Operating Under the Taft-Hartley Act

The functioning of the Board under the Wagner Act came to an end on August 21, 1947. On the following day, the Board entered its vastly increased domain of activity under the Labor Management Relations Act of 1947, or the Taft-Hartley Act.

In the first year of operation under Taft-Hartley, the Board was reorganized in accordance with the new law's requirements. The Board was increased from three to five members. The Review Division was abolished. The position of general counsel, now filled by Presidential appointment rather than by designation of the Board, was considerably altered in authority and responsibility. A new set of rules and regulations was adopted, and numerous changes were made in procedure and organizational structure.

After the reorganization, the Board members functioned as a tribunal for deciding cases upon formal records, without exercising responsibility for the preliminary investigation of petitions or charges. The General Counsel had final authority over the investigation of unfair labor practice charges, and, by delegation from the Board, authority for processing election petitions. The general counsel also exercised general supervision over the agency's field employees.

Early in 1948, as policies and principles began to be established, the Board devised a system by which most of its cases could be decided by five panels of three members.

During the second half of fiscal year 1948, the majority of Board decisions were rendered by panels of the Board rather than by the full Board. Cases involving undecided questions of policy or law continued to be referred to the full Board for decision.

In the Board's first year of operation under Taft-Hartley (fiscal year 1948), an all-time high of 36,735 cases were filed with the agency. This compared with the high of 14,909 cases filed in 1947 during the Wagner Act.

That first year under the amendments also saw unions winning 72.5 percent of the representation elections conducted by the agency. This compared with a record of union victories in 81.4 percent of elections conducted during the Board's 12-year administration of the Wagner Act.

WALL STREET JOURNAL

"I don't suppose you have one saying something like 'sorry about that NLRB decision'?"

"I HAD TO DO SOMETHING WITH 'EM – THE LABOR BOARD RULED AGAINST ME!"

Union-Shop Elections

TAFT-HARTLEY introduced a requirement that the Board conduct a poll of employees in a bargaining unit to determine whether they wished to authorize their union to negotiate a union-shop contract before a union shop could be established.

This provision proved burdensome on the agency's resources, and the results were not very useful, since almost all bargaining units chose union-shop authorization. For instance, in fiscal 1949, the Board conducted 15,074 such polls involving 1,733,922 eligible employees. In almost 97 percent of those elections conducted, the employees authorized the negotiation of union-shop contracts.

Union-Shop Polls Eliminated

THE ACT was amended in 1951 to eliminate the requirement of a union-shop authorization poll of employees before a union shop legally could be established. It was the first amendment of the Act since 1947. However, Congress did not relax the requirement that unions making union-shop agreements had to comply with the Act's non-communist affidavit and filing rules.

The first case to come before the Board members to require direct application of the amendment was a representation case in 1952, when they unanimously declined to give effect to a union-shop contract made by a union which was not in compliance with the affidavit and filing provisions.

NLRB officials conduct election in alley next to Detroit Timken Axle Co. after company denied them use of its property in 1948.

Jurisdictional Standards

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One of the major questions confronting the Board since 1935 had been the extent to which it should assert its jurisdiction. The Board took the position that it would better effectuate the purposes of the Act to limit its jurisdiction to enterprises whose operations have—or at which a labor dispute would have—a substantial impact on the flow of interstate commerce.

For many years, the questions of where to draw the line turned upon the facts of each case as it came before the Board for decision. In 1950, after a long study of the patterns emerging from past decisions, the Board issued a series of unanimous decisions more precisely setting forth the standards to govern its future exercise of jurisdiction.

The Board later established new jurisdictional standards in 1954, revising them again in 1958. For a manufacturing company, the jurisdictional yardstick was set at $50,000 in purchases, sales or services shipped, received or performed either directly or indirectly in interstate commerce as defined by the Board. For a retail firm, the test was $50,000 in gross annual volume of business. Different standards were provided for other industries.

