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"Will the New Labor Law Bring Us Labor-Management Peace?"

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Democrat of Minnesota

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Chairman Granik: Good evening, Ladies and Gentlemen!

During the last presidential campaign, President Truman promised repeal of the Taft-Hartley labor law. The Administration has proposed to Congress a new measure, known as the Thomas-Lesinski Bill. It scraps the Taft-Hartley law, and reinstates an amended Wagner labor act.

As the nation awaits debate in both houses of Congress, the American Forum tonight poses the question, "Will the new labor law bring us labor-management peace?"

Here to discuss the question are two experts on labor legislation: Senator Forrest C. Dennell, Republican of Missouri, and Senator Hubert H. Humphrey, Democrat of Minnesota. Both are members of the Senate Committee on Labor and Public Welfare, which has been in almost continuous session, hearing testimony for and against the proposed labor law. The American Forum is fortunate to have two such well-informed men, to give us the pros and cons of this issue, which will affect more than 60 million American workers.

Senator Humphrey, what do you see as the advantages of the Administration bill over the Taft-Hartley Act?

SENATOR HUMPHREY: Just a word of background: For the second time in the short space of two years, the Congress of the United States is again reexamining our basic federal labor law. The present necessity for congressional action results from the ill-considered enactment in 1947 of the Taft-Hartley Law.

That law, experience has shown, has fostered hostility where it should have developed cooperation; has caused strikes, where it should have prevented them; has abridged the rights of working men and women through repressive governmental action; has hampered our system of free collective bargaining by dictating the terms of collective bargaining agreements; and has attempted to undermine the democratic principles of collective bargaining.

The Thomas-Lesinski Bill—the Administration bill would repeal the Taft-Hartley Act and reenact the Wagner Act with certain amend-

ments designed to meet those problems requiring corrective legislation in the public interest. It incorporates the principle of sound labor relations legislation and its purpose is to return our federal labor relations law to one which is founded on the traditional American policy of encourageing free collective bargaining.

I just wanted to point out that this bill is not just the reenactment of the Wagner Act, but it meets such problems as jurisdictional disputes, unjustified secondary boycotts, disputes over the application and interpretation of collective bargaining agreements, and it does meet emergency strikes.

Chairman Granik: Senator Donnell, will the Administration's new law bring peace between labor and management?

SENATOR DONNELL: Mr. Granik, my opinion is that the strong possibility is that the Administration's labor bill will not only fail to produce labor-management peace, but will, on the contrary, increase labor-management conflict and strife.

The bill would, as Senator Humphrey has said, repeal the Taft-Hartley law and reenact the Wagner Act with some amendments. I hope to discuss some of those amendments a little later.

The Wagner Act did not produce industrial peace. It became effective in August of 1935. In 1934 there were 1850 strikes. In 1936 there were 2172. The next year, the year in which the Wagner Act was held constitutional by the Supreme Court, there were 4740 strikes.

I do not believe the amendments to the Thomas Bill will overcome the strong tendencies of the Wagner Act against labor-management peace.

SENATOR HUMPHREY: I will take sharp exception to my colleague, Senator Donnell. Let's take a look at another set of statistics. I don't know where he got his.

The number of work stoppages, according to these statistics, with a single exception, the one exception of 1937, remained consistently higher than during the 1930's. For example, the idleness of approximately 34 million man-days for 1948 was greater than any prewar year on record. We can go back over any year that the Senator would like to select from the period of the Wagner Act to a comparable period of the Taft-Hartley law and, if you lump these together on the basis of a period of time—not selecting one month or one year, but taking three years under each act—you will find that, rather than the Taft-Hartley Act eliminating strikes, it has precipitated them and has precipitated a great economic loss in man-days lost.

SENATOR DONNELL: For the first eight months of 1947 (that was before the Taft-Hartley Act went into effect), there were 2958, with some 29 million man-days idle. In 1948, for the same period, after the Taft-Hartley law went into effect, there were only 2130 strikes, with some 4 million man-days less of lost time.

Senator Humphrey speaks about where my statistics are derived from. They come from the Bureau of Labor Statistics.

SENATOR HUMPHREY: Exactly where my statistics come from, Senator. It is a great bureau.

SENATOR DONNELL: It seems to be a bureau that suits everybody, according to that.

SENATOR HUMPHREY: I would like to make this observation: It seems to be the favorite pastime of the proponents of the Taft-Hartley bill to cite what happened in the strike picture, in the labor-management picture right after the war. They like to select an eight-month period and then take another eight-month period, but not in the same section of the year. The eight-month's period that is important is that period of time when the majority of the contracts are being negotiated, not after the contracts are already negotiated.

