

SESSION 7 LABOR RELATIONS

HUMAN FACTOR II

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SESSION 7
[Pick the date]

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A labor relation is the study and practice of managing unionized employment situations. In academia, labor relations is frequently a subarea within industrial relations, though scholars from many disciplines--including economics, sociology, history, law, and political science--also study labor.

National Labor Relations Act

Congress enacted the National Labor Relations Act ("NLRA") in 1935 to protect the rights of employees and employers, to encourage collective bargaining, and to curtail certain private sector labor and management practices, which can harm the general welfare of workers, businesses and the U.S. economy.

NATIONAL LABOR RELATIONS ACT

FINDINGS AND POLICIES

Section 1.[§151.] The denial by some employers of the right of employees to organize and the refusal by some employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities which impair the interest of the public in the free flow of such commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed

It is declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the

practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self- organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

DEFINITIONS

Sec. 2. [§ 152.] When used in this Act [subchapter]--

(1) The term "person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under title 11 of the United States Code [under title 11], or receivers.

(2) The term "employer" includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any person subject to the Railway Labor Act [45 U.S.C. § 151 et seq.], as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

[Pub. L. 93-360, § 1(a), July 26, 1974, 88 Stat. 395, deleted the phrase "or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual" from the definition of "employer."]

(3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act [this subchapter] explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to the Railway Labor Act [45 U.S.C. § 151 et seq.], as amended from time to time, or by any other person who is not an employer as herein defined.

(4) The term "representatives" includes any individual or labor organization.

(5) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with

employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(6) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

(7) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(8) The term "unfair labor practice" means any unfair labor practice listed in section 8 [section 158 of this title].

(9) The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(10) The term "National Labor Relations Board" means the National Labor Relations Board provided for in section 3 of this Act [section 153 of this title].

(11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(12) The term "professional employee" means--

(a) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as

distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(b) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a).

(13) In determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

(14) The term "health care institution" shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm, or aged person.

[Pub. L. 93-360, § 1(b), July 26, 1974, 88 Stat. 395, added par. (14).]

NATIONAL LABOR RELATIONS BOARD

Sec. 3. [§ 153.] (a) [Creation, composition, appointment, and tenure; Chairman; removal of members] The National Labor Relations Board (hereinafter called the "Board") created by this Act [subchapter] prior to its amendment by the Labor Management Relations Act, 1947 [29 U.S.C. § 141 et seq.], is continued as an agency of the United States, except that the Board shall consist of five instead of three members, appointed by the President by and with the advice and consent of the Senate. Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of two years. Their successors, and the successors of the other members, shall be appointed for terms of five years each, excepting that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) [Delegation of powers to members and regional directors; review and stay of actions of regional directors; quorum; seal] The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. The Board is also authorized to delegate to its regional directors its powers under section 9 [section 159 of this title] to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings, and determine whether a question of representation exists, and to

direct an election or take a secret ballot under subsection (c) or (e) of section 9 [section 159 of this title] and certify the results thereof, except that upon the filling of a request therefore with the Board by any interested person, the Board may review any action of a regional director delegated to him under this paragraph, but such a review shall not, unless specifically ordered by the Board, operate as a stay of any action taken by the regional director. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

(c) [Annual reports to Congress and the President] The Board shall at the close of each fiscal year make a report in writing to Congress and to the President summarizing significant case activities and operations for that fiscal year.

(d) [General Counsel; appointment and tenure; powers and duties; vacancy] There shall be a General Counsel of the Board who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. The General Counsel of the Board shall exercise general supervision over all attorneys employed by the Board (other than administrative law judges and legal assistants to Board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the Board, in respect of the investigation of charges and issuance of complaints under section 10 [section 160 of this title], and in respect of the prosecution of such complaints before the Board, and shall have such other duties as the Board may prescribe or as may be provided by law. In case of vacancy in the office of the General Counsel the President is authorized to designate the officer or employee who shall act as General Counsel during such vacancy, but no person or persons so designated shall so act (1) for more than forty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted.

[The title "administrative law judge" was adopted in 5 U.S.C. § 3105.]

