June 6, 1947.

MR. THURSTON:

I attach an analysis of the labor bill which Mr. Shay has been working on for a couple of days and has just completed. If we can be of any further help in explaining this bill or in commenting upon it, please let me know.

We question whether Mr. Stead's objections to the bill this morning are as serious as he seemed to think. In any event, the provisions of the bill in the main seem to be fair and moderate. The bill, of course, doubtless contains some imperfections but, in this regard, it may be noted that a Committee of Congress has been set up to observe the bill's operation with the obvious purpose of recommending such corrections as may be necessary.

GBV

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ANALYSIS OF H. R. 3020 - LABOR-MANAGEMENT RELATIONS BILL OF 1947

This bill is entitled "Labor-Management Relations Act, 1947". While mention is made herein of all the general subjects covered by the bill, principal attention is devoted to those provisions thereof believed to be important, and in this regard, some comment has been attempted.

(A) Policy. - The bill's declared policy is (1) to establish equality between employers and employees in their relations with one another, (2) to protect the individual worker in his relation with labor organizations, (3) to provide a new mediation and conciliation procedure for the voluntary settlement of labor disputes, and (4) to protect, with the aid of court injunctions, the paramount public interest from disruptive labor disputes in work and service essential to the public health and safety.

(B) Amendment of National Labor Relations Act of 1935. - Equality between employers and employees is sought to be accomplished largely by amendments to the National Labor Relations Act. From a purely objective standpoint, these amendments seem both appropriate and fair in that they outlaw union practices frequently criticized as "unfair" and not essential to healthy, effective unions. The major amendment in this regard prescribes "unfair labor practices" for labor unions, while retaining, as at present, a list of "unfair labor practices" for employers.

(i) Unfair Practices of Labor Unions. - The "unfair" practices of unions thus outlawed include (1) coercing individual employees to join a union, e.g., the "closed shop" is outlawed, but the "union shop" is permitted (an employee would not have to be a union member to obtain a job, but would have to join a union to keep his job if unionization of the shop were voted for by a majority of all the employees affected); (2) seeking the discharge of a "union shop" employee for reasons other than refusal to pay union dues; (3) restraining or coercing an employer in the selection of his collective-bargaining or grievance-adjustment representative; (4) refusing to bargain collectively with an employer, including refusing to adhere to a contract provision for the arbitration of disputes; and (5) charging unreasonable union dues or fees.

The outlawed "unfair" practices of unions also include strikes, or concerted refusals to use, manufacture, or otherwise service goods or other products, for the purpose of (1) forcing any employer to join a

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labor or employer organization, or to cease using, selling or otherwise handling the products of any other producer, or to cease doing business with any other person; (2) forcing employers to recognize or bargain with an uncertified labor organization, or a particular labor organization where another such organization has been certified as the appropriate representative; and (3) forcing employers to assign work to particular unions prior to a Board order on the subject, or forcing an employer to put nonworking personnel on payrolls. This last enumeration of "unfair" practices by unions is directed, of course, against "secondary boycotts", "jurisdictional strikes" and "feather-bedding" walkouts.

In addition, both unions and employers must give a 60-day notice, including notice to the new Federal Mediation and Conciliation Service, of termination or modification of a work contract; and during said 60 days, adherence to the old contract is required. Further, "supervisors" are excluded from coverage under the Labor Act, thus reversing the recent position of the Supreme Court upholding the benefits of the Act to "foremen" as "employees". This restores supervisory personnel to their traditional role as a part of management.

(ii) Prevention of Unfair Practices and Changes in Labor Board. - The Labor Board's power to proceed administratively in the investigation of labor disputes and "unfair" labor practices by either unions or employers is amended in certain particulars to expedite the entire procedure. The same is true of the provisions giving the Board or other aggrieved parties access to the courts for judicial enforcement, restraint, or modification of Board orders. In the case, for example, of "secondary boycotts" and "jurisdictional strikes" the Board is required to move with extra speed and may go to court for a temporary injunction to prevent the initiation or continuance of such practices until they have been investigated and the Board has issued its order with reference thereto.

