Official Statements

Testimony of
Right Reverend Monsignor George G. Higgins, Director,
Social Action Department, National Catholic Welfare Conference
before the
Special Subcommittee on Labor
of the
House Committee on Labor and Education
Washington, D.C.
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Mr. Chairman and members of the Committee: My name is Monsignor George G. Higgins. I am Director of the Social Action Department of the National Catholic Welfare Conference, and I am speaking in the name of that Department and not in the name of the Administrative Board of the National Catholic Welfare Conference or in the name of the body of American Bishops. I am here to testify in favor of proposed legislation to repeal Section 14-b of the Labor Management Relations Act of 1947, popularly known as the Taft-Hartley Act.

Considerable public interest has been evoked by controversies concerning so-called "right-to-work" laws. The question of the enactment or repeal of such acts has been debated in many states throughout the nation. Laws of this type involve much more than routine political decisions. Economic, social, and ethical issues are bound to arise in such far-reaching legislation. Actually much of the debate about these laws has centered about their ethical implications. Under such circumstances, it will be timely to summarize the facts and to analyze the principles involved.

A right-to-work law may be defined as an act which forbids an employer to require an employee to be a member of a union as a condition for obtaining or retaining employment. The history of such legislation is pertinent to the present discussion. Prior to 1935, the right of workers to organize into unions of their own choosing was often denied by American employers. The National Labor Relations Act, passed in 1935 and declared constitutional in 1937, was the first fully effective legal guarantee of this natural right. Under this act, the federal government protected workers who wished to join unions, provided that they were employed in industries subject to federal jurisdiction.

Under our Constitution, the federal act superseded all state laws where interstate commerce was affected. However, when this Act was replaced in 1947 by the Labor-Management

Relations Act (Taft-Hartley Act), an unusual constitutional device was used. In matters of union security, the Congress gave the states concurrent jurisdiction, provided only that state laws were more restrictive than the federal law. Under the impetus of this provision, nineteen states at present have right-to-work laws.

The general effect of such laws is to prohibit all types of compulsory union membership. The closed shop was already outlawed by the 1947 federal act. The state laws go further and forbid the union shop, maintenance of membership, and other forms of modified union security. While such laws may not constitutionally deny labor's right to organize into freely chosen unions, they do outlaw a traditional form of union-management relationship sanctioned by long usage in our country.

In order to evaluate fairly the ethical implications of these laws, it is necessary to present and weigh the major arguments proposed in debates on the question. We shall treat first those arguments which are primarily economic, social or political; and then those in which ethical considerations are paramount.

As a first point, it should be noted that the common title of these laws is in itself a matter of debate. Opponents of these measures claim that the title is a play on words used to cloak the real purpose of the laws, which is to enforce further restrictions upon union activity. Such laws do not provide jobs for workers; they merely prevent workers from building strong and stable unions. In 1954, the Supreme Court of Idaho took judicial notice of this fact by refusing to permit such a deceptive title on an initiative measure to be proposed to the voters.

It should also be noted that the pressure for such legislation does not arise from workers seeking their "rights." Proponents of these measures are uniformly employers' organizations and related groups. Often such laws are part of a program by underdeveloped states, seeking to attract industry by the lure of a docile and low-paid labor force. Campaigns of this nature have been carried on in recent years with little or no attempt at concealment.

A second argument relating to the issue concerns states' rights. It is alleged that

the several states should have the right to regulate labor problems according to their own desires, and that federal standards should not be imposed upon them.

This argument, in relation to the present issue, is not convincing. Under present conditions, the right to regulate labor problems has not been returned to the states. What is conceded is the limited power to enact union-security regulations more stringent than those in the federal law. But a state may not constitutionally enact regulations more favorable to the union movement.

Independently of the points just raised, there are strong reasons why states should not regulate labor matters where interstate commerce is involved. The greatness of our economy is attributable in no small measure to the absence of trade barriers, and the presence of uniform conditions of commerce, among the several states of the Union. Measures which would destroy this uniformity and erect barriers would be contrary to the general welfare.

We firmly support the principle, often called the principle of subsidiarity, which holds that the powers of smaller groups should not be absorbed by larger and more powerful bodies. Genuine state powers should not be encroached upon, unless the state in question has neglected its manifest duty and thereby endangered the welfare of the Union. But, under our Constitution, matters which affect interstate commerce are exclusively reserved to the federal government. Any trend in the contrary direction, even though Constitutionally authorized by Congress, must be scrutinized with the greatest care.

