

Veto of the Taft-Hartley Labor Bill

June 20, 1947

To the House of Representatives:

I return herewith, without my approval, H.R. 3020, the "Labor Management Relations Act, 1947."

I am fully aware of the gravity which attaches to the exercise by the president of his constitutional power to withhold his approval from an enactment of the Congress.

I share with the Congress the conviction that legislation dealing with the relations between management and labor is necessary. I heartily condemn abuses on the part of unions and employers, and I have no patience with stubborn insistence on private advantage to the detriment of the public interest.

But this bill is far from a solution of those problems.

When one penetrates the complex, interwoven provisions of this omnibus bill, and understands the real meaning of its various parts, the result is startling.

The bill taken as a whole would reverse the basic direction of our national labor policy, inject the Government into private economic affairs on an unprecedented scale, and conflict with important principles of our democratic society. Its provisions would cause more strikes, not fewer. It would contribute neither to industrial peace nor to economic stability and progress. It would be a dangerous stride in the direction of a totally managed economy. It contains seeds of discord which would plague this Nation for years to come.

Because of the far-reaching import of this bill, I have weighed its probable effects against a series of fundamental considerations. In each case I find that the bill violates principles essential to our public welfare.

I. The first major test which I have applied to this bill is whether it would result in more or less Government intervention in our economic life.

Our basic national policy has always been to establish by law standards of fair dealing and then to leave the working of the economic system to the free choice of individuals. Under that policy of economic freedom we have built our nation's productive strength. Our people have deep faith in industrial self-government with freedom of contract and free collective bargaining.

I find that this bill is completely contrary to that national policy of economic freedom. It would require the Government, in effect, to become an unwanted participant at every bargaining table. It would establish by law limitations on the terms of every bargaining agreement, and nullify thousands of agreements mutually arrived at and satisfactory to the parties. It would inject the Government deeply into the process by which employers and workers reach agreement. It would superimpose bureaucratic procedures on the free decisions of local employers and employees.

At a time when we are determined to remove, as rapidly as practicable, Federal controls established during the war, this bill would involve the Government in the free processes of our economic system to a degree unprecedented in peacetime.

This is a long step toward the settlement of economic issues by government dictation. It is an indication that industrial relations are to be determined in the halls of Congress, and that political power is to supplant economic power as the critical factor in labor relations.

II. The second basic test against which I have measured this bill is whether it would improve human relations between employers and their employees.

Cooperation cannot be achieved by force of law. We cannot create mutual respect and confidence by legislative fiat.

I am convinced that this legislation overlooks the significance of these principles. It would encourage distrust, suspicion, and arbitrary attitudes.

I find that the National Labor Relations Act would be converted from an instrument with the major purpose of protecting the right of workers to organize and bargain collectively into a maze of pitfalls and complex procedures. As a result of these complexities employers and workers would find new barriers to mutual understanding.

The bill time and again would remove the settlement of differences from the bargaining table to courts of law. Instead of learning to live together, employers and unions are invited to engage in costly, time-consuming litigation, inevitably embittering both parties.

The Congress has, I think, paid too much attention to the inevitable frictions and difficulties incident to the reconversion period. It has ignored the unmistakable evidence that those difficulties are receding and that labor-management cooperation is constantly improving. There is grave danger that this progress would be nullified through enactment of this legislation.

III. A third basic test is whether the bill is workable.

There is little point in putting laws on the books unless they can be executed. I have concluded that this bill would prove to be unworkable. The so-called "emergency procedure" for critical nation-wide strikes would require an immense amount of government effort but would result almost inevitably in failure. The National Labor Relations Board would be given many new tasks, and hobbled at every turn in attempting to carry them out. Unique restrictions on the Board's procedures would so greatly increase the backlog of unsettled cases that the parties might be driven to turn in despair from peaceful procedures to economic force.

