

INVESTIGATION OF THE NATIONAL RECOVERY ADMINISTRATION

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

SEVENTY-FOURTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 79

**A RESOLUTION FOR AN INVESTIGATION OF CERTAIN
CHARGES CONCERNING THE ADMINISTRATION
OF INDUSTRIAL CODES BY THE NATIONAL
RECOVERY ADMINISTRATION**

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The CHAIRMAN. The committee will be in order and you gentlemen of the press with your photographs, will you proceed as quickly

as possible to complete your pictures of Mr. Darrow, if he does not object.

STATEMENT OF CLARENCE DARROW

The CHAIRMAN. Mr. Darrow, I suppose the reporter has your full name. You may proceed in your own way. You know what the resolution before the committee is, and the committee at the same time is trying to consider the suggestions as carried in the President's message with reference to the N. R. A.

We will appreciate any criticisms or any constructive suggestions that you might desire to offer. So you may proceed.

Mr. DARROW. I do not know about the constructive suggestions. I was appointed as chairman of what they called on paper the "Review Board." That grew out of criticisms Senator Nye and Senator Borah and perhaps others had made of N. R. A.

The Review Board was supposed by me at least to review anything that they thought should be reviewed that had been passed by the other Board.

I did not stay so very long. There were a lot of things in N. R. A. that I know very little about, and I shall try to confine myself to things that I do know something about.

When I came down here to Washington, I found that they had made preparations for me. There were some offices that Mr. Johnson had been kind enough to save for me next to his or close to them, and as I had had no conversation with anybody, I rather gathered from conversation that it was to pass on matters that were a sort of review of what they had done and growing out of the criticism of this Board, that it had helped the big fellow who did not need it and hurt the little fellow who did need it.

Mr. Richberg I had known, and we had been friends for a long time, and I had nothing against Mr. Johnson before or since, but I felt that it would not look very good to the public at large if a review board, obviously meant to examine the question whether little business was getting the worst of it, tied themselves up too closely to the other board. Maybe nobody thought anything about it excepting I myself. I have been a lawyer so long that I am very suspicious of almost everything.

Well, no trouble came out of that. We employed the space in another building, in fact the hotel where I had stopped for many years, the Willard, and they gave us all the opportunity that we needed for space without any expense.

We organized and set to work as we saw it. I knew nothing about the N. R. A. when I came here; I had no opinion about it one way or the other. I had never studied it, I am not much of a politician and did not want anything or had not anything to give, so that was all right.

Then I set to work as best I could to find out. I had not been here very long until I rather got the idea that the N. R. A., in effect, made it easier for the people who had it all and made it harder for the people who did not have it. I did not take any pains to broadcast that, because it was a sort of a tentative idea, made without having any evidence in the regular way, but we all form opinions that are of some importance.

We went out to organize, we got our board organized in a week's time, and began taking evidence to test various things that had been attacked and various things that were prominent in the investigation before.

I think we got the best evidence we could in the quickest way. We had been going ahead, and I suppose some of my questions to the board have looked like I was doubtful of the N. R. A., which I was, and am, but that does not count.

Anyway, I had been there about 2 weeks, perhaps possibly 3, and I received a letter from the President saying that they were in a hurry to get the report in and get through with it. Well, I was not anxious for a job, but I supposed I had settled down for some little time and I would have a chance to get a chance to get acquainted with the Senators and Congressmen and other things like that, and I suspected that because they gathered the impression which they might well have gathered that I was not very favorable to the N. R. A., but I did not complain any. I just hurried up, that is all. I intended to find out what I could.

I answered the letter, I think, stating about how long we had been here, which I suppose he knew any way, and that it would take us some time to get a report.

Well, I think that during the 3 months that we were here, I had three letters on the subject of the necessity of speed, which did not seem very encouraging to me, not that I would not rather be at home or that I cared either anything about the compensation or the glory, although I would rather have the compensation.

I went ahead with the Board, and began, and I think we stayed here 4 months, wasn't it? We were very sure that we could not stay any longer if we wanted to, and I for my part if I find out that I am not wanted, I generally manage to get out of the way anyhow, especially as I was not personally interested. So we wrote our report and they were very kind to us in our first report.

The law under which we acted, or the order—whichever it was, the order—provided that we should report to the President. Thereupon we reported to the President. I do not know what the President was supposed to do, whether he would put it in the closet with the clothes or what he would do, but the report was to be made to the President. I did not see it for several days. Certain Congressmen and Senators began asking questions about what had become of it and when it would come out. I said I did not know, that I had given it to the President and I had supposed that he would tell it to the people. And still we waited breathlessly to see what happened to this report. We did not want to go over it again.

And to make a short story long, 3 weeks after it was delivered, on a bright Sunday morning, this report appeared in one of the papers preceded by a report of Mr. Richberg and followed by Johnson's, or vice versa—I don't know which. At least, they got all the paper. I had not been down here long enough to stand in with the boys, and it came out in rather an unfortunate way to suit our ambition and to serve any such purpose as we wanted to have it serve. I do not know whether there was any room in the papers to read it.

