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THREE DECADES OF THE NATIONAL LABOR RELATIONS BOARD
IN THE STATE OF UTAH

by

Rulon Sheldon Ellett

A thesis submitted in partial fulfillment
of the requirements for a degree

of

MASTER OF SCIENCE

in

Economics

Approved:

Major Professor

Head of Department

Dean of Graduate Studies

UTAH STATE UNIVERSITY
Logan, Utah

1968

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Rulon Sheldon Ellett

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ABSTRACT

Three Decades of the National Labor Relations Board
in the State of Utah

by

Rulon Sheldon Ellett, Master of Science

Utah State University, 1968

Major Professor: Professor Evan B. Murray
Department: Economics

This study presents an index and qualitative analysis of the operations of the National Labor Relations Board in the State of Utah. The period of time under consideration is 1935 to 1965. The major source of information is the first 153 volumes of the Decisions and Orders of the National Labor Relations Board.

The thesis is broken down into four parts. The first covers the evolution of the National Labor Relations Board. It outlines changes in the operations of the Board as it developed up to 1964.

The second part is an analysis of the influence exercised by the Board over employers in the conduct of their Labor-Management Relations in Utah as governed by the Wagner Act.

The third section provides an outline of the Board's operations in administering the Taft-Hartley Act of 1947, and the amendments added by the

passage of the Landrum-Griffin Act of 1959. This is primarily an analysis of the decisions and orders issued by the Board to both employers and union representatives in Utah.

The fourth section is broken down into two parts: Charges filed with the Board alleging unfair labor practices; and petitions filed with the Board requesting representation elections. No attempt has been made to analyze the representation hearings.

(131 pages)

CHAPTER I

INTRODUCTION

The first nationally chartered trade union in what was to become the State of Utah was the Deseret Typographical Union No. 115. It was organized in 1868. Thereafter, unions were organized among the workers in the mining camps and building trades. Labor unions in the State of Utah were relatively stable at the beginning of the twentieth century; and they continued to increase in strength until about 1920. Then gradually they declined because of growing employer opposition. Employers formed organizations to combat unionism, and then "out right" refused to bargain with union representatives as agents for their employees.¹

"Beginning in 1919, the growing influence of the employers in the Utah legislature swayed the pendulum of power against the labor organizations. The anti-picketing law of 1919 and the right-to-work law of 1923 were the result."² Employers held that the right to work was an economic right of an individual. However, the above laws encroached upon the workers' right to organize and the

¹Stweelwant Baquaro Pawar, "An Environmental Study of the Development of the Utah Labor Movement, 1860-1935." Unpublished Ph. D. dissertation, University of Utah Library, Salt Lake City, Utah, 1968. pp. 466-474.

²Ibid., p. 490.

activities that they could engage in if they did organize.

During 1920 and 1921 the sharp decline in economic activity produced a decline in union membership in Utah as well as in the rest of the nation. The years from 1922 to 1929 were characterized by a "return to normalcy," but, unlike other periods of prosperity, union membership did not increase.

An anti-union device developed by employers during the 1920's was the so-called "American-Plan." The "Plan" was a successful attempt by employer organizations to sell the principle of an "open-shop" by labeling unions as un-American groups.³

In Utah the "American-Plan" was sponsored by the Utah Associated Industries. It was ". . . created on the belief that Utah was the 'home' of the 'American-Plan.'"⁴ This indicates the hostile attitude that employers in Utah had towards organized labor.

The decline of the labor movement in the 1920's and the stock market crash in October 1929 created serious economic and social problems for all sectors of American society, including organized labor. As a result, the weak labor movement in Utah was virtually destroyed.⁵

In response to the Great Depression, Congress enacted the National Industrial Recovery Act in 1933 (NIRA). Section 7(a) of the NIRA gave workers

³Stanford Cohen, Labor in the United States (2nd ed. ; Columbus, Ohio: Charles E. Merrill Books, Inc. , 1966), p. 98.

⁴Pawar, "Utah Labor Movement," p. 478.

⁵Ibid.

in industry for the first time the right to assist, join, and organize labor organizations free from employers' interference. Unfortunately, the Act proved difficult to administer, and Section 7(a) lacked any effective means of insuring employer compliance. Two years later Congress corrected this defect by passing the Wagner Act.

The enactment of the Labor-Management Relations Act in 1935 (the Wagner Act) has been declared to have been a revolutionary event in the history of organized labor in the United States. It was the first general federal law to provide administrative procedures to encourage the organizing of employees to bargain collectively with their employers on such issues as wages, hours of work, and working conditions.

In 1947 the Wagner Act was deemed to be inadequate to deal with the problems arising in labor-management relations; and it was replaced by the Taft-Hartley Act. The Taft-Hartley Act was amended in 1959 to further strengthen national labor policy. The Wagner Act and subsequent labor legislation have been administered by the National Labor Relations Board.

This paper is concerned with the operation of the National Labor Relations Board, and it has a two-fold objective: The first is to index all cases arising in the State of Utah that were brought before the National Labor Relations Board between 1935 and 1965. These cases have been classified into two groups: (1) charges filed with the Board alleging violation of unfair labor practices; and (2) petitions filed with the Board requesting representation elections. This information was taken from the first 153 volumes of the Decisions and Orders of

the National Labor Relations Board. To this writer's knowledge, this is the first and only index of this information currently available.

The second objective of this study is to examine each alleged violation of labor law in an attempt to determine what impact the Board's decisions have had on employers and employees in Utah.

No attempt has been made to analyze the petitions filed for representation elections. This paper serves only to call the roll of the representation cases that passed before the Board.

The State of Utah was chosen for this study because it is not considered to be an industrialized state. It consists mainly of a rural, sparsely populated setting. There is also considerable evidence (as indicated above) that employers in Utah have been very anti-union. Under these conditions, it seemed appropriate to determine what effect, if any, the NLRB had in Utah.

CHAPTER II

BACKGROUND AND STRUCTURE OF THE
NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board as we know it today had its beginning during the period known as the "New Deal." It was developed in an attempt to improve management-labor relations with the hope that this would improve economic conditions. It was believed that this could be accomplished by providing a favorable atmosphere for collective bargaining.

The first National Labor Board was created under Title I of the National Industrial Recovery Act of 1933. The Board was created three months after the enactment of the NIRA to consider, adjust and settle the differences that arose between management and labor under Section 7(a) of the Act. The NLB consisted of three labor and three industry members, with Senator Robert Wagner serving as an impartial public member and chairman.¹

The Board created twenty Regional Offices located in major cities throughout the United States. The staff personnel in these offices included a labor representative and a management representative, with an impartial public representative serving as chairman. The purpose of the Regional Offices

¹Stanford Cohen, Labor Law (Columbus, Ohio: Charles E. Merrill Books, 1964), p. 146.

was to aid the Board in settling the differences that arose under the Act.² The major difficulty that the NLB encountered was trying to enforce its decisions and orders. In fact, the Board's orders were often openly defied.

In March 1934, Senator Wagner and others came to the conclusion that the NLB needed to be strengthened through further legislative action. In an attempt to accomplish this a Labor Disputes Bill was proposed before the Senate. It was designed "(1) to more nearly balance the bargaining strength of the parties; (2) to assist in the peaceful settlement of labor controversies; and (3) to create a National Labor Board on a longrun rather than a temporary basis, . . ."³ The measure met with bitter resistance from the National Association of Manufacturers and never reached the floor of Congress for a vote. President Roosevelt also requested that action be deferred on the bill, in order to give the NIRA a chance to work. However, Congress did enact, in June 1934, Public Resolution No. 44 which was designed to strengthen Section 7(a) of the NIRA.⁴

This new provision disestablished the National Labor Board and created a new three member National Labor Relations Board. Just before the NLB was disestablished it reported: "the Board is powerless to enforce its decisions.

²Wayne L. McNaughton and Joseph Lazar, Industrial Relations and the Government (New York: McGraw-Hill Book Company, Inc., 1954), p. 142.

³Ibid., p. 143.

⁴Ibid.

In the ultimate analysis its findings and orders are nothing more than recommendations."⁵

Public Resolution No. 44 also empowered the President of the United States to establish separate labor boards for some industries apart from the NLRB. President Roosevelt subsequently established the following boards: the National Bituminous Coal Labor Board, the National Industrial Board, the Petroleum Labor Policy Board, the Automobile Labor Board, and others. In 1935 the NLRB made a study of the effectiveness of these industry Boards and decided that labor policy could best be handled under the direction of one central board.⁶

This first National Labor Relations Board was active until May 27, 1935 when the United States Supreme Court, in the famous Schechter case, declared the NIRA unconstitutional.⁷

Prior to the actual declaring of the NIRA as unconstitutional, Senator Robert Wagner again introduced his bill in an attempt to further increase the power of the NLRB.⁸

⁵ Harry A. Millis and Emily Clark Brown, From the Wagner Act to the Taft-Hartley (Chicago: University of Chicago Press, 1950), p. 26. It should be noted that the NLB had settled a large number of disputes even though it could not force compliance with its decisions.

⁶ McNaughton and Lazar, Industrial Relations, p. 145.

⁷ Joseph G. Rayback, A History of American Labor (New York: The MacMillan Company, 1964), p. 332.

⁸ Foster Rhea Dulles, Labor in America (3rd ed.; New York: Thomas Y. Crowell Company, 1966), p. 273.

The actual passage of the 1935 National Labor Relations Act required the dogged persistence of Senator Wagner, who fought the measure through congress and won the support of a skeptical President. Business spokesmen, supported by such unusual bedfellows as the American Communist Party and the American Civil Liberties Union, fought the bill strenuously if unsuccessfully.⁹

The National Labor Relations Act (Wagner Act) created a new three member National Labor Relations Board whose power was extended beyond that of the previous two labor boards. The experiences of the NLB and the first NLRB were undoubtedly of great value to Congress in deciding what provisions should be incorporated into the NLRA. But again, the directives of this Act were broadly stated, and it contained catch-all phrases that needed to be interpreted before they could be applied effectively.¹⁰

The Board, more often than not, found itself in crossfire of pressure between different interest groups. It found itself working with problems that the framers of the Act had not foreseen. The new Board was empowered to petition the United States Circuit Court whenever it found it necessary to gain compliance to its decisions. (This is not to indicate that the Circuit Court always agreed with the Board.) When the Circuit Court disagreed with the Board, the Board found itself under a storm of criticism.¹¹

With the passage of time, the Board was able to develop its own set

⁹ Cohen, Labor Law, p. 147.

¹⁰ Dulles, Labor in America, pp. 273-276.

¹¹ Cohen, Labor Law, pp. 147-147

of guide lines and interpretations on which it could base its decisions. Nevertheless, it was under constant criticism for being either pro-union or pro-management depending upon the group that its decision affected adversely.¹²

The Wagner Act listed unfair labor practices only on the part of the employer. The scramble to the Act suggests that the public had lost faith in the businessmen's ability to restore favorable economic conditions. At that time unions were not large enough in size to offer any threat of action that would be unfavorable to the economy. The situation was such that people were willing to try almost anything that might improve the economy.

Prior to 1935, management had had a relatively free hand to deal with its employees in the manner that best served the company's interest. Compliance with the NLRA meant that management had to rid itself of many of the anti-union tactics that they had been using. The law required that they sit down at the bargaining table with union leaders and bargain with them in "good faith,"--treating them as equals at the bargaining table. It was only natural that management found this very difficult to do. Just how difficult it proved to be is demonstrated and emphasized by the following statistical picture:

Between 1935 and 1947, over 45,000 unfair practice complaints were filed with the NLRB. About 43,000 of these cases were closed and employer violations were found in 34 percent of the instances. In the same period, litigation for enforcement or review of Board orders resulted in 705 decisions by the Circuit Court of Appeals and 59 Supreme Court rulings. Remedial action ordered

¹²Ibid.

by the Board when employers were found guilty of unfair practices included the award of over 12 million dollars in back pay to 40,691 employees. In 8,516 cases employers were required to post notices that unfair practices would be discontinued and 1709 company unions were disestablished. More than 75,000 workers found to have been discriminatorily discharged were reinstated to their jobs.¹³

Actually the Wagner Act had little effect during the first two years that it was on the books. Many employers completely disregarded the Act and carried out their internal management-labor relations in the same manner as they had before the Act was passed. Evidently they thought the Wagner Act would be declared unconstitutional just as the previous Act (NIRA) containing provisions for management-labor relations had been.

On April 12, 1937 the United States Supreme Court validated the operations of the NLRB through its decision on the "National Labor Relations Board v. Jones and Laughlin Steel Corporation" case. In the Jones and Laughlin case the Supreme Court upheld the Board's previously issued decision and order. This was the real beginning of employers' opposition to the Act. The opposition continued unabated until 1947, when the Wagner Act was replaced by the Taft-Hartley Act.¹⁴

Because of the restrictions placed upon employers and the phenomenal growth of unions, "instances occurred in which union arrogance at the bargaining table matched employer arrogance of an earlier period."¹⁵ "Labor union

¹³ Ibid., pp. 163-164.

¹⁴ Millis and Brown, Wagner Act to the Taft-Hartley, pp. 96-98.

¹⁵ Cohen, Labor Law, p. 165.

membership had grown from less than four million in 1935 to about 14 million in 1947."¹⁶ Indeed, after being under the rule of the NLRA for twelve years, there were few who denied that the law was in need of revision.

It is also important to note that during World War II, unions and their members engaged in a substantial number of wildcat strikes. During that critical period of time, the outbreak of unauthorized strikes definitely had a negative effect upon the attitude of the general public towards organized labor.

The Wagner Act was amended in 1947 with the enactment of the Taft-Hartley Act. The Wagner Act had been loosely stated with broad guide lines. The Taft-Hartley Act is much more complex; and the guide lines for the Board are more rigorously defined. In fact, the Taft-Hartley Act of 1947, "is the most detailed and comprehensive labor law ever enacted by congress."¹⁷

Many of the provisions and ideas from the Wagner Act were carried over into the Taft-Hartley Act. The most important addition to the Wagner Act is Section 8(b). This is a list of unfair labor practices directed at labor organizations. It was designed to curtail the unlimited freedom that unions had enjoyed for twelve years. Now unions, like employers, were restricted in their activities. The Wagner Act had stated that businessmen were the ones who had restricted the flow of commerce. However, Section 1 of the Taft-Hartley Act states:

¹⁶ Ibid., p. 168.

¹⁷ McNaughton and Lazar, Industrial Relations, p. 139.

. . . Experience has further demonstrated that certain practices by some labor organizations, their offices, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce. . . . The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.¹⁸

Under the Wagner Act there were no guide lines for the relationship between unions and their members. But Section 1(6) of the Taft-Hartley Act provides that, ". . . the purpose and policy of this act . . . [~~is~~] to protect the right of individual employees in their relations with labor organizations whose activity affect commerce . . ." ¹⁹ These protective measures are spelled out in Section 8(b) of the Act.

Taft-Hartley changes in the legality of the closed shop also had considerable impact on labor-management relations. Under the Wagner Act, a union could legally bargain for a closed-shop agreement. If the union obtained this, it could demand that the employer hire only members of the union involved. The severest criticism of this provision was that unions were actually regulating businesses; i. e. , they were taking away from employers the right to manage their own businesses. The Taft-Hartley Act made the closed-shop arrangement illegal in Section 7 and Section 8(a) (3). Although the Act made the closed shop illegal, the union shop was still legal; i. e. , the employer could hire whom he wanted, and the employee had at least thirty days

¹⁸ Cohen, Labor Law, p. 441.

¹⁹ Ibid. , p. 440.

before he was required to join the union involved. Unions and management could bargain for a union shop. This definitely had the effect of balancing power between employers and unions.²⁰

Another major change from the Wagner Act was the reorganization of the National Labor Relations Board. The three member Board was increased to five members; and the General Counsel was made independent of the Board. Section 3(B) of the Act authorizes any three of the five Board members to exercise the powers that the Board itself can exercise. This was done to expedite the work of the Board; thereby making it possible for the Board to process more cases coming under its jurisdiction. Before 1947 the General Counsel had been under the direct control of the Board and was appointed by it. Now the General Counsel was selected by the President of the United States, with the advice and consent of the Senate, for a four-year term. The General Counsel and his staff are now separate and distinct from the Board.²¹

The General Counsel acts as a supervisor over the attorneys employed by the Board. This office also has the responsibility of operating the Regional Offices. In doing this, Congress was acting on a long-standing criticism that the Board had given out decisions that were biased. Congress attempted to correct this by separating the judiciary from the prosecuting arm of the agency.²²

²⁰Ibid. , pp. 439-440.

