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THE ECONOMIC POWER OF LABOR ORGANIZATIONS.

REPORT

OF THE

COMMITTEE ON BANKING AND CURRENCY

UNITED STATES SENATE

EIGHTY-FIRST CONGRESS

SECOND SESSION

UPON

THE RESULT OF ITS HEARINGS HELD FROM JULY 5 TO AUGUST 26, 1949, UPON THE ECONOMIC POWER OF LABOR ORGANIZATIONS

JANUARY 10, 1950

(By Committee action ordered to be printed and forwarded to the Senate Judiciary Committee)

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CONTENTS

	Page
Part I. Matters falling particularly within the jurisdiction of the Committee:	
Banking and credit	1
Price and production controls	2
Consumer prices	3
National stabilization	4
Small business	6
Part II. The problem—The 3-day workweek in the coal-mining industry:	
The 3-day workweek, the creature of the United Mine Workers of America	8
Coal mining—its financial condition	9
Wages and hours	10
Effects of the 3-day workweek	11
Part III. The solution:	
Status of the antitrust laws	13
Recommendations	14
Minority views	15

THE ECONOMIC POWER OF LABOR ORGANIZATIONS

JANUARY 10, 1950.

The hearings held by the Senate Banking and Currency Committee from July 5 to August 26, 1949, have fully justified the decision of this committee to investigate the economic power of labor organizations.

PART I. MATTERS FALLING PARTICULARLY WITHIN THE JURISDICTION OF THE COMMITTEE

No one will deny that banking and credit, price and production controls, consumer prices, national stabilization and small business fall categorically within the jurisdiction of this committee.

BANKING AND CREDIT

Testimony under oath has definitely established that certain policies of labor organizations have an adverse effect upon our banking and credit structures.

For instance, Mr. George H. Love, president of the Pittsburgh Consolidation Coal Co., testified as follows:

> Operators cannot go to a banker and get money and build a new coal mine if the banker knows that this mine may work only 2 or 3 days. There is no way for operators to amortize their investments (hearings, p. 15).

Mr. Love explained further as follows:

> Discontinuance or slow-down of operation in the coal industry means losing the return on investment (hearings, p. 40).

This has a serious effect upon the business of our banking institutions, because, as pointed out by Mr. Love:

> In a modern mine, there is an investment of from $10,000 to $15,000 per employee (hearings, p. 40).

Mr. Harry M. Moses, president of the H. C. Frick Coke Co., concurred when he stated:

> Many substantial investments will prove to be ill-advised in view of the 3-day week (hearings, p. 24).

Mr. John D. Battle, executive vice president of the National Coal Association, after stressing that the "bituminous coal industry is becoming highly mechanized" (hearings, p. 52), asserted:

> Industry has been unable to attract risk capital because of labor troubles (hearings, p. 53).

Attorney Rolla D. Campbell, of Huntington, W. Va., explained the effect of union policies upon local credit, as follows:

> The miners' earnings are reduced by 40 percent or more. This has the very harmful effect on the miners and their families by reducing their standard of living, on the merchant and the local businessman by reducing sales. Local credit has

to be tightened. The railroads and truck lines lose in-bound traffic and everybody in the whole community suffers (hearings, p. 132).

Mr. John D. Rhodes, vice president and general manager, American Association, Inc., offered the following graphic account of the effect of the 3-day week upon credit policies:

I serve the city of Middlesboro [Kentucky] as sanitation commissioner. In this capacity I manage the operation of the sanitary sewer system and disposal plant. I am trying to repay an overdue loan of $200,000 made to the city on revenue bonds by the RFC. The increase in delinquent subscribers has been alarming. There are some 2,000 connections, 80 percent of which are at the minimum rate of $1.15 per month. Most of the subscribers are quite positive that this is a service least likely to be discontinued and for that reason allow their accounts to fall in arrears (hearings, p. 598).

To the same effect Mr. James H. Harless, president, Gilbert Lumber Co., of Gilbert, W. Va., testified as follows with regard to the consequences of the 3-day week in the coal industry:

After learning that I was to testify before this committee I began canvassing the supply houses, hardware establishments, and stores over an area of four counties. I found that all of them noticed a decline in business ranging from 25 to 60 percent of their normal volume since the imposition of the 3-day week by Mr. Lewis.

I also found that some of the smaller merchants were allowing their stock to dwindle to practically nothing. After questioning I found the reason. Most of the miners and workers in affiliated industries were insisting upon so much credit that the small merchant was not financially able to carry them. Instead of the merchant saying "No" when asked for credit he pursued the policy of not having the merchandise to sell. If this short workweek continues, this situation will gradually grow worse and spread to the larger stores and supply houses.

I also thought that the committee would be interested in any information which I could obtain from banks situated in the coal fields. After questioning I found that there had been a noticeable increase in withdrawal of savings, and increase in the number of savings bonds being cashed and a tighter credit policy being pursued (hearings, p. 619).

PRICE AND PRODUCTION CONTROLS

Most witnesses who discussed the imposition of a 3-day week upon the coal industry regarded this policy as a method of curtailing the production of coal and its price.