There were a few people who did read it, however. It was gotten up with some care, and I think a pretty good job. I don't know what anybody else would think, but this was rather a cooling business

and we did not know what to do about it, but I did not like to be driven off too quickly. They were enjoying it and I thought we would give them some more to enjoy, and so we stayed on until we got out three reports. Do you remember how many cases we investigated?

Mr. MASON. Thirty-four codes. Three thousand three hundred and seventy-five cases.

Senator CLARK. That was 34 codes out of something over 600?

Mr. DARROW. Yes. But what I did—I speak as if I were the whole board—I was not—what we did when it looked like our demise would come soon was to take the most important codes so we took most of the largest ones, the steel company, the oil, motion pictures, and in short we took the largest ones, because we did not expect to live long.

We had great trouble in getting them circulated. They had a fine stand-in with the newspapers here, and I delivered no more to the President. I did not see that the law said it should be delivered to him so that he could put it in the closet, but carry it to the people, so in surreptitious ways and in other ways we put this out so far as the papers would publish it. A good share of them did. It did not have the publicity that was given to the articles that were published with our first reports, but anyway, we stayed nearly 4 months.

We were given an appropriation of \$50,000 to start with, which looked a little small as compared with the appropriations the N. R. A. had, but still they got here first. We took account of stock and found we had \$5,000 left out of the \$50,000 at the end of 4 months, so I thought we did pretty well. We did not hire any expensive offices and we were given room whenever we wanted a hearing, at the Willard, and altogether we were quite economical about everything except our salaries which we drew regularly, but when it got down to \$5,000 we could not see where we could get much further and saw no great hopes of getting any more money, so we stopped with the third report.

That, of course, had given us a good line on the N. R. A. Anybody that is quick on the trigger, or rather slow even, could find out in 4 months what it is all about, or at least get an opinion, although he might not understand every code, especially if he had not read them, but it was a good fair sample. and we knew the time was short, and so we drew a check to the Government of the United States—I don't know who got it—for the \$5,000 and went home.

Of course, I suppose I learned something, had a fairly good time, and did not have any grudges. They got here first, and, of course, they wanted to keep their first, which was all right. [Laughter.]

I did find out a great many things I think about the N. R. A. I do not know what you gentlemen would like to hear. Do you want to have me go on or to ask me questions?

The CHAIRMAN. I think it is better for you just to make your statement, Mr. Darrow, and then any of the committeemen who desire to ask you questions, may do so.

Mr. DARROW. Very well.

The CHAIRMAN. I think it will save time and be better for you.

Senator KING. I think if Mr. Darrow has any opinions resulting from the investigations concerning the N. R. A. we would be glad to get them.

Mr. DARROW. Well, I will proceed with that, that is what I was going to do.

I formed some opinions. It does not take me so very long to form one. I sometimes have to unform them when I form some opinions on a question.

The outstanding opinion was that the N. R. A. was gotten up to help "big business", and they could not help big business very much unless they took the business away from the small fellows. We arrived at that conclusion from what seems to be perfectly obvious and undisputed evidence.

I know something about big business more than small business, and my sympathies I am free to say are all with the small fellow. If there were not so much big business, there would be more small business, much more, in my opinion.

Big business has all of the advantage, and the N. R. A. very materially increased that advantage, in my opinion. Big business exists because they have got keen men at the head of it, they have got plenty of money, and they can advertise in the leading newspapers, fences, and barns, and any other way. They not only can, but do.

Little business is supposed to pick up the crumbs that are left to fall from the rich man's table. They are made up of people with small capital. They cannot take a page in the Saturday Evening Post and they cannot spread broadcast over the barns and fences and all over, the story of what wonderful values they have. They cannot tell that.

Take for instance the manufacture of tires, automobile tires. There are a few companies who advertise everywhere and who get the great bulk of the tire business that goes the way that advertising takes it. The little fellows generally operate in the small towns. They have not large capital. They can make just as good tires as the big ones. The fellows that got the tire don't make them anyhow. The little fellows make just as good tires.

Now, what would happen to them? They could wait until doomsday and they could not find anybody to come to buy their tires, so one way, one method of distributing them is to sell them to the department stores and the department stores distribute them. They make their own tests and they are probably just as good as the others. I am not speaking on the value of tires from observation for I never have had an automobile, but I know what is done.

The only possible way that the little man can live is to charge less for his stuff than the big man does, and the big fellows have to charge because their expenses are great. They are lavish in the expenditure of money. The little fellows save that. They may be the best tires made. When it goes to a department store or any such place as that, they are tested, as I understand it, and people are just as willing to take their tests as they are to take one from the manufacturers.