²¹McNaughton and Lazar, Industrial Relations, p. 165.

²²Cohen, Labor Law, p. 173.

Although all of the changes and additions incorporated into the Taft-Hartley Act are not mentioned here, others will be mentioned later in the paper as they arise.

Employers, employees and unions lived under the rule of the Taft-Hartley Act for twelve years before it was amended. Senator Robert A. Taft pointed out

. . . that there were literally hundreds of proposals for amending the Wagner Act and that the Taft-Hartley Act attempted to deal with only the most serious abuses and tried to restore some of the balance of power without giving the employer too much.²³

This suggests that when the Taft-Hartley Act was passed, the initiators knew that it was only a temporary provision; and that it would only be a matter of time until further changes would be needed. "Probably the most significant conclusion that can be drawn from the operation of the Taft-Hartley Act is that unions had been recognized as a permanent institution in society."²⁴

The Landrum-Griffin Act was enacted in 1959. The major reason for the passage of that Act was to plug the loopholes in the Taft-Hartley Act.

From 1957 to 1959, a committee headed by Senator McClellan conducted hearings that uncovered evidence of crime, corruption, collusion, malpractice, and dubious dealing in a few old-line AFL unions, notably the Longshoremen (East Coast) and the Teamsters. It was at the

²³McNaughton and Lazar, Industrial Relations, p. 159.

²⁴Edwin F. Beal and Edward D. Wickersham, The Practice of Collective Bargaining (3rd ed.; Homewood, Illinois: Richard D. Irwin, Inc., 1967), p. 119.

height of public excitement over these revelations that the Landrum-Griffin Act became law.²⁵

In Section 2(b) of the Landrum-Griffin Act:

The Congress further finds, from recent investigations in the labor and management fields, that there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation . . .²⁶

The above refers to the McClellan investigation and points out the impact that this study had upon Congress.

Because of the great concern over corruption and the lack of internal democracy in trade unions, Congress took extensive measures to protect the rights of union members. The Act requires that unions periodically file financial statements indicating how their funds are used. The Act also requires national and local unions to hold elections for officers every five and three years respectively. With these provisions, Congress hoped to foster greater internal democracy and protection for the rank-and-file union members.

While these provisions did protect the rank-and-file union member from certain abuses, they also created a tougher bargaining opponent for employers. When the employee representatives came to the bargaining table they had to be just as tough as those they represented thought they should be. If union members

²⁵ Beal and Wickersham, Collective Bargaining, p. 120.

²⁶ Ibid., p. 765.

were dissatisfied with the job their representatives were doing, they would most likely replace them at the next scheduled election.

Another item of paramount importance that helped put the Landrum-Griffin Act on the books developed from the proceedings of the Guss Case in 1957, arising in Utah.

In 1953 the United Steelworkers of America filed a petition with the National Labor Relations Board requesting certification as the representative of the employees employed at Photosound Products Manufacturing Company. It was found that the Company was engaged in commerce within the meaning of Section 2(6) and (7) of the Taft-Hartley Act; and a consent election was agreed upon. The Union won the election and was certified by the NLRB as the bargaining representative of the employees.²⁷

Shortly thereafter, the union filed charges with the National Labor Relations Board, charging that the Company had engaged in unfair labor practices prescribed by Section 8(a) (1), (3) and (5) of the Act under which they had been certified.²⁸

On July 15, 1954 the National Labor Relations Board revised its jurisdictional standards. When the Board reviewed the charges filed by the union on July 21, 1954, they found that the Company had purchased a little less

²⁷ Guss v. Utah Labor Relations Board, 353, United States Reports, Cases Adjudged in the Supreme Court (Washington, D. C.: Government Printing Office, 1957), pp. 4-5.

²⁸ Ibid.

than \$50,000 worth of materials from outside the State of Utah. The Board wrote:

Further proceedings are not warranted, inasmuch as the operations of the company are predominately local in character, and it does not appear that it would effectuate the policies of the Act to exercise jurisdiction.²⁹

Upon receiving this decision, the Union filed substantially the same charges with the Utah Labor Relations Board.

The Utah Board acted on the charges and found that the Respondent had and was engaged in unfair labor practices as defined by the Utah Labor Relations Act. (It should be pointed out that the Utah Board acted on the case, after the National Board had declined to act, thinking that it was within its authority to do so.)³⁰

The case was then appealed to the Utah Supreme Court. The Utah Supreme Court held that when the National Labor Relations Board had declined to exercise jurisdiction over the Union's charges, the Utah Labor Relations Board acted within its legal right. The Utah Court affirmed the decision of the Utah Board.³¹

The Union appealed its case to the Supreme Court of the United States which held that the:

²⁹ Ibid.

³⁰ Labor Relations Reference Manual (Washington, D. C.: Bureau of National Affairs, Inc., 1957), Vol. 39, par. 2567.

³¹ Ibid.

Utah Labor Relations Board does not have jurisdiction of unfair labor practice proceeding against employer engaged in interstate commerce, even though National Labor Relations Board declined to take jurisdiction of similar proceeding against employer on the basis of its jurisdictional standards, where National Labor Relations Board has not ceded jurisdiction to the state Board pursuant to proviso of Section 10(a) of Federal Labor-Management Relations Act. Congress, by vesting in National Board jurisdiction over labor relation matters affecting interstate commerce, has completely displaced state power to deal with such matters except where National Board has ceded jurisdiction pursuant to Section pursuant to Section 10(a) of the Federal Act.³²

The Supreme Court of the United States reversed the Utah Supreme Court's decision.

The U. S. Supreme Court pointed out that the first sentence in Section 10(a) in both the Wagner and Taft-Hartley Acts, had empowered, but not directed, the National Labor Relations Board to prevent unfair labor practices.³³ The result of the Gus decision was to create an extensive "no man's land" where no company or employees' representative falling into that category could find legal protection when needed.

When the Landrum-Griffin Act was passed, Congress did away with this "no man's land." Section 701 (c) (1) and (2) reads:

(1) the Board, in its descretion may, by rule of decision or by published rules adopt pursuant to the Administrative Procedure Act, decline to assert jurisdiction over any labor dispute involving any class or category of employers, where in the opinion of the Board, the effects of such labor dispute on commerce is not sufficiently substantial to warrant the

³²Ibid.

³³Ibid. , p. 13.

exercise of its jurisdiction: . . .

(2) Nothing in this Act shall be deemed to prevent or bar any agency or the courts of any State or Territory (including the Commonwealth of Puerto Rico, Guam, and the Virgin Islands), from assuming and asserting jurisdiction over labor disputes over which the Board declines, pursuant to paragraph (1) of this subsection, to assert jurisdiction.³⁴

The Taft-Hartley Act is the principal federal law setting forth our National Labor Relations Policy. Its objective is to avoid or substantially reduce industrial strife and to protect the health and safety of the public. It states the legally recognized rights of employers, employees, and labor organizations in their relations with each other and with the public. It gives employees the right to join or not to join a union and to bargain collectively through representatives of their own choosing. The Act does not cover all possible grievances that may arise out of employer-employee-union relationships. Only those conflicts that substantially affect interstate commerce are covered under the Act.³⁵

The National Labor Relations Board is divided into two major groups: The five member Board, and the General Counsel. The members of the Board are appointed by the President with the Senate's consent for a five-year term. It is the Board's purpose to hear and decide cases of unfair labor practices; and when necessary, to answer questions involving representation cases. The General Counsel is also appointed by the President with the Senate's consent,

³⁴ Cohen, Labor Law, p. 501.

³⁵ Stuart Rothman, Regional Offices of the National Labor Relations Board (National Labor Relations Board, April 19, 1962), p. 1.

but his term of office is four years. The General Counsel and his staff are the prosecuting arm under the Act.³⁶

Acting directly under the General Counsel are twenty-eight Regional Offices and two subregional offices located in major cities throughout the United States. All cases originate at the Regional Offices.³⁷

Because of the importance of the Regional Offices, it is desirable to take a close look at their operations. They have two purposes: First to hear and decide cases of unfair labor practices; and second, to conduct hearings involving representation.

The role in handling unfair labor practice cases will be considered first. "In these cases a charge is made that an employer or a union, or someone acting for an employer or a union has engaged in conduct defined by the National Labor Relations Act as an unfair labor practice."³⁸ A charge must be filed by an employer, union or employee at the Regional Office in the district where the alleged unfair labor practice took place. If the conduct being charged took place in more than one district, any one of the Regional Offices in the district involved could be contacted.

The Regional Office staff is available to give out information concerning

³⁶ Ibid.

³⁷ Stuart Rothman, A Layman's Guide to Basic Law under the National Labor Relations Act (National Labor Relations Board, October 17, 1962), p. 1.

³⁸ Rothman, Regional Offices, p. 3.

rights and obligations under the Act, but it is prohibited by law from giving out legal advice. The only way the Agency can be brought on to the scene is by someone filing a charge. They are powerless until this is done. Once a charge has been filed, the Agency can investigate and prosecute, if necessary, the party named in the charge.³⁹

Under the terms of the NLRA an employer is guilty of an unfair labor if he:

1. Interferes with restrains, or coerces employees in the exercise of rights guaranteed in Section 7 of the act.
2. Dominates or interferes with the formation or administration of any labor organization or contributes financial or other support to it.
3. Discriminates against an employee or employees in order to encourage or discourage union membership.
4. Discriminates against an employee because he has filed charges or given testimony under the National Labor Relations Act.
5. Refuses to bargain collectively with the representative of his employees, if the representative is a duly constituted majority union.⁴⁰

A union or its agent is guilty of an unfair labor practice if it:

1. Restrains or coerces employees in the exercise of the rights guaranteed in section 7 of the act.
2. Discriminates against an employee or causes or attempts to cause an employer to discriminate against an employee.

³⁹ Ibid. , p. 4.

⁴⁰ Cohen, Labor Law, p. 446.

3. Refuses to bargain collectively with an employer, provided it is the representative of his employees.
4. Engages in secondary boycott activities or jurisdictional dispute strikes.
5. Requires excessive or discriminatory fees by employees.
6. Demands payment for work not performed or not to be performed.
7. To picket or cause to be picketed an employer where the objective is forcing an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing the employees to accept such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the employees' representative.
8. Enters into a "hot cargo" agreement with an employer.⁴¹

The National Labor Relations Act covers only the unfair labor practices listed above. It does not handle every grievance that may arise out of employer-employee-union relationships.

If the charge filed indicates a violation of the Act, the Regional Office conducts a full-scale investigation. This is done by a field examiner assigned to the case. It is his job to seek out all information surrounding the case.

When the investigation of the case is completed, the case can either be informally disposed of or, if warranted, formal proceedings can be instituted against the party charged.

A case can be disposed of through withdrawal, settlement, or dismissal. If after the charge has been made, the party making the complaint becomes

⁴¹Ibid., pp. 447-449.

convinced that he does not have a meritorious charge, the charge can be withdrawn by filling out a withdrawal form and presenting it at the Regional Office. This procedure must have the approval of the Regional Office.⁴²

The case can also be disposed of through voluntary settlement between the complainant and the party charged. This is desirable over prolonged formal proceedings. Voluntary settlement must also have the consent of the Regional Office. This is to insure that proper procedure is followed.⁴³

If at any time the Regional Office feels that the complainant's charge is not in violation of the Act, it can dismiss the case. If the complaint does not agree with the Regional Office, he has ten days in which to make an appeal to the General Counsel. If the appeal is accepted, a member of the General Counsel. If the appeal is accepted, a member of the General Counsel's staff will make a thorough examination of the case. The case will be returned to the Regional Office which may be instructed to issue a complaint. However, if the Regional Office's dismissal is upheld by the General Counsel, there is no further appeal.⁴⁴

If formal proceedings are in order, a complaint will be issued for the General Counsel by the Regional Office on behalf of the Board. The Trial Attorney will prosecute the case, representing the complainant, and the Trial

⁴²Rothman, Regional Offices, p. 11.

⁴³Ibid., p. 12.

⁴⁴Ibid., p. 11.

Examiner from the Regional Office will serve as judge.

The hearing presented before the Trial Examiner is the formal trial of the case. At the end of the hearing the Trial Examiner prepares an Intermediate Report in which he sets forth his determination of the facts of the case and his conclusions as to violations of the Act. The Intermediate Report also recommends to the Board the action that the Trial Examiner feels is appropriate.⁴⁵

When the Intermediate Report is issued by the Trial Examiner, the Board simultaneously issues an order transferring the case to the NLRB in Washington. Any party who disagrees with any aspect of the Intermediate Report has twenty days in which to file an appeal to the Board. If this is done, the Board will review the findings, conclusions and recommendations of the Trial Examiner and issue an order. The order can be to have the case reopened before the Trial Examiner, to adopt part or all of the Trial Examiner's recommendations, or to overrule the Trial Examiner.

If no exceptions are taken within the twenty-day period, the Intermediate Report is normally adopted by the Board; and its findings, conclusions, and order becomes those of the Board.

If the respondent refuses to comply with the Board's order, the Board will seek a court decree enforcing its order. The circuit court will then review the case and may agree with any part or all of the Board's order. The court has

⁴⁵Ibid. , pp. 16-17.

the power to enter a decree agreeing with, modifying, or setting aside the Board's Order.⁴⁶

The ultimate goal of these activities in an unfair labor practice case is to cause the respondent to comply with the provisions of the Act. The Board prefers voluntary settlement whenever possible. If this is not possible, the Board and its machinery go into action. As noted previously, the Board's objective is to avoid or substantially reduce industrial strike and to protect the health and safety of the public.

The second important function of the Regional Office is the processing of representation cases. The Act requires that an employer bargain collectively with the duly appointed representative or representatives of his employees.

The Act makes it permissible for the Regional Office, on behalf of the Board, to determine the appropriate bargaining unit to represent any group of employees covered under the Act. The only employees specifically excluded from the Act are: agricultural laborers; domestic servants, any individual employed by his parent or spouse, independent contractors, any individual employed as a supervisor, or an employer subject to the Railway Labor Act.⁴⁷

In some instances all the employees in a plant may want the same union to represent them because their interests are substantially the same. In that situation, one union is entitled to recognition as the exclusive bargaining agent

⁴⁶Ibid. , p. 19.

⁴⁷Ibid. , p. 4.

of all the employees in the plant. In other cases, interests may differ. In these cases the Regional Office can designate more than one appropriate unit. Each different group of employees could be represented by a different union.⁴⁸

There are two methods by which a union or unions can become the representative or representatives of the employees in a company. The first would be voluntary acceptance by the employer. The second would be through the action of the Regional Office certifying the appropriate unit or units.

In the second case, a petition can be filed by an employee or group of employees, or any person or union acting on behalf of a substantial number of employees. From past experience, the Regional Office has found that usually no useful purpose comes from an election unless a union has been designated by at least 30 percent of the employees.⁴⁹

Once the petition reaches the Regional Office, an investigator will be assigned to the case. An investigation will be conducted and a hearing held. At the hearing such matters as appropriate unit, eligibility to vote, and amount of interest on the part of employees will be determined.

After the hearing the entire case will be reviewed and an order issued. The case will either be dismissed or an election ordered. If the Order calls for an election, it will be supervised by the Regional Office.

The Regional Office official handling the case will make all arrangements,

⁴⁸Rothman, A Layman's Guide, p. 9.

⁴⁹Ibid., pp. 10-11.

take care of all details concerning the mechanics, and conduct the election.

It is important to note that only the Board's representative hands each eligible employee who appears to vote an official ballot prepared and furnished by the Board.⁵⁰

At the close of the election the Board's representative, with authorized assistance, makes a count of the ballots and the parties involved are informed as to the outcome. If the election involves more than two unions, and no choice on the ballot receives a majority of the votes, a run-off election will be held. This will be an election where the only two unions on the ballot will be the union that received the highest number of votes and the union that received the second highest number of votes. The union that receives the majority vote of this election will be certified as the appropriate bargaining unit.⁵¹

⁵⁰Rothman, Regional Offices, pp. 26-27.

⁵¹Ibid.

CHAPTER III

EMPLOYERS UNDER THE WAGNER ACT

The purpose of this chapter is to ascertain what impact the passing of the Wagner Act had on employers in the State of Utah. It will be well to keep in mind that before the Wagner Act era, employers had their own method of handling management-labor problems, and were relatively free from outside pressures. With the enactment of the Wagner Act, employers had limits set on their labor relations activity.

It is also important to note that the Wagner Act had relatively little effect during the first two years that it was on the books as law. This was because it had not been validated through court proceedings. Many employers completely disregarded the Act and carried out their internal management-labor relations in the same manner as they had before the Act was passed.