Mr. John D. Battle expressed himself as follows upon the matter:

If the United Mine Workers of America decree [of a 3-day week] can stand the legal test, the whole matter rests in the union and any and all production can be controlled with the ultimate result that prices will be controlled and this highly competitive industry become no more than a pawn in a game, to be moved around as the union sees fit. * * * If the power rests with the union to decide how many days an industry or any substantial segment thereof can use its facilities to produce, then we have reached the stage where all of us should understand that we live and function at the discretion of the labor unions and that there is no equality under the law (hearings, pp. 56 and 57).

Other sworn statements to the same effect follow:

Economic stabilization of the industry has been long an objective of the United Mine Workers of America. They have sought this stabilization heretofore through legislation.

Now it has come out for the direct use by the union of its own economic power to control output. We think this is something new. We think it gives evidence of an intent and desire that the union has long entertained, and which it has actually exercised in the past under the pretense of something else such as the memorial period strikes, and the strikes against the Taft-Hartley Act, and the strikes against this and that, but they all had the same effect, which was to decrease the supply of coal and to cause an increase in price, hardship on the buyers, and to

soften up the producers so they would grant the demands of the miners (Attorney Rolla D. Campbell, Huntington, W. Va., hearings, p. 125).

I understand that the union claims that the decree of the 3-day workweek is a plan to reallocate demands, that the entire industry may operate in a restricted output and at the same time maintain the uniform conditions of an industry-wide contract. The union, to maintain economically unjustifiable standardized conditions of employment, resolves to use its monopoly of labor to impose regulation of output on the industry. (Mr. J. E. Moody, president, Southern Coal Producers Association, hearings, p. 164.)

The danger of the present status of the antitrust laws is, in the words of former trust-buster Thurman Arnold, that—

it forces employers into combinations to restrict production and, if allowed to thrive, employers will quickly give in (hearings, p. 74).

(Other references to the same subject may be found at the following pages of the hearings: pp. 2, 3, 8, 13, 18, 21, 24, 32, 75, 119, 123, 443, 468, 685.)

INCREASE IN PRICE TO CONSUMER

All witnesses appearing before the committee agreed that the United Mine Workers of America's 3-day week will increase the price of coal substantially even more than the cost, because it creates, in addition to higher costs, a scarcity.

Mr. Harry M. Moses asserted unequivocally that—

consumer interest and product prices are completely controlled by the labor organization in the coal-mining industry (hearings, p. 24).

Mr. Moses went into particulars, when he stated:

The increased cost of coal to the consumer ranges between different mines, the characteristic of the mine, the thickness of the seam, and other general characteristics make the cost range from a few mines where with 3 days a week, the United States Steel Co. is able to break even or make a little profit, to a larger group where the losses range from 20 to 30 cents, and to the older group where the losses are as high as $1.10, the old mines, with a range through the month of July [1949] of about 20 cents a ton loss on its [the corporation's] entire production over and above the selling price (hearings, pp. 30 and 31).

The eventual cost to the consumer will be still higher because of irreparable losses of coal from failure of coal pillars caused by abandonment of the mines under the 3-day week. Mr. Moses explained that point as follows:

Losses from failure of coal pillars is unestimated. Most of United States Steel Co.'s mines use this method of pillar extracting. It is an efficient method of mining and the safest. The failure of coal pillars may cause damage for years and it is impossible to go into the mines safely and extract the coal (hearings, pp. 30, 31, and 33).

Mr. George H. Love reported upon the increased cost to the consumer which is bound to result for the consumer as follows:

As a result of the 3-day week, there is a loss ranging from 30 cents to considerably over 60 cents per ton. Pittsburgh Consolidation Coal Co. thinks in terms of 40 cents to 45 cents per ton (hearings, p. 40).

Mr. John D. Battle testified that reports coming to the National Coal Association indicated an increase in cost of production, as a result of the 3-day week, of 25 cents to 75 cents per ton of coal (hearings, p. 56). Mr. Battle pursued the subject to its natural conclusion, as follows:

Many companies will try to stand the increased costs of the 3-day week for a while in the hope that it will soon be over. Otherwise they must do one of two things—raise prices or quit (hearings, p. 56).

Mr. Lee C. Gunter, president of the Appalachian Coal Operators Association, Knoxville, Tenn., supplied the following information upon increased costs in Tennessee and Kentucky:

> Such a set-up of operations (due to the 3-day week) is bound to increase costs. In our district a survey of 24 mines showed an increased cost of 69 cents per ton. To add this figure to an already high-priced product is to further narrow an already shrinking market (hearings, p. 100).

Mr. Gunter followed this up with the following warning:

> Coal companies generally cannot absorb an increased cost of production due to the inefficiency of the 3-day week. They can't help but pass that increased cost to the consumer (hearings, p. 104).

Mr. Justin Potter, president of the Crescent Coal Co., Central City, Ky., faced the issue squarely as follows:

> Of course, we will attempt to raise our prices so we can come out.
> At the prices at which we were selling coal, the present indications are that we would lose money, due to the fact that our costs we think will go up about 80 cents at our Crescent mine and probably 45 or 50 cents a ton at our Williams mine (because of the 3-day week).
> Coal is now selling somewhere around $3.50 a ton, f. o. b. mine. That is, for the average of all sizes.
> That was our sales price. Our cost at that particular mine, I think, was about $3. That would make it about $3.80 (with 50 cents profit, it would be $4.30 sales price), in the neighborhood of slightly under a 30 percent increase (hearings, p. 144).