IV. The fourth basic test by which I have measured this bill is the test of fairness.

The bill prescribes unequal penalties for the same offense. It would require the National Labor Relations Board to give priority to charges against workers over related charges against employers. It would discriminate against workers by arbitrarily penalizing them for all critical strikes.

Much has been made of the claim that the bill is intended simply to equalize the positions of labor and management. Careful analysis shows that this claim is unfounded. Many of the provisions of the bill standing alone seem innocent but, considered in relation to each other, reveal a consistent pattern of inequality.

The failure of the bill to meet these fundamental tests is clearly demonstrated by a more detailed consideration of its defects.

1. The bill would substantially increase strikes.

(1) It would discourage the growing willingness of unions to include "no strike" provisions in bargaining agreements, since any labor organization signing such an agreement would expose itself to suit for contract violation if any of its members engaged in an unauthorized "wildcat" strike.

(2) It would encourage strikes by imposing highly complex and burdensome reporting requirements on labor organizations which wish to avail themselves of their rights under the National Labor Relations Act. In connection with these reporting requirements, the bill would penalize unions for any failure to comply, no matter how inconsequential, by denying them all rights under the Act. These provisions, which are irrelevant to the major purposes of the bill, seem peculiarly designed to place obstacles in the way of labor organizations which wish to appeal to the National Labor Relations Board for relief, and thus to impel them to strike or take other direct action.

(3) It would bring on strikes by depriving significant groups of workers of the right they now enjoy to organize and to bargain under the protection of law. For example, broad groups of employees who for purposes of the Act would be classed as supervisors would be removed from the protection of the Act. Such groups would be prevented from using peaceful machinery and would be left no option but the use of economic force.

(4) The bill would force unions to strike or to boycott if they wish to have a jurisdictional dispute settled by the National Labor Relations Board. This peculiar situation results from the fact that the Board is given authority to determine jurisdictional disputes over assignment of work only after such disputes have been converted into strikes or boycotts.

In addition to these ways in which specific provisions of the bill would lead directly to strikes, the cumulative effect of many of its other provisions which disrupt established relationships would result in industrial strife and unrest.

2. The bill arbitrarily decides, against the workers, certain issues which are normally the subject of collective bargaining, and thus restricts the area of voluntary agreement.

(1) The bill would limit the freedom of employers and labor organizations to agree on methods of developing responsibility on the part of unions by establishing union security. While seeming to preserve the right to agree to the union shop, it would place such a multitude of obstacles in the way of such agreement that union security and responsibility would be largely cancelled.

In this respect, the bill disregards the voluntary developments in the field of industrial relations in the United States over the past 150 years. Today over eleven million workers are employed under some type of union security contract. The great majority of the plants which have such union security provisions have had few strikes. Employers in such plants are generally strong supporters of some type of union security, since it gives them a greater measure of stability in production.

(2) The bill would limit the freedom of employers and employees to establish and maintain welfare funds. It would prescribe arbitrary methods of administering them and rigidly limit the purposes for which they may be used. This is an undesirable intrusion by the Government into an important matter which should be the subject of private agreement between employers and employees.

(3) The bill presents a danger that employers and employees might be prohibited from agreeing on safety provisions, rest period rules, and many other legitimate practices, since such practices may fall under the language defining "feather-bedding."

3. The bill would expose employers to numerous hazards by which they could be annoyed and hampered.

(1) The bill would invite frequent disruption of continuous plant production by opening up immense possibilities for many more elections, and adding new types of elections. The bill would invite electioneering for changes in representatives and for union security. This would harass employers in their production efforts and would generate raiding and jurisdictional disputes. The National Labor Relations Board has been developing sound principles of stability on these matters. The bill would overturn these principles to the detriment of employers.

(2) The bill would complicate the collective bargaining process for employers by permitting--and in some cases requiring--the splitting up of stable patterns of representation. Employers would be harassed by having to deal with many small units. Labor organizations would be encouraged to engage in constant inter-union warfare, which could result only in confusion.

