CHAPTER THREE

First Taft-Hartley Board (from left): Abe Murdock, John M. Houston, Chairman Paul M. Herzog, James F. Reynolds, Jr., and J. Copeland Gray.

The Taft-Hartley Act Years, 1947-1959

Sweeping Changes

THE CHANGES brought by Taft-Hartley were sweeping, affecting the structure of the Board and its administration, as well as the unfair labor practice provisions and representation election provisions of the law.

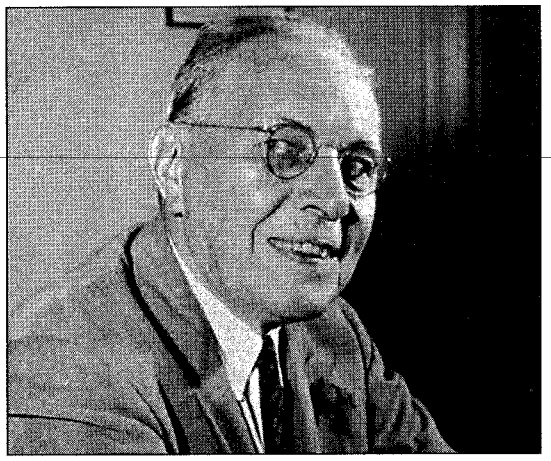
The Act created an independent NLRB general counsel to be appointed by the President, subject to Senate confirmation. The general counsel would act as a prosecutor and supervise the agency's attorneys, except those on the staffs of individual Board members and the trial examiners.

For 12 years, management groups had criticized the Board's seeming dual role as prosecutor and judge. Under Taft-Hartley, the general counsel was to act as a prosecutor separate from and independent of the Board, which would continue its judicial functions.

The Board was expanded from three to five members and authorized to sit in panels of three members to discharge its responsibilities.

The Board's old review section, the group of lawyers who drafted the decisions for all the members, was abolished. Management groups had accused the section of having a pro-labor bias. Instead, the new law provided that each member would have a personal staff of attorneys to work on pending cases.

The Board was precluded from engaging in economic analysis under Taft-Hartley. Actually, the Board had abolished the Division of Economic Research in 1940.



Robert N. Denham, first NLRB General Counsel under Taft-Hartley Act.

Labor Policy Preserved

CONGRESS PRESERVED the Wagner Act's national labor policy language encouraging collective bargaining, but added language that certain practices by unions that impair the free flow of commerce should be eliminated.

Section 7 was retained intact in the revised law, but new language was added to provide that employees had the right "to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment...."

Union Unfair Labor Practices

TAFT-HARTLEY defined six additional unfair labor practices, reflecting Congress' perception that some union conduct also needed correction. The Act was amended to protect employees' rights from these unfair practices by unions.

The amendments protected employees' Section 7 rights from restraint or coercion by unions, and said that unions could not cause an employer to discriminate against an employee for exercising Section 7 rights. They declared the closed shop illegal, but provided that employers could sign a union shop agreement under which employees could be required to join the union on or after the 30th day of employment.

The amendments also imposed on unions the same obligation to bargain in good faith that the Wagner Act had placed on employers. They prohibited secondary boycotts, making it unlawful for a union that has a primary dispute with one employer to pressure a neutral employer to stop doing business with the first employer.

Unions were prohibited from charging excessive dues or initiation fees, and from "featherbedding," or causing an employer to pay for work not performed. The new law contained a "free speech clause," providing that the expression of views, arguments or opinions shall not be evidence of an unfair labor practice absent the threat of reprisal or promise of benefit.

Election Provisions

SEVERAL SIGNIFICANT changes were made for representation elections. Supervisors were excluded from bargaining units, and the Board had to give special treatment to professional employees, craftsmen and plant guards in determining appropriate bargaining units.

Congress also added four new types of elections. The first permitted employers faced with a union's demand for recognition to seek a Board-conducted election. The other three enabled employees to obtain elections to determine whether to oust incumbent unions, whether to grant to unions authority to enter into a union shop agreement, or whether to withdraw union shop authorization previously granted. (The provisions authorizing the union shop elections were repealed in 1951).

1

2

1. Ford workers line up to vote in NLRB election at River Rouge plant, Dearborn, Mich., April 1942.

2. National Maritime Union seamen protest federal injunction restraining strike, June 1948.

Drive for Repeal

Textile Workers' Union meeting, 1947.

From the beginning, labor sought repeal of Taft-Hartley. Repeal was a major issue in the 1948 Presidential campaign, but despite Truman's upset victory, the labor-led repeal movement failed.

Ida Klaus, one of the Agency's Review Attorneys in the late 1930s, was Solicitor for the period 1948-1954.

NLRB's Work: 1935-1947

During the 12-year period from the passage of the Wagner Act in 1935 to the Taft-Hartley amendments in 1947, the Board had developed an impressive record:

- More than 105,000 cases were filed with the agency, 60,000 of which involved representation questions and 45,000 of which involved allegations of unfair labor practices.
- The Board disposed of 43,556 unfair labor practice charges and 57,852 representation proceedings, for a total of 101,408 cases.
- Some 300,000 workers who were found to have suffered discrimination in violation of the Act were reinstated in their jobs.
- Almost 41,000 workers received back pay, totaling nearly $12,560,000.
- More than 1,700 company unions, found to be employer-controlled, were disestablished.
- Some 8,000 notices were posted by employers.
- The Board conducted nearly 37,000 elections, 74 percent of them by consent.
- Unions won 30,110 elections, or 81 percent of the total.
- The Supreme Court decided 59 Board cases. Board orders were enforced in full in 45, or 76 percent, of the cases decided.

NLRB field examiner interviews prospective witnesses in unfair labor practice case, Cairo, Ill., Christmas, 1939.