Admiral Ben Moreell, chairman of the board of directors and president, Jones & Laughlin Steel Corp., summed up the whole subject clearly and concisely with this observation:

> The price increases and restrictions on production which result from formal agreements between labor and management are not so clearly evident to the public. But the public pays the bill just the same.
> In the rising market of recent years, increases in wages in any industry, which have not been balanced by increases in production or reductions in other costs, have been passed on to the consuming public. When labor cost increases are not counterbalanced by increased production, it means that labor gets a bigger slice of the pie, and since the size of the pie remains the same, the rest of the public gets a smaller portion (hearings, pp. 711 and 712).

The above remarks assume an even greater importance, when one realizes, as pointed out by Mr. George H. Love and Mr. John D. Battle that "60 percent of the cost of coal is labor" (hearings, pp. 41 and 53).

(Other testimony pertaining to the increased cost of coal to the consumer may be found at the following pages of the hearings: pp. 3, 9, 12, 15, 16, 17, 18, 24, 30, 32, 35, 43, 100, 108, 109, 126, 132, 141, 148, 230, 234, 244, 279, 288, 290, 291, 292 to 298, 299, 300, 565, 567, 568, 569, 618, 619, 711, 712, 714.)

NATIONAL STABILIZATION

This Nation is still on a coal economy (hearings, p. 9). Therefore, the effects of allowing a labor organization to control the production and prices of coal are not limited to the coal industry alone. They spread to several other allied industries and have a serious impact upon our whole economy.

Mr. Harry M. Moses had this to say about this matter:

> A national wage agreement, plus the union's power to shut off production at any mine or group of mines, gives it an economic power which, if abused, becomes detrimental to the industry and the entire national economy. The United Mine Workers of America have demonstrated an arbitrary abuse of this economic power

that should cause grave concern as to our ability to continue the levels of production which are required by our economy, as well as our ability to maintain the efficiency of our operations.

The wage agreements which have been brought about in the bituminous-coal industry, during and since the recent war, were not negotiated agreements. They were the result of ultimatums that were enforced under manufactured crises by the force of the economic power wielded by the union.

The United Mine Workers of America has evidenced a complete contempt of laws which were intended to bring a restraint to such power, and it has demonstrated its ability to enforce pressure upon the industry to accept bargaining results which the union now claims removes it from obligation either under the law or under the wage agreement. It has called national strikes, memorial periods, and a so-called stabilizing period of inaction at will, and now has created a situation whereby the production facilities in eastern United States are arbitrarily restricted to operate the first 3 days of each week and those in western United States to the first 5 days of each week. This creates the unheard-of situation of the United Mine Workers of America, without benefit of contract of any kind and without agreement with anyone, saying to the coal-mine owners of America "we will permit you to operate your wholly owned facilities 3 days a week because we, the officers of the United Mine Workers of America, by means of the public press and letters to our local unions, are advising our membership that after Wednesday of each week they, the membership, are not willing or able to work until the following Monday." This can be changed to 1 day or to 4 days, or production can be stopped entirely by the same means, without notice to anyone and without regard for the public need, the welfare of the miners, or the solvency of the industry.

The impact of these arbitrary actions will, in my opinion, be severely damaging to the economy of the coal industry and to our national economy. Coal-producing facilities are brought into being by substantial investments of private capital. Those who thus invest their money do so in the belief that they will be privileged to operate their facilities to satisfy the markets for which they are designed.

The restrictions which are now being imposed by the union make it quite apparent that many substantial investments may prove to be ill-advised, inasmuch as the production which is being realized under the union's restrictive action does not justify the capital investment involved. Certainly no rational person will make or authorize further substantial investments in coal-producing facilities without some guaranty that the facilities thus created will be able to produce in the volume for which they are designed.

My conception of a wage agreement does not accept the theory that a labor union be empowered to arbitrarily shut off production when, in its opinion, a period of overproduction exists. The economic requirements of the coal industry cannot be met by restricting production to a level that is lower than market demand. In my opinion, any interruption of the free flow of commerce in our industry by a restriction of production by any means is a backward step that can only lead to a deterioration of the industry in efficiency, safety, and progressive management.

The United Mine Workers of America has made it plain that it will attempt to impose some form of production restriction. Last year at its convention in Cincinnati, Ohio, the president of the United Mine Workers is reported to have made a number of statements bearing on this matter, among which were the following:

"So, if needs must, the mine workers are prepared to move into that field of stabilization of this industry, and if we are going to starve in this industry at any time, we will just all starve together.

"So, next year, in 1949 or at any other time, when evil days come upon this industry you will find the United Mine Workers of America moving in, and if there are only 3 days' work in this industry we will all have 3 days' work" (hearings, pp. 23 and 24).