(3) The bill would invite unions to sue employers in the courts regarding the thousands of minor grievances which arise every day over the interpretation of bargaining agreements. Employers are likely to be besieged by a multiplicity of minor suits, since management necessarily must take the initiative in applying the terms of agreements. In this respect, the bill ignores the fact that employers and unions are in wide agreement that the interpretation of the provisions of bargaining agreements should be submitted to the processes of negotiation ending in voluntary arbitration, under penalties prescribed in the agreement itself. This is one of the points on which the National Labor-Management Conference in November, 1945, placed special emphasis. In introducing damage suits as a possible substitute for grievance machinery, the bill rejects entirely the informed wisdom of those experienced in labor relations.

(4) The bill would prevent an employer from freely granting a union shop contract, even where he and virtually his entire working force were in agreement as to its desirability. He would be required to refrain from agreement until the National Labor Relations Board's workload permitted it to hold an election--in this case simply to ratify an unquestioned and legitimate agreement.

Employers, moreover, would suffer because the ability of unions to exercise responsibility under bargaining agreements would be diminished. Labor organizations whose disciplinary authority is weakened cannot carry their full share of maintaining stability of production.

4. The bill would deprive workers of vital protection which they now have under the law.

(1) The bill would make it easier for an employer to get rid of employees whom he wanted to discharge because they exercised their right of self-organization guaranteed by the Act. It would permit an employer to dismiss a man on the pretext of a slight infraction of shop rules, even though his real motive was to discriminate against this employee for union activity.

(2) The bill would also put a powerful new weapon in the hands of employers by permitting them to initiate elections at times strategically advantageous to them. It is significant that employees on economic strike who may have been replaced are denied a vote. An employer could easily thwart the will of his employees by raising a question of representation at a time when the union was striking over contract terms.

(3) It would give employers the means to engage in endless litigation, draining the energy and resources of unions in court actions, even though the particular charges were groundless.

(4) It would deprive workers of the power to meet the competition of goods produced under sweatshop conditions by permitting employers to halt every type of secondary boycott, not merely those for unjustifiable purposes.

(5) It would reduce the responsibility of employers for unfair labor practices committed in their behalf. The effect of the bill is to narrow unfairly employer liability for anti-union acts and statements made by persons who, in the eyes of the employees affected, act and speak for management, but who may not be "agents" in the strict legal sense of that term.

(6) At the same time it would expose unions to suits for acts of violence, wildcat strikes and other actions, none of which were authorized or ratified by them. By employing elaborate legal doctrine, the bill applies a superficially similar test of responsibility for employers and unions--each would be responsible for the acts of his "agents." But the power of an employer to control the acts of his subordinates is direct and

final. This is radically different from the power of unions to control the acts of their members--who are, after all, members of a free association.

5. The bill abounds in provisions which would be unduly burdensome or actually unworkable.

(1) The bill would erect an unworkable administrative structure for carrying out the National Labor Relations Act. The bill would establish, in effect, an independent General Counsel and an independent Board. But it would place with the Board full responsibility for investigating and determining election cases--over 70 per cent of the present case load--and at the same time would remove from the Board the authority to direct and control the personnel engaged in carrying out this responsibility.

(2) It would invite conflict between the National Labor Relations Board and its General Counsel, since the General Counsel would decide, without any right of appeal by employers and employees, whether charges were to be heard by the Board, and whether orders of the Board were to be referred to the Court for enforcement. By virtue of this unlimited authority, a single administrative official might usurp the Board's responsibility for establishing policy under the Act.

(3) It would straitjacket the National Labor Relations Board's operations by a series of special restrictions unknown to any other quasi-judicial agency. After many years of study, the Congress adopted the Administrative Procedures Act of 1946 to govern the operation of all quasi-judicial agencies, including the National Labor Relations Board. This present bill disregards the Procedures Act and, in many respects, is directly contrary to the spirit and letter of that Act. Simple and time-saving procedures, already established and accepted as desirable by employers and employees, would be summarily scrapped. The Board itself, denied the power of delegation, would be required to hear all jurisdictional disputes over work tasks. This single duty might require a major portion of the Board's time. The review function within the Board, largely of a non-judicial character, would be split up and assigned to separate staffs attached to each Board member. This would lead to extensive and costly duplication of work and records.