The case "National Labor Relations Board v. Jones and Laughlin Steel Corporation" validated the operations of the National Board and upheld the constitutionality of the law. When the NLRB had the backing of the judiciary, people were more inclined to listen to what the Board had to say. Unfortunately, the passage of the Wagner Act did not put an end to industrial strife nor bring complete compliance to it as will be pointed out time and time again throughout the remaining chapters of this paper.

The "heart" of the Wagner Act--the part that affected both employers

and employees, but not in the same manner--was Section 7 and Section 8 with its subsections.

Section 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

Section 8. It shall be an unfair Labor Practice of an employer——,

- (1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.
- (2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: . . .
- (3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: . . .
- (4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.
- (5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 9(a).¹

Section 9(a) gave the duly appointed unit the exclusive right to be recognized as the representative of all employees in such unit for the purpose of collective bargaining.

¹William H. Spencer, The National Labor Relations Act (Chicago: University of Chicago Press, 1935), p. 92.

In the matter of Utah Copper Company, a corporation, and Kennecott Copper Corporation; a corporation, and International Union of Mine, Mill and Smelter Workers, Local No. 392.
Decided June 16, 1938.

The first Utah case to be brought before the Board for violation of the Act was Utah Copper Company and Kennecott Copper Corporation, who were working together at Bingham Canyon, Salt Lake County, Utah.²

The International Union of Mine, Mill, and Smelter Workers, affiliated with the Committee for Industrial Organization, filed a charge alleging that the Respondent had and was engaged in activity violating Section 8(1) and (2) of the Act.³

Following the enactment of the National Industrial Recovery Act of 1933, a Local of the International Union of Mine, Mill and Smelter Workers, then affiliated with the American Federation of Labor, was established among the workers at the Arthur and Magna concentration mills of the Utah Copper Company. It was disbanded after six to eight months because the members could not agree upon the course of action that the Local should take.⁴

²The Utah Copper Company was a wholly owned subsidiary of the Kennecott Copper Corporation, the merger having taken place on November 10, 1936. Leonard J. Arrington and Gary B. Hansen, The Richest Hole on Earth: A History of the Bingham Copper Mine (Logan: Utah State University Press, 1963), p. 68.

³Decisions and Orders of the National Labor Relations Board, Vol. 7 (June 16, 1938), pp. 928-929.

⁴Ibid.

The Union renewed its organizational activity in the spring of 1937 and held its first meeting on May 10, 1937. At that meeting several dozen men indicated their interest in the Union and signed authorizations so the Respondent could deduct union dues from their wages.⁵

The Union was successful in enrolling from 100 to 150 men each week for the following six weeks; and then it suffered a substantial number of withdrawals:⁶ The next few examples will serve to demonstrate a possible reason for the withdrawals:

Garfield Lewis, an employee and common laborer, worked at \$4.30 per day. At times he was used as an "extra" on the rigger gang, being paid \$5.40 per day.

Lewis joined the union at the meeting on May 10. About this time union literature began to appear on the company bulletin boards. On May 20, Lewis was transferred to the dike-gang . . . and his pay was reduced to \$4.20 per day.⁷

Joseph Hadley, employment director, and Roy Hatch, superintendent of the Arthur Mill, both indicated that Lewis was suspected of being involved with the posting of Union literature on the Company bulletin boards. For that reason he was transferred to the dike-gang, "where he wouldn't have bulletin boards to bother him."⁸

⁵Ibid.

⁶Ibid.

⁷Ibid., p. 936.

⁸Ibid., p. 937.

Another employee and union member, John Lloyd, was also transferred to the dike-gang at the same time Lewis was, and under the same conditions.

The Respondent justified the transfers by a Company policy which stated that anyone found posting materials on the Company bulletin boards was subject to immediate discharge. Under cross-examination, Joseph Hadley admitted that "this rule had never been publicized, and that he didn't know how the men were expected to know about it."⁹

The transfer to the dike-gang did not put an end to Lewis's organizing activities. He was successful in getting several of the men on the dike to join the Union. It was not long until Lewis's activities reached management's ears; and Lewis was again transferred.

After Lewis's transfer, the men still on the dike noticed that those receiving transfers to better jobs at the Mill were usually men not wearing union buttons. The men joined together, went to Hadley's office and expressed their desire to resign from the Union. Hadley told the men that they could resign from the Union by signing a petition stating that this was their desire.¹⁰

The next night when the men returned to Hadley's office with the signed petition "Hadley looked at it, pointed out that it read 'wish to resign,' rather than 'hereby resign,' and suggested that it would look more presentable if typewritten."¹¹ (This is an indication of the influence that the Respondent

⁹ Ibid.

¹⁰ Ibid. , p. 939.

¹¹ Ibid.

exercised over its employees.)

The Board found that the Respondent had violated Section 8(1); and it was ordered to cease and desist from such activity. It was also found that the Respondent had and was violating Section 8(2) in that it dominated and contributed financial support to the Employees General Committee which represented some of the Respondent's employees.¹²

In 1919 the Respondent had invited its employees to participate in a secret ballot, under company supervision, for the purpose of choosing an Employees Representative Committee to consult with management on subjects of mutual interest. The Respondent had, since that time, maintained this committee and had revised the rules governing its actions from time to time as the Respondent deemed necessary. The Committee members were chosen by the votes of the other company employees in semiannual elections conducted by management.¹³

All expenses of the Committee are borne by the respondent; there are no dues. Committee members are not docked for hours spent at Committee meetings, and are paid \$2.00 each by the respondent for attending a meeting while off shift.¹⁴

The operations of this Committee did not afford the employees an independent channel through which they could present their opinions in a

¹²Ibid., p. 947.

¹³Ibid., p. 941.

¹⁴Ibid., p. 942.

collective manner. Each employee had to bargain individually with the Respondent. "The only recourse in the event of refusal by a company official is 'to go back, get a few more arguments made up on it, and hit him again.'"¹⁵

The NLRB ordered the Respondent to cease recognizing the Employees General Committee as a representative of any of its employees and to completely disestablish the Committee.¹⁶ The Respondent was also ordered to cease and desist from engaging in activity that interfered with, restrained, or coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.¹⁷

The Board also issued a directive for a representation election to be held in the near future so the employees could participate in a secret ballot election, conducted by the Regional Director, to determine the appropriate unit to represent them.¹⁸

The Respondent was also ordered to post notice informing all of its employees as to the Board's findings. This it did on May 24, 1938.¹⁹

NOTICE

To the employees of Utah Copper Company Department of Mills:
Complying with an order of the National Labor Relations Board, dated 16th day of June, 1938, we hereby advise you that

¹⁵Ibid., p. 943.

¹⁶Ibid., p. 948

¹⁷Ibid., p. 949

¹⁸Ibid.

¹⁹Ibid., Vol. 47, p. 767.

this Company will not contribute financial or other support to any labor organization of its employees, restrain or coerce its employees in the exercise of their right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act; Nor has this Company at any time engaged in such practice. (Italics mine.)

You are further hereby advised that on May 19, 1938 when this Company recognized the Independent Association of Mill Workers as the representatives of employees for the purpose of collective bargaining, the Employees General Committee, Department of Mills, was disestablished.

[Original signed] D. D. Moffat²⁰
Vice President and General Manager

This notice, as posted, was of paramount importance five years later when the same Union filed substantially the same charges against the same Respondent.

The phrase, "Nor has this Company at any time engaged in such practice," was definitely not in harmony with the Board's order nor was the fact that the Company accepted the Independent Association of Mill Workers before it officially notified its employees as to the disestablishment of the Employees General Committee. The above could have influenced the employees as to whom to regard as their representative.

At the same time the above dispute was going on, the International Union of Mine, Mill and Smelter Workers was attempting to organize the Utah Copper employees. On July 1, 1937 a representative of the Union requested that the Company recognize the Union as the employees' representative. D. D. Moffat flatly refused to grant recognition and insisted that the only way the matter could

²⁰ Ibid.

be settled was through a formal hearing.²¹

While the Union's request was delayed pending formal action by the Regional Director on the petition filed, the Mill Association made a request that it be recognized as the employees' representative. Not only was the Association's request granted, but three or four days later a notice was posted on the bulletin board notifying the employees of the Company's decisions. Immediately the Association commenced to handle the employees' grievances.²²

In response to the International Union of Mine, Mill and Smelter Workers' petition, the Board chose August 29, 1938 as the date for an election to be held.

At the election, out of 970 employees who voted, the Union received 481 votes, the Mill Association 454, and 29 employees voted for neither. . . . A Run-off election was held on September 26, 1938, with the opportunity to choose or reject only the Mine-Mill Union. Out of the 977 employees who voted at the election, 282 voted for the Union, and 666 voted for no Union.²³

Despite the results of these elections, the Company officials continued to recognize the Mill Association as the representative of the employees. On July 18, 1939 the Board held a third election in which the employees again had the choice of the Mine-Mill Union, the Mill Association, or neither. "Of 1348

²¹Ibid.

²²Ibid.

²³Ibid. , p. 768

employees who voted, 784 voted for the Mill Association, 531 for the Union, and 35 for neither."²⁴ The Mill Association was officially recognized as the representative of the Company's employees. A short time later the Union filed charges alleging that the Company had and was engaged in activity in violation of Section 8(1), (2) and (5) of the Act.

It is important to note that another organization, the Mine Association, came into existence shortly after the Mill Association. The Mine Association borrowed the Mill Association's constitution as a model in drawing up its constitution. Because of the great similarity between the two organizations, the Mine Association will not be considered separately here.²⁵

During the proceedings of the case it was pointed out that:

On January 30, 1940, Joe Barnes boiler shop foremen, said to Robert A. Williams, an active member and officer of the Union, "if anybody stops to converse with you about anything but plant business, try to discourage them [sic], for anyone found talking in groups is going to be let off. They are especially after you——after all of you."²⁶

It was also found that:

[After] David Back, an employee hired March 17, 1941 [was] put to work on the dike, . . . Joe Fish, assistant foreman on the dike, urged him to join the Mill Association. Back

²⁴ Ibid.

²⁵ The only difference between the two was the employees that each represented. The Mill Association represented only the concentration Mill employees, and the Mine Association represented only the employees at the Mine.

²⁶ Decisions and Orders of the National Labor Relations Board, Vol. 47, p. 770.

told Fish that he did not desire to join, whereupon Fish advised him that he would have a better chance of transferring to the Mill if he signed with the Mill Association.²⁷

There were other instances of interference, restraint, and coercion that will not be pointed out here.

The Board found that the Respondent had and was engaged in unfair labor practices as alleged in the charges. The Respondent was ordered to withdraw all recognition from and completely disestablish the Employees General Committee, the Independent Association of Mine Workers, and the Independent Association of Mill Workers.²⁸ The Respondent was also ordered to cease and desist from engaging in activities that interfered with, restrained, or coerced the activities of its employees in the exercising of their rights guaranteed by Section 7 of the Act.²⁹

On October 9, 1941 the National Labor Relations Board issued a decision and order dismissing the petitions filed by the International Association of Machinists, the International Union of Operating Engineers, and the International Union of Mine, Mill and Smelter Workers, on the grounds that the units requested were inappropriate.³⁰ Sixteen months later, on February 20, 1943, the Board issued a supplemental decision and order reinstating and consolidating

²⁷ Ibid.

²⁸ Ibid., pp. 797-798.

²⁹ Ibid.

³⁰ Ibid., Vol. 49, p. 902.

the petitions. The Board ordered that a date for an election by secret ballot be set in the near future so the employees of Utah Copper Company and Kennecott Copper Corporation could vote for an appropriate unit or units.³¹

During the February 20, 1943 proceedings, the Independent Association of Mine Workers filed a petition to be considered as an appropriate unit along with the other unions. The Trial Examiner pointed out that that organization had been ordered disestablished in previous proceedings; and, therefore, the request was denied.³²

Elections were conducted by secret ballot on July 17 and 18, 1943. The Board issued its decision and order on August 4, 1943. The Board certified: The International Association of Machinists, Lodge No. 568, District 114, to represent the hammer operators, blacksmiths first fire, blacksmiths, blacksmith helpers and the tool dresser, including student employees; the International Brotherhood of Electrical Workers, Local Union 1081, AFL, to represent x-ray technicians, armature winders, electricians, second electricians, third electricians, and electrician helpers, including student employees; and the International Union of Mine, Mill and Smelter Workers, Local No. 485, CIO, to represent production and maintenance employees, including axemen of the engineering department, student employees, toe samplers, assayer helpers, and precipitation-plant operators.³³

³¹Ibid.

³²Ibid.

³³Ibid. , Vol. 52, p. 852.

The Board, in each of the cases above, specifically excluded bosses, foremen and supervisors from belonging to any one of the three units.

Subsequent to the certification of appropriate bargaining units by the NLRB, the Utah Copper Company signed its first collective-bargaining agreements with the above unions in the summer of 1944--nine years after the Wagner Act was passed by Congress.

In the matter of Walter Stover, doing business under the trade name and style of Stover Bedding Company, and Upholsters Allied Crafts Local Union No. 501. Decided September 25, 1939.

In September 1937 the American Federation of Labor began organizational activities among the employees at the Stover Bedding Company, Salt Lake City, Utah. Handbills distributed to the employees informed them that a meeting would be held at the Labor Temple and invited them to attend.³⁴

Walter Stover, the owner of the Stover Bedding Company, heard of the meeting and decided that he would also attend. That night at the meeting he was recognized and asked to leave. The impropriety of his attending such a meeting was pointed out to him. He replied that "he, himself, had been a member of a labor organization and that he favored the American Federation of Labor. . . . His employees were free to join a union but that 'if his low paid help could not bring him a profit he would lay off every low paid man in his plant.'"³⁵

³⁴ Ibid., Vol. 15, p. 637.

³⁵ Ibid., p. 639.

³⁶ Ibid., p. 641.

Following the meeting, Stover informed his employees that he did not think a union should come in and tell him how to run his business. He also told them that if the Union should come in and ask for higher wages, he would have to shut the plant down.³⁶

Some time in October, the employer asked one of his employees to attend a union meeting and to report back to him who was attending and what was going on. The Board said, "We repeatedly have held this form of espionage to be violative of the Act."³⁷

Despite Walter Stover's efforts, by November 1937 a substantial number of his employees were organized by the Upholsterers and Allied Crafts Local No. 501, an affiliate of the American Federation of Labor.³⁸

On November 2, 1937, the Union presented a proposed contract to the Respondent. The Respondent discharged Ralph Barlow on November 3; Bonnie Maxwell on November 15; and Elmer Barlow, Marvin Thomas, Steven Clements, Oris Gray and Frank Colianna on November 17. All of the above persons were active union members. When asked at the hearing why he discharged the employees listed above, Stover reasoned that it was because of a decline in business activity.³⁹

³⁶ Ibid. , p. 641.

³⁷ Ibid. , p. 640.

³⁸ Ibid. , p. 638

³⁹ Ibid. , pp. 641-651.

It is interesting to note that three weeks before the Respondent discharged Elmer Barlow, he increased Barlow's wages. "At that time the respondent told him, 'I wish I could give you twice that much, because you are well worth it to me, . . . I will give you another good raise before Christmas.'"⁴⁰

Ralph Barlow had also been promised an increase in pay prior to the Union's intrusion. He was elected general manager of the Union shortly after the Respondent's employees had been organized. When he was discharged, he was given the reason that he was too slow and inefficient in his work.⁴¹

Although Stover gave explanations to justify the discharge of the aforementioned employees, the fact that they were all active union members and that they were all dismissed about the same time, and during the period that the Union was organizing, seemed to indicate that all of the employees were discriminatorily dismissed. But in view of the evidence, the Board found that there had been a substantial decline in the Respondent's business; and only Ralph Barlow, Elmer Barlow, and Marvin Thomas had been discriminatorily dismissed.⁴²

Steven Clements, Oris Gray, and Frank Colianna were logical persons to be discharged in the given situation because of their low seniority. Bonnie Maxwell was also a logical person to be laid off because of an increasing physical incapacity to accomplish her work.⁴³

⁴⁰Ibid., p. 647.

⁴¹Ibid., pp. 642-646.

⁴²Ibid., p. 650.

⁴³Ibid.