Mr. George H. Love stressed the national importance of the orderly development of the coal industry in these words:

In addition to making numerous useful chemicals out of coal, we could convert it back to fuel. Coal is a very valuable natural resource, the production and distribution of which should be on a sound and fundamental economic basis. This country will be as progressive as its coal industry, and we should not do anything to retard the progress of coal mining (hearings, p. 45).

To the same effect was the testimony of Mr. John D. Rhodes, when he stated:

Any attempt to stabilize as highly competitive business as bituminous coal production is bound by the very standard of free enterprise to be unsuccessful. The most stable and progressive operators feel that they should not be required to carry along to market the less efficient mines. "By fair competition let the most fit survive" has long been the policy under the free-enterprise system. Do away with competition and there will not only be less ambition and progressive thinking in production industries, as in the coal mines, but in all other businesses (hearings, p. 599).

(Other testimony to the same effect may be found in the hearings at the following pages: pp. 14, 44, 230, 443.)

SMALL BUSINESS

Mr. George H. Love testified that—

progressive and efficient small-business enterprises will be adversely affected by the 3-day week in the same manner as large enterprises (hearings, p. 9).

Mr. Harry M. Moses stated:

Smal-business enterprises in the coal mining industry are often better off than larger ones, because of less overhead, etc., when mines are shut down (hearings, p. 24).

It is significant that the heads of the two largest coal producers in the Nation were the only witnesses before the committee discussing this point who did not assert that small business is particularly and more seriously injured by the 3-day week.

There are many small business mines in the United States. Upon this point, Mr. John D. Battle testified as follows:

Mines producing less than 200,000 tons of bituminous coal per year account for some 213,000,000 tons, which is in excess of one-third of the entire production for the year 1947.

No one bituminous coal company produces more than 5 percent of the total output of bituminous coal or of the total capacity to produce.

There are only a few companies that produce as much as 1 percent of the total production of bituminous coal (hearings, p. 52).

Mr. Lee C. Gunter discussed the effect of the order for a 3-day week as follows:

The point which interests me most is the effect of this order on the small coal producer. I represent an area in Tennessee and southeast Kentucky which is composed entirely of coal operators who would be classed as small operators: the average production of our membership is about 150,000 tons annually per member. * * *

The plight of these operators, who might be called the little-business men of the coal industry, is serious under the operation of the 3-day week. * * * Some of the smaller mines in our district have already lost tonnage on account of the limited workweek (hearings, p. 100).

Many other small-business men have been affected adversely, according to Mr. Gunter, who proceeded as follows:

Retail merchandising has lost business very materially as a result of the 3-day week. The same has happened to lumber, mine supplies, automobile and bus transportation, etc. (hearings, p. 112).

Attorney Rolla D. Campbell concurred as follows:

The effect of this labor monopoly on small coal producers is very drastic and very marked (hearings, p. 126).

Mr. Justin Potter, President of Crescent Coal Co., which has a daily capacity of 70 carloads per day, and of Williams Coal Co., which has a daily capacity of 30 carloads of coal per day, explain that his mines have no contact whatsoever with those that negotiate with Mr. Lewis for them. The operators of his small mines are not asked their advice or consent to wage agreements. They just read about it in the newspapers. They are not given a chance to vote upon whether or not certain provisions or all provisions are agreeable to them (hearings, p. 152).

Mr. Fred A. Virkus, chairman, Conference of American Small Business Organizations, expressed his views as follows:

I am very glad to know that the Banking and Currency Committee, which has that most efficient Subcommittee on Small Business, has made this investigation. I know this subcommittee and the Banking and Currency Committee is doing a better job for small business than has ever been done before, and personally I would like to see this jurisdiction over small business remain in this committee (hearings, pp. 605 and 606).

You know, when big business, as in the case of coal, which we have before us now, enters into an agreement with labor on certain provisions in contracts, increased wages, shorter hours, pensions, and all the rest of it, which in 1947 was called merely a bust, small business has got to follow the lead, and it suffers more because it can afford less; and, in labor union monopoly, that is our principal cause of worry today (hearings, p. 606).

The hearings are replete with similar testimony, such as that of J. Raymond Tiffany, general counsel, National Small-Business Men's Association, who stated for his association:

Any practice that totally ignores local and competitive conditions is prejudicial to small business and will inevitably drive small manufacturers into mergers, because only big business can stand up to big-union tactics (hearings, p. 674).

Mr. Tiffany then added:

These actions [abuses] by unions adversely affect small-business men—affect them more disastrously than they do big business because small-business men do not have the financial strength to withstand the attacks—they are compelled to surrender or be put out of business (hearings, p. 679).

Admiral Ben Moreell spoke in the same vein when he stated:

In the process described above smaller enterprises have usually been injured competitively more than the large companies because the demands of labor have been geared to the paying abilities of the large mass producers who operate with greater efficiency and at lower unit cost (hearings, p. 713).

Similar examples were given by witnesses testifying about other industries, such as by Judge Thurman Arnold (hearings, p. 73), Attorney Theodore R. Iserman (hearings, pp. 235, 236, 245), Attorney George B. Christensen (hearings, pp. 251 and 253), Col. H. W. Shawhan, president, Appalachian Wood Preserving Corp., Charleston, W. Va. (pp. 614–616), Mr. James H. Harless, president, Gilbert Lumber Co., Gilbert, W. Va. (pp. 617–620).