I want to point out, after World War I, there were a tremendous number of strikes, 'way out of proportion to what we had in peacetime. Right after World War II, we had a tremendous number of strikes.

Let us take what happened in the first six months of 1948, as compared to the last six months of 1948.

SENATOR DONNELL: While we are on this matter of statistics——

Chairman Granik: Where do you get these?

SENATOR DONNELL: From the Bureau of Labor Statistics, the same place Senator Humphrey got his. Never at any time during the history of the Wagner Act was there a return to as low a number of strikes as there was in the year 1934, the year before the Act went into effect. By the time we got to 1944 and 1945, there were nearly 5,000 strikes. In 1944 there were 4956; in 1947, 4750.

Chairman Granik: Let's consider what is going to happen under the new law.

SENATOR HUMPHREY: In 1934, the union movement of this country was not a union movement. You did not have the Wagner Act. Sure, you did not have strikes. The workers were being paid peanut wages. The Wagner Labor Relations Act was passed in 1935 and I would remind the Senator that the employers of this country contested the Act for two years and did not abide by the decisions of the National Labor Relations Board until the constitutionality of the Act was upheld in 1937.

SENATOR DONNELL: The number of strikes, after the constitutionality of the law had been sustained, increased from 2172, the year before, to 4740.

SENATOR HUMPHREY: I would like to remind the Senator that the Act was sustained in the latter part of the year. In the first part of the year, there were major difficulties in Big Steel, coal, and automotives. This led to the strikes.

SENATOR DONNELL: I call to the Senator's attention that the case was decided in April of 1937.

I think Mr. Granik has made a very excellent suggestion, that we proceed to discuss what the new bill will do.

I would like to say that the Senator has said that the new bill encourages free collective bargaining. I understand that is the goal of the labor legislation. I agree, Mr. Granik, that successful bargaining between labor and management is necessary in order to produce labor-management peace. I undertake to state to the Senator

here tonight that the Thomas Bill will not produce successful bargaining, and I have a number of reasons for that.

I want to say, in the first place, that instead of maintaining the requirements of the Taft-Hartley law that labor unions shall bargain collectively, the Thomas Bill repeals that requirement.

SENATOR HUMPHREY: I take exception to that because it says under the Thomas Bill that it is the public policy, the policy of the Government of the United States, that labor and management shall bargain collectively; that it is the duty of labor and management to bargain collectively. What the distinguished Senator is pointing out is that it is not an unfair labor practice for the employee not to bargain collectively, but the whole life of a trade union depends on collective bargaining. You do not have to make it an unfair labor practice for the union to bargain collectively, because its only hope of getting a wage increase and better working conditions is under the collective bargaining process.

SENATOR DONNELL: In this very hotel, Mr. John L. Lewis declined to bargain collectively with the representatives of the Southern Coal Producers Association.

SENATOR HUMPHREY: I would like to recall to the Senator's attention that Mr. John L. Lewis hasn't paid any more attention to the Taft-Hartley Act than if it had never existed.

SENATOR DONNELL: I say that Mr. John L. Lewis has paid no attention to anything, so far as I can find.

SENATOR HUMPHREY: We agree.

SENATOR DONNELL: Except the requirements of a court that he respond in damages, respond as a fine for a judgment for contempt against him. I am coming to that in a few minutes in regard to national emergencies.

SENATOR HUMPHREY: May we continue, Mr. Granik?

Chairman Granik: Go ahead.

SENATOR HUMPHREY: On the matter of what this law will do in promoting labor-management peace, if you want absolute management-labor peace, go to Russia or Nazi Germany. They had absolute labor-management peace. They had government dictatorship. They denied the right to strike. They had the omnipotent power of the state.

There is no way in a free society, in a free enterprise system, to have absolute labor-management peace. I would like to quote some impartial authority. By the way, in my opinion, there are three great men in this country who can speak with authoritative analysis and statements on labor-management relationships. I am unwilling to accept the statements of union leaders or business leaders when it comes down to the impartiality and the objectivity of analyzing this legislation. But William Davis, former head of the War Labor Board; Dr. Leiserson, one of the most eminent labor-management authorities in America, and Dr. Feinsinger, University of Wisconsin Law School—all three have condemned the Taft-Hartley law and have put their official blessing on the Thomas Bill.