Sec. 4. [§ 154. Eligibility for reappointment; officers and employees; payment of expenses] (a) Each member of the Board and the General Counsel of the Board shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment. The Board shall appoint an executive secretary, and such attorneys, examiners, and regional directors, and such other employees as it may from time to time find necessary for the proper performance of its duties. The Board may not employ any attorneys for the purpose of reviewing transcripts of hearings or preparing drafts of opinions except that any attorney

employed for assignment as a legal assistant to any Board member may for such Board member review such transcripts and prepare such drafts. No administrative law judge's report shall be reviewed, either before or after its publication, by any person other than a member of the Board or his legal assistant, and no administrative law judge shall advise or consult with the Board with respect to exceptions taken to his findings, rulings, or recommendations. The Board may establish or utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may, at the direction of the Board, appear for and represent the Board in any case in court. Nothing in this Act [subchapter] shall be construed to authorize the Board to appoint individuals for the purpose of conciliation or mediation, or for economic analysis.

[The title "administrative law judge" was adopted in 5 U.S.C. § 3105.]

(b) All of the expenses of the Board, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefore approved by the Board or by any individual it designates for that purpose.

Sec. 5. [§ 155. Principal office, conducting inquiries throughout country; participation in decisions or inquiries conducted by member] The principal office of the Board shall be in the District of Columbia, but it may meet and exercise any or all of its powers at any other place. The Board may, by one or more of its members or by such agents or agencies as it may designate, prosecute any inquiry necessary to its functions in any part of the United States. A member who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Board in the same case.

Sec. 6. [§ 156. Rules and regulations] The Board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the Administrative Procedure Act [by subchapter II of chapter 5 of title 5], such rules and regulations as may be necessary to carry out the provisions of this Act [subchapter].

RIGHTS OF EMPLOYEES

Sec. 7. [§ 157.] Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor

organization as a condition of employment as authorized in section 8(a)(3) [section 158(a)(3) of this title].

UNFAIR LABOR PRACTICES

Sec. 8. [§ 158.] (a) [Unfair labor practices by employer] It shall be an unfair labor practice for an employer--

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7 [section 157 of this title];

(2) to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: Provided, That subject to rules and regulations made and published by the Board pursuant to section 6 [section 156 of this title], an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(3) by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act [subchapter], or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in section 8(a) of this Act [in this subsection] as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 9(a) [section 159(a) of this title], in the appropriate collective-bargaining unit covered by such agreement when made, and (ii) unless following an election held as provided in section 9(e) [section 159(e) of this title] within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement: Provided further, That no employer shall justify any discrimination against an employee for non-membership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act [subchapter];

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a) [section 159(a) of this title].

(b) [Unfair labor practices by labor organization] It shall be an unfair labor practice for a labor organization or its agents--

(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 7 [section 157 of this title]: Provided, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3) [of subsection (a)(3) of this section] or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of section 9(a) [section 159(a) of this title];

(4)(i) to engage in, or to induce or encourage any individual employed by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services; or (ii) to threaten, coerce, or restrain any person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is- -

(A) forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by section 8(e) [subsection (e) of this section];

(B) forcing or requiring any person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 9 [section 159 of this title]: Provided, That nothing contained in this clause (B) shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing;

(C) forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 9 [section 159 of this title];

(D) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work:

Provided, That nothing contained in this subsection (b) [this subsection] shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this Act [subchapter]: Provided further, That for the purposes of this paragraph (4) only, nothing contained in such paragraph shall be construed to prohibit publicity, other than picketing, for the purpose of truthfully advising the public, including consumers and members of a labor organization, that a product or products are produced by an employer with whom the labor organization has a primary dispute and are distributed by another employer, as long as such publicity does not have an effect of inducing any individual employed by any person other than the primary employer in the course of his employment to refuse to pick up, deliver, or transport any goods, or not to perform any services, at the establishment of the employer engaged in such distribution;

(5) to require of employees covered by an agreement authorized under subsection (a)(3) [of this section] the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the Board finds excessive or discriminatory under all the circumstances. In making such a finding, the Board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected;

(6) to cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed; and

(7) to picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an

employer to accept or select such labor organization as their collective-bargaining representative, unless such labor organization is currently certified as the representative of such employees:

(A) where the employer has lawfully recognized in accordance with this Act [subchapter] any other labor organization and a question concerning representation may not appropriately be raised under section 9(c) of this Act [section 159(c) of this title],

(B) where within the preceding twelve months a valid election under section 9(c) of this Act [section 159(c) of this title] has been conducted, or

(C) where such picketing has been conducted without a petition under section 9(c) [section 159(c) of this title] being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing: Provided, That when such a petition has been filed the Board shall forthwith, without regard to the provisions of section 9(c)(1) [section 159(c)(1) of this title] or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the Board finds to be appropriate and shall certify the results thereof: Provided further, That nothing in this subparagraph (C) shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver or transport any goods or not to perform any services.