(Additional testimony to the same effect may be found in the hearings at the following pages: Pp. 4, 40, 130, 140, 158, 466, 467, 468, 567, 568, 595, 664, 673, 684, 685, 721, 722, 729, 730.)

From the above-quoted testimony, it becomes evident that labor organizations wield a very far-reaching economic power over banking and credit, price and production controls, consumer prices, national stabilization and small business. These are objects particularly committed to the jurisdiction of the Senate Banking and Currency

Committée under the Legislative Reorganization Act of 1946. No one could deny that this committee possesses the inherent power to report to the Senate legislation to correct any adverse effect that any person, group, or entity may have upon these objects. Otherwise, this committee would not possess the power to protect the objects committed to its care and supervision by that act. This committee, therefore, could report legislation whereby any person or organization would be shorn of the power to impose undesirable restrictions on industry—restrictions which directly control production, materials, prices, and quality, or which unduly hamper the orderly development of small-business enterprises.

However, if the most direct means of accomplishing this result is through the amendment of specific legislation committed primarily to another committee, this committee may, out of deference to this other committee, bow to its traditional handling of such problems. A study of the particular problem involved will reveal the wisdom of this procedure.

PART II. THE PROBLEM—THE 3-DAY WORKWEEK IN THE COAL MINING INDUSTRY

The necessity for the investigation of the coal industry was originally suggested by the report that a single individual would be authorized to speak for the coal industry in contract negotiations and that he, with a single representative of labor in the industry, could determine not only wage but also production levels.

The committee was pleased to be reassured by Mr. George H. Love that—

> No segment of the bituminous coal industry ever contemplated establishing a czar to bring stabilization in limiting or controlling production (hearings, p. 6).

Mr. Harry M. Moses likewise denied the existence of such a plan (hearings, pp. 20 and 33).

The current 3-day week in the coal industry and "stabilization" strikes emphasized the need for an investigation of the economic power of labor organizations.

THE 3-DAY WORKWEEK, THE CREATURE OF THE UNITED MINE WORKERS OF AMERICA

The 3-day workweek was first proposed by Mr. John L. Lewis, president of the United Mine Workers of America, to mine operators on a voluntary basis.

Mr. George H. Love testified that Mr. Lewis made the suggestion that the coal industry be closed down 3 days a week, at a meeting at White Sulphur Springs that Mr. Love had with him (hearings, p. 45; see also pp. 12 and 46).

Mr. Harry M. Moses, who was individually in one of the three conferences apart from the northern operators, received the same proposal from Mr. Lewis. Mr. Moses gave the details of this proposal as follows:

> Well, the only suggestion I have about it was following a meeting of the northern conference in which Mr. Love was the spokesman. I had a scheduled meeting with Mr. Lewis at some hour following that meeting. I ran into him in the corridor of the hotel where the meetings were being held, and we had an informal

discussion of it just standing in the corridor, and he told me the proposal that he made to the northern conference, and made the same proposal to me at that time (hearings, p. 34; see also p. 21).

Mine operators were opposed to the 3-day week from the start (hearings, pp. 10 and 45).

The following colloquy establishes clearly what took place thereafter:

Mr. MOSES. I did not agree [to the 3-day week], and reported back to him [Lewis] later.
Senator ROBERTSON. But you do have the 3-day week?
Mr. MOSES. Yes, sir.
Senator ROBERTSON. Then it was forced on you over your objection?
Mr. MOSES. Yes, sir (hearings, p. 34).

It becomes important at this point to consider the status of the coal industry at the time the United Mine Workers of America imposed the 3-day workweek upon them.

THE COAL INDUSTRY IN THE UNITED STATES—COAL MINING

Bituminous coal mining in the United States is an industry of about 7,500 mines of commercial size which are managed by more than 5,000 individuals or operating companies (hearings, p. 21).

The United Mine Workers of America is recognized by and has a wage agreement with coal operators who produce about 80 percent of the national production of coal (hearings, p. 21).

Bituminous coal mines are spread throughout the Nation—28 or 29 States (hearings, p. 51).

About 83 percent of the coal produced at bituminous mines is moved by railroad and the remainder is moved by water or truck or some of it may be used locally at the mines (hearings, p. 53).

From a financial standpoint the bituminous coal industry has not been a prosperous one over a period of years. In order to keep up as best it could with the competitive situation from outside as well as from within the industry, it has been necessary to plow back into the industry every dollar possible. A study of the record of Treasury reports and annual reports of publicly held companies indicate that over the period of years from 1929 through 1948, after taxes, the actual profit per ton was 2.6 cents, while during this same period of time the industry paid in Federal taxes 4.04 cents per ton (hearings, p. 53).

A compilation of the net income of the anthracite industry and the bituminous coal industry from 1920 to 1947, inclusive, simply shows that the anthracite industry has a loss for 1931 to 1940, inclusive, every year; and the working capital of the anthracite industry (current assets minus current liabilities) decreased from 1926, when it was $111,000,000 to a deficit of $27,000,000 in 1938. That means that in 1938 the anthracite industry had, as a total, current liabilities exceeding current assets by $27,000,000 (hearings, p. 59).

