thread Company, which provides the only steady payroll, employs most of the workers in the town and completely dominates the community economically, socially and politically.

At the request of employes of this plant, the United Textile Workers of America, A. F. of L., sent in an organizer. Almost immediately a subversive but perfectly co-ordinated anti-union machine went into action. This is set forth in the sworn testimony of competent and reliable witnesses who appeared before our sub-committee investigating these anti-union practices of Southern textile owners — testimony that is as shocking as much of the testimony that was brought to light a few years ago by the famous La Follette Committee.

The leading citizens of Tallapoosa, including lawyers who belong to the Bar Association, one of the great closed shops of America, businessmen who belong to the Chamber of Commerce and representatives of other "respectable" types of closed shop, met under the leadership of a distinguished lawyer who, incidentally it is reported, had as his principal client the American Thread Company.

There are those who say that the American Thread Company had nothing whatever to do with this incident. However, this self-constituted "citizens' committee" met the A. F. of L. organizer, informed him that organizers were not welcome in Tallapoosa, ordered him to leave town immediately and to cross the state line into Alabama, threatened him with ivolence if he did not obey and then escorted him to the state line, not too gently.

The American Thread Company employes then tried to get help from the Textile Workers Union of America, C.I.O. The C.I.O. sent a woman organizer. From the moment she first entered Tallapoosa, she was kept under strict surveillance by a company employe who, although derived his entire income from the American Thread Company, was also a deputy sheriff—an interesting coincidence.

The first night she was in town a mob broke into the rooming house where she was staying, forcibly loaded her and her belongings into a truck, drove her many miles out into a bleak countryside and pitched her out by the side of the road with a warning that she must never return.

Within two days the outstanding leaders of the employes who desired organization were first suspended and later fired. Others who had shown an interest in organization were warned and threatened by non-supervisory employes.

You will note as you study the record of this case that they were always careful to have these threats issued by non-supervisory employes, by stooges of the management.

Organizers who attempted to distribute leaflets at the plant gate were met with armed violence. A company union was established. Meetings were organized by non-supervisory employes and addressed by the general manager, who carefully refrained from using the word "union," but spoke in sinister terms of "Yankee influences" which were "threatening the tranquility of this gentle village.."

A heroic attempt was made by the employes under the Taft-Hartley Act to correct these unfair labor practices. The union filed charges. A complaint was issued in due course. A hearing was held with the speed that has come to characterize Taft-Hartlty administration—that is, about a year later.

No doubt the trial examiner fairly considered all the evidence and wrote his intermediate report in strict accordance with the Taft-Hartley Act. He found some acts to be unlawful and also recommended disestablishment of the company union. However, the kidnaping of organizers was not blamed on the company since the evidence showed that only non-supervisory employes had been involved.

The anti-union speech of the general manager to a captive audience was also held to be protected under the Taft-Hartley Act. The trial examiner said that the employe who admittedly was hired for the purpose of keeping strangers, and particularly union organizers, under surveillance was only an officious busybody and, since he was not a supervisory employe, the company could not be held responsible for his acts.

The Board followed these recmendations without exception. It issued a cease and desist order, requiring the employer to refrain from unlawful acts and to disestablish the company union. After the order was posted, new organizing efforts were made, but again the company engaged in practically the same acts of restraint, consisting of threats and promises and accompanied by violence of the sort usually associated with lynchings.

The paper cease and desist order fluttered in the breeze, totally ineffective either to protect the right of self-organization or to restrain the employer from unlawful acts.

Again the union complained to the Labor Board. A new investigation was conducted—the same old merry-go-round. A new complaint was issued. Presumably, at some unknown date in the remote future, a hearing will be held. Since the company makes practically no effort to defend itself against these charges, it is safe to presume that an intermediate report condemning the anti-union activities of the employer will be issued.

In due course, no doubt, the Board will again issue a cease and desist order. And it is safe to predict that it will flutter in the breeze just as ineffectively as scores of other Board orders are now fluttering in textile mills all over the South.

From our study of the Tallapoosa case and other cases of similar type, the situation in broad outline seems to be this in the Southern textile field: Employers continue to practice flagrant unfair labor acts, resorting to or permitting every anti-labor stratagem from subtle insinuation to armed violence. Organizers are kidnapped and beaten and expelled. Union leaders are threatened and attacked.

Where no union now exists, the employes are kept disorganized, and established unions are fighting for their very existence.

In spite of the pious phrases of Section I of the Taft-Hartley Act, Southern employes are being denied the rights which Congress has so solemnly declared they are entitled to exercise. The Tallapoosa case is illustrative of many in which the rights of labor are lynched by means of the fantastic red tape of the Taft-Hartley Act.

In the 1947 fight against the Taft-Hartley bill I repeatedly pointed out in the Senate that it would work great hardship in unorganized industries, I said it would enable a lawyer to take a case from any employer interested in keeping organization out of his shop on the understanding that the legal fee of the lawyer would not have to be paid unless the lawyer succeeded in his mission of frustrating organization. The textile industry in the South is a good example of the validity of this statement.

What most people don't understand about the Taft-Hartley Act is that it is honeycombed with provisions which permit any lawyer to engage in delay and delay and delay, with the result that organization is choked off eventually.

