REPEAL OF SECTION 14(b) OF THE LABOR-MANAGEMENT RELATIONS ACT

HEARINGS

BEFORE THE

SPECIAL SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 77, H.R. 4350 and Similar Bills

TO REPEAL SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED, AND SECTION 705(b) OF THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959 AND TO AMEND THE FIRST PROVISO OF SECTION 8(a)(3) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

PART 2

AND APPENDIX

HEARINGS HELD IN WASHINGTON, D.C., JUNE 4 AND 8, 1965

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STATEMENT OF BERNARD SIMUNICH, CHICAGO, ILL.

Mr. SIMUNICH. In view of the special attention that was given to section 9(a) yesterday I am especially appreciative of the chairman's consideration. I think I have some very substantial testimony, practical testimony, to offer on this point.

I am Bernard Simunich. Up to last week I was a charter member of local 1199, Chicago, IUE. I have been unionized and NLRBized out of a job and my right to work.

I thank the chairman and the committee for the privilege of testifying.

In keeping with the rules of the committee I will briefly outline my testimony—which is my experience as a member of a voluntary union which became a compulsory union, controlled by the same union officials in the same plant, operated by the same management.

This testimony will show that union security of the individual worker can best be had in a voluntary union, in which a membership card is a worker's sign of distinction, and more than just a right to work. It also shows that security for union officials lies in a compulsory union.

What I say here is substantiated by minutes from grievance meetings, NLRB letters, Justice Department letters, records from the Circuit Court of Cook County, court reporter transcripts, a union legal admission of criminal conspiracy to defeat the act, miscellaneous papers signed by union stewards, chief stewards, assistant chief stewards, management letters, and other management documents.

In our 1948 voluntary union the worker's rights to job security under the union constitution were best protected on a "do-it-ourselves" basis; so that most of our troubles with union representation stopped almost

as soon as trouble began; because for example, if union officials betrayed the union constitution by failing to process a grievance, we would talk about stopping the payment of dues as a corrective action. The threat of withdrawing from the union was enough to insure better concern over the union membership.

To that extent we controlled our officials. We never had such a basic problem as a refusal to process a grievance.

In 1950 it was different after the men voted in the compulsory union with automatic collection of dues for the union by the company. No free riders. I talked against compulsion and went on record against it. I refused to join the union.

Finally the company and union called me into the office and told me that if I didn't join the union immediately, I lost my right to work.

It was a shotgun union which turned the union gentry into tall men, and made shadows out of the worker.

Once compulsion was established, the same union officials openly tolerated the company's violations of the labor agreement. Relief through grievance procedure was more uncertain. The threat of withdrawing from the union was useless because that meant the loss of their right to work. Compulsion gave company and union the chance to discipline any worker who disagreed with them. That explains the treatment of my grievance in 1951.

My steward tried to process my 1951 grievance on seniority violation but the chief steward kept it in his pocket. The steward body of 30 men ordered the chief steward to process it, and were ignored. The local membership in quarterly meetings directed the grievance committee to process the grievance and they were ignored. The membership was ineffective—they were shadows.

In April 1952, my relations with top company and union officials became so harassing to me that I offered to quit my job as soon as the 1951 grievance was heard—regardless of the outcome; and I asked management for a letter of recommendation.

The letter was short, very conservative, but nevertheless a good recommendation dated April 25, 1952. However, the company made no effort to clear away my grievance: so I talked to NLRB about it.

On June 2, 1952, the officer of the day wrote a Taft-Hartley charge in my name against company and union for refusal to process the grievance. He assured me that the grievance would have to be processed. The case was turned over to Lawyer-Investigator I. M. Lieberman who repeated that assurance to me.

Ten weeks later the NLRB advised me that my charges were dismissed because there was "insufficient evidence" of violations. My repeated appeals to Washington NLRB were so useless that I wondered if my letters to Mr. Lieberman and Director Ross Madden were actually in the file sent to Washington on appeal. The files were secret and no information was given me—except unbelievable explanations of the meaning of the simple worded section 9(a).

In 1953, during a plant meeting—still determined to have my grievance processed—I paraded a placard bearing the legend "Hear My Grievance" down the middle aisle of the meeting. My pleas to the membership were overcome by the officials' malicious and slanderous replies.

At this point union and company could have smothered my activities by posting information they allegedly had concerning my grievance.

In 1954 new department stewards tried to investigate the 1951 grievance, and were confused by the papers which the company and union showed them, but not me. What were they trying to hide? The chief steward threatened to expel me from the union if I pursued the matter further.