The record of the bituminous coal industry is just as bad. The bituminous coal industry began losing money in 1925 and continued to lose money until 1939. Both the anthracite industry and the bituminous coal industry began to make money under the impact of World War II, and they probably had the best year in the history of both industries in 1948 (hearings, p. 59).

The coal industry is now facing the conditions of the decade of 1939–48 (hearings, p. 60).

There is a probability that the coal industry will lose money in the next 10 years (hearings, p. 60).

From 1920 until World War II, through 1945 (excluding Canada, to where always a substantial portion, about 25,000,000 tons, is exported), exports were negligible—about 1 percent of the supply (hearings, p. 60).

In 1945, 1946, 1947, and 1948, we exported to Europe, especially in 1947, as much as 40,000,000 tons of coal in order to help out Europe—a little more than 7 percent of the supply. These exports are now way down. They were exports under the Economic Cooperation Administration and some before that agency was set up.

There is good reason to believe exports of coal to Europe will fall off. The ECA has published a report which indicates that exports of United States coal to participating countries will be about 10,000,000 tons in the year ending June 30, 1950, as compared to approximately 41,100,000 net tons in 1947 (hearings, pp. 62 and 63).

Industry in general has fared better than bituminous coal mining (hearings, p. 261).

Each man turns out about 6 tons of coal per day in the Pittsburgh Consolidation Coal Co., for example. That is about four times the per-man production in British mines (hearings, p. 40).

In 1948, Pittsburgh Consolidation Coal Co., the largest commercial coal producer in the world, earned $22,000,000 after taxes, or about 75 cents a ton, but the earnings have not amounted to the amount of money put into the properties. The company reinvested more than its earnings each year. This was done by sale of capital assets, sale of coal lands, things not directly connected with the coal industry (hearings, p. 41).

Seventy-five cents a ton is the highest profit Pittsburgh Consolidation Coal Co. has ever had. Over 5,000 stockholders share those profits (hearings, p. 42).

For more data upon the coal industry, see hearings at pp. 8, 9, 12, 15, 17, 18, 21, 22, 25, 30, 32, 37, 38, 39, 40, 41, 42, 44, 45, 51, 52, 53, 59, 60, 61, 62, 63, 82, 104, 105, 110, 111, 115, 117, 131, 154, 156, 259, 260, 261, 262, 264, 265, 267, 268, 269, 272, 278, 286, 287, 443, 446, 447, 448–450, 451, 457, 459, 462, 501, 502, 503, 564, 565, 568, 607–610, 683.)

WAGES AND HOURS

With respect to the status of the miners, the basic wage rate in the coal industry beginning in 1941, has advanced rapidly from $6 a day to $14.05 a day. The average earnings of the employees in United States Steel Corp.'s mines during the 6-day week period prior to June 1, 1949, were $17.13 [daily] per man employed, productive worker. That has nothing to do with the management rate (hearings, p. 36).

The average wages earned per miner in 1948 was $3,774. This is an average and includes those men who worked only 1, 2, or 3 days, as well as those who worked full time (hearings, p. 53).

Wages were increased in the middle of 1948. The high rates and earnings are, of course, outside of any special funds paid to the union for welfare, insurance, or pension purposes. The miner's rate of pay is the highest of any major group reported by the United States Bureau of Labor Statistics (hearings, p. 53).

The hours of work under the last (1948) agreement with the union are 5 days per week, with overtime at the rate of time and one-half for any time in excess of 8 hours per day or 40 hours per week. The actual worktime today is about 6½ hours daily, or 32½ hours per week on the 5-day week basis. Besides the 30-minute period for lunch paid at the full rate, travel time to and from the mine entrance to the working place is also paid for at the full rate (hearings, p. 53).

(For more data on wages and hours of miners, see hearings, pp. 9, 30, 36, 47, 48, 53, 62, 93, 103, 110, 125, 126, 130, 139, 230, 277, 279, 305–311, 504, 505, 700, 847.)

It was in this setting that the United Mine Workers of America imposed the 3-day week upon the coal industry.

EFFECTS OF THE 3-DAY WORKWEEK

The disastrous effects of the 3-day week upon banking and credit, price and production controls, consumer prices, national stabilization, and small business have already been discussed above. However, a large number of other evils flow from the imposition of this Monday, Tuesday, and Wednesday workweek which we will but briefly mention here as follows:

For instance, about 400,000 tons of coal were not produced by some of Pittsburgh Consolidation Coal Co.'s mines in August 1949 and customers turned to oil (hearings, p. 14).

The coal industry will lose many customers through the 3-day week (hearings, p. 14).

The 3-day week will cause employment to drop. Sixty percent of the cost of coal is charged to labor, as compared to 8 percent of the cost of oil, to which fuel many are converting (hearings, p. 15).

For instance, Pittsburgh Consolidation Coal Co. has closed a mine operating for 40 years and it will remain closed because it couldn't operate on a 3-day week (hearings, p. 18).

Coal is lost forever by props falling in because of the 3-day week. This constitutes a waste of a great natural resource and adds to the cost of production (hearings, p. 19).