Nothing in this paragraph (7) shall be construed to permit any act which would otherwise be an unfair labor practice under this section 8(b) [this subsection].

(c) [Expression of views without threat of reprisal or force or promise of benefit] The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act [subchapter], if such expression contains no threat of reprisal or force or promise of benefit.

(d) [Obligation to bargain collectively] For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a

concession: Provided, That where there is in effect a collective- bargaining contract covering employees in an industry affecting commerce, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification--

(1) serves a written notice upon the other party to the contract of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) notifies the Federal Mediation and Conciliation Service within thirty days after such notice of the existence of a dispute, and simultaneously therewith notifies any State or Territorial agency established to mediate and conciliate disputes within the State or Territory where the dispute occurred, provided no agreement has been reached by that time; and

(4) continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later:

The duties imposed upon employers, employees, and labor organizations by paragraphs (2), (3), and (4) [paragraphs (2) to (4) of this subsection] shall become inapplicable upon an intervening certification of the Board, under which the labor

organization or individual, which is a party to the contract, has been superseded as or ceased to be the representative of the employees subject to the provisions of section 9(a) [section 159(a) of this title], and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within any notice period specified in this subsection, or who engages in any strike within the appropriate period specified in subsection (g) of this section, shall lose his status as an employee of the employer engaged in the particular labor dispute, for the purposes of sections 8, 9, and 10 of this Act [sections 158, 159, and 160 of this title], but such loss of status for such employee shall terminate if and when he is re-employed by such employer. Whenever the collective bargaining involves employees of a health care institution, the provisions of this section 8(d) [this subsection] shall be modified as follows:

(A) The notice of section 8(d)(1) [paragraph (1) of this subsection] shall be ninety days; the notice of section 8(d)(3) [paragraph (3) of this subsection] shall be sixty days; and the contract period of section 8(d)(4) [paragraph (4) of this subsection] shall be ninety days.

(B) Where the bargaining is for an initial agreement following certification or recognition, at least thirty days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in section 8(d)(3) [in paragraph (3) of this subsection].

(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute.

[Pub. L. 93-360, July 26, 1974, 88 Stat. 395, amended the last sentence of Sec. 8(d) by striking the words "the sixty-day" and inserting the words "any notice" and by inserting before the words "shall lose" the phrase ", or who engages in any strike within the appropriate period specified in subsection (g) of this section." It also amended the end of paragraph Sec. 8(d) by adding a new sentence "Whenever the collective bargaining . . . aiding in a settlement of the dispute."]

(e) [Enforceability of contract or agreement to boycott any other employer; exception] It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in any of the products of any other employer, or cease doing business with any other person, and any contract or agreement entered into heretofore or hereafter containing such an agreement shall be to such extent unenforceable and void: Provided, That nothing in this subsection (e) [this subsection] shall apply to an agreement between a labor organization and an employer in the construction industry relating to the contracting or subcontracting of work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work: Provided further, That for the purposes of this subsection (e) and section 8(b)(4)(B) [this subsection and subsection (b)(4)(B) of this section] the terms "any employer," "any person engaged in commerce or an industry affecting commerce," and "any person" when used in relation to the terms "any other producer, processor, or manufacturer," "any other employer," or "any other person" shall not include persons in the relation of a jobber, manufacturer, contractor, or subcontractor working on the goods or premises of the jobber or manufacturer or performing parts of an integrated process of production in the

apparel and clothing industry: Provided further, That nothing in this Act [subchapter] shall prohibit the enforcement of any agreement which is within the foregoing exception.

(f) [Agreements covering employees in the building and construction industry] It shall not be an unfair labor practice under subsections (a) and (b) of this section for an employer engaged primarily in the building and construction industry to make an agreement covering employees engaged (or who, upon their employment, will be engaged) in the building and construction industry with a labor organization of which building and construction employees are members (not established, maintained, or assisted by any action defined in section 8(a) of this Act [subsection (a) of this section] as an unfair labor practice) because (1) the majority status of such labor organization has not been established under the provisions of section 9 of this Act [section 159 of this title] prior to the making of such agreement, or (2) such agreement requires as a condition of employment, membership in such labor organization after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later, or (3) such agreement requires the employer to notify such labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment, or (4) such agreement specifies minimum training or experience qualifications for employment or provides for priority in opportunities for employment based upon length of service with such employer, in the industry or in the particular geographical area: Provided, That nothing in this subsection shall set aside the final proviso to section 8(a)(3) of this Act [subsection (a)(3) of this section]: Provided further, That any agreement which would be invalid, but for clause (1) of this subsection, shall not be a bar to a petition filed pursuant to section 9(c) or 9(e) [section 159(c) or 159(e) of this title].