That is just an example. There are lots of small dealers in a small way in America, not so many as there were, though, and they will get less and less under present conditions, but I am a poor prophet. But suppose they destroy all of the small business that there is in this country; what would be left? Somebody has got to buy the rich man's goods. They do not swap with each other. The great mass of people in this country are not rich, they are poor, and they always will be as long as business is run as business is today. They are poor,

and they gather up what is left, and of course there is a great deal less, because this is a big country, and in the waste places and the vastnesses of the desert and in all of these byways, they are inhabited by human beings who have wants and desires and who have to fill them the best way they can, and the small business has a field, not so easy.

It must always be small business; it produces cheaper and can produce cheaper, for they have none of the great expenses, and it has a considerable amount of business from other small people everywhere.

Of course, to me, I look at this whole industrial question as a fight for life on the part of those people who have little to spend. They do not hire expensive lawyers. I get a case from them once in a while, but I am not expensive. [Laughter.]

If we do not destroy it, there will be nothing but masters and slaves left before we get much further along. If all business is done by big business, then they will have to distribute in some way themselves to the small people that live in the country towns and in the country where this same thing is going on. I do not care how small the business is, the concentration of wealth is going on, in a measurable degree at least, and it looks almost as if there were nothing to stop it. It is almost a hopeless job to ally yourself to the people that need you the most, and the rewards, as many count rewards in this world, are very, very few.

Well, there is no sort of question but what small business has suffered terribly since the passage of the N. R. A. It would have suffered without it, but to no such extent, and they might have found ways to combat it, which they cannot find now and have not found, and I do not know whether we ever will find it. I am not an optimist. I may be an idiot, but I am not a cheerful idiot. [Laughter.]

I try to look at these questions as these questions are, and there is no bright and happy outlook based on reason for the common people of this country. I think this movement is going on faster than it ever did before, much faster. Nothing has stopped it and nothing has been undertaken of this sort except this movement which did not reach any very great peak. It is obvious, one does not need examples, one only needs to grasp the facts and reason from them. It is perfectly obvious that big business has the advantage everywhere. Anybody only has to watch the advertisements in the papers, and everybody is familiar somewhat with most all of these big institutions, and they know what their holdings are and they know what a grasp they have upon this country.

We tried to get evidence on this question. We tried to get the steel company in. Nothing doing. Finally they did send a man in. He was a very high official in the law department. He said he was going fully into this case. He brought in one witness whom he asked where he lived and why and how and everything he could think of, and I told him the time was fleeting and I would like to have him get down to the case, but that did not do any good. He kept on asking the same things, and I finally—I speak of “I” because I was the chairman and did the talking—and I said I had heard enough of this and the board had heard enough of that, and I wanted him to go on to the case. He said, “This is preliminary.” I said, “it is too much preliminary, we have not got the time.” And finally he was there until noon and he gathered up his papers and went out and said that so long as he did

not have a proper opportunity to testify, he would not come back. So that was the end of the appearance of that company.

The oil company made an appearance of a half day. It was utterly out of the question to get them in. They knew what they were doing. We had no power to issue a subpoena, we could not make anybody do anything. All of the forces of the Government were on the other side, and we took what evidence we could and tried to render an honest report on it. Whether it is a good one or a bad one, those who read it would have to decide for themselves, but I think it was meant to be the facts as we found them. I do not know, perhaps I have been talking too long. Maybe you would rather ask me questions.

The CHAIRMAN. Are there any questions of Mr. Darrow.

Senator COUZENS. Have you any substantial evidence in your mind, Mr. Darrow, any specific cases, where the N. R. A. did damage the little business, or is that all in your report? If it is, I will not ask you to repeat it here.

Mr. DARROW. Well, it is not all in the report. We got many letters about it. Do you know whether we have any of those now, Mr. Mason?

Mr. MASON. They were all turned over to the N. R. A.

Mr. DARROW. Mr. Lowell Mason, who was general counsel for the Review Board, says that it was all turned over to the N. R. A., but I get letters every day, pretty nearly.

There was a great deal came from the small lumber men in the West and in the South. There were a good many from all kinds of industries, and I have had a great many since we went out of business who tell that many of their people have gone out of business.

I am afraid that I cannot give you just what you want very definitely, but I think you would not have any trouble to find it if it is known to the country that you want it.

The CHAIRMAN. Are there any other questions?

Senator KING. Did the testimony which was given to the committee before your committee, clearly indicate the paramountcy or the power of the large industries, the large units of industry, over the smaller units of industry?

Mr. DARROW. Well, I think so. I don't know that they have made it quite as plain as I have tried to make it here. I think we have it in all of our reports. We could furnish you a copy of any of them.

The CHAIRMAN. Every member of the committee has been given a copy of the reports.

Mr. DARROW. They have?

The CHAIRMAN. Yes.

Senator KING. From the hearings or from the testimony taken, did you form an opinion as to whether or not the tendencies and the practices of the N. R. A. result in price fixing of commodities?

Mr. DARROW. Most of it was price fixing. I say most of it a little carelessly, but very much. All along the line was price fixing. You will find it in many of our reports.

Senator KING. The reports challenge attention to that question.

