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CHAPTER VI

Representation Elections

THE labor boards established to apply Section 7(a) of the National Industrial Recovery Act were from the outset faced with serious problems of interpretation. Of the many administrative problems evoked by the Section, enforcement of the provision that "employees shall have the right . . . to bargain collectively through representatives of their own choosing . ." proved in practice among the most baffling and contentious. Sharp differences of opinion arose not only concerning the meaning of collective bargaining and the purposes of Congress but also with respect to specific methods for selecting representatives. The desire to avoid costly strikes and lockouts over these issues and strong pressure from all sides to clarify the terms of the law soon led to the multiplication of agencies dealing mainly with the question of representation.¹ The first of these boards—the National Labor Board, created by order of the President in August 1933—used from the very beginning the device of secret elections held under governmental supervision for the choice of employee representatives. The method was generally adopted by the boards later established to settle the same issue. Altogether, nine Federal labor boards have conducted elections of this character, and two, the National Mediation Board and the Petroleum Labor Policy Board,

¹ See Lewis L. Lorwin and Arthur Wubnig, *Labor Relations Boards* (Brookings Institution, Washington, D. C., 1935).

have in addition certified representatives by checking membership lists of labor organizations against the payroll records of companies.

The results of these elections and certifications have been regarded as throwing new light on the extent of trade union sentiment in American industry and, hence, on the potential membership of the labor movement in this country. This view is stated in the following observations by the Executive Council of the American Federation of Labor.²

“The paid-up membership of the American Federation of Labor in August 1934 was 2,823,750. While this figure represents the members whose per capita tax to the Federation is fully paid to date, there are many others who are just as loyal trade unionists and who are just as desirous to have the trade union represent them in collective bargaining, but who are unable to keep their dues fully paid to date because of inadequate employment. On the basis of reports from our international unions and careful examination of the records of local unions affiliated directly with the American Federation of Labor, we estimate that the total organized strength of the labor movement at the beginning of September, 1934, was 5,650,000.

This figure includes the members who can be counted on to stand with their union and who will come back into membership as soon as they are able to pay dues. In addition to these, however, there are others who, although they are not paid members, desire to have the trade union represent them in collective bargaining. On the basis of votes actually taken in elections, numbers standing with the union where a show of strength was required, and information received from those directly in touch with local situations, we estimate that the total number who look to the Federation as their representative agency cannot be less than 12,000,000. In making these estimates we have chosen always the most conservative figures.”

The summary in Table 18 of the results of all the elections held from August 1933 to September 1935 shows that the total

² Report to the 54th Annual Convention, October 1, 1934, p. 41.

number of votes cast was 407,000. Of these 190,953 or 46.9 per cent were for trade unions, and 216,447 or 53.1 per cent were for forms of representation other than trade union. What light these figures throw on the views of the Executive Council of the American Federation of Labor as to "the total organized strength of the labor movement" it is impossible to determine without inquiry into questions that lie beyond the scope of this study. Objective appraisal of the results of the many elections so far held would require extensive examination of the highly diverse conditions surrounding their conduct and detailed investigation of the many steps through which typical elections passed. It is clear, of course, that the distribution of the total vote is greatly affected by the results of the polls taken by the Automobile Labor Board, for in the elections of the other boards the majority of the votes were, with the exception of the elections supervised by the Bituminous Coal Labor Boards, heavily trade union.*

The description of the procedure governing these elections may throw some light on the meaning of the results. In practically all but the automobile elections, the occasion for an election was the submission of a specific complaint, usually by a trade union, that the employer had refused to recognize and to deal with the complainant as the representative of his employees. Where such

* DIRECTOR'S NOTE: The conduct of the balloting by the Automobile Labor Board, of which the author of this book was Chairman, was criticized not only by the labor unions involved and by the American Federation of Labor, but by economists specializing in labor problems, such as Dr. William Leiserson, Chairman of the National Mediation Board. It was the contention of the critics that the manner of taking the vote influenced the result adversely to the trade unions. Since the author himself indicates that the totals are "greatly affected" by the automobile vote, it would appear desirable to present a parallel distribution of the votes with the automobile vote eliminated. In that case, out of a total vote of 252,620 the votes for trade unions numbered 169,825 or 67.2 per cent and the votes for employee-representation other than trade union were 74,240 or 29.4 per cent.
—N. I. Stone