SENATOR DONNELL: In connection with whether the Thomas Bill will produce successful bargaining, there is another reason why it

will not do it. In the first place, knowledge that a contract can be enforced is an incentive to enter into it and to successful collective bargaining. The Taft-Hartley Act provided a suit for damages in the event there was a violation of a contract, a remedy which had always existed against the employer, but which, from a practical standpoint, did not exist against the labor union.

The Thomas Bill, however, comes along and abolishes the provision for suits on contracts.

May I mention another reason why it is— —

Chairman Granik: Do you want to reply?

SENATOR HUMPHREY: I want to hear the second reason.

SENATOR DONNELL: The third reason, if you please, why it is that the Thomas Bill, in my judgment, will not produce successful bargaining: a belief my parties on opposites of the bargaining table that a conciliator is impartial tends to make it possible to conciliate such parties and to bring them together into a settlement. What does the Thomas Bill do? It abolishes the provision of the Taft-Hartley law for an independent conciliator and, by placing the Conciliation Service in the Department of Labor, will cause management to doubt that the conciliator is impartial.

SENATOR HUMPHREY: I say, Mr. Granik, that is nothing more than an assertion of a personal opinion, which is in no way substantiated by facts, evidence or experience. The Conciliation Service under the Department of Labor was not known as a biased or partial type of service. It was known for its impartiality, for its objectivity. As a matter of fact, the Conciliation Service was the one service of the government that was jointly praised and commended by the labor-management conference that was called in the city of Washington, D. C., on the year 1946. Is not that right?

SENATOR DONNELL: Yes, sir, but the Senator knows the compromise that was entered into in that situation. The Senator knows that it was brought out fully in the testimony before our committee as to why a compromise was brought into it.

SENATOR HUMPHREY: I do not know.

SENATOR DONNELL: It was brought out by Senator Wayne Morse in the testimony before our committee.

SENATOR HUMPHREY: What was the view of the witnesses before the committee? What does the record produce as to the Conciliation Service? Does it not produce the facts that the labor leaders of this country, the management leaders of this country, gathered together in the city of Washington, D. C., came to an agreement and openly acknowledged and praised the impartiality and the objectivity of the Conciliation Service of the Department of Labor? Isn't that a fact?

SENATOR DONNELL: I am not at all certain if the Senator is correct in his ultimate statement. There was a statement to the effect that it was favored, that such a provision should exist; but there was a compromise and, if the Senator does not recall it, I will recall it to his attention. That was brought out to our committee, that the matter was one of grave difference of opinion, but a compromise was entered into.

Chairman Granik: Gentlemen, let us pause now to give our studio audience a chance to ask questions—but first, just sixty seconds for an important message.

Announcer: Thank you, Mr. Granik and friends. Tonight the employees of Universal Carloading and Distributing Company want to pay a well-deserved tribute to the traffic managers of America. For they are the men who control the flow of materials and merchandise in and out of our great manufacturing plants, wholesale warehouses and retail stores. More and more, industry is learning that the traffic managers' "know-how" can help cut costs—not only for shippers and receivers—but for consumers, too. At Universal Carloading, it's our privilege to work closely with thousands of traffic managers from coast-to-coast and border-to-border. So, if you're a shipper or receiver of less-than-carload fast freight, be guided by the experience of these skilled specialists who agree "For shipments commercial, it pays to specify Universal!" And now back to our moderator, Mr. Granik.

Chairman Granik: Now let's take the first question from the studio audience, the gentleman over there, please.

QUESTION: This is directed to Senator Humphrey. Senator, do you feel that the press has given the American a full and unbiased picture of labor legislation undertaken by the 81st Congress?

SENATOR HUMPHREY: I do not and I can answer that question quite categorically. I have looked at the newspapers of this country and I have felt almost as if I were in some sort of a fairyland or a wonderland, wondering where in the world the actual reportings of what went on in the committee were to be found.

The press of this country has not given to the American public an unbiased reporting of the testimony or the actions of the labor committee and the Thomas Bill as it has been proposed.

SENATOR DONNELL: I would like to say this, Mr. Granik: that, to my mind, the press has given a correct picture of what transpired in the Labor and Welfare Committee. As a matter of fact, there was every effort made to rush this bill through the Labor and Welfare Committee in a short period of time and, finally, when the matter came up to a vote before the committee, without permitting one amendment to be considered or voted upon, the bill was voted out of that committee by a strict party vote of eight to five, with no opportunity to have any amendment considered.

The press has given a truthful statment to the country of the haste, the rapidity, with which it was pushed through to the floor of the Senate.