The Board found that the Respondent had and was engaged in activity that violated Section 8(1) and (3) of the Act. It issued an order that the Respondent cease and desist from engaging in activity that interfered with, restrained or coerced the activities of his employees guaranteed by Section 7 of the Act. The Board also ordered that the Respondent

. . . offer to Ralph Barlow, Elmer Barlow, and Marvin Thomas, and each of them, immediate and full reinstatement to their former or to substantially equivalent positions, without prejudice to their seniority and other rights and privileges; and make them whole for any loss of pay they have suffered by reason of their respective discharge . . . ⁴⁴

In the matter of Pacific States Cast Iron Pipe Company and Steel Workers Organizing Committee, Local Union No. 1654.
Decided December 10, 1941.

On March 26, 1941, the Pacific States Cast Iron Pipe Company, Provo, Utah, was served with a complaint alleging that it had and was engaged in activity in violation of Section 8(1), (3) and (5) of the Act. The charge was filed by the Steel Workers Organizing Committee, Local 1645, affiliated with the Congress of Industrial Organizations. ⁴⁵

The Congress of Industrial Organizations began to organize the Respondent's employees in June 1937. There was in effect at that time an Employees Representation Plan which held regular monthly meetings. Both

⁴⁴ Ibid., p. 652.

⁴⁵ Ibid., Vol. 37, p. 406.

employees and management had representatives who attended the meetings.⁴⁶

George Sibbett, general manager, had a handbill distributed to the employees which encouraged them to attend the CIO meetings, but also stated

that we had been as one large family here for a long time, we had made advancements in different departments, we had spread out and formed a new department, and they hoped we wouldn't have something come up that would interfere or stop us from expanding.⁴⁷

Shortly thereafter the Iron Workers' Union, an unaffiliated union, was formed among the employees of the Respondent. In June 1937 a consent election was conducted by the Board to determine whether the employees wanted the Iron Workers' Union or the CIO Local Union No. 1654 to represent them. The Iron Workers' Union won the election. A representative of the Iron Workers' Union presented the Respondent with a proposed contract

. . . demanding a minimum rate of 55 cents, and a week's vacation with pay for employees with three years service. In "a matter of a few days" the Iron Workers received from the Respondent a contract granting a 57 cents minimum rate, and a week's vacation with pay for employees with only two years service.⁴⁸

By the summer of 1939 the employees had become dissatisfied with the Iron Workers' Union and a second election was held to determine if the employees wanted the Iron Workers' Union or the Steel Workers Organizing Committee, Local Union No. 1654, to represent them. Local Union No. 1654 won the election.⁴⁹

⁴⁶Ibid., p. 408.

⁴⁷Ibid., p. 409.

⁴⁸Ibid., p. 410.

⁴⁹Ibid., p. 412.

It is important to point out management's attitude towards what they called "outside" organizations. Two days after the Union was designated as the employees' representative, O. H. King, the Company treasurer, called a meeting where he made the "statement to the effect that, until the Supreme Court of the United States had ruled to the contrary, the respondent 'would never sign a contract with an outside organization.'"⁵⁰

In April 1940, the Union presented a proposed contract to the Respondent. The proposed contract provided for recognition of the Union by the Respondent as his employees' representative, a grievance procedure, and an increase of three cents an hour in the basic wage rate. The Respondent explained that "it considered the Iron Workers 1939 contract to be still in effect."⁵¹

After the Respondent and the Union representatives had held several meetings, some of which representatives from the Iron Workers' Union were invited to attend, with no favorable results the Union filed charges as indicated above. King stated later at a meeting that this time the Union "had gone too far" in filing charges with the Board against the Respondent and that the Respondent "could not and would not exist with a Labor Board club hanging over its head . . ."⁵²

In regards to that part of the charge alleging that the Respondent had

⁵⁰Ibid. , p. 416.

⁵¹Ibid. , pp. 416-417.

⁵²Ibid. , p. 420.

violated Section 8(5) when it laid off Ralph H. Peters on March 8, 1940, the Board found that Peters was laid off because of a reduction in work force, and not because of his union activity. That part of the charge was dismissed.⁵³

The Board found that the Respondent had violated Section 8(1) and (2) of the Act. An order was issued for the Respondent to cease and desist from entering into any activity that interfered with, restrained or coerced the activities of his employees that were in line with the rights guaranteed by Section 7. The order also stated that the Respondent should recognize the Steel Workers Organizing Committee, Local Union No. 1654, as the representative of its employees; and that the Company should cease and desist from refusing to bargain collectively with it.⁵⁴

Conclusions

This chapter has served to demonstrate that there were employers in the State of Utah who found that the Wagner Act had real meaning. In looking at the background of the companies that were called before the Board, it is easy to understand why these companies found it difficult to comply with the restrictions placed upon them.

Utah Copper Company and Kennecott Copper Corporation had established and maintained company unions since 1919. They were called before the Board in

⁵³Ibid. , p. 425.

⁵⁴Ibid. , p. 430.

1937, or eighteen years later, and were told to disestablish their company-dominated unions. For the next five years this was a real, live issue for those associated with that firm.

The difficulty encountered by Utah Copper Company in adjusting to the Wagner Act is best illustrated by the following: In 1943 the Independent Association of Mine Workers filed a petition at the Regional Office to be considered as an appropriate collective bargaining unit. The Trial Examiner pointed out that this organization had been ordered disestablished in 1938 because it was a company-dominated union; and, therefore, the request was denied.

In the matter involving Stover Bedding Company and Pacific States Cast Iron Pipe Company, both employers felt that unions would usurp some of their rights as employers. It was pointed out that the employers had given wage increases before the union became involved. Once the employers felt that someone was coming into the picture who might restrict their complete freedom, they took the defensive. They went as far as to discharge some of their best workers. These cases illustrate the employees' resentment towards labor union.

The cases also illustrate the part played by the National Labor Relations Board. Once the Board received a complaint against these firms, action was taken. In the cases arising in Utah, the Board found that the employers had violated the Wagner Act and ordered corrective action taken.

CHAPTER IV

EMPLOYERS AND UNIONS UNDER THE TAFT-HARTLEY ACT

Employers Under the Taft-Hartley Act

The Labor-Management Relations Act (Taft-Hartley Act) was enacted in 1947. The unfair labor practices from the Wagner Act were incorporated into the Taft-Hartley Act with only one change. This was Section 8(a) (3), which after 1947 outlawed the closed-shop agreement and maintained the union-shop agreement as legal.

The purpose of this chapter is to look at what went on in the field of management-labor relations after the passing of the Taft-Hartley Act of 1947 with regard to employers' unfair labor practices.

Because of the similarity of these cases and the cases in the previous chapter, employers being called before the Board for allegedly violating the same sections of the Taft-Hartley Act as they had of the Wagner Act - these cases will not be handled in great detail. The significant points of each case will be pointed out to demonstrate the continuing difficulty that employers in the State of Utah had in complying with the regulations placed upon them.

In the matter of Wasden Motor Sales, a corporation, and International Association of machinists, Local Lodge No. 1066, District Lodge No. 114.
Decided March 29, 1949.

On March 2, 1949, the Board found that the Wasden Motor Sales Corporation had and was engaged in activity in violation of Section 8(a) (1), (3) and 5 of the Act.¹

An order and decision was given by the Board that the Respondent should cease and desist from:

- (a) Refusing to bargain collectively with the representative of his employees;
- (b) Discouraging membership in the International Association of Machinists, or any other labor organization, or discriminating in any manner in regard to hire and tenure of employment;
- (c) In any manner of interfering with, restraining or coercing his employees in the exercise of their rights guaranteed by Section 7 of the Act.²

In the matter of Thermoid Company and United Rubber, Cork, Linoleum and Plastic Workers of America, CIO.
Decided June 28, 1950.

The Thermoid Company began operations at Nephi, Utah, in September 1947, just a few months after the enactment of the Taft-Hartley Act. Shortly after operations at the plant began, the United Rubber, Cork, Linoleum and Plastic Workers of America, CIO, and the Subordinate

¹Decisions and Orders of the National Labor Relations Board, Vol. 82, p. 455.

²Ibid., p. 456.

District Lodge No. 114, International Association of Machinists, sent representatives to Nephi for the purpose of organizing the employees at the plant. An election was held in August 1948; and the International Association of Machinists were certified as the bargaining representative.³

Two days prior to the representation election, Frederick E. Schluter, president of the company, called a meeting of a selected group of employees. At the meeting he stated that

. . . he had closed his plant in Los Angeles because the CIO Union struck the plant in violation of its contract; that when Mr. Gartrall (the CIO representative) left Los Angeles to come to Nephi to organize the plant he had a new Dodge and a new trailer.⁴

He made other remarks at the meeting in an attempt to denigrate the Union in the eyes of the employees.⁵

In a conversation, Henry Orme told James Beard, a supervisor, that he preferred the IAM to the CIO union because he ". . . had understood that Thermoid Company had trouble with the CIO, and Beard replied they had considerable trouble with them."⁶ During the course of the conversation Beard asked Orme if he could give him the names

³Ibid. , Vol. 90, pp. 620-621.

⁴Ibid. , p. 621

⁵Ibid.

⁶Ibid.

of other employees who were interested in joining a union, Orme changed the subject and did not answer the question.⁷

On about August 21, 1948, Frederick E. Schluter called a meeting of top supervision to discuss the problem of their employees joining a union. It was decided that four employees who were considered the leaders in organizing the employees be discharged. The problem then arose, as to what reason could be used for discharging the four? In the case of Gene Gadd it was testified,

. . . that the discharge of Gadd was postponed because of the difficulty of arriving at a reason for discharging him, that is a reason to give the employee for discharging him; . . . Fabian tried to explain that he had not been satisfied with his work in the boiler room, etc. , and concluded with the statement that he was fired because of company policy.⁸

The discharge of three other employees was very similar to the discharge of Gadd; and, therefore, is not considered here.

The board found that the Respondent Company had and was engaged in activity in violation of 8(a) and (3) of the Act. An order was issued that the Respondent cease and desist from discouraging membership in either the United Rubber, Cork, Linoleum and Plastic Workers of America, CIO, or the International Association of Machinists. The Board also ordered that the Respondent cease and desist from interfering with, restraining,

⁷Ibid.

⁸Ibid. , p. 626.

or coercing its employees in exercising their rights guaranteed by Section 7, except as affected by an agreement requiring membership in a labor organization as authorized by Section 8 (a) (3) of the Act.⁹

Utah Construction Co. and International Association of Machinists, District Lodge No. 114, Local Lodge No. 1066.

United Brotherhood of Carpenters and Joiners of America, Local No. 1498 and Local No. 184, AFL, and International Association of Machinists, District Lodge No. 114, Local Lodge No. 1066. Decided July 17, 1951.¹⁰

This case is examined closely because it was alleged that the Utah Construction Company and the Joiners of America, Local No. 1498 and Local No. 184, violated the only change in the Taft-Hartley Act from the Wagner Act. That is, it was alleged that the Company had entered into a closed-shop agreement with the representatives of its employees in violation of Section 8 (a) (3). Also of interest is the fact that the Respondent Unions had never been certified by the Board as the representatives of the Company's employees.¹¹

The main part of the case involved Article III sub-section C, of the collective bargaining contract between the Company and the Union, which stated:

⁹Ibid. , pp. 626-627.

¹⁰Ibid. , Vol. 95, p. 196.

¹¹Ibid. , p. 223.

C. the Unions agree to assist the contractor in the procurement of competent workmen by maintaining at their offices lists of workmen who are qualified and competent and available for employment, which lists Contractor will refer prior to the procurement of workmen. Unions agree to furnish upon request the Contractor with competent workmen. . . .¹²

This part of the collective bargaining agreement required only that the company refer to the unions' listing of workmen before it hired an employee, but it did not require the company to hire from the list.

On September 29, 1949, the International Association of Machinists filed charges alleging that the Utah Construction Company had and was engaged in activity in violation of Section 8 (a) (1) and (3) of the Act; and that the United Brotherhood of Carpenters and Joiners of America, Local No. 1498 and Local No. 184, had and was engaged in activity in violation of Section 8 (b) (1) (A) and (2) of the Act.¹³

The Board found that John Olsen and Wendell Weston White applied for a job with the Respondent Company on May 2, 1949. In the course of applying for a job they met Vincent Ryan, construction superintendent, who inquired about their qualifications and asked if they were members of the Union. "Olsen showed Ryan his Carpenters' card and White replied that he had been working under a permit from the Operating

¹²Ibid. , p. 224.

¹³Ibid. , p. 216.

Engineers. "¹⁴ Neither Olsen nor White disclosed that they were members of the IAM. They were then sent to the personnel office, and again their union affiliations were inquired about. This time in response to the query "Olsen showed McAdams his Carpenter's card and White showed him his IAM book. "¹⁵ When McAdams saw White's IAM book, he cautioned him not to show that book around there if he expected to get a job. Olsen was given a note to take to the Carpenters in Salt Lake City for clearance as being a member in good standing. The note also contained White's name until McAdams saw White's IAM book, at which time it was scratched off. "¹⁶

Neither White nor Olsen were able to secure a clearance from the Union. The following day Olsen returned to the job site and informed Ryan that the Union would not give him a clearance. Ryan replied, ". . . well, they will have to clear you, I guess, or you can't go to work. . . ." "¹⁷ Olsen did not know at this time that his clearance was stopped because of his IAM membership.

The Board,

. . . finding that discrimination fostered by a union even against one of its own members, encourages union membership as it strengthens the position of the union and

¹⁴Ibid. , p. 202.

¹⁵Ibid.

¹⁶Ibid. , p. 203.

¹⁷Ibid. , p. 230.

"forcibly demonstrate(s) to the employees that membership in, as well as adherence to the rules of" . . . the union is "extremely desirable."¹⁸

The Board found that the Respondent had and was engaged in activity in violation of the Act as charged. The Board issued a decision and order that the Respondent Company cease and desist from:

- (a) Discouraging membership in the IAM or any other labor organization, and not encourage membership in the United Brotherhood of Carpenters and Joiners of America, Local 1498 and Local 184, or another labor organization;
- (b) Complying with a union-security clause in violation of Section 8 (a) (3).
- (c) "Interrogating its employees or applicants for employment concerning their union affiliations; . . ."
- (d) Interfering with, restraining or coercing its employees or employee applicants in the exercise of their rights guaranteed by Section 7 of the Act.¹⁹

The Board also issued a decision and order that the Respondent Unions cease and desist from:

¹⁸Ibid. , p. 205.

¹⁹Ibid. , p. 210.

- (a) Causing or attempting to cause the Utah Construction Company to comply with the closed-shop agreement.
- (b) Attempting to use any collective bargaining agreement that would violate Section 8 (a) (3).
- (c) Interfering with, restraining, or coercing the employees, or employee applicants, of Utah Construction Company in the exercise of their rights guaranteed by Section 7 of the Act.²⁰

The Board also ordered that the Respondent Company offer Olsen and White employment; and that the Respondent Company and Respondent Unions make Olsen and White whole for any loss of pay they might have suffered.²¹

Coal Creek Coal Company and Joseph Grant, Frank Blatnick, Bee Bly, Willard Hughes, Arnie Adair, Rawlins Thacker, Alfred Powell, Robert Van Wagoner, John Himmelberger, Maurice Forbush, Elmer LeMarr, Floyd Golding.
Decided November 19, 1951.

On December 4, 1950 the Coal Creek Coal Company, located at Wellington, Utah, received a complaint, filed by those listed in the heading, alleging that the Company had and was engaged in activity in violation of Section 8 (a) (1), (2) and (3) of the Act.²²

²⁰Ibid., p. 208.

²¹Ibid., p. 209.

²²Ibid., Vol. 97, p. 20.

There was one instance in this case that differed from previous cases charged with the same violation. On March 5, 1950 the Utah State Labor Relations Board conducted a secret ballot election to determine if the Respondent's employees wanted to be represented by the UMW. Just prior to the election, Grant Powell, operating head at the mine, called a meeting of employees at the mine and

. . . told them that they had the right to vote the way they desired but if the UMW won the election, the Respondent could not operate the mine under the terms demanded by that organization.²³

Despite the Respondent's efforts, the UMW won the election.

Shortly after the election was held, Powell called a second meeting and told the workers " . . . that if the employees formed an independent union they 'could really go places' and work while the UMW were on strike."²⁴ The Respondent paid a fee of \$1,000 to have the legal work done to form the independent organization.²⁵

On May 10, 1950 the Respondent and the independent organization filed a petition with the Regional Director for a representation election. The election was held on June 19; and the independent organization won. The election and certification by the NLRB took place about four months after the State Board had certified a representative of the employees. This

²³Ibid. , p. 23.

²⁴Ibid.