Mr. DARROW. You see, ordinarily when any public body deals with a big corporation and they are going to buy something, they fix the minimum price at which the corporation should sell it for the most he can get. He cannot go above a certain amount, but there is not

anything plainer in this case. In this instance they said they could not sell for less. The sky was the limit going up, but they could not go down. Whatever went for the big one went for the small one, and he could not go down in the way I am speaking of. If the large man and the small one are going to sell at the same price, the big man is going to get the business.

Senator COUZENS. From your observations, Mr. Darrow, is there any part of the N. R. A. Act that is worth saving?

Mr. DARROW. I do not know that I could answer that as intelligently as one should. I really was not there long enough to be familiar with everything in it, but I think the basis of it is very bad.

Senator COUZENS. Did you form any conclusions with respect to any advantages or disadvantages that may accrue to labor from the enactment of the law?

Mr. DARROW. I do not think it affects labor, although I know that many laboring men or their agents believe it does. The price of labor is not fixed by the price of products. It is fixed by the same thing that every other price is, by supply and demand. As long as labor unions are strong and can control their product, they get good wages. When they cannot control their product, they work cheap.

The CHAIRMAN. It is your opinion that if the N. R. A. should cease on June 16 by operation of law, that it would not affect the unemployment situation in America?

Mr. DARROW. If it did, it would help it, I think.

The CHAIRMAN. You think it would help it?

Mr. DARROW. Yes. It would certainly help small business. I say it would; that is my opinion, that it would help small business and that it would diversify a great deal. Of course people have gotten in the habit of living near their work. Smaller things in smaller towns, where people live cheaper, and if you take that and move it to a city, people do not get adjusted to it, quickly anyhow, and all the same ones are not employed, and it is a very unsettling matter, the whole thing. That is what we have been going through ever since.

Senator COSTIGAN. Mr. Darrow, you have had important relations to labor throughout your life?

Mr. DARROW. Yes.

Senator COSTIGAN. What should be done with the collective bargaining feature of the law?

Mr. DARROW. You mean the N. R. A.?

Senator COSTIGAN. Yes.

Mr. DARROW. Well, now, is anything done about it? It is not a question in my mind as to how it reads. I know that they can have it, but there is no statute that I remember that compels employers to hire union labor, is there?

Senator COSTIGAN. Should there be any provision of law which will require the dealing of collective capital with representatives of—

Mr. DARROW (interposing). No.

Senator COSTIGAN (continuing). Of collective labor through those whom employers and workers freely choose to represent them?

Mr. DARROW. I do not think it is possible to make it work. Of course, capital and labor are antagonistic in the nature of things. The more money the capitalist gives to labor, the less they have to themselves, and labor is always poor as compared to capital, and it is an unequal fight. So far, they have gotten along through the strength

of their unions, and I do not imagine there is anything else that can help them. You cannot pass a statute very well that no one could employ anybody but union men. If you did, it would not last long when it got to the courts, I imagine, and I have had some experience there, too. I think labor has on the whole prospered pretty well when you remember what disadvantages the poor always have and how they manage to get their men together and manage to have them stand together, and their fear of employers who do not want business interfered with. Of course, they used to pass a great many more laws against them and enforce them more strictly. I think Mr. Roosevelt has made it easier for them to organize. I think labor has got to depend upon itself, just the same as anybody else has.

Senator COSTIGAN. Did you discover any minimum-wage safeguards in the N. R. A.?

Mr. DARROW. I beg your pardon?

Senator COSTIGAN. Did you discover any minimum-wage safeguards in the operation of the N. R. A.?

Mr. DARROW. There isn't any such thing. The safeguards are on the other side. Let me call your attention to another thing. If you get tired, I wish you would tell me, because I am getting to the gar-
rulous age. I got there a long time ago.

The CHAIRMAN. We are not getting tired.

Mr. DARROW. The whole thing is obviously made for the rich man, "big business." It could not be for anything else. They put no safeguard on it. The safeguard is the other way. They cannot sell cheaper. They can get all that they possibly can out of it, but they must have that much.

Let me tell you who made this thing. I am not going to talk about you, Don [addressing Mr. Richberg]; I might if you were not here. [Laughter.]

Once he was a friend of the poor man. Once, I said. [Laughter.]

Senator COUZENS. That is obvious.

Mr. DARROW. I pretty near got off the track on that subject.

Well, how did this thing come about? The first thing that attracted my attention to it was the wise political economist who advocated killing little pigs because we had too much pork. An economist connected with the administration, and who advocated plowing up crops for fear that people would overeat, although everybody was hungry, and not only advocated it but did it. So they set the horses in the North to plowing down corn, and the farmers in the South got their mules out to plow down cotton. They had trouble with the mules, as I read in the paper; they had been taught not to step on the cotton. [Laughter.]

So there was some wisdom left in the South. [Laughter.]

And then because it looked a little raw, they took a more direct and ladylike way of doing it. They hired farmers not to raise crops. Farmers like to work so much, they have to hire them not to. And so they went around hiring these farmers, and they are doing it now, paying people for not working. I would like a job of that sort myself. [Laughter.]

