SECONDARY BOYCOTTS AND PICKETING UNDER THE TAFT-HARTLEY ACT

1. The Secondary Boycott


A handbook for employers pointing out pro-union "loopholes" in the secondary boycott section of Taft-Hartley and ways employers can gain compensation for damage caused by illegal secondary boycotts.


The author evaluates nine "loopholes" found by a Congressional Committee in Section 8(b) (4) (A) of the Taft-Hartley Act, and concludes that many of them are myths.


Points out that the ban on secondary boycotts does not draw any distinction between different types of boycotts, and that "it is precisely this failure to differentiate which has been the basis of criticism by impartial observers." Concludes that while "the impact has been adverse on the unions concerned, the 'adversity' has hardly assumed any dramatic proportions."


* Compiled by Arthur B. Shostak.

** Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.
Five aspects of secondary boycotts are discussed: “doing business with,” inducement at the primary situs, product boycotts, unfair lists, and the inducement of supervisors.


The writer maintains that “the so-called ‘antisecondary boycott’ proviso of the Taft-Hartley Act is bidding to control union featherbedding practices far more effectively than the act’s antifeatherbedding section.” Relevant court cases are reviewed, and Taft-Hartley reform proposals are advanced.

2. Picketing


Not “an examination or a re-evaluation, but a clarification of picketing.” Considers several types of Taft-Hartley picketing, warns against a sweeping prohibition of these, and concludes that “free speech must be identified in some respects with picketing.”


Considers the Taft-Hartley Act and various Supreme Court decisions as they bear upon constitutionally protected picketing. Concludes that “not the Court, but unions, employers, employees and the public are disposing of this question, and the Court’s future role will be a limited one.”

Smoot, Thurlow. “Stranger picketing: permanent injunction or permanent litigation.” *American Bar Association Journal* (1155 E. 60th St., Chicago 37), September, 1956. pp. 817-820, 868-888. 50 cents, members; 75 cents, non-members.

A discussion of organizational picketing since the 1941 Supreme Court decision in *AFL v. Swing*. The writer sees no possibility of problems in this area being cleared up in the near future.

A lengthy historical review of legislative and judicial rulings on picketing from Thornhill v. Alabama in 1940 through to 1952.

3. Proposals for Revision of the Law


Urges that organizational and recognition picketing and secondary boycotts be declared unfair labor practices by statute and that injunctive relief be made available on a mandatory and priority basis. Suggests that Congress amend Taft-Hartley to tighten up ban on secondary boycotts and to give employers in boycott cases direct access to the federal courts in order to forestall irreparable injury currently threatened by NLRB delays.


Offers a comprehensive 34-point program of Taft-Hartley reform, including proposals dealing with secondary boycotts and organizational and stranger picketing.


Points 11 and 12 in this 20-point reform program contain the Administration’s proposals for amending the Taft-Hartley Act with respect to boycotts and picketing.


The General Counsel of the NLRB discusses the Board’s policy on “hot cargo” agreements and minority picketing. Urges that Congress remove doubts as to how conflicting rights should be balanced and outlines proposed anti-boycott and picketing legislation. Concludes that whatever new legislation is adopted, “problems will still remain as to what the answer would be in particular cases.”

Detailed discussion of the Administration's proposals for amending Taft-Hartley to deal with secondary boycotts and recognition and organizational picketing.


The writer counsels against any weakening of the Taft-Hartley clause on secondary boycotts and concludes that "any discrimination in the Act favors unions, not employers." He suggests that Congress either bring secondary boycott abuses under the anti-trust laws or direct the NLRB's general counsel to proceed against secondary boycotts on his own motion.


A 1957 "preview of the stormy days ahead" in Taft-Hartley reform, holds that the ideal Taft-Hartley reform answer to organizational picketing might be to distinguish between types, rather than prohibit all such picketing. To write such a distinction into law, however, is a "very difficult" and perhaps an "impractical" task.


Secondary boycotts and organizational and stranger picketing are discussed in detail. The author finds that the intent of Congress in the Taft-Hartley Act has "been frustrated by the NLRB," and therefore advocates the abolition of the Labor Board and the strengthening of the right of persons harmed by unfair labor practices to go directly to the courts for relief.


By subscription only.

Censures the NLRB for past holdings on secondary boycotts, recognition picketing, and jurisdictional strikes. Advocates legislation to strengthen such sections of the Act.


Contains the texts of various proposals aimed in part at organizational and recognition picketing and secondary boycotts. Includes the testimony of such experts and interested parties as Archibald Cox, James P. Mitchell, Andrew J. Biémiller, Arthur Goldberg, Carl Mündt, and Boyd Leedom.