REPRESENTATION ELECTIONS

TABLE 18

REPRESENTATION ELECTIONS HELD BY FEDERAL LABOR BOARDS,
AUGUST 1933--SEPTEMBER 1935

NAME OF BOARD	APPROXIMATE PERIOD COVERED	TOTAL VALID VOTES CAST ¹	VOTES FOR A TRADE UNION		VOTES FOR EMPLOYEE-REPRESENTATION		VOTES FOR NO REPRESENTATION, INDIVIDUALS, OTHER ORGANIZATIONS, ETC.	
			Number of total	Percentage of total	Number of total	Percentage of total	Number of total	Percentage of total
National Labor Board ²	Aug. 5, 1933- July 9, 1934 ³	103,714	71,931	69.4	29,644	28.5	2,139	2.1
National Labor Relations Board ⁴	July 10, 1934- June 16, 1935	45,287	26,478	58.5	15,060	33.2	3,749	8.3
Petroleum Labor Policy Board ⁵	Mar. 8, 1934- Feb. 28, 1935 ³	11,463	7,220	63.0	1,951	17.0	2,292	20.0
Bituminous Coal Labor Boards ⁶	Apr. 18, 1934- Dec. 28, 1934 ³	4,571	2,104	46.0	2,262	49.5	205	4.5
National Mediation Board ⁷	July 21, 1934- Sept. 7, 1935	84,878	60,212	70.9	24,666 ⁸	29.1		
National Steel Labor Relations Board ⁹	Sept. 6, 1934 ³	378	237	62.7	134	35.4	7	1.9
National Longshoremen's Labor Board ¹⁰	October 1934 ³	977	733 ¹¹	75.0	220	22.5	24	2.5
Automobile Labor Board ¹²	Dec. 19, 1934- Apr. 19, 1935 ³	154,780	21,128 ¹³	13.6	133,652 ¹⁴	86.4		
Textile Labor Relations Board ¹⁵	Dec. 27, 1934- Feb. 27, 1935 ³	1,352	910	67.3	303	22.4	139	10.3
Total, all boards		407,400	190,953	46.9	207,892	51.0	8,555	2.1

a complaint was accepted, it was customary for the Board to order an election. A typical order by the National Mediation Board reads as follows (National Mediation Board, Case No. R-182, Certification, October 11, 1935):

"The services of the National Mediation Board were invoked by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees in behalf of clerical and office employees (including telephone operators) and station, yard and storehouse employees other than clerks (including foremen who do not exercise supervision through sub-foremen), of the Duluth, Missabe and Northern

Footnotes to Table 18:

¹ Excludes all blank, void and destroyed ballots. The figures, therefore, do not indicate either the total number eligible to vote or the total number of votes cast.

² Emily Clark Brown, Selection of Employees' Representatives, *Monthly Labor Review*, January 1935, pp. 1-18. Does not include five elections.

³ Experience here reported covers the entire life of the board; dates given indicate the period during which elections were conducted.

⁴ George Shaw Wheeler, Employee Elections Conducted by National Labor Relations Board up to June 16, 1935, *Monthly Labor Review*, October 1935, pp. 956-9.

⁵ David A. Moscovitz, Employee Elections Conducted by the Petroleum Labor Policy Board, *Monthly Labor Review*, October 1935, pp. 951-6. Includes certifications based on checks of authorizations against payrolls as well as those based on elections held.

⁶ Based on elections held under the Bituminous Coal Labor Board, Divisions 1, 4 and 5 only.

⁷ Tabulated directly from the Board's reports of certifications. Includes certifications based on checks of authorizations.

⁸ Covers all votes and authorizations other than those cast for a standard union.

⁹ Covers the only election held by the Board, the one at the West Virginia Rail Co. in Huntington, West Virginia.

¹⁰ Data from American Federation of Labor, *Weekly News Service*, January 12, 1935. These are the results of balloting among unlicensed personnel on tanker fleets on the Pacific coast up to October 23, 1934.

¹¹ Comprises 709 votes for the International Seamen's Union and 24 for the Communist Marine Workers.

¹² *Final Report*, Automobile Labor Board, August 6, 1935.

¹³ Comprises 14,057 votes for the A. F. of L.; 6,083 for the Associated Automobile Workers; 665 for the Mechanics Educational Society; and 323 for all other unions.

¹⁴ Comprises 111,878 unaffiliated votes and 21,774 for employees' associations. Covers all votes except those cast for a standard union.

¹⁵ Covers the only two elections held by the Board.