That is what the farmers have got. I don't know how many others have got it.

If there is a political economist who ever wrote and advocated any such thing, I would like to know his name.

How is that going to help? I know what they thought. They thought all we needed was high prices. I am not interested in high prices; I have not got anything to sell; I buy. I would rather that bacon be much cheaper than it is today. I don't remember how much it was when I stopped eating it, but it is pretty high—40 cents or around there.

It is the greatest piece of absurdity that ever entered the head of a would-be political economist that high prices are a blessing. They knew how high prices came. They knew it came from scarcity. When there is scarcity, prices are high. When there is plenty, prices are low. What do you want—plenty or scarcity? I know I want plenty and nobody wants scarcity unless he has got some fool opinion of what scarcity is going to do for him.

They said that we had overproduction, and we have got to lie still until it caught up. Overproduction is a fool idea that has not prevailed in intellectual circles since Adam Smith, and I have been fairly familiar with most of the economists all the way down the line. I have not read all of them, but I have read a great many of them. There never was such a thing as overproduction and never could be such a thing.

Production comes from desires, and it comes from our imagination and our stomach and some other things. We want things, and until all human wants are satisfied, there can be no overproduction, and that is how it happened, and unless people have got to grow more imbecilic than they are now, so that their wants are easily satisfied, it will continue. It is utterly absurd because the farmer could not sell his corn for what he thought he ought to get out of it, or anybody else sell something that they thought they ought to at a higher price, that we should deliberately raise prices by scarcity—burn pigs and plow under corn and cotton and hire farmers not to raise anything to eat, make us poor and hungry and then we will buy even if we have not got anything to buy with.

That theory is not supported by any political economist whoever wrote. I have not read all of them, but I am familiar with the basis of them, and I do not believe that anybody ever said it.

It is new, invented by the N. R. A. recently, that is in its full glory. Everybody who has got something to sell gets all they can, and everybody who has something to buy wants to get it as cheap as they can. That is the law of life, and I do not think you can get out of it.

Just take the world as it is. Have we got too much? Of what? I will bet that there is not 5 percent or 10 percent of the women that would not like to get another dress. We don't know why, but they do, and they like to get a new hat and probably some shoes and stockings. You cannot tell why even if the old ones are all right. How about your wives? Don't they want something else? I'll bet they do. I know my wife does. [Laughter.]

How about the men? I wonder if we have all got too many clothes. It is pretty near time for me to get some new ones, but I don't go out much. Nobody has got enough. Go out through the country where I came from and where I go to every chance I have to get out, because I love the country, and there is hardly a new farmhouse anywhere in this northern country.

I took a trip of considerable length not long ago near my old country home in Ohio. I traveled a great many miles and I knew pretty nearly every house. I left it 50 years ago, but the house did not. Everyone of them wants a new house. Nobody has got enough. What are people talking about when they talk about deliberately destroying stuff, when there is not anybody living that does not want more than they have got? The trouble is not that we have got too much wealth, the trouble is that it is not distributed anywhere near fairly. We need a new distribution and a mighty radical one which would probably won't come, which we probably won't get, but we have not got enough to distribute. Everybody is poor. It is a poor world, a shabby world all over.

How many people are careful about their clothes? They put their best foot forward. Almost everybody, almost everybody, and yet we destroy food, pay people not to work so we can produce an artificial scarcity and all get rich because we are poor. Not for me. I say that it is inherent in the ideas of N. R. A. that scarcity is a blessing and plenty is a curse. It is a poor political economy.

Senator KING. In your investigation, did you discover that "big business", or the representatives of the larger units were the ones who backed the codes or who promoted the codes and who were enforcing the codes?

Mr. DARROW. Without an exception. They do not even deny it. They say it was put in their hands to fix the price, and they did not care how high the price was. This is built on the idea that we have got to have higher prices. I mentioned the exact position of these people on the question of scarcity. From my friend Richberg down. He was with me for a long time but he got over it. I don't know why. Most everybody has, but I am going to hang to it as long as I live.

Senator COSTIGAN. Mr. Darrow, it has been reported that child labor has been eliminated and that minimum wages in some sweatshops have been increased from 3 or 5 cents an hour to 40 cents an hour.

Mr. DARROW. Increased from what, did you say?

Senator COSTIGAN. From a minimum of 3 or 5 cents an hour to 40 cents an hour.

Mr. DARROW. I would like to know where.

Senator COSTIGAN. What are the facts?

Mr. DARROW. Well now, I do not want to pretend that I know what I don't know. I made no investigation upon that.

Senator COSTIGAN. Did you discover that child labor had been eliminated?

Mr. DARROW. I discovered it 20 years ago. It had not been fully eliminated, but gradually for 20 years we have been growing too wise and too intelligent and too decent to have child labor. It certainly was no great trouble to finish it when most all the full grown men and women were out of a job, and they did not need to work the children.

Senator COSTIGAN. Was it finished under the N. R. A.? Your sympathies are known in that field, and I only want to discover the facts.