While the National Labor Relations Board is continued in very much its present general form, its membership is increased from 3 to 5, and the Board's staff and field organization is reorganized in certain particulars in the interest of efficiency and improved administration. For example, the bill makes the Board's General Counsel a Presidential appointee with general supervision over the Board's field officers and all attorneys employed by the Board, except the Board members' individual legal assistants; and the General Counsel is given final authority, on behalf of the Board, over Board investigations and other proceedings with reference to "unfair" labor practices. The substance of this amendment is, for example, to constitute the General Counsel the "prosecuting attorney" and the Board the "court".

(iii) Union Reports, etc. - Further amendments to the National Labor Relations Act effect a more orderly and equitable procedure regarding employee elections and the certification by the Board of employee bargaining representatives. In this regard, the bill as finally passed, does not carry the earlier House proposals designed

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to limit or prevent industry-wide bargaining. The bill also requires unions, as a condition to benefits of the Act, to file annual, detailed reports with the Secretary of Labor, giving, among other things, the names, titles, and compensation of their principal officers; the amount of union dues and fees; the method of officer selection; the restrictions on membership; the manner of calling strikes; and the way in which money is collected and spent. Similarly, the bill would outlaw Communist affiliations of union officers.

(iv) Federal Reserve Banks Exempted. - By excluding specifically "any Federal Reserve Bank" from the definition of "employer" in the National Labor Relations Act, that Act, as amended, would have no application to such Banks or their employees.

(C) New Provisions Relating to Conciliation of Labor Disputes and National Emergencies. - Mediation and conciliation of labor disputes and protection, with the aid of court injunctions, of the paramount public interests from disruptive labor disputes in work and services essential to the health and safety, are sought to be effected by a newly created, independent Federal Mediation and Conciliation Service, and by provision for 80-day injunctions at the suit of the Attorney General on the request of the President. While these measures, standing alone, will not guarantee avoidance of strikes, etc., they would seem to go about as far in this direction as was deemed practicable at this time.

(i) Federal Mediation and Conciliation Service. - This Service which would be under a Director appointed by the President, is charged with the duty of attempting to bring about voluntary settlements of labor disputes where a strike or other disruptive labor situation would cause a substantial interruption of interstate commerce. Provision for a secret ballot by employees on the employer's last officer of settlement, while not compulsory, is deemed to be a provision which will be used extensively in preventing strikes. The Service would be assisted by an Advisory Committee; and the functions of the existing Department of Labor Conciliation Service would be transferred to the new Service.

(ii) Injunctions in National Emergencies. - The President would be empowered, whenever in his opinion an actual or threatened strike or lockout in all or a substantial part of an interstate industry or activity would imperil the national health or safety, to have the Attorney General sue for a court injunction, notwithstanding the provisions of the Norris-LaGuardia Act. This process would follow an investigation and published report of a Board of Inquiry. Upon issuance of an injunction, the Federal Mediation and Conciliation Service would be obliged to attempt voluntary settlement of the dispute, including the procedure mentioned above for a secret ballot by employees on the employer's last offer of settlement. If, however, such voluntary settlement failed, the injunction would expire at the end of the 80 days, and the strike could be

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called or resumed. The President would then report on the entire affair to the Congress with such legislative proposals as he might have to offer.

(C) Strikes Against the Government . - The bill would make it unlawful, under penalty of immediate discharge, for any employee of "the United States or any agency thereof including wholly owned government corporations," to participate in any strike.

(D) Suits By and Against Labor Unions. - Briefly, the bill provides - and quite properly it would seem - that unions may sue or be sued as entities, and that they would be bound by the acts of their agents. This provision is concerned principally with damage suits for violations of work contracts or suits between unions; and the bill also provides for damage suits by parties injured as a result, e.g., of "jurisdictional strikes" or "secondary boycotts."

(E) Union Welfare Funds, Check-Off of Union Dues, and Political Contributions. - The bill would prohibit employer contributions to union welfare funds unless the benefits proposed for employees were specifically stated in writing, the funds were subject to annual audit, and both employer and employee were equally represented in the funds' supervision. Further, automatic "check-off" of union dues would be prohibited unless the employees authorize such a "check-off" in a writing which could be revoked at the end of 12 months or at the expiration of the work contract. Union contributions to, or expenditures in behalf of, any national election, primary, or convention, would be invalid.

(F) Joint Congressional Committee on Labor-Management Relations. - This Committee is established by the bill to conduct a continuing investigation of labor-management relations; to observe the operation of subject bill; to report to the Congress with legislative recommendations, if any, by March 15, 1948; and to make its final report not later than January 2, 1949.

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