SENATOR HUMPHREY: I would like to call to the Senator's attention the testimony of the three eminent labor-management authorities that I have already mentioned. The proponents of the Taft-Hartley Bill do not want to listen to what Dr. Nathan Feinsinger has said. He has been awarded, by this government and by other governments, honor after honor for his great work in labor-management relations. What does he say?

"It was hoped that the Taft-Hartley Act would lessen industrial strife. Current strike statistics do not always tell the story. It is a

fact, nevertheless, for what it is worth, that the man-hours lost, as a result of strikes in 1948, exceeded the average loss in the prewar years.

"It was hoped that the Taft-Hartley Act would improve the process of collective bargaining. How many representatives of labor-management will testify from experience that it has done so? The experiences of my former students now representing the employees or unions in collective bargaining following these categories——" And he points out, without any doubt in his mind, that the Taft-Hartley Act has damaged the collective bargaining process of this country.

I submit to you that no member of management, no management attorney, has been able to deny the validity or authenticity of Dr. Feinsinger's statement.

SENATOR DONNELL: I would say, Mr. Chairman, that the testimony on behalf of management and the testimony of numerous witnesses indicates to the contrary, that the Taft-Hartley has been conducive of increased labor-management peace. There is plenty of evidence to that effect in the record before our committee.

Chairman Granik: Let's take another question.

QUESTION: To Senator Donnell: Due to the somewhat waning commercial picture, which labor is aware of, do you anticipate a more conciliatory attitude on the part of both labor and management?

SENATOR DONNELL: I am hopeful that there will be, provided reasonable provisions are enacted by the 81st Congress. If the provisions are one-sided, as they were in the Wagner Act, and as restored in this Act before the 81st Congress, it will not result in such a conciliatory attitude, but in increased labor-management strife.

Before completing my answer to that question, may I say that one of the very important instances in which labor-management strife is not at all satisfactorily covered by the Thomas Bill is that relating to national emergencies.

SENATOR HUMPHREY: Let' grab that one.

SENATOR DONNELL: Let me finish my statement. There is nothing whatsoever in the Thomas Bill which even remotely covers it, except a provision that the President of the United States shall call upon the parties to go back to work or remain at work; that an emergency board shall study the question; and that is all there is in it. There is no provision in it, as Senator Humphrey said, which would compel Mr. Lewis to obey it. Mr. Lewis would not obey the Taft-Hartley Bill. I say he won't obey any bill unless there is something like the provision in the Taft-Hartley Bill, namely, in the event of a national emergency, national paralysis, there is a provision for the strong arm of the courts to enjoin the carrying out of the emergency strike.

SENATOR HUMPHREY: I say without fear of successful contradiction that the Taft-Hartley Act has not settled one national emergency—not one. It has been totally ineffective. The myth of the Taft-Hartley protection of the public welfare is exactly that—a myth. It is a fiction.

Let's get down to the national emergency provision. In fact, the Thomas Bill really provides machinery that is not a myth, that is not a guess, that is not a hope, but is a reality. In other words, it pro-

vides the machinery of the Labor Relations Act for the railroads, the Railway Labor Relations Act, the Mediation Act, which only once in the history of this country since 1927, in 22 years, has failed to do its job.

The Taft-Hartley Act in seven disputes never settled one—not a single one—and it is about time the American people were finding out the big lie that has been told them about this act in terms of national emergencies.

SENATOR DONNELL: While we are talking about untruthfulness, I want to say that this charge that the Taft-Hartley Act is a slave labor act has no basis in fact.

SENATOR HUMPHREY: I never made that charge.

SENATOR DONNELL: I am glad the Senator has not.

The Senator referred to the Railway Mediation Act. I have in my hands the 14th Annual Report of the National Mediation Board, which is a board created under the terms of the Railway Labor Act. It points out that in 1948, although the President placed the operation of the railways in the hands of the Secretary of the Army and he issued an executive order declaring that a strike on our railroads would be a nation-wide tragedy with world-wide repercussions, here is what the report says:

"Notwithstanding the above action, the threatened strike order as not cancelled. The Office of the Attorney General applied to the United States District Court for the District of Columbia for a restraining order. A temporary order was granted and, as a result, the threatened strike was called off."

I say that, unless the la wprovides some means by which the court may protect the interests of the public in the matter of grave national emergencies, no law will cover the situation.

SENATOR HUMPHREY: I would like to ask the distinguished Senator: Does the Railway Labor Relations Act provide for the injunction?