Let me cite another example which our investigations have brought to light showing how strong, alert unions may be destroyed, thanks to the Taft-Hartley Act.

During the war the Anchor-Rome Mill at Rome,Georgia, recognized a C.I.O. organization as the bargaining representative of its employes and entered into a contract with it. And again I give you the finding of our committee on the basis of testimony taken under oath. Under the contract, relations between the employer and the employes were good—in fact, excellent, as compared with relations in other Southern textile mills.

Right after the war the plant was acquired by a large textile chain which has had bad labor relations throughout its history in all of its plants. It immediately became apparent that the labor - management honeymoon was over, that henceforth an anti-union management would make a deliberate attempt to destroy the union. Conflict rapidly developed and the opposing parties squared off for a long and bitter struggle. In this state of affairs the Taft-Hartley Act was passed.

Now, in the old days, before the Norris-LaGuardia Act and the Wagner Act, the accepted technique for destroying a union was the importation of strike-breakers. Although that technique is still used, and in certain situations is highly practicable under the Taft-Hartley Act., it is no longer necessary except as a last resort.

Instead of plug-uglies, the smart anti-union employer now retains a smart lawyer versed in the technicalities of the Taft-Hartley Act.

One of the most vicious things about the Taft-Hartley Act is that—as some of us predicted—it is a makework project for labor lawyers. Its procedures are as devious, as complicated and as endless as astute lawyer could make them. Its language is so involved, its processes so tortuous, its contradictions so profound, that only a lawyer—and a lawyer specially trained with respect to its provisions — can ever hope to understand it and manipulate it. Shop stewards and union negotiators can't understand it. Management can't understand it. The inevitable result is that under the Taft-Hartley Act collective bargaining becomes an exercise in legal mumbo-jumbo between lawyers.

Now let us see what results this perverted legalism produced at Anchor-Rome Mill.

The old contract expired. The union asked for bargaining conferences. The management retained a skillful lawyer who smilingly agreed to meet for conference. Many meetings between the union and the company lawyer followed. The company lawyer resorted sometimes to postponement and sometimes to delay,but always in the end he was willing to meet. General discussions of the whole situation were had; details of the projected agreement were haggled over; the meaning of words was explored and re-explored; and the negotiations continued unabated like a sort of cyclone of words. But no agreement was reached. No agreement on a single item was ever reached. Days passed. Weeks passed. Months passed.

Now this is all possible because, while the Taft-Hartley Act provides, in Section 8 (a) (5), that refusal to bargain is unfair labor practice, it also provides in Section 8 (d) that the obligation to bargain collectively "does not compel either party to agree to a proposal or require the making of a concession."

Weird results have followed inevitably from this provision and its interpretation by the Board and the courts. Here is an example: At one so-called bargaining session of the Anchor-Rome Mill negotiators the company lawyer demanded that from the new contract there should be excluded the language specifying the company's duty to bargain "in respect to rates of pay, wages, hours of employment and other conditions of employment."

He also insisted that no check-off clause should be included, that there should be no preferential seniority for members of the general shop committee, that the company be given the right to make a unilateral determination as to what physical unfitness would constitute just grounds for discharge, that there be no leaves of absence for union business, no arbitration, etc., etc., etc. It is not only incredible but fantastic that in view of these undisputed facts, the trial examiner of the Labor Board was unable to find that the company had refused to bargain in good faith.

At the time these negotiations were going on there were suspensions and discharges of union members. There were many of the other practices which the La-Follette hearings made notorious. As to some of these, the Board found the employer responsible.

For example, during the negotiations and prior to the strike the company had secured pistol permits — "pistol-permits" they are called in Georgia—for some forty of its supervisory and semi-supervisory employes. It imported pistols and ammunition. It allowed employes to carry guns on and off the company property, and it blinked at, if it did not inspire, some shootings.

The trial examiner said that, since the strikers had not known of the obtaining of the permits, and the pistols, this conduct could not have influenced the minds of the strikers and therefore was not an unfair labor practice. To this even the Board demurred. Eventually the Board did issue a cease and desist order which the company duly posted upon the bulletin board. But while the order fluttered like the tattered banner of a lost cause, the company continued its anti-union activities, with deadly effectiveness. New charges were filed. Some day in the dim future the Board will undoubtedly issue another cease and desist order. But the important facts are that at Anchor-Rome Mill there is now no union, there are no union organizers and employes have either gently or violently, been deprived of their rights.

A great many such cases have been investigated by our subcommittee. They demonstrate why the Taft-Hartley Act, which purports to guarantee and make effective those rights, is a piece of legislative hypocrisy. I relate these facts merely as examples of why the democratic rights of self-organization and collective bargaining cannot thrive under the regime of the Taft-Hartley Act.

Our subcommittee has just completed a long investigation of how the Taft-Hartley Act operates in the telephone industry. We have listened to the leaders of labor unions and to the presidents and high officials of telephone companies spread from coast to coast.

There are many unions in the telephone industry. Some of them are A. F. of L. unions, some of them are C.I.O., some are independent. But in the management of the telephone companies we have found remarkable uniformity.

Union organization is compara-

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Glenn Russell Atkinson, assistant to the President of the Railway Clerks, AFL, now in London as Chief of the Labor Division, Special Mission to the United Kingdom and also labor attache to the U. S. Embassy.