²⁵Ibid. , p. 24.

established the authority the National Board had over the State Board when commerce was affected as defined in the Labor-Management Relations Act.²⁶

In regards to the charges, the NLRB found that the Respondent had and was engaged in activity in violation of the Act. The Board issued a decision and order that the ten employees who had been discharged because of Union activity be reinstated and made whole for loss of pay caused by the discharge; and that the independent association by dis-established.²⁷

Cache Valley Dairy Association and Edwin Gossner, and General Teamsters Union, Local No. 976, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL.
Decided March 4, 1953.

On July 10, 1952 a complaint was issued by the General Counsel of the National Labor Relations Board against the Cache Valley Dairy Association and Edwin Gossner, located in Smithfield, Utah. The complaint had been filed by the General Teamsters Union, Local No. 976, alleging that the Dairy Association and Edwin Gossner had and were engaged in activity in violation of Section 8 (a) (1) and (5) of the Act.²⁸

²⁶Ibid. , pp. 24-25.

²⁷Ibid. , pp. 17-18.

²⁸Ibid. , Vol. 103, p. 282.

The Dairy Association was composed of about 1,600 dairy farmers who shipped their milk to the dairy where it was made into Swiss cheese. Edwin Gossner, an independent contractor under contract with the Association, was in charge of the production and sale of the cheese.²⁹

Gossner received 15 per cent of the value of the gross sale from which he paid the wages of all production employees at the plant.³⁰

The Board found that because of the nature of the relationship between Gossner and the Association (Gossner was in charge of all production and sales, thereby acting as an agent of the Association), they were both responsible for remedying the unfair labor practices.³¹

A point of interest brought out in the proceedings of the case was that prior to 1951 the employees representative and the Respondent, acting through Edwin Gossner, had met and signed five different collective-bargaining agreements. Two of these agreements were signed prior to the Union's certification by the Board as the employees' representative. Under the three agreements signed after 1948, the Union received and maintained a union-shop contract.

The Board concluded that the Respondent had and was engaged in activity in violation of Section 8 (a) (1) and (5) of the Act. A decision and

²⁹Ibid. , p. 283.

³⁰Ibid.

³¹Ibid.

order was issued that the Respondent, upon request, bargain collectively with the General Teamsters Union, Local No. 976; and that the Respondent cease and desist from interfering with, restraining, or coercing its employees in the exercise of their rights guaranteed by Section 7 of the Act.

G. Lowry Anderson, Inc. , and G. Lowry Anderson, Inc. , d b a Utah County Tractor Sales, and International Association of Machinists, District Lodge 114, Local Lodge 1066, AFL.
Decided April 8, 1953.

On May 5, 1952 the International Association of Machinists, District Lodge 114, Local Lodge 1066, filed a complaint with the Regional Office alleging that G. Lowry Anderson, Inc. , Springville, Utah, had and was engaged in activity in violation of Section 8 (a) (1) and (5) of the Act.³²

The Union was certified by the Regional Office as the Respondent's employees's representative on November 27, 1951. Three employees were laid off on the following dates: 'Randall Johnson, October 15, 1951; Floyd McPherson, November 23, 1951; Mark Sumsion, January 31, 1952.'³³ It was alleged that these men were discharged because of Union activity.

In looking at the date that the charge was filed and the dates on which the three men were discharged, one sees that several months elapsed between the two. During the proceedings of the case it was disclosed that

³²Ibid. , Vol. 103, p. 1714.

³³Ibid. , p. 1715.

before the charge was filed, the Union had entered into negotiations with the Respondent for a collective-bargaining agreement.³⁴

The Board concluded that "the charge that these men were discharged for union activities seems to have been an afterthought which the Union had, after its bargaining had not resulted in a contract, and after the men had gone out on strike."³⁵

The Board found that the Respondent had engaged in activity which violated Section 8 (a) (1). A decision and order was issued that the Respondent cease and desist from activity which interfered with, restrained, or coerced its employees in the exercise of their rights guaranteed by Section 7 of the Act.³⁶ The charge that the Respondent had and was engaged in activity in violation of Section 8 (a) (3) and (5) of the Act was dismissed.³⁷

Utah Oil Refining Company and Oil Workers
International Union, CIO, Local 286.
Decided June 22, 1954.

The Respondent, a Utah corporation with its principal office in Salt Lake City, Utah, had recognized the Oil Workers International Union since 1936, or one year after the enactment of the Wagner Act. During the latter part of 1951 and the early part of 1952, the Respondent and the Union had entered into negotiations in an attempt to form a new

³⁴Ibid. , p. 1721.

³⁵Ibid. , p. 1721.

³⁶Ibid. , pp. 1733-1734.

collective-bargaining agreement. Because of difficulty in reaching an agreement, a strike was authorized. It began on April 24, 1952.³⁸

While the employees were out on strike, management made some changes in and around the plant. Before the strike, many employees had left the plant area, through one of several gates, for the purpose of smoking. During and after the strike these gates were kept locked. Before the strike the employees could have a cup of coffee, furnished by the Company, any time they wanted. After the strike the coffee rations were cut by one half. Also a lunch room for the employees had been kept open at all hours before the strike, but after the strike it was open only during regularly scheduled lunch periods.³⁹

When the strike terminated on May 24 and the workers reported for work, they were informed that they would be called back as the Respondent needed them. The Company then attempted to get the Union to agree to a no strike agreement. A Union representative responded by stating that ". . . the respondent could be certain there would not be another strike until the Union committee left that meeting."⁴⁰ Because of the Union's attitude, the Respondent maintained the emergency crew

³⁸Ibid., Vol. 108, p. 1396.

³⁹Ibid., p. 1400.

⁴⁰Ibid.

it had hired during the strike for one week before it recalled the striking employees to replace them.⁴¹

In response to the charges filed by the Union, that the Respondent had and was violating section 8 (a) (1) and (3) of the Act, the Board came to the following conclusions: That the Respondent had not violated the Act by its change in Company policy or by the delay in recalling all the striking employees. But that the Respondent had violated Section 8 (a) (1) in five different incidents through statements made by management to former striking employees. Except for the violation of Section 8 (a) (1), the rest of the case was dismissed.⁴²

Utah Plumbing and Heating Contractor Association and its members and Local Unions 19, 57, 348, and 466 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO.
Decided March 7, 1960.

In this case the Union representatives were from the four above named Unions. The employer's representatives were from a multi-employer unit which comprised the Utah Plumbing and Heating Contractor Association.⁴³

Negotiations for a new collective-bargaining agreement started January 22, 1959. During the course of negotiations, proposals and counter-proposals were made by the two parties. 'On March 30, 1959, a meeting was called of

⁴¹Ibid.

⁴²Ibid., pp. 1392-1394.

⁴³Ibid., Vol. 126, pp. 976-977.

the members of the multi-employer unit and other 'interested' employers . . .⁴⁴ At that meeting the Association authorized its negotiators to make a final wage offer and stated that if the wage offer was not accepted, a lockout would be instituted. The Association negotiators told the Union representatives "no contract, no work" and "we have as much right to lock you out as you do to strike."⁴⁵

The Union representatives were unable to persuade its members to accept the last proposal issued by the Respondent. The Association called on its members and other interested employers to make the lockout effective on April 1, 1959. Between April 1, and April 4, the Union representatives agreed to the terms of the last proposal offered by the Respondent; and the lockout was terminated.⁴⁶

The Board found that the Respondent had, by threatening to lockout and by locking out its employees, violated Section 8 (a) (1) and (3) of the Act. The Board issued a decision and order that the "Respondents make whole employees laid off or locked out . . . for any loss of pay they may have suffered. . . ."⁴⁷

⁴⁴Ibid., p. 977.

⁴⁵Ibid.

⁴⁶Ibid.

⁴⁷Ibid. , p. 979.

This decision and order made by the Board on March 7, 1960, "was reviewed by the United States Court of Appeal for the Tenth Circuit and on August 24, 1961, the court granted enforcement."⁴⁸ On November 9, 1962 the Regional Director issued back pay specifications.⁴⁹

On November 13, 1962, Pharris T. Roberts and Larry Roberts, a partnership doing business as Standard Plumbing and Heating Contractors, voluntarily filed a petition for bankruptcy. The petition was granted. The firm's employees, who had been subjected to the lockout of April 1, 1959, were not granted their back pay. The Association informed the Board that Standard Plumbing was no longer a member of its Association and, therefore, that part of the order pertaining to it was unenforceable.⁵⁰

The Board issued a supplemental decision and order on April 29, 1963. In the previous order "the Board had ordered Respondent Association as well as those of its members . . . to make said employees whole for any loss of wages . . ."⁵¹ The Tenth Circuit Court enforced this order by stating that the, "Respondent Association is financially responsible for making the 13 Standard discriminatees whole. . . ." Therefore, the Board concluded that the Respondent Association was obligated to

⁴⁸Ibid., Vol. 142, p. 381.

⁴⁹Ibid., p. 379.

⁵⁰Ibid., p. 381.

⁵¹Ibid., p. 384.

make the employees of the Standard Company, long since out of business, whole for any loss of pay due to the lockout.⁵²

Allied Distributing Corporation and Standard Optical Company and International Union of Electrical, Radio and Machine Workers, AFL-CIO.
Decided March 15, 1961.

On November 25, 1959 the International Union of Electrical, Radio and Machine Workers filed a charge alleging that Allied Distributing Corporation and Standard Optical Company had and were engaged in activity in violation of Section 8 (a) (1) and (3) of the Act.⁵³

During the course of the hearing it was disclosed that Schuback, vice president and general manager, had told his employees that he would rather deal with his employees individually than with some third party who did not understand their problems. He also told them that "he would throw his equipment out in the street before he would let the Union tell him how to run his business . . ."54 During the organizing activities of the Union, three active Union organizers were terminated from the Company.

The Board issued a decision and order that the Respondent had violated Section 8 (a) (1) and (3) of the Act, and that the three men who

⁵²Ibid.

⁵³Ibid., Vol. 130, p. 1352.

⁵⁴Ibid., p. 1354.

who had been discharged should be reinstated and made whole for loss of pay.⁵⁵

Western Contracting Corporation and
International Brotherhood of Teamsters,
Chauffeurs, Warehousemen and Helpers
of America, Local No. 222.
Decided October 17, 1962.

On February 7, 1962 the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 222, filed a charge with the Regional Office alleging that the Western Contracting Corporation had and was engaged in activity in violation of Section 8 (a) (1) and (3) of the Act.⁵⁶

The Western Contracting Corporation, an Iowa Corporation working for Kennecott Copper Corporation, Bingham Canyon, Utah, removed by trucks, the overburden around the mineral-bearing strata in the mine.⁵⁷

Beginning in the winter of 1959 and continuing up to the events that gave rise to this case, the Union had sought unsuccessfully to induce the Respondent to install heaters in the cabs of the trucks. It was pointed out that the mine was located in the mountains at an attitude of approximately 8,000 feet. At nine o'clock in the morning of the walkout the temperature was 25 degrees above zero.⁵⁸

⁵⁵Ibid., p. 1356.

⁵⁶Ibid., Vol. 139, p. 140.

⁵⁷Ibid., p. 141.

⁵⁸Ibid.

After the strike was initiated by a driver walking off the job, the Respondent met with the strikers' Union representative. At that meeting the Respondent offered to fill the holes in the floor of the truck cabs, tighten the doors, repair the windshields, and furnish the drivers with flying suits rather than installing heaters.⁵⁹

After several days the drivers decided to accept the Respondent's conditions and return to work. They hoped this action would provide a better psychological atmosphere in which to sit down with the Respondent and discuss the matter further. On January 22 the employees reported back to work, whereupon they were told that they were discharged. The Respondent subsequently hired back all but five of the drivers--not rehiring those that might still have the "no heater, no work" idea in mind.⁶⁰

The Board concluded that both the discharging of the employees on January 22, and the refusal to rehire five of the drivers violated Section 8 (a) (1) and (3) of the Act. The Board issued a decision and order that the Respondent reinstate the five employees not rehired, and make them whole for any loss of pay; and also that the Respondent cease and desist from engaging in activity in violation of the Act.⁶¹

⁵⁹Ibid., p. 144.

⁶⁰Ibid., p. 145.

⁶¹Ibid., p. 149.

Madsen Wholesale Co. and International
 Brotherhood of Teamsters, Chauffeurs, Ware-
 housemen and Helpers of America, Local
 Union No. 222.
 Decided November 9, 1962.

It should be noted that this is the same Union which was involved in the last case. Because of the similarities between this case and preceding cases, only an outline will be made of the proceedings of the case.

The Union filed a charge with the Regional Director alleging that the Respondent had and was engaged in activity in violation of Section 8 (a) (1) and (5) on the Act.⁶² The Board concluded that the Respondent had violated Section 8 (a) (1), (3) and (5) of the Act. It issued a decision and order recommending that the Respondent cease and desist from:

- a) Discouraging membership in the Union . . .
- b) Refusing to bargain collectively. . . .
- c) Questioning its employees concerning their union activity . . .
- d) Interfering with, restraining or coercing its employees in the exercise of their rights guaranteed by Section 7 of the Act.⁶³

⁶²Ibid., Vol. 139, p. 869.

⁶³Ibid., p. 877.

United Park City Mines Company
and Frank E. Stindt.
Decided April 29, 1965.

The United Park City Mines Company, a Delaware Corporation, was authorized to do business in Park City, Utah. In December 1963 the Respondent put into operation a ski-lift and employed approximately seventeen persons.⁶⁴

In February 1964 the employees had their first union organizing meeting. Shortly thereafter, Timothy Heydon, activities director of the Respondent, held a meeting with the employees and pointed out the disadvantages of a union and the trouble they would have if they decided to organize.⁶⁵

Frank E. Stindt, an active union advocate, was discharged from the employment of the Respondent on February 23. His first termination notice stated that the reason for discharge was reduction of force. "On March 6, Stindt received a second separation notice from the Respondent, also dated February 23, which stated that the reason for termination was 'to accept other employment.'"⁶⁶ No explanation for the second separation notice was ever given to Stindt.⁶⁷

⁶⁴Ibid., Vol. 152, p. 229.

⁶⁵Ibid., p. 230.

⁶⁶Ibid., p. 232.

⁶⁷Ibid.

The Board concluded that the Respondent had violated the Act as alleged, and that "the unfair labor practices committed in this case strike at the very heart of the Act."⁶⁸ (The Act was designed to protect the rights of employees.)⁶⁹

Because Utah has a "Right-to-Work" law, the Board made the following comment:

As Utah is a right-to-work State, the phrase "except as authorized in Section 8 (a) (3) of the Act" is deleted . . . and the phrase "except to the extent requiring membership in a labor organization as a condition of employment, as authorized in Section 8 (a) (3) of the Act" is deleted from . . . the Recommended Order.⁷⁰

Harold W. Breitling and Robert L. Breitling, Partners, d/b/a Breitling Brothers Construction Co. and/or Breitling Brothers Construction Inc., and Teamsters, Chauffers, Warehousemen and Helpers Local No. 222, International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America.
Decided June 28, 1965.

On August 27, 1964 the Union filed charges with the Regional Director alleging that Breitling Brothers Construction Company had and was engaged in activity in violation of Section 8 (a) (1) and (3) of the Act.⁷¹

⁶⁸Ibid., p. 234.

⁶⁹Ibid.

⁷⁰Ibid., pp. 228-229.

⁷¹Ibid., Vol. 153, p. 687.

The Board concluded that the Respondent had violated Section 8 (a) (1) and (3) of the Act. A decision and order was issued that the Respondent cease and desist from all activity in violation of the Act; and that Richard Childs and Donald Sorenson be reinstated to their former positions and made whole for any loss in pay which they had suffered because of being discharged for union activity.⁷²

Conclusions

At the beginning of the Taft-Hartley Act era employers were still being called before the Board for committing the same violations as they had under the Wagner Act. This continued to be as true in 1965 as it was in 1947.

This chapter has demonstrated how involved management-labor relations are. In all cases the employers felt it was their right, as employers, to run their businesses in a manner that best served their own interest. They felt this could be best accomplished by working out their labor relations problems on an intraplant and unilateral basis. Time and time again it was brought out that employers considered union representatives to be intruding "outsiders."

The bitterness of employers in the State of Utah towards unions representing their employees was displayed very vividly. Employers had managed and wanted to continue to manage their businesses without any restraints

⁷²Ibid., p. 697.

being imposed by organized groups of employees. The problem which arose after unions were certified by the Board indicates that management-labor relations are very complex. When the parties involved could not settle their differences; the Board demonstrated that it could.

Unions Under the Taft-Hartley Act

This part of the chapter is an analysis of the activity of unions, their members and the effect the Taft-Hartley Act had upon them in the State of Utah.