It seemed that my relief would have to come from the courts.

I think I talked to every labor lawyer in town. Some turned the case down flat; others, who would take the case, asked for a retainer of about one-third my yearly wage. They didn't want the case either. General practitioners shied away from it.

Finally I found a couple of young men who would work for a reasonable retainer. They filed case No. 55C 2224, circuit court of Cook County in February 1955.

The suit charged six union officials and the company with conspiracy to defeat the labor contract.

The company's answer contained a photostat of minutes of a grievance meeting held secretly 7 weeks after I filed Taft-Hartley charges for refusal to process the grievance; thus the company confessed that my NLRB charges were true, and that the NLRB dismissal of the charge contradicted the evidence when it ruled against me.

It seems that the necessity for secret files is to protect NLRB personnel in the conspiracy they practice to defeat the law they are hired to enforce. My attempts to bring those facts into the open failed when Associate General Counsel McGuiness wrote to me on November 9, 1955, as follows:

> I am unable to grant your request to examine our files nor will Mr. Lieberman be authorized to testify in circuit court action 55C 2224.

The union was not sued because the membership was helpless in its dealings with the officials. Only six union individuals were sued.

Labor lawyer Irving Friedman, of the law firm Katz & Friedman, answered for three of the individuals—failing to file for the business agent and two of the individuals.

Six months later, when my attorneys started to enter a motion for default, Attorney Friedman filed appearance for the business agent and Joe Bafia, without the consent of Bafia. He failed to file for the remaining individual.

In June of 1956, after my lawyers had withdrawn from the case, and I had filed an amended complaint, pro se, I brought the defendants into court on motion of refusal to obey Judge Fisher's order for discovery.

Defense attorney Friedman stood mute when the court asked him to explain; then the court on his own initiative, neglecting the contempt before him, and without reading the complaint, dismissed the cause for lack of the jurisdiction Judge Fisher himself and all parties had accepted in previous appearances before the court—on the grounds that an employee may not sue his employer. He ruled contrary to fundamental Illinois law.

Judge Fisher's order of dismissal was incorrectly drawn by Defense Attorney Friedman to read that the motion to dismiss came from the defense, whereas it was the motion of the court itself. Judge

Fisher signed the incorrect order. He refused to correct it for the record when my motion of March 3, 1957, brought all parties before the court for that purpose—ruling that the time for appeal had passed, the term of court having ended, and therefore nothing was before the court.

The clerk of the Illinois Supreme Court had refused to docket my appeal. The U.S. Supreme Court refused to entertain my petition for mandamus.

The legal costs of that suit for the individual defendants was paid out of union funds, part of which came out of my dues. One of the trustees warned the officials that such payment was illegal but was outvoted.

The NLRB advised me that the payment was violation of section 1001, title 18, but my petition to the U.S. district attorney to investigate, signed by six union members, was turned over to the FBI who advised me that the payment was a proper union expense.

In October 1957, the chief steward who threatened to expel me from the union in 1954, now gave me a legal admission that the grievance meeting of July 25, 1952, was faked to prevent a hearing of my grievance. That John Farrell, president of the local, collaborated, and that the other two members of the union grievance committee had no knowledge of the hearing.

Since 1952 I had been corresponding with IUE President James B. Carey, seeking an investigation of the local and the district. He has never been willing to carry out his constitutional duties in that respect.

For example: The quarterly membership meeting of June 10, 1956, chose delegates to the convention. During that meeting first I, then my assistant steward tried to serve written charges of misconduct against union officials; but the written charges were brushed off the table and onto the floor and ignored.

Among the union officials on the platform was the president of the district, Alan Palmer, who was also vice president of the international in Washington; and who in 1949, on the very first hour of the strike he talked and pleaded for, went back to work with his followers at our No. 2 plant, leaving those of us who talked and voted against the strike, pounding the bricks for 4 weeks in a lost cause.

My constitutional charges against the good and welfare were then delivered through registered mail by my assistant chief steward. Three days later I wrote President Carey for international assistance to hold a trial on the charges; but was told by Secretary-Treasurer Hartnett who answered for Carey, "to comport myself within the terms of our union constitution." And he enclosed a copy of the constitution, a copy of which I already had of course.

A photostat of the union legal admission to prevent the hearing of my grievance was sent to IUE Assistant General Counsel Ed Rovner; but President Carey refused to take any action on the grounds that "the matter had become too stale" for his further consideration.