Mr. DARROW. Yes. As far as I know, the first legal action was taken, but the work had all been done before, and of course the panic

or whatever we call it—I guess I don't know—maybe it is normal instead of a panic nowadays—but it left no room for child labor. Fathers and mothers were out of a job. Full-grown men were out of a job, as they are today.

Senator CLARK. Mr. Darrow, in your judgment was it necessary not only to legalize but to make mandatory in many cases every sort of monopolistic practice that had been outlawed in this country for nearly half a century, in order to eliminate child labor or authorize the collective bargaining?

Mr. DARROW. No. There are natural forces back of most everything. Human beings don't do half as much as they think they do. Their intellect is not so great. It comes from experience. We learn certain things because we had to learn them or starve and that occurred to us in our business.

Senator KING. Is it not a fact, Mr. Darrow, that many of the States had laws which protected child labor, or rather prevented child labor and were not the States more and more enacting legislation of that character?

Mr. DARROW. Of course it was going out of style fast. When my friend Richberg begins to tell what they have done he says that they have abolished child labor the first thing. I was working on that before he was born. [Laughter.]

Senator COSTIGAN. As a matter of fact statistics, even during the period preceding the depression, which began in 1929, indicated that two or more million children were working more or less excessively in this country, while adults were out of work. One of the grievances of unemployed men and women in those days was that it was impossible to substitute adult for child labor. Have you any facts with reference to child labor employment prior to 1929?

Mr. DARROW. 1929 meaning what time?

Senator COSTIGAN. The Wall Street collapse in October 1929.

Mr. DARROW. Prior to that?

Senator COSTIGAN. Prior to that, and since.

Mr. DARROW. No, I could give you what I think was the logic of it. Of course, good times have gone forever. We have had in the past a sort of a changing cycle of fever and ague, one following the other—sometimes hot and sometimes cold. Sometimes we can get a full stomach and sometimes we get along with an empty stomach. That is, the people that work. I do not work, so I always have enough. But in the future, more than in the past—panics and good times—all of these things are going to follow each other. Why? Because the power of production has overrun any machinery we have, or any idea we have for distribution. It is no trouble to produce goods now. I would not pretend to quote figures, but we can produce 20 times as much at least, to be moderate, as we could 50 years ago. In the next 10 years, if we get into business again, we can produce so many more goods than we have that we can get a panic quicker. It is easy to produce, but who is consuming? Nobody but the well-to-do. It is a travesty upon the intelligence of people, I think, that there should be any such outrageous distribution of the products of toil as there is at this time, and as there always has been in the world. This time is not different from any other. I have always been interested in it, because I was interested in the question.

Senator COSTIGAN. Your analysis indicates that in your judgment "big business" is consuming the consumer?

Mr. DARROW. Yes. I don't know what "big business" is going to do without the consumer. They have to eat more themselves. Their stomachs are not much bigger than ours; of course they are a little bigger—they have been distended more. Not much.

The CHAIRMAN. Are there any other questions?

Senator LONERGAN. I would like to ask a question of Mr. Darrow, Mr. Chairman.

The CHAIRMAN. Yes; Senator Lonergan.

Senator LONERGAN. As a lawyer, do you feel that Congress has any power to legislate on matters solely within a State?

Mr. DARROW. Well, I will give you my opinion, which I have not verified lately. I would say they had not.

Senator LONERGAN. I think you are right.

Mr. DARROW. I do not know what the Federal and State division stands for unless it is for something like that. Don, am I right about that? [Addressing Mr. Richberg.]

[Laughter.]

Mr. RICHBERG. Partly right.

Mr. DARROW. Neither of us ought to be glad if we are partly right.

Senator LONERGAN. I was interested in your statement about curtailed production. Do you feel the same way about production insofar as industry is concerned?

Mr. DARROW. Whether we should shorten hours and so on?

Senator LONERGAN. Yes.

Mr. DARROW. I think we should.

Senator LONERGAN. What is your idea?

Mr. DARROW. Because we do not need it to start with.

Senator LONERGAN. No, I mean as to the number of hours per week.

Mr. DARROW. I have not carefully thought of that. How many are they now?

Senator LONERGAN. Well, it varies—48 or 50 or 54.

Mr. RICHBERG. It is an average between 40 and 48.

Senator BLACK. That does not mean that they have actually been working between 40 and 48.

Senator LONERGAN. I would like to have an answer.

Mr. DARROW. I know there is a lot of idleness that we all have to recognize. Why, I would say—of course it is pretty easy to make them as short as we please, but they ought not to be more than 5 or 6 hours a day.

Senator LONERGAN. For how many days?

Mr. DARROW. Five. What do the men do anyway? The men do not do anything, the machine does it all.

Senator LONERGAN. Have you any ideas for improving the system of distribution? We all agree we have underconsumption.

Mr. DARROW. Improving the distribution?

Senator LONERGAN. Of the output of industry and farms.

Mr. DARROW. Whether it should actually be done?