The Wagner Act of 1935 placed no restrictions upon the activities of organized labor. There were no unfair labor practices listed for union. Compared to employers, labor unions had a relatively free hand in the manner in which they organized. Consequently, no charges of unfair labor practices by unions were brought before the National Labor Relations Board in the period from 1935 to 1947.

Shortly before the outbreak of World War II the generally sympathetic public attitude toward unions and their members began to change. The detrimental effect of union excesses prior to the outbreak of the war, followed by the increasing number of wildcat strikes during World War II, helped set the stage for a complete overhaul of the Wagner Act. With the widespread outbreak of strikes during 1945 and 1946, the question was not whether or not there should be a change in labor law, but what form the new labor law should take. The primary question faced by the framers of the new law was how to balance power between unions and employers. They wanted to place certain

restrictions upon unions, but did not want to turn the table of power in favor of employers.

In 1947 the Taft-Hartley Act was enacted. Now unions faced a specific set of regulations similar to those faced by employers during the previous twelve years. The most important changes from previous labor law were a number of new restrictions placed against unions. If unions exceeded the limits of the following list of unfair labor practices, they had to answer to the National Labor Relations Board.

8 (b) It shall be an unfair labor practice for a labor organization or its agents——

(1) To restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7: Provided, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances;

(2) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(3) To refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provision of section 9 (a);

(4) (i) To engage in, or to induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise

handle or work on any goods, articles, materials or commodities or to perform any services; or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is;

(A) forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by section 8 (e);

(B) forcing or requiring any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 9: Provided, That nothing contained in this clause (b) shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(C) forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 9;

(D) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work: Provided, That nothing contained in this subsection (b) shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this Act: Provided further, That for the purposes of this paragraph (4)

only, nothing contained in such paragraph shall be construed to prohibit publicity, other than picketing, for the purpose of truthfully advising the public, including consumers and members of a labor organization, that a product or products are produced by an employer with whom the labor organization has a primary dispute and are distributed by another employer, as long as such publicity does not have an effect of inducing any individual employed by any person other than the primary employer in the course of his employment to refuse to pick up, deliver, or transport any good, or not to perform any services, at the establishment of the employer engaged in such distribution.

(5) To require of employees covered by an agreement authorized under subsection (a) (3) the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the Board finds excessive or discriminatory under all the circumstances. In making such a finding, the Board shall consider, among other relevant factors, the practices and customs of labor organization in the particular industry, and the wages currently paid to the employees affected.

(6) To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; and⁷³

The enactment of the Labor-Management Reporting and Disclosure

Act of 1959 added to Section 8 (b), of the Taft-Hartley Act, the following

amendments:

(7) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object there of is forcing or requiring an employer to recognize or bargain with a labor organization as the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees:

⁷³ Cohen, Labor Law, pp. 447-448.

(A) where the employer has lawfully recognized in accordance with this Act any other labor organization and a question concerning representation may not appropriately be raised under section 9(c) of this Act,

(B) where such picketing has been conducted without a petition under section 9(c) being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing: Provided, That when such a petition has been filed the Board shall forthwith, without regard to the provisions of section 9(c)

(1) or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof: Provided further, That nothing in this subparagraph (c) shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver or transport any goods or not to perform any services. "Nothing in this paragraph (7) shall be construed to permit any act which would otherwise be an unfair labor practice under this section (8) (b).⁷³

Given the above list of unfair labor practices, the next step is to see if they had any meaning in the State of Utah.

Local 976 and Joint Council 67, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, and Cache Valley Dairy Association.

Local 976 and Joint Council 67, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, and Dairy Distributors, Inc.
Decided July 19, 1956.

On October 26, 1955 the Regional Director of the Second Region, New

⁷³Cohen, Labor Law, pp. 447-448.

York, New York, issued a complain alleging that Local 976, Joint Council 67, and Local 277 had and were engaged in activity in violation of Section 8 (b) (4) (A) and (B) of the Act. The complaint alleged that the officers and representatives of Local 976 and Joint Council 67 had, through picketing and other means induced the members of Local 277, employees of N. Dorman and Co. , Inc. , to engage in concerted refusal to handle or process the goods of Cache Valley Dairy Association. The purpose of that activity was to force Cache Valley Dairy Association to recognize Local 976 as the exclusive bargaining representative of its employees. The charge was filed by Cache Valley Dairy Association and Dairy Distributors, Inc.⁷⁴

It should be recalled from Chapter III that in 1953 the same Union filed charges against the same Association, alleging that it had and was engaged in activity in violation of the same Act. Following the decision of the Board in 1953, Local 976 made no attempt to bargain collectively with the Association's representatives until April 12, 1955, or almost two years later. At that time the Union sent a letter to the Association requesting that they meet and form a bargaining agreement. Edwin Gossner, still under contract with the Association, owned 25 per cent of the equipment used in the processing of milk to make Swiss cheese. From his percentage of the gross returns on the cheesemaking operation, Gossner paid the wages of the production employees.⁷⁵ In 1954, Gossner formed

⁷⁴Ibid. , Vol. 116, p. 225.

⁷⁵Ibid. , p. 227.

the Dairy Distributors, Inc. — completely owned by Gossner and members of his family—for the purpose of transporting the cheese from the dairy to its buyers. In response to the 1955 letter sent by the Union requesting collective bargaining, the Association, through Gossner and the Distributors, filed separate petitions requesting a representation election. In light of the 1953 case, the Association and Local 976 concluded a consent-election agreement; and both petitions were withdrawn. "So far as this record discloses, neither Respondent has ever been certified by the Board as the exclusive bargaining representative of employees of Cache or Distributors, or both, under provisions of Section 9 of the Act."⁷⁶

Between September 9, 1955 and September 7, 1955, Gossner reduced the production of cheese and laid-off several of the production employees. In response to the cutback the employees picketed the plant. The proceedings of the case disclosed that they did this with the aid and sanction of the Respondents.⁷⁷

N. Dorman and Co., Inc., located in New York City, New York, was one of Dairy Distributors prime customers. They bought about 90 per cent of the cheese handled by the Distributors. On May 31, 1955 representatives of the Respondents arrived in New York where they arranged a meeting with Louis Dorman, president of N. Dorman and Co., Inc. They explained the dispute they were having in Utah and asked Dorman to buy his Swiss cheese elsewhere.

⁷⁶Ibid.

⁷⁷Ibid.

When Dorman refused, one of the Union representatives produced a picket sign and told him that he could expect to be picketed.⁷⁸

On September 26, 1955 the Respondents began picketing Dorman's premises. One of the picket signs read:

NOTICE———The cheese carried and delivered by this truck has been worked and processed by NON—UNION EMPLOYEES of the Cache Valley Dairymens Assoc. , Smithfield, Utah, Teamsters Joint Council No. 67.

On three different occasions the Respondents succeeded in inducing Dorman employees, members of Local 227, to refuse to unload the Distributors trucks.⁷⁹

The Board expressed the following:

Section 8 (b) (4) (A) of the statute expressly prohibits a labor organization from inducing or encouraging employees of a Secondary employer to quit work with an object of forcing or requiring any employer "to cease using, selling, handling, transporting, or otherwise dealing in the product of any other producer, processor, or manufacturer or to cease doing business with other person" . . . Section 8 (b) (4) (B) prohibits the same conduct with the object of forcing or requiring an employer other than the one being picketed, to recognize or bargain with a labor organization that has not been certified by the Board.⁸⁰

The Board concluded that the Respondent had and was engaged in activity in violation of Section 8 (b) (4) (A) and (5) of the Act. A decision and order was issued that the Respondent should "cease and desist from inducing or encouraging employees of N. Dorman and Co. , Inc. , or any other employer

⁷⁸Ibid. , pp. 225-227.

⁷⁹Ibid. , p. 228.

⁸⁰Ibid. , p. 221.

other than Cache Valley Dairy Association, . . . to force or require Cache Valley Dairy Association to recognize or bargain with Local 976."⁸¹

United Steelworkers of America, AFL-CIO,
(Boyles Bros. Drilling Company) and Inter-
national Hod Carriers and Common Laborers
Union, Local No. 16, AFL-CIO.
Decided March 11, 1959.

On September 22, 1958 the International Hod Carriers and Common Laborers Union, Local No. 16, filed a charge alleging that the United Steelworkers of America had and was engaged in activity in violation of Section 8 (b) (4) (A) of the Act.⁸²

The charge alleged that the United Steelworkers of America, while engaged in a labor dispute and strike with Boyles Bros. Drilling Company ordered and instructed the employees of Phillips Petroleum Company to cease and refuse to work. At the time of the alleged charge, Boyles was under contract to drill mine shafts for Phillips about 20 miles from Grants, New Mexico.⁸³

In a previous case on August 6, 1958, the National Labor Relations Board had issued an order that Boyles Bros. Drilling Company cease and desist from activity violating Section 8 (a) (1) and (2) of the Act. Also the Board ordered Boyles to withdraw and withhold all recognition from the United Steelworkers of America until a representation election could be held. At the time of the

⁸¹Ibid.

⁸²Ibid. , Vol. 123, p. 124.

⁸³Ibid. , pp. 125-126.

1959 case, the Union had not been certified by the Board as the representative of Boyles employees.⁸⁴

About September 1, 1958 John Williams, a shift boss, asked Harry Edsel to work underground. Edsel explained that the dampness below ground would adversely affect his health. Williams told Edsel that if he refused to work underground he would be discharged. On September 7, 1958, "Edsel was discharged pursuant to the warning given him a week earlier."⁸⁵

The afternoon of the same day as Edsel's discharge, the rest of Boyles' employees called a strike and walked off the job. The general feeling was that they should stick together and get Edsel back to work. Picket lines were located so the employees of Phillips Petroleum Company would have to cross them if they went to work.⁸⁶

Two days later, on September 9, the employees of Phillips called a walkout and joined Boyles' employees on the picket line. This "was not a union-called strike . . . this was a spontaneous walkout in sympathy over Boyles dispute."⁸⁷

The Board concluded that in the walkout at Boyles the employees were not being represented by the Respondent. The employees were not paying

⁸⁴Ibid.

⁸⁵Ibid. , p. 127.

⁸⁶Ibid. , p. 128.

⁸⁷Ibid. , p. 131.

membership dues so the walkout was not union inspired. With regard to the walkout of Phillips; there was no evidence that the Respondent ordered it or directed it.⁸⁸ The Board ordered the case dismissed.⁸⁹

United Steelworkers of America, AFL-CIO, Local Union No. 4373, (United States Smelting, Refining and Mining Company) and Lyman M. Watkins.

United Steelworkers of America, AFL-CIO, Local Union No 4292 and Wayne W. Watkins.
Decided October 30, 1961.

In December 1960 Lyman and Wayne Watkins obtained a job with United States Smelting, Refining and Mining Company. Shortly thereafter Lyman signed an application for membership and authorization for dues checkoff in behalf of Local No. 4373. Wayne did the same thing for Local No. 4292.⁹⁰

When the Watkins' names came before the Union officials for acceptance, it was found that the applicants had previously belonged to Local No 4264, commonly called the Park City Local. It was also found that because of crossing picket line of that Local when they were members, they were dropped as members in good standing.⁹¹

The Watkins brothers were informed that they would have to receive transfer cards from Local No. 4264 before their applications could be accepted.

⁸⁸Ibid., p. 132.

⁸⁹Ibid., p. 124.

⁹⁰Ibid., Vol. 133, p. 1510.

⁹¹Ibid.

In the early part of January both Lyman and Wayne were told by the other employees on the shift that they did not care to work with them because of their bad standing in the Unions.⁹²

"On the morning of January 7, 1961, the two Watkins brothers appeared for work at the mine in order to test whether only a few miners would not work with them."⁹³ The entire shift numbering approximately eight-five was waiting to go to work when the brothers arrived. They refused to go to work as long as Lyman and Wayne were working for the Company.

"The Watkins brothers made no effort to obtain a transfer card from the Park City Local, both testifying that they felt it would be useless . . . because of their past activities."⁹⁴ Both received termination slips from the Company listing the reason for termination as failure to report to work.

During the proceedings of the hearing when Lyman was asked why he had not returned to work, he said ". . . it was my individual thoughts that it would be pretty impossible to work with a group of men having a feeling of that sort towards you. I couldn't operate the mine alone, . . ."⁹⁵

The Board concluded that the Respondent was not under obligation in these circumstances to press disciplinary proceedings against its members

⁹²Ibid.

⁹³Ibid., p. 1510.

⁹⁴Ibid., p. 1511.

⁹⁵Ibid.

to demonstrate that it had not ratified the threatened work stoppage. The Board concluded that the Respondent was not engaged in activity in violation of Section 8 (b) of the Act.⁹⁶

International Brotherhood of Teamster, Chauffeurs, Warehousemen and Helpers of America, Local No. 222, International Union of Operating Engineers, Local No. 3. AFL-CIO, and United Brotherhood of Carpenters and Joiners of America, Local No. 184, AFL-CIO, (Utah Sand and Gravel Products Corp.) and Weyher Construction Co., Inc., Oakland Construction Co., Inc., and Mark B. Garff, Ryberg and Garff Construction Co., a Joint Venture.
Decided August 4, 1964.

On June 23, 1963 a charge was filed by Weyher Construction Co., Inc., Oakland Construction Company, Inc., and Mark B. Garff, Ryberg and Garff Construction Co., and Charles P. Jarman, steel erector, alleging that the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 222, International Union of Operating Engineers, Local No. 3, and the United Brotherhood of Carpenters and Joiners of America, Local No. 184, had and were engaged in activity in violation of Section 8 (b) (4) (i) and (ii) (B) of the Act.⁹⁷

The Weyher Construction Company, Inc., Oakland Construction Co., Inc., and Garff, Ryberg and Garff Construction Comapny were combined in a Joint Venture constructing an overpass for an interstate highway. Charles P. Jarman,

⁹⁶Ibid., p. 1512.

⁹⁷Ibid., Vol. 148, p. 122.

steel erector, had contracted to install the steel in the overpass. Utah Sand and Gravel Products had been hired by the Joint Venture to supply the concrete that was required for the construction of the overpass.⁹⁸

In the past, Utah Sand and Gravel had negotiated jointly with the Teamsters and the Operating Engineers. Early in July 1963 the Teamsters went on strike against Utah Sand and Gravel; and the plant was completely closed down. Later in July, Utah Sand and Gravel commenced operations using nonunion drivers to deliver their concrete. To combat this, the teamsters assigned pickets to accompany the transit-mix cement trucks. The pickets, in automobiles, would follow a truck to the place of delivery, get out of their cars, produce picket signs and picket as near as possible while the truck was unloading. When the truck left the site of delivery, so would the pickets.⁹⁹

It will help to clarify this analysis by noting that the Board concluded that the Teamsters engaged in ambulatory picketing, not in violation of the Act. That part of the charge was dismissed.¹⁰⁰

On July 19, 1963 "three Utah Sand and Gravel transit-mix trucks arrived at the Joint Venture project that morning, the first at 9:30, the second at 10:30, and the third at 10:40 a. m."¹⁰¹ Each truck was accompanied by pickets in automobiles. As soon as the truck entered the Joint Venture project area, the pickets left their cars and began to picket the street.

⁹⁸Ibid. , pp. 123-124.

⁹⁹Ibid. , p. 124.

¹⁰⁰Ibid.

¹⁰¹Ibid. , p. 125.

Working on the project at the Joint Venture were men belonging to the Carpenters Union. After seeing the pickets and concluding that it was a picket line, the carpenters gathered up their tools and left the job. Two carpenters followed Don Gillman, assistant business agent for the Carpenters Union, off the project site and asked, "Don, what will the Union do if we work behind the picket line. Gillman testified that he replied: I don't know what in hell they will do. It is not up to me to decide. As far as I am concerned they will do nothing."¹⁰²

The Board concluded that this did not constitute an order or instruction for the carpenters to leave the job; it was merely a personal opinion. The Board dismissed this part of the charge against the Carpenters Union.

On the morning of July 19, 1963, Lake Austin, a business agent for the Operating Engineers, spoke to Robert Weyher whose company was the sponsoring contractor at the Joint Venture. Austin asked Weyher if he (or the Joint Venture)

. . . would cooperate with the (Operating Engineers and Teamsters) and agree not to take any Utah Sand and Gravel concrete for a couple of days because 'if you will hold out for a couple of days . . . we can break the back of Utah Sand and Gravel and we will have all this settled and we will all be able to go to work.'¹⁰³

Weyher declined to cancel the orders for the concrete.

¹⁰²Ibid. , p. 126.

¹⁰³Ibid. , p. 127.

