National labor relations act.

STATEMENT OF ALMON E. ROTH ON
PROPOSED "NATIONAL LABOR RELATIONS ACT OF 1949"
(OFFICIAL TEXT)

(Note: The following statement was presented to the Senate Labor Committee February 4, 1949, by Almon E. Roth, president, San Francisco Employers Council.)

Mr. Chairman and Members of the Committee:

My name is Almon E. Roth. I am President of the San Francisco Employers Council, which is comprised of more than 2,000 employers who hold membership therein either as individuals or as members of constituent industry associations. I served as President of the Waterfront Employers Association of the Pacific Coast, and as President of the Pacific American Shipowners from March, 1937 to January 1, 1939. I served as an industry member of the National War Labor Board for approximately a year and a half and also as an industry representative on the President's Labor Management Conference, November, 1945.

At the outset I should like to say that I disagree most emphatically with Secretary Tobin's statement that the Labor Management Relations Act "has brought confusion to the field of labor relations". I am sure that the record will show that the Labor Management Relations Act has reduced industrial strife and has promoted the public welfare without infringement of any essential and legitimate rights of labor. During the first 4 months of 1947 immediately preceding passage of the Act there were 2958 strikes as against 2130 strikes for the same period in 1948. The Bureau of Labor Statistics reports that the average hourly earnings of all industry workers increased from $1.236 in August, 1947 to $1.363 September, 1948. Since the passage of the Act union membership has shown a gain of more than 500,000 members. Unions have also made great gains in improved working conditions and so-called fringe benefits such as holiday allowances, vacations, and participation in union welfare funds. When we consider that the majority of these gains were accomplished without strikes it is difficult to understand how any one can contend that the Taft-Hartley law created labor instability or interfered with collective bargaining processes. Since June, 1947, more than 2,000 collective bargaining agreements have been negotiated with a minimum of difficulty in San Francisco alone. Mr. Tobin has offered no facts in support of his charge that the Labor Management Relations Act has brought confusion to the field of labor relations for the perfectly obvious reason that the facts refute this charge.

The organization of which I am President deals with more than 300 labor unions. I can unhesitatingly say that the Act has contributed to improved labor relations in our area. It has been helpful in eliminating work stoppages and threatened boycotts. As an example, I cite the experience of the Foundry Industry in Northern California. Prior to the adoption of the Taft-Hartley Law, there was an average of one unauthorized work stoppage per month in this industry. Since the passage of the Taft-Hartley Law there has not been a single unauthorized work stoppage at the plant of any of the 60 members of the California Metal Trades Association.

CLOSED SHOP

In support of his contention that the Taft-Hartely Law has created industrial strife, Mr. Tobin states that the ban upon the closed shop "has resulted in the outlawing of collective bargaining agreements which had been mutually beneficial to both labor and management and had assisted in the maintenance of industrial peace for a period of over 100 years". It is true that the Taft-Hartley Law did outlaw the closed shop provisions of many contracts. It did not, however, outlaw the entire contracts or disrupt established relations between employers and unions operating under closed shop contracts.

February 8, 1949

SAN FRANCISCO EMPLOYERS COUNCIL
Dept. of Research and Analysis

More than 50% of our labor contracts in San Francisco contain the closed shop provision and approximately 40% contain the union shop provision. With very few exceptions all of these contracts have continued in operation, and as and when they terminated have been revised and extended in accordance with the law.

I agree that the requirement for elections to authorize a union shop where one already exists in most cases is an idle gesture, and I see no objection to amending the law to eliminate the necessity of an election after the first contract. In my judgment the transition from closed shop to union shop status has been accomplished with a minimum of industrial strife but with considerable grumbling on the part of labor leaders. My principle objection to the closed shop is that it gives the union leader or the hierarchy in control of the union a complete monopoly over work opportunity and deprives the employer of his right to select workers on the basis of competence and suitability. It converts a union into a political machine, in which each new worker is indebted to the officers in charge for his job.

In cases where the demand for the closed shop is enforced by the use of the secondary boycott the plain intent of the Wagner Act to permit self-determination of representation is often flaunted and nullified. The secondary boycott is such a powerful weapon that prior to the adoption of the Taft-Hartley Law in many cases no attempt was ever made to establish the right of representation. By threats or actual use of the secondary boycott a great many employers and especially small employers can be forced to grant closed shops irrespective of and often contrary to the wishes of their employees. The employers only choice is to sign or face ruin by having his principal suppliers or customers taken from him.