(4) The bill would require or invite government supervised elections in an endless variety of cases. Questions of the bargaining unit, of representatives, of union security, of bargaining offers, are subject to election after election, most of them completely unnecessary. The National Labor Relations Board has had difficulty conducting the number of elections required under present law. This bill would greatly multiply this load. It would in effect impose upon the Board a five-year backlog of election cases, if it handled them at its present rate.

(5) The bill would introduce a unique handicap, unknown in ordinary law, upon the use of statements as evidence of unfair labor practices. An anti-union statement by an employer, for example, could not be considered as evidence of motive, unless it contained an explicit threat of reprisal or force or promise of benefit. The bill would make it an unfair labor practice to "induce or encourage" certain types of strikes and boycotts--and then would forbid the National Labor Relations Board to consider as evidence "views, argument or opinion" by which such a charge could be proved.

(6) The bill would require the Board to "determine" jurisdictional disputes over work tasks, instead of using arbitration, the accepted and traditional method of settling such disputes. In order to get its case before the Board a union must indulge in a strike or a boycott and wait for some other party to allege that it had violated the law. If the Board's decision should favor the party thus forced to violate the law in order that its case might be heard, the Board would be without power over other parties to the dispute to whom the award might be unacceptable.

(7) The bill would require the Board to determine which employees on strike are "entitled to reinstatement" and hence would be eligible to vote in an election held during a strike. This would be an impossible task, since it would require the Board arbitrarily to decide which, if any, of the employees had been replaced and therefore should not be allowed to vote.

6. The bill would establish an ineffective and discriminatory emergency procedure for dealing with major strikes affecting the public health or safety.

This procedure would be certain to do more harm than good, and to increase rather than diminish widespread industrial disturbances. I am convinced that the country would be in for a bitter disappointment if these provisions of the bill became law.

The procedure laid down by the bill is elaborate. Its essential features are a Presidential board of inquiry, a waiting period of approximately 80 days (enforced by injunction) and a secret ballot vote of the workers on the question of whether or not to accept their employer's last offer.

At the outset a board of inquiry would be required to investigate the situation thoroughly, but would be specifically forbidden to offer its informed judgment concerning a reasonable basis for settlement of the dispute. Such inquiry therefore would serve merely as a sounding board to dramatize the respective positions of the parties.

A strike or lockout might occur before the board of inquiry could make its report, and perhaps even before the board could be appointed. The existence of such a strike or lockout would hamper the board in pursuing its inquiry. Experience has shown that fact-finding, if it is to be most effective as a device for settlement of labor disputes, should come before the men leave their work, not afterwards. Furthermore an injunction issued after a strike has started would arouse bitter resentment which would not contribute to agreement.

If the dispute had not been settled after 60 days of the waiting period, the National Labor Relations Board would be required to hold a separate election for the employees of each employer to find out whether the workers wished to accept the employer's last offer, as stated by him. Our experience under the War Labor Disputes Act showed conclusively that such an election would almost inevitably result in a vote to reject the employer's offer, since such action amounts to a vote of confidence by the workers in their bargaining representatives. The union would then be reinforced by a dramatic demonstration, under Government auspices, of its strength for further negotiations.

After this elaborate procedure the injunction would then have to be dissolved, the parties would be free to fight out their dispute, and it would be mandatory for the President to transfer the whole problem to the Congress, even if it were not in session. Thus, major economic disputes between employers and their workers over contract terms might ultimately be thrown into the political arena for disposition. One could scarcely devise a less effective method for discouraging critical strikes.