SENATOR DONNELL: No.

SENATOR HUMPHREY: Did the President of the United States settle that dispute?

SENATOR DONNELL: He did not.

SENATOR HUMPHREY: Did the railway workers go back to work?

SENATOR DONNELL: They went back to work because a temporary order was granted by the court, and, as a result, the threatened strike was called off. The Attorney General of the United States——

SENATOR HUMPHREY: Who does he work for?

SENATOR DONNELL: The United States Government.

SENATOR HUMPHREY: Who appoints him?

SENATOR DONNELL: The President.

SENATOR HUMPHREY: Absolutely.

Chairman Granik: Let's have another question.

QUESTION: This question is for Senator Humphrey: One justification for the Taft-Hartley law as passed is its recognition of the responsibilities of both labor and management. Do you think the new law should contain such a provision?

SENATOR HUMPHREY: It definitely does. I know it does. It says in the new law that the obligation, the duty and the responsibility of labor and management is to bergain collectively, and that is the premise upon which I base my argument, the free processes of collective bargaining. And the free processes of collective bargaining cannot be free if it is going to be cluttered up with restrictive legislation, which has not yet been pointed out tonight. For example, there are the powers of the General Counsel under the Taft-Hartley Act and, since we have brought in the name of one distinguished colleague of ours, Senator Morse of Oregon, who is an able authority in labor-management relations, although we do not always agree with one another, I might point out that he has said, without anybody destroying his argument, that no one man in the Government of the United States possesses the autocratic, unlimited, authoritative power that the General Counsel of the NLRB possesses. Never in the history of this country has an appointive official been given the power this man has been given. And he has used that power.

SENATOR DONNELL: The question asked was whether the Thomas Act would be so worded as to contain a statement of mutuality of obligation, such as the Taft-Hartley Act contains. The Senator has gone far beyond that in his answer.

I say in answer to what he said that the Thomas Act abolishes practically all, if not all, of the provisions in the Taft-Hartley Act which bring about such a mutuality of obligation. For instance, there is the freedom of speech by employees and employers. It provides for suits in violation of contracts. There is a provision that each side must bargain collectively or it is made an unfair labor practice for either to fail to do that. Those are illustrations of the mutuality of obligation under the Taft-Hartley Act, which are abolished by the Wagner Labor Relations Act.

Chairman Granik: I know there are many more questions, but we just have time for brief summaries by our distinguished speakers.

First, let's hear from Senator Humphrey.

SENATOR HUMPHREY: I would like to point out that the Thomas Bill, which is being proposed by the Administration, is based upon the American tradition of the free processes of collective bargaining. It is based upon the recognition that management and labor have something to gain from bargaining around the bargaining table, the conference table.

The Taft-Hartley Act's record has been one of failure in terms of the increase of strikes, in terms of using again the weapon of the injunction, a weapon which has been used in the history of this country to crucify labor. The injunctive record of the courts of this country and of the government of this country was clearly pointed out by the Norris-LaGuardia Anti-injunction Act passed in the early 1930's.

What does the the Thomas Act do? It outlaws certain types of secondary boycotts; it outlaws jurisdictional disputes; it puts out a machinery for the settlement of disputes by collecive bargaining and provides a sound program for the settlement of national emer-

gencies, which provides that the President shall issue a proclamation citing the national emergency; shall appoint a fact-finding board with power of recommendation, which the Taft-Hartley Act does not have; and there shall be a thirty-day cooling-off period. I add that the Taft-Hartley Act has failed completely to settle a single national emergency.

Chairman Granik: Thank you, Senator Humphrey. Now for a brief summary from Senator Donnell.

SENATOR DONNELL: The Taft-Hartley Act has not been a failure. It has reduced strife and strikes among labor against management in our country.

It has been stated here that the Thomas Bill is based on the principle of free collective bargaining. I say, Mr. Chairman, in response to that, that in addition to the fact that the labor unions are not compelled under the Thomas Bill to bargain collectively, there are numerous things that I have already mentioned as to why the Thomas Bill will not produce successful bargaining.

He said that the Thomas Act provides certain remedies with respect to some secondary boycotts. He has omitted to state that the type of secondary boycotts to which the Thomas Bill addresses itself is only an extremely limited class and not the entire class as is true in the Taft-Hartley Act.

Chairman Granik: I am sorry, Senator Donnell and Senator Humphrey, but out time is up. I know our radio audience joins me in thanking you for being with us tonight and helping us to better understand ths important issue.

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