Railway, to settle a dispute as to who may properly represent said employees in accordance with Section 2, Ninth, of the Railway Labor Act, as amended.

The Board directed its mediator . . . to investigate the dispute and to take a secret ballot to determine the choice of the employees.”

The elections in the automobile industry, on the other hand, were held in pursuance of a general order by the Automobile Labor Board on December 7, 1934 calling for the election of representatives throughout the industry under its jurisdiction.

These differences in the origins of elections naturally account for the striking diversity in the relative number of employees polled as well as in the results. Where the number of votes cast falls short of furnishing an adequate and representative sample of the class of employees in question, the value of these elections as an index of potential union membership is problematical. In the automobile manufacturing industry something more than 80 per cent of all employees under the jurisdiction of the Automobile Labor Board³ participated in its elections. But the total vote cast in the elections held by the National Labor Relations Board, the Petroleum Labor Policy Board, the National Steel Labor Relations Board, and the Textile Labor Relations Board was less than 3 per cent of the average number employed in manufacturing industries in 1934 and 1935.⁴ The elections of the National Mediation Board had by September 7, 1935 covered something less than 10 per cent of the employees of the railroad industry.*

³ The Board's jurisdiction did not cover the automotive parts industry or the Ford Company.

⁴ Several elections ordered by some of the Boards, notably the first National Labor Relations Board and the Steel Board, were not held because employers challenged the authority of the Boards, and the issue was thrown into the courts. All pending cases of this nature were withdrawn by the government when the United States Supreme Court announced its decision in the Schechter case on May 27, 1935.

* DIRECTOR'S NOTE: However, Table 33 in this report shows that 71 per cent of all

The character of the ballot and the alternatives placed before the voters constitute another feature that varied widely among these polls. Here again the practice of the Automobile Labor Board differed from that of the rest. In the great majority of cases the ballot carried the name of a trade union and of a company union or plan of employee-representation, and had a blank space in which the voter could write the name of an individual or another organization, or vote against any representation. In the automobile poll there were primary and final elections and the voters nominated and elected individuals, not organizations, as their representatives. The nominating ballot had one space where the voter could write the name of his choice for representative and another space, marked 'labor group affiliation', in which he could write the name of a labor organization. The nominating ballot bore the following instructions:

"Write the name of the person you want for representative of your district. Candidates are not restricted to employees.

Indicate, if you wish to do so, the labor group affiliation, if any, of your candidate. For purposes of proportional representation, employees who do not specify any labor group affiliation will be treated as a group.

The names of the two persons in your district who receive the largest number of votes will be printed on the final ballot.

In the final election the candidate receiving the largest number of votes will be the representative of your district. If the representatives receiving the largest number of votes for all districts do not provide proportional representation on the bargaining agency for all substantial labor groups, additional representatives will be added from among candidates receiving the next highest votes in the plant in any groups entitled to more representatives."

In the one set of elections, accordingly, the employees voted for or

classes of employees of Class I railroads were covered by trade union agreements with the railroads.—N. I. Stone

against a specified union, and in the other they voted for individuals⁵ and specified the affiliation of their candidate by writing in the appropriate place on the ballot the name of the organization they favored.

To these factors bearing on the outcome of elections for the choice of representatives should be added equally important influences connected with the size and composition of voting districts, the location of elections, the character of the electioneering, the type of election officials and like questions. If the method of elections were to become a permanent device for determining representation in American industry, experience with it would in time suggest the rules and regulations best calculated to ensure the free and democratic choice of representatives and would furnish the standards essential to an appraisal of the votes already taken.

For several months after the Schechter decision the railroad labor board—the National Mediation Board—was the only board to continue to hold elections. The second National Labor Relations Board, appointed late in the summer of 1935, began also to order elections on the petition of employees soon thereafter. According to reports obtained from the Board, it had by May 1, 1936 supervised twenty-five elections in which 5,936 votes were cast; of these 3,792 or 63.9 per cent were votes for a trade union and 2,144 or 36.1 per cent against a trade union. The numbers eligible to vote and, hence, the percentage of eligibles who voted are not available in the records of the Board.

⁵ In many of the early elections held under the supervision of the National Labor Board the vote was for individuals, nominated either as individuals or as officers of specified organizations. The ballots used by this Board in elections in the bituminous coal industry and in the hosiery industry of Reading, Pennsylvania, were of this character. On these ballots there was printed, for example 'John L. Lewis, President of the United Mine Workers of America', or 'Emil Rieve, President of the American Federation of Hosiery Workers'.