This entire procedure is based upon the same erroneous assumptions as those which underlay the strike-vote provision of the War Labor Disputes Act, namely, that strikes are called in haste as the result of inflamed passions, and that union leaders do not represent the wishes of the workers. We have learned by experience, however, that strikes in the basic industries are not called in haste, but only after long periods of negotiation and serious deliberation; and that in the secret-ballot election the workers almost always vote to support their leaders.

Furthermore, a fundamental inequity runs through these provisions. The bill provides for injunctions to prohibit workers from striking, even against terms dictated by employers after contracts have expired. There is no provision assuring the protection of the rights of the employees during the period they are deprived of the right to protect themselves by economic action.

In summary, I find that the so-called "emergency procedure" would be ineffective. It would provide for clumsy and cumbersome government intervention; it would authorize inequitable injunctions; and it would probably culminate in a public confession of failure. I cannot conceive that this procedure would aid in the settlement of disputes.

7. The bill would discriminate against employees.

(1) It would impose discriminatory penalties upon employers and employees for the same offense, that of violating the requirement that existing agreements be maintained for 60 days without strike or lockout while a new agreement is being negotiated. Employers could only be required to restore the previous conditions of employment, but employees could be summarily dismissed by the employer.

(2) The bill would require the Board to seek a temporary restraining order when labor organizations had been charged with boycotts or certain kinds of jurisdictional strikes. It would invite employers to find any pretext for arguing that "an object" of the union's action was one of these practices, even though the primary object was fully legitimate. Moreover, since these cases would be taken directly into the courts, they necessarily would be settled by the judiciary before the National Labor Relations Board had a chance to decide the issue. This would thwart the entire purpose of the National Labor Relations Act in establishing the Board, which purpose was to confer on the Board, rather than the courts, the power to decide complex questions of fact in a special field requiring expert knowledge. This provision of the bill is clearly a backward step toward the old abuses of the labor injunction. No similar provision directed against employers can be found in the bill.

(3) The bill would also require the Board to give priority in investigating charges of certain kinds of unfair labor practices against unions, even though such unfair labor practices might have been provoked by those of the employer. Thus the bill discriminates, in this regard, in the relief available to employers and unions.

(4) It would impose on labor organizations, but not on employers, burdensome reporting requirements which must be met before any rights would be available under the Act.

(5) In weakening the protections afforded to the right to organize, contrary to the basic purpose of the National Labor Relations Act, the bill would injure smaller unions far more than larger ones. Those least able to protect themselves would be the principal victims of the bill.

8. The bill would disregard in important respects the unanimous convictions of employer and labor representatives at the National Labor-Management Conference in November, 1945.

(1) One of the strongest convictions expressed during the Conference was that the Government should withdraw from the collective bargaining process, now that the war emergency is over, and leave the determination of working conditions to the free agreement of the parties. This bill proceeds in exactly the opposite direction. In numerous ways the bill would unnecessarily intrude the Government into the process of reaching free decisions through bargaining. This intrusion is precisely what the representatives of management and labor resented.

(2) A unanimous recommendation of the Conference was that the Conciliation Service should be strengthened within the Department of Labor. But this bill removes the Conciliation Service from the Department of Labor. The new name for the Service would carry with it no new dignity or new functions. The evidence does not support the theory that the conciliation function would be better exercised and protected by an independent agency outside the Department of Labor. Indeed, the Service would lose the important day-to-day support of factual research in industrial relations available from other units of the Department. Furthermore, the removal of the Conciliation Service from the Department of Labor would be contrary to the praiseworthy policy of the Congress to centralize related governmental units within the major government departments.

9. The bill raises serious issues of public policy which transcend labor-management difficulties.

(1) In undertaking to restrict political contributions and expenditures, the bill would prohibit many legitimate activities on the part of unions and corporations. This provision would prevent the ordinary

union newspaper from commenting favorably or unfavorably upon candidates or issues in national elections. I regard this as a dangerous intrusion on free speech, unwarranted by any demonstration of need, and quite foreign to the stated purposes of this bill.