INJUNCTIONS AND LABOR DISPUTES

Mr. Tobin lays great emphasis upon the evils of labor injunctions. He does not, however, refer to our experiences under the Taft-Hartley Law, or cite any facts to indicate that labor has been treated unfairly or injured by the carefully restricted use of the injunction which the Taft-Hartley Law authorized. Instead he refers to our experiences in this country prior to the adoption of the Norris-Laguardia Act. The records show that the injunctive remedy provided for in the Taft-Hartley Law has rarely been used. Injunctions under the Taft-Hartley Law have been issued in only 21 cases. In 6 of these cases the injunction was granted at the request of the President to prevent national emergency strikes. In all cases injunctions were issued only after full and impartial investigation of the facts and upon application of the Attorney General or the General Counsel of the National Labor Relations Board. It should be noted that the Taft-Hartley Law makes no provision for injunctions on the application of private parties. It is not fair to cite pre-Norris Laguardia Act experiences, for the situation prevailing at that time was vastly different from that which prevails under the Taft-Hartley Law.

SECONDARY BOYCOTTS

The use of secondary boycotts has been vigorously condemned by the public as an unjustifiable labor weapon. President Truman himself has characterized secondary boycotts as "unjustifiable practices and abuses". He has, however, limited his condemnation to secondary boycotts "when used to further jurisdiction disputes or to compel employers to violate the National Labor Relations Act". The Secretary of Labor has referred to "justifiable" secondary boycotts. Personally, I know of no union cause which justifies wilful injury to innocent third parties. If there are any justifiable uses for the secondary boycott they should be spelled out in this Bill and supported by evidence of their justification. Secretary Tobin complains that the ban against secondary boycotts has interfered with labor's organizational efforts.

Of course it has. It was intended to curb certain excessive and unjustifiable uses of power by labor and in so doing has well served the public interest and protected innocent third parties.

I submit that there can be no possible justification for the use of a secondary boycott to force recognition of a union. The law provides a method for obtaining certification through orderly processes and it protects the union against any unfair practices by an employer which might interfere with its legitimate organizational efforts. As I have already stated, the use of the secondary boycott to enforce complusory membership in a labor union without proof of authority to represent the majority of employees clearly violates the purpose and intent of the Wagner Act, which is to guarantee workers the right of self-determination of their authorized collective bargaining agent. I know of no reason why the aims of union organizers should be paramount to the rights of innocent third parties, or why such leaders should be vested with power to inflict injury upon innocent third parties with impunity.

The use of the secondary boycott against canners, dairies and other food processing plants prior to the adoption of the Taft-Hartley Law resulted in critical losses of food supplies. It puts the farmers at the mercy of ambitious labor organizers who seek to organize transit farm labor. If the provisions of this Bill are adopted in the present form you can expect widespread use of this lazy man's method of organizing unions. Furthermore, we shall see a revival of the indefensible practice of imposing feather bedding and make work restrictions upon industry through the use of secondary boycotts.

If the law is passed in its present form without any requirement that unions, as well as employers bargain in good faith, the secondary boycott will again be used to impose unilaterial terms and conditions of employment upon employers and workers without any pretense at collective bargaining.

The hearings before both this Committee and the House Committee on Education and Labor of the 80th Congress contain much evidence concerning the abusive use of the secondary boycott. By way of reference I refer you to the testimony in Volume 4, beginning at page 2045 of the hearings before the Committee on Education and Labor and evidence in the hearings before your own Committee beginning on page 185, Part 1. The Taft-Hartley Law has unquestionably acted as an effective deterent to the unjustifiable use of the secondary boycott and in this respect has been a most stabilizing influence in the field of labor relations.

UNITED STATES CONCILIATION SERVICE

I have dealt personally with the Conciliation Service for some 12 years and during that time the organizations of which I have been President have employed the services of that Department in approximately 300 instances. I have discussed the work of the Conciliation Service with hundreds of employers and employer representatives. As a result of these experiences I strongly urge that the Conciliation Service be continued as an independent agency for the following reasons:

1. The effectiveness of the Conciliation Service depends in a large measure upon its reputation for impartiality.

2. An agency which is operated under the direction of the Secretary of Labor who is charged by law with the duty of promoting the interests of labor, in the very nature of things cannot be regarded by employers as impartial. The crux of the matter is not whether Mr. Tobin or any other Secretary of Labor is fair and impartial but whether he is so regarded by employers. The very nature of Conciliation Service requires that both parties have the utmost confidence in the conciliator and that they be willing to deal with him on a confidential basis.

It is my opinion, and that of employers very generally, that the effectiveness of the Conciliation Service has increased since the Department has enjoyed an independent status.