Our 1959–60 labor contract allowed layoff outside of seniority. Although I was the last remaining man in my job classification and somebody had to do my work, union and company decided to lay me off because, they said, my workload was diminishing. I protested, but the contract was brought out and I had to accept layoff with recall rights to 1972.

About January 1, 1965, I found out that the company had given my job to somebody else. I filed a grievance which was ignored by both union and company.

I then filed Taft-Hartley charges under section 9a of the act; and got the usual turndown from Director Ross Madden of the NLRB.

The Director of Appeals in Washington advised me just last week that union and company drew up a new labor contract after my lay-off which took away my right to recall and my right to work. He noted further that the company and union had discussed my grievance, and agreed that the grievance lacked merit—besides, the 6-month statute of limitation prevented further consideration of the matter.

Up to 1960 I had filed numerous grievances with the company through my steward on the violations of my seniority and loss of pay because of denial of overtime work. The union and company played with those charges, shifting the blame for my loss of overtime to one another. I could not win a grievance because they wouldn't let me listen in on their meetings—much less have anything to say.

Up to 1960 before layoff, I filed several Taft-Hartley charges of bad faith in bargaining, which Director Ross Madden dismissed because of "insufficient evidence" or that the charges of bad faith in bargaining did not constitute a violation of the act.

All of this indicates how little union security the workman has under NLRB protection; and how necessary it is for all States to have right-to-work laws.

In 1952 I called the late Senator Taft's attention to the outrageous interpretations the NLRB was given to section 9a of the act. It his reply he stated that "the act was not getting sympathetic administration."

In 1956 I wrote to Congressman Velde about it and he answered:

> I am inclined to agree with you that the section you refer to needs amending and urge you to continue your efforts when Congress convenes next year.

Section 9a gives the individual worker the right to deal directly with the company on grievances in the presence of a union representative; but it does not give the individual worker the right to be present when union and company determine the worker's rights.

The NLRB insists there is nothing in the act which forces the company—unless it so chooses—to deal with the individual in his right to process a grievance directly; and the company can therefore accept the grievance and thereafter ignore it. NLRB insists that section 9a is not operative unless discrimination is involved.

Gentlemen of the committee, I believe that union security and the security of the individual worker are inseparable; but when the livelihood of a man depends upon the patronage of union officials, that worker has lost his right to act as a free man.

Thank you.

Mr. THOMPSON. Thank you very much. Mr. Griffin?

Mr. GRIFFIN. Mr. Simunich, as you can appreciate, the function of this subcommittee is not to adjudicate particular individual grievances, but I think your testimony is helpful and worthwhile in terms of bringing to the attention of the committee and the Congress the kind of problems that exist, the difficulties that individual workers have under the present law and how they could conceivably be ag-

gravated if there is nothing more than an outright repeal of section 14(b). So I, for one, appreciate your testimony.

I realize that it has been brought to the committee at a considerable personal sacrifice to you, so we thank you very much.

Mr. SIMUNICH. Thank you, Mr. Griffin.

Mr. THOMPSON. Mr. Scott?

Mr. SCOTT. No questions.

Mr. THOMPSON. Mr. Andrews?

Mr. ANDREWS. I would like to join with Mr. Griffin in thanking you for your testimony. If the evidence need be presented that often times a scrapping individual who believes fully he has a grievance and he is often smothered in the larger affairs of men, I think your case illustrates that very well.

We are not constituted as a judicial body to hear and pass on the merits of your particular grievance, but I will say that your fight during a long period of time is a fine exhibit of your determination to keep your individualism.

Thank you for coming here and testifying.

Mr. SIMUNICH. Thank you, Mr. Andrews.

Mr. THOMPSON. Mr. Ford, any questions?

Mr. FORD. No questions.

Mr. THOMPSON. Thank you very much.

Mr. SIMUNICH. Mr. Chairman, I would like to say this. I am prepared to say a lot more about section 9(a), which has been a point of controversy here. It is a point that you have been trying to bring out. I have a case as late as last week.

Mr. THOMPSON. You have made a statement. There are others waiting, and I don't mean to be discourteous, but if you would like to amplify your statement and send us further information we would be glad to have you do it.

Mr. SIMUNICH. I do have an actual case that you might like for the purposes of thinking about legislation, gathering legislation. I thank the chairman very much.

Mr. THOMPSON. You are welcome indeed.

Our next witness is Mr. Kenneth C. Kellar of South Dakota for the National Association of Manufacturers.

Good morning, sir.