Furthermore, this provision can be interpreted as going far beyond its apparent objectives, and as interfering with necessary business activities. It provides no exemption for corporations whose business is the publication of newspapers or the operation of radio stations. It makes no distinctions between expenditures made by such corporations for the purpose of influencing the results of an election, and other expenditures made by them in the normal course of their business "in connection with" an election. Thus it would raise a host of troublesome questions concerning the legality of many practices ordinarily engaged in by newspapers and radio stations.

(2) In addition, in one important area the bill expressly abandons the principle of uniform application of national policy under Federal law. The bill's stated policy of preserving some degree of union security would be abdicated in all States where more restrictive politics exist. In other respects the bill makes clear that Federal policy would govern insofar as activities affecting commerce are concerned. This is not only an invitation to the States to distort national policy as they see fit, but is a complete forsaking of a long-standing Constitutional principle.

(3) In regard to Communists in unions, I am convinced that the bill would have an effect exactly opposite to that intended by the Congress. Congress intended to assist labor organizations to rid themselves of Communist officers. With this objective I am in full accord. But the effect of this provision would be far different. The bill would deny the peaceful procedures of the National Labor Relations Act to a union unless all its officers declared under oath that they were not members of the Communist party and that they did not favor the forceful or unconstitutional overthrow of the Government. The mere refusal by a single individual to sign the required affidavit would prevent an entire national labor union from being certified for purposes of collective bargaining. Such a union would have to win all its objectives by strike, rather than by orderly procedure under the law. The union and the affected industry would be disrupted for perhaps a long period of time while violent electioneering, charges and counter-charges split open the union ranks. The only result of this provision would be confusion and disorder, which is exactly the result the Communists desire.

This provision in the bill is an attempt to solve difficult problems of industrial democracy by recourse to oversimplified legal devices. I consider that this provision would increase, rather than decrease, disruptive effects of Communists in our labor movement.

The most fundamental test which I have applied to this bill is whether it would strengthen or weaken American democracy in the present critical hour. This bill is perhaps the most serious economic and social legislation of the past decade. Its effects--for good or ill--would be felt for decades to come.

I have concluded that the bill is a clear threat to the successful working of our democratic society.

One of the major lessons of recent world history is that free and vital trade unions are a strong bulwark against the growth of totalitarian movements. We must, therefore, be everlastingly alert that in striking at union abuses we do not destroy the contribution which unions make to our democratic strength.

This bill would go far toward weakening our trade union movement. And it would go far toward destroying our national unity. By raising barriers between labor and management and by injecting political considerations into normal economic decisions, it would invite them to gain their ends through direct political action. I think it would be exceedingly dangerous to our country to develop a class basis for political action.

I cannot emphasize too strongly the transcendent importance of the United States in the world today as a force for freedom and peace. We cannot be strong internationally if our national unity and our productive

strength are hindered at home. Anything which weakens our economy or weakens the unity of our people--as I am thoroughly convinced this bill would do--I cannot approve.

In my message on the State of the Union which I submitted to the Congress in January, 1947, I recommended a step-by-step approach to the subject of labor legislation. I specifically indicated the problems which we should treat immediately. I recommended that, before going on to other problems, a careful, thorough and nonpartisan investigation should be made, covering the entire field of labor-management relations.

The bill now before me reverses this procedure. It would make drastic changes in our national labor policy first, and would provide for investigation afterward.

There is still a genuine opportunity for the enactment of appropriate labor legislation this session. I still feel that the recommendations which I expressed in the State of the Union Message constitute an adequate basis for legislation which is moderate in spirit and which relates to known abuses.

For the compelling reasons I have set forth, I return H.R. 3020 without my approval.

HARRY S. TRUMAN

Note: On June 23 the Congress passed the bill over the President's veto. As enacted, H.R. 3020 is Public Law 101, 80th Congress (61 Stat. 136).

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