(g) [Notification of intention to strike or picket at any health care institution] A labor organization before engaging in any strike, picketing, or other concerted refusal to work at any health care institution shall, not less than ten days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this subsection shall not be given until the expiration of the period specified in clause (B) of the last sentence of section 8(d) of this Act [subsection (d) of this section]. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties.

[Pub. L. 93-360, July 26, 1974, 88 Stat. 396, added subsec. (g).]

REPRESENTATIVES AND ELECTIONS

Sec. 9 [§ 159.] (a) [Exclusive representatives; employees' adjustment of grievances directly with employer] Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: Provided, That any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect: Provided further, That the bargaining representative has been given opportunity to be present at such adjustment.

(b) [Determination of bargaining unit by Board] The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act [subchapter], the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof: Provided, That the Board shall not (1) decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit; or (2) decide that any craft unit is inappropriate for such purposes on the ground that a different unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft unit votes against separate representation or (3) decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises; but no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(c) [Hearings on questions affecting commerce; rules and regulations] (1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board--

(A) by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in section 9(a) [subsection (a) of this section], or (ii) assert that the individual or labor organization, which has been certified or is being currently

recognized by their employer as the bargaining representative, is no longer a representative as defined in section 9(a) [subsection (a) of this section]; or

(B) by an employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in section 9(a) [subsection (a) of this section]; the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the regional office, who shall not make any recommendations with respect thereto. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

(2) In determining whether or not a question of representation affecting commerce exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition or the kind of relief sought and in no case shall the Board deny a labor organization a place on the ballot by reason of an order with respect to such labor organization or its predecessor not issued in conformity with section 10(c) [section 160(c) of this title].

(3) No election shall be directed in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held. Employees engaged in an economic strike who are not entitled to reinstatement shall be eligible to vote under such regulations as the Board shall find are consistent with the purposes and provisions of this Act [subchapter] in any election conducted within twelve months after the commencement of the strike. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(4) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the Board.

(5) In determining whether a unit is appropriate for the purposes specified in subsection (b) [of this section] the extent to which the employees have organized shall not be controlling.

(d) [Petition for enforcement or review; transcript] Whenever an order of the Board made pursuant to section 10(c) [section 160(c) of this title] is based in whole or in part upon facts certified following an investigation pursuant to subsection (c) of this section and there is a petition for the enforcement or

review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under section 10(e) or 10(f) [subsection (e) or (f) of section 160 of this title], and thereupon the decree of the court enforcing, modifying, or setting aside in whole or in part the order of the Board shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

(e) [Secret ballot; limitation of elections] (1) Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and labor organization made pursuant to section 8(a)(3) [section 158(a)(3) of this title], of a petition alleging they desire that such authorization be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer.

(2) No election shall be conducted pursuant to this subsection in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held.

PREVENTION OF UNFAIR LABOR PRACTICES

Sec. 10. [§ 160.] (a) [Powers of Board generally] The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8 [section 158 of this title]) affecting commerce. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise: Provided, That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominately local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act [subchapter] or has received a construction inconsistent therewith.

(b) [Complaint and notice of hearing; six-month limitation; answer; court rules of evidence inapplicable] Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint: Provided, That no complaint shall issue based upon any unfair labor practice occurring more than

six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six- month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to section 2072 of title 28, United States Code [section 2072 of title 28].

(c) [Reduction of testimony to writing; findings and orders of Board] The testimony taken by such member, agent, or agency, or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action including reinstatement of employees with or without backpay, as will effectuate the policies of this Act [subchapter]: Provided, That where an order directs reinstatement of an employee, backpay may be required of the employer or labor organization, as the case may be, responsible for the discrimination suffered by him: And provided further, That in determining whether a complaint shall issue alleging a violation of section 8(a)(1) or section 8(a)(2) [subsection (a)(1) or (a)(2) of section 158 of this title], and in deciding such cases, the same regulations and rules of decision shall apply irrespective of whether or not the labor organization affected is affiliated with a labor organization national or international in scope. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint. No order of the Board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of

any backpay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the Board, or before an administrative law judge or judges thereof, such member, or such judge or judges, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Board, and if no exceptions are filed within twenty days after service thereof upon such parties, or within such further period as the Board may authorize, such recommended order shall become the order of the Board and become affective as therein prescribed.