Senator LONERGAN. No; the fault is in our system of distribution. Have you any ideas for improving the system of distribution as to the output of factory and farm?

Mr. DARROW. Yes; I have got a lot of them, but nobody listens to them. [Laughter.]

Senator LONERGAN. I will furnish willing ears.

Mr. DARROW. All right. Of course, it is the crime of the ages, the inequalities of distribution. It is the crime of the ages since man went down into the mines for a shilling a day or 2 shillings, in England, and little children went down with them, 5 or 6 years old. They went down so early they never knew anything about sunlight, worked in the mines all day, and went to bed at night. Perhaps they have gradually raised the conditions to some extent, but you have got to have a will to do before you can do, haven't you?

The lords of creation think that the Almighty meant that they should be rich and the great mass of the people should be poor. Men have got to do these things themselves, but men are awfully hard-hearted. I have even known poor men that were pretty tough. Kindliness comes from imagination, and very few people have any to waste. What they do have, they do not generally use very much. When they get so that they can put themselves in other people's place and suffer because they suffer, we will probably get rid of most of these inequalities, but whether they will ever get there, I do not know.

I think that something like a socialistic system would be the only thing that would make anything like an equal distribution of wealth. There might be a thousand other things that I have never thought of, or a dozen other things, but if the theory would work, which I don't know anything about—it has never been tried, and somehow theories have a habit of looking good and not working out well—but there is no decency or sense in the great difference between the rewards in this world. Some men get say a thousand dollars a day or a hundred dollars a day. I have even had that myself [laughter]—I mean the hundred dollars [laughter]—and others were on the verge of starvation. One man can eat just as much as the other, he needs just as much, and the tragedy and the comedy of all of it is that it is not necessary that anybody should be deprived of anything. What are all of these machines made for if they are not made to help the human race to live a better life, and an easier life, to easier life, to have more pleasure and less pain? They have had their share of pain.

You asked for ultimate things. Undoubtedly things will come in between this time and that time if that time ever comes, and lowering the hours would help. There is no need of working long hours any more. It would be an immense help and it would be a help toward some day when people will be ashamed to be rich, and that is the cultivation of imagination which it is not a very easy thing to do, but there are still some idealists in the world and always have been some. You have got to depend pretty much on those things. I think it is possible that we will have a better situation a few hundred years from now. I hate to wait so long.

Senator LONERGAN. Do you think there is any substitute for economic laws?

Mr. DARROW. I am not at all sure about economic laws. I do not think they are like the laws of gravity. I think we will find that most of them have been made by human beings and pretty human at that.

Senator LONERGAN. But with thousands of elements entering into the operation of them.

Mr. DARROW. Oh, yes, certainly.

Senator LONERGAN. And world-wide in character.

Mr. DARROW. I would say that the best theory to get would be that of some of the old philosophers, William Morris among the rest, "to everybody according to his needs, and from everybody according to his capacity."

I don't know why a man can't have more pleasure feeding somebody else than eating too much himself. Of course, we would not have any such rotten system if people would be idealistic.

Senator BLACK. I want to ask you a question. As I understand it, the Senator asked you what method could be used to bring about a better distribution under our present system.

Mr. DARROW. Under our present system?

Senator BLACK. As I understood your ideas, I want to see if I am correct; you believe that since we must depend upon the American people mainly to buy our goods, the millions of them, that the only way to enable them to buy the goods is to give them enough income to do so?

Mr. DARROW. Yes.

Senator BLACK. These poor people that you are talking about?

Mr. DARROW. Yes.

Senator BLACK. Do you know anything in the world that will make a factory run and produce except customers who can buy their goods at a profit under our system?

Mr. DARROW. Of course, there isn't any.

Senator BLACK. Then the remedy, so far as distribution is concerned, is for us to find some way to give these millions of people who have to have a living income under a living standard, an income sufficient to enable them to buy the goods of the farm and factory, isn't it?

Mr. DARROW. Certainly. I do not agree with you on the question of our having to consume them all ourselves. I am a free trader.

Senator BLACK. I agree with you, in theory, myself. I have voted against all of these tariff bills, but it seems that nationalism has come to stay for a long time.

Mr. DARROW. We have had too much of it. If the thing is true in theory, it is true in practice. There would be something wrong with your theory if it would not work out.

Senator BLACK. If the people adopt the other practice, not only this country but all of the other countries, and put up embargoes and establish quotas and prohibitions, then you are up against a reality.

Mr. DARROW. I think the United States could exist perfectly well without any other country, but I do not believe in it.

Senator BLACK. Neither do I. I believe in trading. I believe trade is a blessing and not a curse.

Mr. DARROW. Not only that, but trade is the father and mother of good will and of intelligence and learning. Trade is not only the exchange of goods, but it is the exchange of ideas, which is just as important, or almost as important.

Senator BLACK. As I understood your ideas—I just wanted to be sure that your idea was to give everybody a job, with such hours as necessary to give them a job, and give them enough wages to enable them to buy the products of their own labor?

Mr. DARROW. Certainly.