Miners, especially those in debt, receive inadequate pay during a 3-day week period (hearings, p. 32).

Employment in the railroad industry has dropped because of the 3-day week (hearings, p. 33).

Communities dependent upon mining operations suffer (hearings, p. 40).

The 3-day week restricts production, disarranges markets, and generally makes the operation of the mines costly and more unprofitable as time goes on (hearings, p. 55).

Coal mines are now generally operating in the red (hearings, p. 55).

The union will next demand a 5-day pay for a 3-day week because the earnings are inadequate (hearings, p. 126).

The 3-day week is hampering the coal industry and gives a competitive advantage to other fuels (hearings, p. 8).

Technological improvement, so sorely needed if real wages are to continue to increase and prices are to be lowered, will cease under the 3-day week (hearings, pp. 15, 39, 43, 53, 278, 279, 585, 713).

Employment in the mines will now decrease as competition with gas and oil grows (hearings, p. 109).

(For more data on competition which coal is receiving from other fuels, see hearings at pp. 42, 43, 52, 54, 58, 64, 100, 101, 109, 130, 141, 144, 156, 157, 175, 234, 267, 268, 299, 301–304, 451, 462, 565, 569, 598, 706, 707.)

Despite these drastic effects upon the miners, their families, mine operators, allied industries, and consumers, the United Mine Workers of America took it upon themselves to usurp the Congress' exclusive right to legislate upon production and price controls. Their spokesman, Mr. Lewis, did not consult with a representative of the consumer interest (hearings, p. 35). In fact, he made no request to bargain with independent operators (hearings, p. 92). He made no proposal at all to the southern operators (hearings, p. 100). By July 27, 1949, the UMWA had not told the Southern Coal Producers Association what it wanted incorporated in a new contract (hearings, p. 113). The order of the UMWA imposing a 3-day workweek is the very antithesis of collective bargaining. If this usurpation and abuse of the power to control production and price is tolerated by the Congress, its unbridled use will quickly spread from union to union, from industry to industry, and the Congress will never regain its own narrowly circumscribed power to control the economy of the Nation consistently with the Constitution of the United States.

Part III. The Solution

It would seem that the above-described usurpation of a power which was committed exclusively to the Congress by the Constitution of the United States and its abuse causing such widespread and disastrous effects upon our national economy. would already be condemned as criminal by existing law. A study of the present status of the antitrust laws makes it quite doubtful whether a prosecution under the antitrust laws could be sustained in the present state of judicial precedents.

Only two witnesses indicated that they believed a successful prosecution of Mr. John L. Lewis might be initiated under the present status of our antitrust laws.

Attorney H. A. Toulmin, Jr., of Dayton, Ohio, ventured the following opinion:

> Now I would approach this question, if I was in the Attorney General's office, by suing Mr. Lewis not because he is a union, but I would sue him because he is in business, and then I would put the burden on him for the exemption instead of permitting the reverse (hearings, pp. 581 and 582).

The following colloquy reveals Attorney Donald Richberg's thinking upon the matter:

> Senator Capehart. At the moment do you feel that either John Lewis or the mine workers are violating any law in respect to their 3-day week?
>
> Mr. Richberg. If you ask my opinion as a lawyer, having no clients on either side of the situation and speaking just ex cathedra, I would say it was a clear violation of the existing laws; yes, that is my personal opinion.
>
> Senator Capehart. I might ask this question: Do you think he could be successfully prosecuted in the Supreme Court?
>
> Mr. Richberg. I would not say that he could not be, because of the fact that although it was a one-sided activity, and the mine operators were wise enough or well enough advised so that they did not agree to it, a prosecution might lie on the basis of the showing of the surrounding facts as to the purposes, and so forth, which were not in pursuit of a legitimate activity.
>
> The danger of the situation, in view of the Supreme Court decisions, is that since he claims to restrict production, in the interest of maintaining a fair wage scale, with the latitude that has been given under the decisions of the Supreme Court of the United States, it would be far from certain what decision the Court would arrive at (hearings, p. 639).

STATUS OF THE ANTITRUST LAWS

Almost all the witnesses appearing before the committee felt keenly that those who enacted our antitrust laws never intended by exempting unions from their provisions that such exemptions would be used to restrict production, destroy values, and bring about a production limitation of an industry by the union simply because of the immunities granted under the act.

This asserted power of labor organizations to control production and prices came about as a direct result of laws which were adopted by Congress. The basic law affecting all groups is the Sherman Antitrust Act, which primarily consists of sections 1 and 2 dealing with restraints of trade and monopolies.

In 1914, Congress passed the Clayton Act, and section 6 of that act stated that the labor of a human being is not a commodity or article of commerce. It goes on to say:

> Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof.

That act, however, did not have the effect, according to decisions of the Supreme Court, of exempting unions from the prohibitions of sections 1 and 2.

In 1932, however, Congress passed the Norris-LaGuardia Act, vastly limiting the jurisdiction of the Federal courts in labor-relation cases, and the Supreme Court, construing provisions of the Clayton Act, and the Norris-LaGuardia Act as evidentiary of congressional intent, has now held that where a union acts by itself it can exert its economic power free from any penalties of the antitrust laws. That was very clearly held in the *Allen Bradley Co. case* (325 U. S. 797) in 1945.