[The title "administrative law judge" was adopted in 5 U.S.C. § 3105.]

(d) [Modification of findings or orders prior to filing record in court] Until the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(e) [Petition to court for enforcement of order; proceedings; review of judgment] The Board shall have power to petition any court of appeals of the United States, or if all the courts of appeals to which application may be made are in vacation, any district court of the United States, within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code [section 2112 of title 28]. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Board. No objection that has not been urged before the Board, its member, agent, or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the record. The Board may modify its findings as to the facts, or make new findings, by reason of

additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to question of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate United States court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

(f) [Review of final order of Board on petition to court] Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any United States court of appeals in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the Board, as provided in section 2112 of title 28, United States Code [section 2112 of title 28]. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and shall have the same jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

(g) [Institution of court proceedings as stay of Board's order] The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

(h) [Jurisdiction of courts unaffected by limitations prescribed in chapter 6 of this title] When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part an order of the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by sections 101 to 115 of title 29, United States Code [chapter 6 of this title] [known as the "Norris-LaGuardia Act"].

(i) Repealed.

(j) [Injunctions] The Board shall have power, upon issuance of a complaint as provided in subsection (b) [of this section] charging that any person has engaged in or is engaging in an unfair labor practice, to petition any United States district court, within any district wherein the unfair labor practice in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.

(k) [Hearings on jurisdictional strikes] Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4)(D) of section 8(b) [section 158(b) of this title], the Board is empowered and directed to hear and determine the dispute out of which such unfair labor practice shall have arisen, unless, within ten days after notice that such charge has been filed, the parties to such dispute submit to the Board satisfactory evidence that they have adjusted, or agreed upon methods for the voluntary adjustment of, the dispute. Upon compliance by the parties to the dispute with the decision of the Board or upon such voluntary adjustment of the dispute, such charge shall be dismissed.

(l) [Boycotts and strikes to force recognition of uncertified labor organizations; injunctions; notice; service of process] Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4)(A), (B), or (C) of section 8(b) [section 158(b) of this title], or section 8(e) [section 158(e) of this title] or section 8(b)(7) [section 158(b)(7) of this title], the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. If, after such investigation, the officer or regional attorney to whom the matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the Board, petition any United States district court within any district where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein such person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law: Provided further, That no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period: Provided further, That

such officer or regional attorney shall not apply for any restraining order under section 8(b)(7) [section 158(b)(7) of this title] if a charge against the employer under section 8(a)(2) [section 158(a)(2) of this title] has been filed and after the preliminary investigation, he has reasonable cause to believe that such charge is true and that a complaint should issue. Upon filing of any such petition the courts shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony: Provided further, That for the purposes of this subsection district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, or (2) in any district in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit. In situations where such relief is appropriate the procedure specified herein shall apply to charges with respect to section 8(b)(4)(D) [section 158(b)(4)(D) of this title].

(m) [Priority of cases] Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 [section 158 of this title], such charge shall be given priority over all other cases except cases of like character in the office where it is filed or to which it is referred and cases given priority under subsection (1) [of this section].

INVESTIGATORY POWERS

Sec. 11. [§ 161.] For the purpose of all hearings and investigations, which, in the opinion of the Board, are necessary and proper for the exercise of the powers vested in it by section 9 and section 10 [sections 159 and 160 of this title]--

(1) [Documentary evidence; summoning witnesses and taking testimony] The Board, or its duly authorized agents or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. The Board, or any member thereof, shall upon application of any party to such proceedings, forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpoena on any person requiring the production of any evidence in his possession or under his control, such person may petition the Board to revoke, and the Board shall revoke, such subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpoena does not

describe with sufficient particularity the evidence whose production is required. Any member of the Board, or any agent or agency designated by the Board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(2) [Court aid in compelling production of evidence and attendance of witnesses] In case on contumacy or refusal to obey a subpoena issued to any person, any United States district court or the United States courts of any Territory or possession, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Board shall have jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(3) Repealed.

[Immunity of witnesses. See 18 U.S.C. § 6001 et seq.]

(4) [Process, service and return; fees of witnesses] Complaints, orders and other process and papers of the Board, its member, agent, or agency, may be served either personally or by registered or certified mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefore when registered or certified and mailed or when telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Board, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(5) [Process, where served] All process of any court to which application may be made under this Act [subchapter] may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(6) [Information and assistance from departments] The several departments and agencies of the Government, when directed by the President, shall furnish

the Board, upon its request, all records, papers, and information in their possession relating to any matter before the Board.