Senator BARKLEY. Mr. Darrow, I was called out and perhaps somebody else asked you this question—

Mr. DARROW (interrupting). I hope I will answer it the same way if they did.

Senator BARKLEY. I have no doubt of that. In speaking of the reports by your Board, the three reports, which I have read in most part—I had to read one of them hastily—but in those reports you set out certain findings that you had brought about by reason of the hearings and the complaints which had been brought to the attention of your board, and you made certain recommendations?

Mr. DARROW. Yes.

Senator BARKLEY. That would correct what you decided were injustices in the administration of the codes if I recall. Do you know to what extent any of your recommendations for corrections were carried out or have been carried out since the Board ceased to exist?

Mr. DARROW. I have not heard of any of them being carried out, but Mr. Mason, who was our counsel, and who is really more familiar with that, says they were carried out to a considerable extent. A good deal of it.

Senator BARKLEY. The duty of this committee is not only to investigate the past operations of N. R. A., but to consider in what form the N. R. A. will be continued, if at all, under the request and suggestion of the President, and it is the recommendation of the administrators, including Mr. Richberg and Mr. Williams who have been testifying for several days, the operations of the N. R. A. in the future be limited to interstate business or such business as materially affects interstate business, and that the number of codes be reduced from some 600 to about one hundred and eighty odd, dealing with the typical larger units of business and industry in the country. Would you say that that to some extent at least, eliminated the objections and criticisms which you found as a result of your investigation?

Mr. DARROW. I think the fewer the better, but I would reduce them more. To nothing. I may be wrong about that, of course. I do not believe in the theory.

Senator BARKLEY. You are opposed to the whole theory of the N. R. A.?

Mr. DARROW. Yes; I do not think it is the right theory. It is based on the idea that there is not enough to go around, and you cannot get enough anyhow, and producing scarcity and all of that. I have no prejudice about that, though.

Senator BARKLEY. Do you think that the elimination of child labor in these codes has been beneficial?

Mr. DARROW. The elimination of child labor is certainly a benefit to anybody who is a human being, whether it comes through the codes or in any other way. Of course, the elimination of child labor has been going on for 200 years now.

Senator BARKLEY. It has been a very gradual elimination?

Mr. DARROW. Yes, too gradual.

Senator BARKLEY. But there was a precipitation of the elimination, was there not, as a result of the codes?

Mr. DARROW. I don't know. I hate to give them any credit. [Laughter.]

Senator BARKLEY. That may furnish a key to your whole attitude toward this thing.

Mr. DARROW. Possibly. But I have talked about a good many things besides that.

Senator BARKLEY. If it be true, and I am not making the assertion, but if it be true that the codes have resulted in the considerable elimination of child labor, you would be willing at least, notwithstanding any preconceived notions, to give credit for that?

Mr. DARROW. Yes; I would lay off of that.

Senator BARKLEY. And if it be true, and I am not making the assertion—

Mr. DARROW (interrupting). I understand.

Senator BARKLEY. But if it be true that the shortening of hours, brought about by the codes, did spread employment among a large number of people, you would be willing to credit that up on the proper side of the ledger?

Mr. DARROW. Yes. Browning, I believe, said there is good in everything. That I believe ought to apply to N. R. A.

Senator BARKLEY. That is all.

The CHAIRMAN. Thank you very much, Mr. Darrow, for your testimony.

We will now hear from Mr. Hillman.

STATEMENT BY SIDNEY HILLMAN

Mr. HILLMAN. Mr. Chairman and gentlemen of the committee, for the record, my name is Sidney Hillman, president of the Amalgamated Clothing Workers of America, member of the Labor Advisory Board since the organization of the N. R. A., and a member of the National Industrial Recovery Board since last September.

I did not expect to have the opportunity to appear this morning, and therefore have not the material with me to substantiate my statements, but I would be very glad to state, in the limited time, my reaction to, first, the conditions prevailing before the N. R. A. became a law of the land, and the result of our experience, especially affecting labor, since the National Industrial Recovery Act became the law of the land.

I am quite fearful that most people do forget the condition prevailing in the country 2 years ago. In my contact with labor, we found that by 1931 and 1932 and the early part of 1933, conditions had become unbearable as far as labor is concerned.

I do not like to take issue with my good friend Mr. Darrow, but from personal experience I know that in the years after 1929, child labor became a larger and larger factor in American industry. I can present evidence to show that parents have been put out of work and children 14 and 15 years old were put in the factories at wages of \$2 and \$1 a week. The family had to depend on the support of child labor, not merely in some few instances, but affecting tens of thousands of workers.

In my contact mainly with what is called the "sweated" industries, we found that since 1929, wages went down as low as 2 and 3 cents an hour, not merely of some individuals, but affecting thousands of workers.

Considering production first; even before the N. R. A. provisions which are alleged to have curtailed production, it had been reduced 80 percent in this country from 1929 until 1933—

Senator BLACK (interrupting). Pardon me. I did not want to interrupt you, but will you repeat that?