The test of the effectiveness of the Conciliation Service is not the number of cases handled before its separation from the Labor Department compared to those which have been handled since. Obviously there have been fewer disputes during the past year and a half than there were previous to the adoption of the Taft-Hartley Law, which invalidates the numerical comparison of cases handled. Furthermore, prompt and willing acceptance of the Conciliation Service is a most important factor in its effectiveness. I know from personal experience that it has often been difficult under the former set-up to persuade employers to accept conciliation or to extend their confidence to the field representatives of the Conciliation Service. This reluctance on the part of employers has often resulted in needless delays with resultant losses to employers, workers and the public. I speak as one who has always enjoyed a cordial relationship with the Labor Department and who has cooperated with it to the fullest extent possible. I concur in and endorse the reasons which Mr. Cyrus Ching has presented to the Committee in support of his contention that the Conciliation Service should operate as an independent agency.

NATIONAL EMERGENCIES

I favor the retention of the present provision of the Labor Management Relations Act relating to national emergency strikes with some modifications, which I shall later mention for the following reasons.

1. The provisions of the present law have been in effect for too short a time to fairly appraise their effectiveness. We should give them a more extended trial before it is determined whether or not they should be radically revised.

2. The present procedures have proven reasonably effective. In only 1 out of 7 cases where they were employed by the President, have they failed to prevent a national strike. This is a rather impressive record of effectiveness. I see no objection to the elimination of the requirement for the vote on the employers last offer. I also see no objection to the elimination of the Board of Inquiry. So far as I can observe the efforts of such Boards have contributed little to the settlement of disputes and in some instances they have no doubt interfered with the process of conciliation, as testified by Mr. Ching. I believe that the President should be granted authority to ask for an extension of the cooling off period and for the establishment of an additional cooling off period in cases where, in his judgment, such an extension or a new cooling off period is advisable. I believe that the very possibility that the President might ask for an extension of the cooling off period and the maintenance of the status quo would act as a stimulant for the settlement of disputes. In some instances new issues may arise after the cooling off period has expired and a strike has been called. This was true in the recent maritime strike. I sincerely believe that if the President had secured an extension or a renewal of the injunction in that case we would have been able to work out a settlement without the hardship and losses resulting from that strike.

I do not believe that the procedures for dealing with national emergencies provided for in this Bill will prove effective for the following reasons.

1. The Bill provides no effective method for delaying a strike. It is naive to expect that all labor leaders will respect the President's Proclamation which amounts to nothing more than a request that they maintain the status quo.

2. The provisions for fact finding would be unsatisfactory. In practice the employer would be under great compulsion to accept the Board's findings whereas labor unions, if we can judge by past experiences, would be likely to disregard the recommendations.

We had such experiences with fact finding in the railroad industry. In other words, in practice the process would likely be a one way street. Neither do I favor compulsory arbitration.

It seems to me to be somewhat paradoxical that this Bill avoids the use of the injunctive process dealing with national emergency strikes and yet incorporates the remedy of injunctive relief by giving the courts authority to enforce cease and desist orders relating to jurisdictional disputes. In the latter case the so-called "absolute right of labor to strike" is certainly abridged. I must admit, however, that the process of enforcing cease and desist orders is so involved and so slow that its effectiveness has been greatly minimized. The principle involved is the same in both cases.

NON-COMMUNIST AFFIDAVIT

In his prepared statement Mr. Tobin has refrained from any comment on the merits of the non-Communist affidavit requirement and many other meritorious provisions of the Taft-Hartley Law which have been omitted from this Bill. Included among the items which have been so omitted are the restraint against intimidation of workers, requirements for filing by unions of financial statements, the requirement that unions bargain collectively in good faith, the so-called freedom of speech for employers provisions and others. I think it is a fair assumption that no attempt was made to justify the repeal of these desirable features because their deletion from a fairly balanced labor relations act cannot be justified.

Limitations of time will not permit me to discuss all of these provisions which have been widely acclaimed by the public. I should like, however, to refer briefly to the requirements for filing a non-Communist affidavit. It is generally recognized by both the public and labor that this requirement has had a most helpful and salutory effect in pointing up and stimulating the efforts of unions to rid themselves of Communist influences. This provision has served to earmark Communists who have infiltrated into union leadership and encouraged the rank and file of union members to "clean house". As evidence of the progress which has been made by labor unions in this direction under the stimulus furnished by this provision of the Taft-Hartley Law, I should like to submit for the records a resume of reports from union publications and other sources outlining specific cases in which unions have taken action to rid themselves of Communist influences and leadership. This list is by no means complete but it does cover 21 typical cases.

REORGANIZATION OF THE NATIONAL LABOR RELATIONS BOARD.

It has been our experience on the Pacific Coast that the separation of the judicial and prosecutor functions of the National Labor Relations Board has increased its effectiveness and its prestige. The employers that I represent, and I believe employers generally, strongly favor the retention of the present setup of the National Labor Relations Board.