On the morning of July 22, 1963, ten trucks arrived at the Joint Venture to make a delivery of concrete. Again each truck was followed by pickets, made up of members of the Teamsters and Operating Engineers, in their cars. When each truck turned into the Joint Venture area, the pickets left their cars and established a picket line on the street.¹⁰⁴

Stan Garber, a business agent for the Operating Engineers, approached Raymond Barnes who was operating a crane helping to unload the trucks. Garber told Barnes, "Ray, we are having trouble with Utah Sand and Gravel. We have got to honor those picket lines. The best thing we can do is shut the machine off."¹⁰⁵ After leaving the crane, Barnes was instructed not to operate the crane as long as Utah Sand and Gravel was on the job site. There was a delay of several hours before another crane operator could be found to help unload the trucks.¹⁰⁶

On July 23, Lake Austin told Superintendent McPhie at the Joint Venture, ". . . that he had instructions from the San Francisco office of the Operating Engineers not to have men operate any piece of equipment as long as Utah Sand and Gravel was on the job (i. e. , construction site)."¹⁰⁷

The Board concluded that the Operating Engineers had engaged in activity in violation of Section 8 (b) (4) (i) (B) of the Act. The Board issued

¹⁰⁴Ibid.

¹⁰⁵Ibid. , p. 128.

¹⁰⁶Ibid. , pp. 127-129.

¹⁰⁷Ibid. , p. 130.

a decision and order that the Operating Engineers cease and desist from inducing or encouraging any employees employed by the Joint Venture to engage in a strike or any other action in an attempt to force the Joint Venture to cease doing business with any other person.

The collective-bargaining agreement which ended the strike engaged in by these Respondents gave rise to another charge being filed with the Regional Office on October 14, 1963. That case will follow.

International Brotherhood of Teamsters,
Chauffeurs, Warehousemen and Helpers
of America, Local Union No. 222, (Utah
Sand and Gravel Products Corporation)
and James Howard Dickinson.
Decided January 21, 1965.

On August 7, 1963 the representatives of the Teamsters, Operating Engineers, and Utah Sand and Gravel met in collective-bargaining negotiations. It is recalled from the previous case that while the Teamsters and Operating Engineers were on strike, Utah Sand and Gravel used nonunion employees in order to continue plant operation. During the course of negotiations, the Teamsters and Operating Engineers demanded that Utah Sand and Gravel terminate the employment of the strikebreakers. James Howard "Dickinson was singled out for special emphasis by the employee representatives."¹⁰⁸ The representatives of Utah Sand and Gravel refused to agree to those terms.

¹⁰⁸Ibid., Vol. 150, p. 1170.

Al Clem, representative of Operating Engineers, asked Allen Flandro, executive vice president and general manager, and Ezra Knowlton, vice president, if they would agree to the removal of Dickinson from his present job as batch operator and assign him work where he would not come into direct contact with the members of the Unions. Flandro and Knowlton agreed to this course of action.¹⁰⁹

The following day Dickinson was assigned as an equipment operator. A few days later he was assigned to a repair crew. Scott Haslem, a business representative of Local No. 222, complained that Dickinson had given directions by way of hand signals to the truck drivers, members of Local Union No. 222 while on the repair crew. In response to the above, Dickinson was transferred to the Kearns plant as a lowboy and loader operator.¹¹⁰

On August 13 a work stoppage occurred at the Kearns plant. Scott Haslam told Jacobson, the personnel manager, that he shut the plant down because the Company had not lived up to its agreement; i. e. , Dickinson's operation of the lowboy was the reason of the shutdown.¹¹¹

A meeting was called for the representatives of Local Union No. 222 and Company officials. After discussing the problem, they agreed that Dickinson should be assigned to the dispatch office. Later that same day Haslem complained

¹⁰⁹Ibid.

¹¹⁰Ibid. , p. 1171.

¹¹¹Ibid.

that Dickinson " . . . had spoken directly with drivers, . . . over the radio, or had given instructive hand signals . . . "112

On October 14, 1963 a charge was filed by James Howard Dickinson alleging that the International Brotherhood of Teamsters, Local Union No. 222, had and was engaged in activity in violation of Section 8 (b) (1) (A) and (2) of the Act. 113

The Board concluded that the International Brotherhood of Teamsters, Local Union No. 222, had and was engaged in activity in violation of Section 8 (b) (1) (A) and (2) of the Act and had caused Utah Sand and Gravel to violate Section 8 (a) (3) of the Act. 114

The Board issued a decision and order that the Respondent cease and desist from: Causing or attempting to cause Utah Sand and Gravel to discriminate against James Howard Dickinson, or any other employee; and from restraining or coercing employees in the exercise of their rights guaranteed by Section 7 of the Act. 115

¹¹²Ibid., p. 1172.

¹¹³Ibid., p. 1168.

¹¹⁴Ibid., p. 1175.

¹¹⁵Ibid.

International Brotherhood of Electrical Workers, Local No. 1081, and its agents, including officers A. D. Bently, Steven Paulos, Mike Church and William K. Groves, and Utah Copper Division, Kennecott Copper Corporation, and International Association of Machinists, Lodge No. 568, AFL-CIO.

Utah Copper Division, Kennecott Copper Corporation, and International Association of Machinists, Lodge No. 568, AFL-CIO.

Utah Copper Division, Kennecott Copper Corporation, and International Brotherhood of Electrical Workers, Local Union No. 1081, AFL-CIO.
Decided December 11, 1964.

This case, involving a jurisdictional dispute, is of special interest because it was unique in Utah. A charge alleging a violation of Section 8 (b) (4) (D) is very seldom processed by the Board because Section 10(K) authorizes the Board to take action to settle alleged jurisdictional disputes ten days after the charge is filed. In most cases unions favor settling their own disputes rather than having outsiders involved in the settlement. This is one of the relatively few cases where the Board processed a case of this nature.

In 1943 the National Labor Relations Board ordered that elections be held for various crafts employed at Kennecott Copper Corporation. As a result of these elections, various labor organizations represented specified groups of employees at Kennecott. The two labor organizations involved in this case, the International Brotherhood of Electrical workers, Local No. 1081, and the International Association of Machinists, Lodge No. 568,

represented electricians and machinists engaged primarily in maintenance work.¹¹⁶

At the time of this case, Kennecott was engaged in a major expansion program which included changing from a rail haulage system to a truck haulage system in the upper two-thirds of the mine. This change necessitated the use of eighty-five 65-ton trucks, instead of railroad cars. Kennecott used two different types of trucks. One was the conventional type with a transmission and electrical system. The other type was an electric drive truck which had no transmission. "In it the diesel motor turns a generator which provides electricity to a traction motor which in turn drives the wheels."¹¹⁷

To make it possible to perform maintenance on the new heavy-duty trucks, the employer constructed a maintenance shop called the "Yosemite shop." In May 1963 Kennecott awarded the truck maintenance work in the Yosemite shop to IAM; and negotiations began immediately to provide a supplemental agreement to cover the new work.¹¹⁸

On October 1, 1963 the IBEW announced that it would establish a picket line at the Yosemite shop if IAM members, instead of IBEW members, performed the electrical work on the trucks. At two different meetings, one on September 24, and the other on October 1, the IBEW threatened to strike

¹¹⁶Ibid., Vol. 150, p. 5.

¹¹⁷Ibid.

¹¹⁸Ibid., p. 7.

if IAM was awarded the work:

IBEW claims that repair and replacement of generators, starters, lights, ignition systems, electrical transmissions, heaters, batteries, and electrical traction motors comes within its jurisdiction as specified in its contract. . . .¹¹⁹

The IAM claims that the work in dispute is a part of the traditional work of automotive mechanics; that automotive mechanics possess the necessary skill and experience to do the electrical work on the trucks and other equipment . . .¹²⁰

Utah Copper Division, Kennecott Copper Corporation, filed a charge with the Regional Director alleging that the International Brotherhood of Electrical Workers, Local No. 1081, had and was engaged in activity in violation of Section 8 (b) (4) D)D of the Act. "Section 10(k) of the Act empowers the Board to hear and determine the dispute out of which an 8 (b) (4) (D) charge has arisen."¹²¹

The Board concluded that the IAM Lodge No. 568 was entitled to perform the maintenance work at the employer's Yosemite Shop. The Board issued a decision and order that the International Brotherhood of Electrical Workers did not have the right to force or attempt to force Kennecott Copper Corporation to assign the disputed work to the members of IBEW.

¹¹⁹Ibid.

¹²⁰Ibid.

¹²¹Ibid.

Local No. 22, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (W. S. Hatch Co. , Inc.) and American Oil Company.
Decided May 25, 1965.

A charge was filed by the American Oil Company alleging that Local No. 222, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, had engaged in activity in violation of Section 8 (b) (4) (i) and (ii) (B) of the Act. On January 25, 1965 the parties filed a joint motion to waive the hearing before the Trial Examiner and to hold the proceedings directly before the Board.¹²²

On October 3, 1964 the Respondent and W. S. Hatch Co. , Inc. , failed to successfully negotiate the renewal of a collective-bargaining contract. The Respondent went on strike against Hatch and picketed his place of business in Woods Cross. Pickets also followed Hatch's trucks to the American Oil's refinery and picketed on the public streets in front of the various entrances to the refinery. "The pickets signs read: Our Dispute is with W. S. Hatch Co. Only. Teamsters Local 222."¹²³

American Oil's physical property relevant to the dispute contained two separate areas, the north compound and the south compound. Gates III and V were the entrances to the north and gates I, II, and IV were the entrances to the south compound.¹²⁴

¹²²Ibid. , Vol. 52, p. 853.

¹²³Ibid. , p. 854.

¹²⁴Ibid. , p. 855.

Between October 3 and 14, W. S. Hatch, Clark Tank Lines and Pacific Intermountain Express Company all used the various gates to the two compounds. The Respondents picketed all of those gates. Pacific Intermountain Express and Clark Tank Line drivers refused to cross the picket lines.¹²⁵

On October 15, American Oil posted two separate gates reserved exclusively for Hatch trucks: "Gate V in the North compound and gate IV in the South compound." Between October 15 and 19 the Respondent confined its picketing activity to these gates and only picketed when there were Hatch trucks in the area. At that time there was no work stoppage of the other drivers using the other gates.¹²⁶

Between October 20 and November 19 the Respondent picketed gate I, II, and IV of the south compound, which again resulted in a work stoppage for Clark Tank Lines and Pacific Intermountain Express drivers entering the south compound.¹²⁷

On December 25, 1964 the U. S. District Court issued an injunction enjoining the Respondent from picketing entrances to Americal Oil other than those reserved for Hatch trucks.¹²⁸

¹²⁵Ibid.

¹²⁶Ibid.

¹²⁷Ibid.

¹²⁸Ibid., p. 856.

The Board concluded that Local No. 22, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, had and was engaged in activity in violation of Section 8 (b) (4) (i) and (ii) (B) of the Act. The Board issued a decision and order that the Respondent cease and desist from inducing or encouraging individuals employed by American Oil Company, Clark Tank Lines, or Pacific Intermountain Express Company to engage in a strike or refuse to handle or process materials with the object of trying to force American Oil Company to cease doing business with W. S. Hatch Company.¹²⁹

Conclusions

As this section has pointed out, it was not just the employers who found themselves before the Board answering to alleged unfair labor practices after 1947. The enactment of the Taft-Hartley Act in 1947 restricted labor organizations' activity by a similar set of rules to those employers had been compelled to live with for the previous twelve years.

Unions found that Section 8(b) of the Taft-Hartley Act applied to them every bit as much as Section 8 (a) applied to employers. This is brought to light by the charges of alleged unfair labor practices filed with the Regional Office against unions.

¹²⁹Ibid., p. 859.

The cases that arose in Utah demonstrated that a union could have trouble with another union as well as with an employer. The National Labor Policy of the United States is designed to promote fairness in labor-management relations.

One case that deserves extra attention is the jurisdictional dispute charge involving the International Association of Machinists and the International Brotherhood of Electrical Workers representing employees at Kennecott Copper Corporation. Section 8 (b) (4) (D) and Section 10 (k) were given a clean bill of health. When a jurisdictional dispute charge is filed with the Board, it seldom settles the issue because the parties involved usually prefer to settle the dispute themselves rather than have an "outsider" settle it for them.

CHAPTER V

SUMMARY AND CONCLUSIONS

The purpose of the Wagner Act was to curtail management's practice of interfering with workers' efforts to organize and to encourage collective bargaining. The Act provided the legal framework for national labor policy from 1935 to 1947. During that time, the nation experienced a severe depression, a full-scale national mobilization and world war, and the problems of postwar demobilization. Yet it could still be said that "the principles of the Wagner Act were as sound in 1947 as they were in 1935."¹

The operations of the NLRB and the constitutionality of the Wagner Act were upheld by the U. S. Supreme Court in 1937; and that was the real beginning of opposition to the Act. Prior to that time, many employers had ignored the orders of the Board and the provisions of the Act. When employers were called before the Board, the law and its administrative machinery began to take on meaning. This was especially true for employers who were ordered to cease and desist from engaging in activity in violation of the Act. Employers had their choice of either complying with the Board's decisions or being tried before the U. S. Circuit Court.

¹Millis and Brown, From the Wagner Act to the Taft-Hartley, p. 267.

Employers soon learned that their freedom of speech regarding unions was restricted. They also learned that while their labor relations activities were circumscribed, unions were left free to organize workers.

The Board found it necessary to decide each issue on a case-by-case basis as it had no specific mandate to follow. However, as the Board gained experience it developed a set of guide lines to follow. Although the Board succeeded in gaining compliance with the majority of its decisions and orders, it nevertheless encountered extensive criticism. Considerable employer opposition to the Wagner Act was generated in the late 1930's. Modification of the Act was delayed, however, by the outbreak of World War II.

Pressures for the Act's revision continued to mount during World War II to a significant number of wildcat strikes which impeded the war effort and the disrupting activities of union leaders such as John L. Lewis. A wave of strikes occurred after the ending of the war as workers tried to obtain higher wages in order to keep up with the rapidly increasing cost of living. It was also apparent by 1945 that the arrogance and abuse of their newly won power by some union leaders necessitated major revision of the Wagner Act.

In 1946 the question was not whether there should be a change in National labor policy, but what form that change should take. That change came in 1947 with the enactment of the Labor-Management Relations Act (Taft-Hartley Act). Section 8 (b) of the Act was a successful attempt to limit the activities and curb the abuses of unions and their meaningful

if not onerous. Some even went so far as to call it a "slow labor law." No longer were only employers called before the Board for allegedly violating the Act--union representatives often found themselves in that same position. And the unions were unaccustomed to such treatment.

The Taft-Hartley Act remained the cornerstone of national labor policy for twelve years. Although the Taft-Hartley Act has been declared the most comprehensive national labor policy ever developed, it did have certain inadequacies. Consequently, the Labor-Management Reporting and Disclosure Act of 1959 (Landrum-Griffin) was enacted by Congress to strengthen the provisions of the Taft-Hartley Act. The passage of the Landrum-Griffin Act constituted another attempt to provide a better balance in industrial relations and to foster internal union democracy.

Because Utah is not considered to be an industrialized state, it is interesting to note that during the first three decades of the existence of the NLRB that the cases arising in the State of Utah involved the majority of the unfair labor practices prescribed by the Act. Although few in number, the cases involving the different unfair labor practices provide a representative sample of those handled by the Board. It has been found that the activity of the Board concerning cases originating in the State of Utah has increased since 1935. This indicates that even though national labor policy has become more comprehensive, there are still many questions that remain unanswered.

One of the toughest problems dealt with by the Board when it was first getting started was that of company-dominated unions. The Wagner Act specifically stated that it was an unfair labor practice for an employer "to

dominate or interfere with the formation or administration of any labor organization or to contribute financial or other support to it"²

It has also been pointed out that "most company unions have been organized and operated for the purpose of cooperating, not bargaining, with management."³

On June 16, 1938 the Board concluded that Utah Copper Company had violated the Act in that it had, since 1919, established and maintained company-dominated unions. A decision and order was issued by the Board requiring Utah Copper to disestablish its company-dominated unions. Notwithstanding the Board's order, the issue was not completely settled until 1943. This particular case is a good illustration of the problems encountered by the Board in dealing with company-dominated unions.

In 1947 the Thermoid Company moved its manufacturing operations from Los Angeles, California, to Nephi, Utah, partly in an attempt to get away from trade unions. The plant in Nephi was less than one-year old when union representatives from the same union from which it was trying to escape came to Nephi and started organizing activities among Thermoid employees.

A number of meetings were held with the employees, and they were informed of the trouble that the Company had had with the union at its Los

²Spencer, The National Labor Relations Act, p. 92.