Theoretically, if a union conspires with an employer or a group of employers to restrain trade, or to monopolize trade, the exemption of the antitrust laws do not apply.

In former trust-buster Thurman Arnold's words, the Supreme Court of the United States read the words "legitimate objects" out of the Clayton Act and left the union free from either injunction or criminal indictment regardless of the objectives which they sought to obtain (hearings, p. 70).

(For other views upon the development of the antitrust laws, see hearings at pp. 8, 21, 69, 70, 71, 74, 75, 77, 79, 98, 172, 173, 247, 248, 249, 250, 251, 466, 555, 556, 574, 578, 581, 582, 631, 639, 640, 680, 681, 851–853, 858, 859.)

What then can be done to curb the power of labor organizations which are left free, under the antitrust laws as judicially interpreted, to upset the banking and credit structures of the country, regiment industry under production and price controls, raise consumer prices at will, affect adversely national stabilization, and drive small-business enterprise out of the national economy or allow it an estate by sufferance at the whim and caprice of a labor organization? Surely, our forefathers have not left the Congress defenseless in the face of such an unexpected development.

RECOMMENDATIONS

Almost every witness before the committee agreed that the United Mine Workers of America had a complete monopoly, not only over the labor supply in the coal industry, but over the management and business of the industry itself, as demonstrated by its imposition of a 3-day workweek upon that industry.

(For a discussion of the efficacy of this monopoly, see hearings at pp. 3, 4, 6, 8, 9, 13, 18, 21, 22, 24, 26, 27, 28, 30, 32, 34, 35, 44, 45, 48, 51, 56, 64, 68, 69, 71, 72, 75, 79, 101, 117, 119, 120, 121, 122, 124, 127, 128, 136, 139, 142, 144, 145, 150, 151, 152, 153, 159, 234, 235, 236, 237, 238, 241, 242, 243, 253, 254, 466, 567, 572, 603, 619, 632, 633, 642, 664, 665, 666, 667–669, 675–680, 711–716, 779–787, 841, 846, 847.)

Because of the great stress placed upon this monopoly phase of the problem, a number of witnesses recommended an amendment to the antitrust laws aimed at the curtailment of the monopoly itself (hearings, pp. 101, 102, 137, 138, 139, 140, 144, 145, 164, 188, 238, 239, 240, 241, 254, 255, 256, 257, 663, 664, 674, 682, 715–717, 720, 764, 891).

No one can doubt that a bill forbidding in general terms the monopolization of labor would straighten out the present situation. Judge Thurman Arnold conceded that point. However, he proceeded to explain that it is not a practical solution. That power is recognized in unions today. "Give them that power," Arnold stated, "but define the objectives for which that power can be used."

"There is no way of defining the objectives precisely," he explained. "In all antitrust cases, you will have to trust the Court to make findings of fact," he concluded (hearings, p. 75).

Judge Charles I. Dawson, of Louisville, Ky., concurred when he stated:

> I do not think Congress should prohibit industry-wide bargaining (hearings, p. 561).

This was the view taken by the sponsors of the Labor Management Act of 1947. This act presupposes, or at least it does not negate the idea, that unions may organize indefinitely and infinitely, vertically and horizontally, and, with but minor exceptions, exercise any degree of economic power and control which they can muster (hearings, pp. 247 and 248).

Recommendations of amendments to the antitrust laws ranged from the extremely stringent approach of wiping away all distinctions in the exemptions to the antitrust laws between labor and management (hearings, p. 578), and the comparatively mild but direct approach of making illegal and criminal such admittedly nefarious means as direct production and price controls, and the use of a labor organization's coercive power to restrain trade for purposes which are not reasonably related to wages, hours of labor, health, and safety of its members.

As the more direct approach is through a specific amendment of the antitrust laws, and therefore within the specific type of legislation committed by the Legislative Reorganization Act of 1946 to the Committee on the Judiciary, we forward this document and the problems it and the hearings reveal for their study and consideration.

(For additional recommendations for amendments to the antitrust laws, see hearings at pp. 8, 24, 35, 72, 73, 74, 75, 79, 80, 81, 136, 466, 556, 557, 558, 561, 567, 572, 573, 574, 575, 578, 579, 584, 631, 634, 636, 637, 638, 765, 766.)

MINORITY VIEWS

JANUARY 12, 1950.

In the consideration of the report on the Economic Power of Labor Organizations submitted by Senator Robertson (Democrat, Virginia) to the Banking and Currency Committee, January 10, 1950, we, the undersigned, were willing to join our colleagues in transmitting the report without recommendation to the Judiciary Committee for its information.

But we, the undersigned, did not intend by this vote to signify approval of all the contents of the report. It was our understanding that the committee action was likewise limited to approval of its transmission, not of its contents.

In this respect the minutes of the committee action seem to us correct in stating merely that the committee agreed to send the report to the Judiciary Committee.

GLEN H. TAYLOR,
PAUL H. DOUGLAS,
Senators.