A third argument is partly political, partly ethical. It asserts that compulsory union membership is contrary to the American tradition of freedom. The ethical aspects of this argument will be treated subsequently. The political slogan involved is superficially attractive, but is in reality dangerously false. American freedom has never been absolute and anarchic. On the contrary, the genius of our Constitution lies in its unique combination of divided authority and balance of powers. No individual and no agency of government, at whatever level, has unlimited freedom. We rejected the Articles of Confederation as unworkable, precisely because they did not impose the discipline of ordered

freedom upon the several states. The excessive freedom of the Articles was tearing apart the Union. Later, in the tragic War between the States, our nation had to act to preserve unity against the claims of those who pushed freedom beyond the bounds of our Constitution.

We also note the elements of verbal deception in this argument. Its proponents are claiming for workers a freedom which the latter do not desire. Under the Labor-Management Relations Act (Taft-Hartley Act), a union might ask for a union shop, or other forms of security, only after a majority of the affected workers had approved such a request in a federally conducted secret election. In nearly fifty thousand such elections, the union shop was approved in 97% of the cases. Ninety-one percent of the workers involved favored the union shop. So uniform was the response, in fact, that the requirements for a vote was dropped from the law in 1951.

As a final argument, we might cite the claim that abuses of unionism, such as autocracy, dissipation of funds, and racketeering, thrive more readily under the union shop or maintenance of membership. Undoubtedly this claim has a basis in fact. But the remedy for abuses within a union is not a measure which weakens a union in its legitimate functions. Present federal and state laws contain many weapons which can be used to fight such abuses. Our major federations of labor unions are reacting strongly against evils of this nature. When a useful and proper form of activity is occasionally abused, the remedy is to attack the abuse directly, and not abolish the activity itself.

As against occasional abuses of union security, we note that in a great majority of cases it contributes to peaceful and harmonious labor relations. Such were the findings of the National Planning Association study on the Causes of Industrial Peace. When all the workers in a plant belong to the union, there are no resentments against those who claim the benefits of unionism, but do not pay the costs of providing these benefits.

The union shop contributes to harmony and stability in plants where, for various reasons, there is a high degree of labor turnover. New workers are automatically required to join an organization which has proved its value to the existing employees of a company. Where such is not the case, there is the danger of tension and unrest which often accompany

union organizing campaigns. In the long run, the employer who accepts a union and tries to work out peaceful relations with this union is the employer who will have good labor relations and good morale in his plant.

Our conclusion, then, is that on political, social, and economic grounds the case for right-to-work laws is not sound. On the contrary, the employer groups who espouse them are acting short-sightedly, even in terms of their most selfish interests.

The ethical issue involved in this controversy concerns the right to compel union membership as a condition of employment. Even if an overwhelming majority of workers wish a union shop, do they have the right to demand that the minority conform to this decision? Since the right to work is the right to life itself, may conditions be imposed upon this right?

The response to both these questions is a straight Yes. Man is more than an individual, he is also a member of society. Such is his nature as God made him. For this reason, the rules necessary for harmonious social living can be binding laws, not merely optional regulations. Thus, as members of civil society, we must obey laws, pay taxes, and fulfil our duties as citizens. As members of the family society, we have rights and duties, whether we be parents or children. Likewise, the common good of industrial society may demand that individuals conform to rules laid down for the good of all.

Medical societies and bar associations generally have the right to lay down binding rules for their professions. Teachers accept many obligations as conditions of employment. In the broader areas of industry, few if any workers enjoy an unconditional "right-to-work." The employer imposes rules concerning safety, performance of work, health and hygiene, and miscellaneous matters such as smoking and appearance. Often employees are required to buy and use company products. They may be obligated by pension or health plans as conditions of employment. The principle behind such conditions is that the common good of the professional or plant community must prevail. In such areas, the right to impose conditions of employment is rarely questioned, even though the wisdom of individual regulations may be debatable.

If an employer and a union agree, in collective bargaining, that union security would

aid industrial relationships, they are in effect laying down a regulation for the common good of their industrial community. When a worker accepts employment in that plant, he is no longer a detached individual, he is a member of the community and is governed by its rules. The alternative to such a procedure would be chaos and the breakdown of industrial society.