³Irving Bernstein, The New Deal Collective Bargaining Policy (Los Angeles: University of California Press, 1950), p. 136.

Angeles plant. Efforts were made by management to denigrate unions in the eyes of its employees. They even went as far as to discharge four employees on trumped-up charges. Despite the Company's efforts, the International Association of Machinists was certified by the Board as the exclusive bargaining representative of Thermoid's employees.

The Thermoid Company was brought before the Board on charges of violating Section 8 (a) (1) and (3) of the Taft-Hartley Act. The Board issued a decision and order for the Company to cease and desist from engaging in activity in violation of the Act and to reinstate the four employees who had been illegally discharged.

One of the important changes from the Wagner Act to the Taft-Hartley Act dealt with the issue of a closed-shop agreement. Under the Wagner Act, union representatives were at liberty to bargain for a closed-shop arrangement. In the Taft-Hartley Act such an arrangement was declared to be an unfair labor practice.

In September 1949 the International Association of Machinists filed charges against the Utah Construction Company and the United Brotherhood of Carpenters and Joiners of America, Local No. 1498 and Local No. 184, alleging violations of Section 8 (a) (1) and (3) and Section 8 (b) (1) (A) and (2) of the Act.⁴ It should be noted that the IAM was not directly connected with the parties charged. This indicates that company and union representatives

⁴Decisions and Orders of the National Labor Relations Board, Vol. 95, p. 216.

must do more than just come to an agreement at the bargaining table.

During the proceedings of the above hearing, the Board found that the Respondent Company and Unions had entered into an agreement requiring the Company to check the Unions' hiring list before it hired new employees. In return the Unions promised to have on their lists adequate numbers of competent persons available for work.

The Board concluded that the Respondents had entered into a closed-shop agreement and ordered the abolishment of that type of union security clause.

It should be mentioned that the establishment and maintenance of a hiring hall by a Union is not in violation of the Act ". . . if the agreement allows nondiscriminatory hiring without a pre-union membership requirement."⁵

Management opposition to the present federal labor law and the work of the NLRB has not diminished appreciably in the three decades since the Wagner Act was passed. In March 1968 the National Association of Manufacturers held a meeting of businessmen to launch a major attack upon the NLRB. According to the NAM, "many employers and their attorney maintain the NLRB has exhibited a pronounced pro-union bias. . . ."⁶ In response to these accusations, one NLRB spokesman replied: "We're going to be

⁵A. Howard Myers, Labor Law and Legislation (New Rochelle, N. Y.: SouthWestern Publishing Co., 1968), p. 562.

⁶"NLRB Under Fire," Wall Street Journal, March 29, 1968.

criticized from now to doomsday because of the job we do. "⁷

Although national labor policy has become much more formalized and comprehensive since the passage of the Wagner Act, there are still many problems of interpreting and administering the law. Nevertheless, this study of unfair labor practice cases arising out of Utah provides little evidence that the Board has not followed a consistent pattern in rendering its decisions and order.

The work of the Board has not been without meaning or purpose. Its activities in the State of Utah have had a considerable effect upon the activities of many employers and employees. Without the decisions of the Board, some of which have been discussed in this study, industrial relations might be quite different from what they are today. Recognition of unions as exclusive bargaining representatives for different groups of employees would surely have been delayed without the Board's decisions.

This analysis has also shown that even with the Board's presence and authority to play an active role as referee and policeman, there has not been complete compliance with the provisions of the Act. (The Board, however, cannot take any action until it has received a petition for a representation election or a charge alleging a violation of the Act.)

Finally, this analysis has established that the number of cases arising in Utah which must be decided by the Board have increased over the years.

⁷Ibid.

If this study of past labor-management relationships in Utah under three decades of national labor legislation is indicative of the future, one can expect the years ahead to be filled with heated and sometimes bitter disagreement between employers and the organizations representing their workers. One can also expect to find a busy and controversial NLRB.

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APPENDIXES

Appendix AUnfair Labor Practice Cases (1935-1965)¹

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| Vol. 7 | Page 928 | In the Matter of Utah Copper Company, a corporation and Kennecott Copper Corporation, a Corporation and International Union of Mine, Mill and Smelter Workers, Local No. 392.
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| Vol. 15 | Page 635 | In the Matter of Walter Stover, doing business under the trade name and style of Stover Bedding Company and Upholsters Allied Crafts Local Union No. 392.
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| Vol. 37 | Page 405 | In the Matter of Pacific States Cast Iron Pipe Company and Steel Workers Organizing Committee, Local ...
Union 1654.
December 10, 1941. |
| Vol. 47 | Page 757 | Utah Copper Co. , Kennecott Copper Co. And Inter-
national Union of Miners, Mill and Smelter Workers.
CIO

Utah Copper Co. , and the Independent Association of
Mine Workers.
February 20, 1943. |
| Vol. 82 | Page 455 | In the Matter of Wasden Motor Sales, A Corporation
and International Association of Machinists Local
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March 29, 1949. |
| Vol. 90 | Page 614 | In the Matter of Thermoid Company and United
Rubber, Cork, Linoleum and Plastic Workers of
America, CIO.
June 28, 1950 |

¹Decisions and Orders of the National Labor Relations Board,
(Vol. 1 forward).

- Vol. 95 Page 196 Utah Construction Co. and International Association of Machinists District Lodge No. 114, Local No 1066.
- United Brotherhood of Carpenters and Jointers of America, Local No. 1498, and Local No. 184, AFL and International Association of Machinists, District Lodge No. 114, Local Lodge No. 1066.
July 17, 1951.
- Vol. 97 Page 14 Coal Creek Coal Company and Joseph Grant, Frank Blatnick, Bee Bly, Willard Hughes, Arnie Adair, Rawlins Thacker, Alfred Powell, Robert VanWagoner, John Limmelberger, Maurice Forbush, Elmer LeMari, Floyd Golding.
November 19, 1951.
- Vol. 98 Page 75 Kennecott Copper Corporation and Conrad H. Rogers, Petitioner.
February 13, 1952.
- Vol.103 Page 280 Cache Valley Dairy Association, and Edwin Gossner and General Teamsters Union, Local No. 976 Affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL.
March 4, 1953.
- Vol. 103 Page 1711 G. Lowry Anderson, Inc. , and G. Lowry Anderson Inc. , D/B/A Utah County Tractor Sales and International Association of Machinists, District Lodge 114, Local Lodge 1066, AFL.
April 8, 1953.
- Vol. 108 Page 1392 Utah Oil Refining Company and Oil Workers International Union, CIO Local 286.
June 22, 1954.
- Vol. 116 Page 220 Local 976 and Joint Counsel 67, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO And Cache Valley Dairy Association.
July 10, 1956.

- Vol. 123 Page 124 United Steelworkers of America, AFL-CIO (Boyles Bros. Drilling Company) and International Hod Carriers and Common Laborers Union, Local No. 16 AFL-CIO. March 11, 1959.
- Vol. 126 Page 973 Utah Plumbing and Heating Contractors Association and its Members and Local Unions 19, 57, 34 and 466 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada AFL-CIO. March 7, 1960.
- Vol. 130 Page 1348 Allied Distributing Corporation and Standard Optical Company and International Union of Electrical, Radio and Machine Workers, AFL-CIO. March 15, 1961.
- Vol. 133 Page 1508 United Steelworkers of America AFL-CIO, Local Union No. 4373 (United States Smelting, Refining and Mining Company) and Lyman M. Watkins.

United Steelworkers of America AFL-CIO, Local Union No. 4292 and Wayne W. Watkins. October 30, 1961.
- Vol. 139 Page 139 Western Contracting Corporation and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 222. October 17, 1962.
- Vol. 139 Page 863 Madsen Wholesale Co. and International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America, Local Union No. 222. November 9, 1962.
- Vol. 142 Page 379 Utah Plumbing and Heating Association and Its Members and Local Unions Nos. 19, 57, 348 and 466 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO. April 29, 1963.

- Vol. 148 Page 118 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 222, International Union of Operating Engineers, Local No. 3, AFL-CIO, and United Brotherhood of Carpenters and Joiners of America, Local No. 184, AFL-CIO (Utah Sand and Gravel Products Corp.) and Weyher Construction Co., Inc., Oakland Construction Co., Inc., and Mark B. Garff, Ryberg and Garff Construction Co., A Joint Venture.
August 4, 1964.
- Vol. 150 Page 2 International Brotherhood of Electrical Workers, Local No. 1081, and its agents, including officers A. D. Bently, Steve Paulos, Mike Church and William K. Groves and Utah Copper Division, Kennecott Copper Corporation and International Association of Machinists, Lodge 568.
December 11, 1964.
- Vol. 150 Page 1168 International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union No. 222 (Utah Sand and Gravel Products Corporation) and James Howard Dickinson.
January 21, 1965.
- Vol. 152 Page 228 United Park City Mines Company and Frank E. Stindt.
April 29, 1965.
- Vol. 152 Page 853 Local No. 222, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (W. S. Hatch Co., Inc.,) and American Oil Company.
May 25, 1965.
- Vol. 153 Page 685 Harold W. Breitling and Robert L. Breitling, Partners, D/B/A Breitling Brothers Construction Co. and/or Breitling Brothers Construction, Inc. and Teamsters, Chauffeurs, Warehousemen and Helpers Local No. 222, International Brotherhood of Teamsters, Chauffeur, Warehousemen and Helpers of America.
June 28, 1965.

Appendix BRepresentation Cases (1935-1965)¹

- Vol. 6 Page 541 In the Matter of Sweet Candy Company, A Corporation and Candy Worker's Local No. 373.
April 11, 1938
- Vol. 8 Page 968 In the Matter of Utah Copper Company, A Corporation, and Kennecott Copper Corporation, A Corporation and International Union of Mine, Mill and Smelter Workers, Local No. 392.
August 22, 1938.
- Vol. 9 Page 775 In the Matter of Utah Copper Company Corporation, A Corporation and International Union of Mine, Mill, and Smelter Workers, Local No. 392.
November 10, 1938.
- Vol. 15 Page 534 In the Matter of Utah Poultry Producers Cooperative Association and Independent Union of Poultry Employees

In the Matter of Utah Poultry Producers Cooperative Association and Poultry Workers, Fish Handlers, Egg Candler, Feed Millmen and Creamery Workers, Local # 311
September 21, 1939
- Vol. 15 Page 635 In the Matter of Walter Stover, Doing Business Under the Trade Name and Style of Stover Bedding Company and Upholsters Allied Crafts Local Union No. 501.
September 25, 1939.
- Vol. 16 Page 212 In the Matter of Utah Poultry Producers Cooperative Association and Independent Union of Poultry Employees

¹Decisions and Orders of the National Labor Relations Board, (Vol. 1 forward).

- In the Matter of Utah Poultry Producers
Cooperative Association and Poultry Workers,
Fish Handlers, Egg Candler, Feed Millmen
and Creamery Workers, Local # 311
October 23, 1939.
- Vol. 23 Page 1160 In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Brother-
hood of Locomotive Firemen and Enginemen
May 24, 1940.
- Vol. 25 Page 14 In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Brother-
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- Vol. 35 Page 1295 In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Inter-
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- In the Matter of Utah Copper Company and
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national Association of Machinists,
Lodge No. 568, A. F. of L.
- In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Inter-
national Association of Machinists,
Lodge No. 568, A. F. of L.
- In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Inter-
national Union of Operating Engineers,
Local No. 353, A. F. of L.
- In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Inter-
national Brotherhood of Electrical Workers
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October 9, 1941.
- Vol. 36 Page 941 In the Matter of Western Union Telegraph
Company, Salt Lake City, Utah and American
Communications Association,
Affiliated with C. I. O.
November 14, 1941

- Vol. 37 Page 139 In the Matter of The Cudahy Packing Company and United Packing House Workers of America, Local 159 (C. I. O.) and Amalgamated Meat Cutters and Butchers Workmen of North America, Local 547, A. F. of L.
November 29, 1941.
- Vol. 37 Page 405 In the Matter of Pacific States Cast Iron Pipe Company and Steel Workers Organizing Committee, Local Union 1654
December 10, 1941
- Vol. 41 Page 662 In the Matter of the Telegram Publishing Company and The Satl Lake Tribune Publishing Company and Salt Lake City Newspaper Guild, Local # 168, C. I. O.
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- Vol. 42 Page 25 In the Matter of The Telegram Publishing Company and The Salt Lake Tribune Publishing Company and Salt Lake City Newspaper Guild, Local # 168, C. I. O.
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- Vol. 43 Page 981 In the Matter of Zion's Cooperative Mercantile Institution and Warehouse and Distributing Union, C. I. O.
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- Vol. 43 Page 1354 In the Matter of American Foundry and Machine Company and United Steelworkers of America, C. I. O.
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- Vol. 44 Page 461 In the Matter of The Telegram Publishing Company and The Salt Lake Tribune Publishing Company and Salt Lake City Newspaper Guild, Local # 168, C. I. O.
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- Vol 48 Page 640 In the Matter of John Lang, Dora A. Lang, J. Robert Lang, Marie M. Lang, Wm. Allen Lang, and Mildred C. Lang, A Co-Partnership D/B/A The Lang Company and United Automobile Workers of America, Local No 966, C. I. O.
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- Vol. 49 Page 693 In the Matter of Remington Arms Company ,
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- Vol 49 Page 901 In the Matter of Utah Copper Company and
Kennecott Copper Corporation and International
Association of Machinists, Lodge No. 568,
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Association of Machinists, Lodge No. 568,
District 114, A. F. of L.
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Kennecott Copper Corporation and Inter-
national Association of Machinists, Lodge
No. 568, District 114, A. F. of L.
- In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Inter-
national Union of Operating Engineers,
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Kennecott Copper Corporation and Inter-
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- In the Matter of Utah Copper Company and
Kennecott Copper Corporation and Inter-
national Union of Mine, Mill and Smelter
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- Vol. 49 Page 1141 In the Matter of Equity Oil Company and
Utah Metal Trades Council, A. F. L.
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- Vol. 51 Page 1058 In the Matter of Utah Copper Company and
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In the Matter of Utah Copper Company and Kennecott Copper Corporation and International Association of Machinists, Lodge No. 568, District 114, A. F. of L.

In the Matter of Utah Copper Company and Kennecott Copper Corporation and International Union of Mine, Mill and Smelter Workers, For Itself And On Behalf Of Its Local # 485
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- Vol. 53 Page 84 In the Matter of United States Smelting, Refining and Mining Company and Midvale Clerical and Technical Workers Union,
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- Vol. 53 Page 349 In the Matter of Utah Copper Company and Kennecott Copper Corporation and International Association of Machinists, Lodge No. 568, District 114, A. F. of L.
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- Vol. 53 Page 1382 In the Matter of R. S. McClintock Company and International Union of Mine, Mill and Smelter Workers, C. I. O., For Itself, Its District Union # 2, And On Behalf Of Its Local # 517
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- Vol. 54 Page 1151 In the Matter of Utah Copper Company and Kennecott Copper Corporation and International Union of Mine, Mill and Smelter Workers, For Itself, And On Behalf Of Its Local Union No. 392, C. I. O.
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- Vol. 56 Page 35 In the Matter of Utah Copper Company and Kennecott Copper Corporation and International Union of Mine, Mill and Smelter Workers, For Itself, And On Behalf Of Its Local Union No. 392, C. I. O.
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- Vol. 57 Page 50 In the Matter of Geneva Steel Company and Brotherhood of Locomotive Firemen and Enginemen
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| Vol. 57 | Page 641 | <p>In the Matter of Utah Copper Company and
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In the Matter of John Scowcroft and Sons Co. ,
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Petitioner

In the Matter of Symns Grocer Company,
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| Vol. 80 | Page 1050 | In the Matter of Kaiser-Frazer Parts Corp. ,
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| Vol. 81 | Page 469 | In the Matter of Utah-Idaho Sugar Co. ,
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- Vol. 91 Page 1428 In the Matter of Interstate Brick Company ,
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- Vol. 93 Page 1286 P. E. Ashton Company, Et Al. and International
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- Vol. 95 Page 354 Commercial Equipment Company, Inc. , and
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- Vol. 100 Page 606 Utah Canning Company and Cannery Workers and Food Processors, Local 901, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL, Petitioners. Case No. 20-Rc-1780. August 13, 1952
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- Vol. 114 Page 1206 Orange Transportation Company and Teamsters, Chauffeurs, Warehousemen and Helpers Local No. 222, A. F. L. , Petitioner. Case No. 20-RC-2725. November 28, 1955
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