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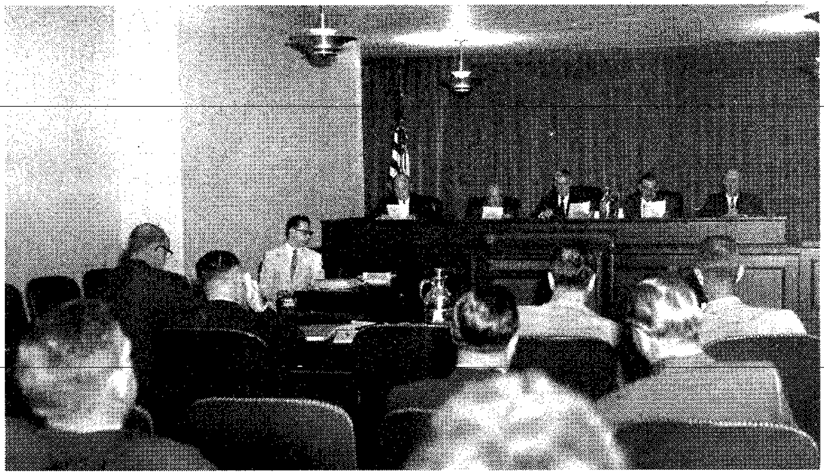

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1. AFL President George Meany and CIO President Walter Reuther join hands at AFL-CIO unity convention, December 1955.

2. Ronald Reagan, seated right, and other leaders of Screen Actors Guild, 1952.

3. First photograph of Board in session, May 1955. From left, Philip Ray Rodgers, Abe Murdock, Chairman Guy Farmer, Ivar H. Peterson, and Boyd S. Leedom.

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McClellan Committee

During the middle and late 1950s, the labor movement was under intense Congressional scrutiny for corruption, racketeering and other misconduct. During 1955-1956 hearings, a Senate committee led by Senator Paul H. Douglas of Illinois uncovered abuses in the administration of union pension funds. This investigation led to a series of hearings in 1957-1958 led by the Senate Select Committee on Improper Activities in the Labor Management Field, known as the McClellan Committee.

Testimony revealed that some unions had forcibly interfered with their members' rights, violated democratic procedures in union elections, misappropriated union funds, failed to maintain proper records, and accepted bribes from management.

The McClellan Committee's investigation convinced Congress and the public that legislation was necessary to regulate the internal affairs of unions and eliminate corrupt practices. Accordingly, in 1959, Congress enacted the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act).

1. McClellan Committee hearing, May 1957. From left, Sen. John McClellan of Arkansas, Committee Counsel Robert F. Kennedy, Sen. John F. Kennedy of Massachusetts and Sen. Carl Mundt of South Dakota.

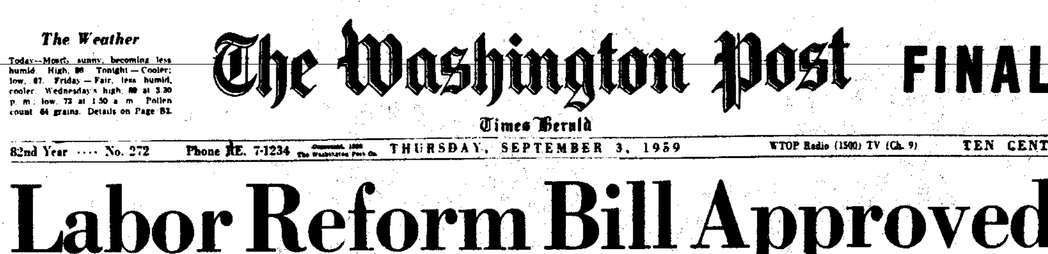
2. NLRB General Counsel's Conference, Denver, Colo., 1958.

3. NLRB officials (standing) count 4,000 challenged ballots in election involving International Longshoremen's Association, New York City, 1953.

1. President Eisenhower delivers radio and television broadcast on need for Landrum-Griffin Act, August 1959.

THE NEW Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act) amended Taft-Hartley in these major respects:

- State courts and state labor relations boards were given jurisdiction over cases declined by the Board under its jurisdictional standards.
- Secondary boycott prohibitions were tightened and hot cargo agreements (under which employers committed themselves in advance to boycott any other employer involved in a dispute with the union) were outlawed.
- A new unfair labor practice made it unlawful for a union to picket for recognition or organizational purposes in certain circumstances.
- Pre-hire and seven-day union shop contracts were legalized for the construction industry.
- Permanently replaced economic strikers were given the right to vote in representation elections within one year of the beginning of the strike.
- The non-Communist affidavit provisions were repealed.
- The Board was authorized to delegate most of its authority to define bargaining units and to direct elections to its regional directors, subject to discretionary review.
- Other titles in the new law established a code of conduct guaranteeing certain rights to union members within their union, and imposed certain reporting requirements on unions, union officers, employers and consultants. These provisions were assigned for administration to the Department of Labor. Thus, the Landrum-Griffin Act protected employees' union membership rights from unfair practices by unions, while the National Labor Relations Act protected employee rights from unfair practices by employers or unions.



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Labor Reform Bill Approved

2. *Washington Post*, September 3, 1959