Sec. 12. [§ 162. Offenses and penalties] Any person who shall willfully resist, prevent, impede, or interfere with any member of the Board or any of its agents or agencies in the performance of duties pursuant to this Act [subchapter] shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both.

LIMITATIONS

Sec. 13. [§ 163. Right to strike preserved] Nothing in this Act [subchapter], except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike or to affect the limitations or qualifications on that right.

Sec. 14. [§ 164. Construction of provisions] (a) [Supervisors as union members] Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this Act [subchapter] shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

(b) [Agreements requiring union membership in violation of State law] Nothing in this Act [subchapter] shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law.

(c) [Power of Board to decline jurisdiction of labor disputes; assertion of jurisdiction by State and Territorial courts] (1) The Board, in its discretion, may, by rule of decision or by published rules adopted pursuant to the Administrative Procedure Act [to subchapter II of chapter 5 of title 5], decline to assert jurisdiction over any labor dispute involving any class or category of employers, where, in the opinion of the Board, the effect of such labor dispute on commerce is not sufficiently substantial to warrant the exercise of its jurisdiction: Provided, That the Board shall not decline to assert jurisdiction over any labor dispute over which it would assert jurisdiction under the standards prevailing upon August 1, 1959.

(2) Nothing in this Act [subchapter] shall be deemed to prevent or bar any agency or the courts of any State or Territory (including the Commonwealth of Puerto Rico, Guam, and the Virgin Islands), from assuming and asserting jurisdiction over labor disputes over which the Board declines, pursuant to paragraph (1) of this subsection, to assert jurisdiction.

Sec. 15. [§ 165.] Omitted.

[Reference to repealed provisions of bankruptcy statute.]

Sec. 16. [§ 166. Separability of provisions] If any provision of this Act [subchapter], or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act [subchapter], or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 17. [§ 167. Short title] This Act [subchapter] may be cited as the "National Labor Relations Act."

Sec. 18. [§ 168.] Omitted.

[Reference to former sec. 9(f), (g), and (h).]

INDIVIDUALS WITH RELIGIOUS CONVICTIONS

Sec. 19. [§ 169.] Any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required in a contract between such employee's employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code [section 501(c)(3) of title 26], chosen by such employee from a list of at least three such funds, designated in such contract or if the contract fails to designate such funds, then to any such fund chosen by the employee. If such employee who holds conscientious objections pursuant to this section requests the labor organization to use the grievance-arbitration procedure on the employee's behalf, the labor organization is authorized to charge the employee for the reasonable cost of using such procedure.

[Sec. added, Pub. L. 93-360, July 26, 1974, 88 Stat. 397, and amended, Pub. L. 96-593, Dec. 24, 1980, 94 Stat. 3452.]

LABOR MANAGEMENT RELATIONS ACT

Also cited LMRA; 29 U.S.C. §§ 141-197

[Title 29, Chapter 7, United States Code]

SHORT TITLE AND DECLARATION OF POLICY

Section 1. [§ 141.] (a) This Act [chapter] may be cited as the "Labor Management Relations Act, 1947." [Also known as the "Taft-Hartley Act."]

(b) Industrial strife which interferes with the normal flow of commerce and with the full production of articles and commodities for commerce, can be avoided or substantially minimized if employers, employees, and labor organizations each recognize under law one another's legitimate rights in their relations with each other, and above all recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety, or interest.

It is the purpose and policy of this Act [chapter], in order to promote the full flow of commerce, to prescribe the legitimate rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the legitimate rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce.

TITLE I, Amendments to

NATIONAL LABOR RELATIONS ACT

29 U.S.C. §§ 151-169 (printed above)

TITLE II

[Title 29, Chapter 7, Subchapter III, United States Code]

CONCILIATION OF LABOR DISPUTES IN INDUSTRIES AFFECTING COMMERCE;
NATIONAL EMERGENCIES

Sec. 201. [§ 171. Declaration of purpose and policy] It is the policy of the United States that--

(a) sound and stable industrial peace and the advancement of the general welfare, health, and safety of the Nation and of the best interest of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the processes of conference and collective bargaining between employers and the representatives of their employees;

(b) the settlement of issues between employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes; and

(c) certain controversies which arise between parties to collective bargaining agreements may be avoided or minimized by making available full and adequate governmental facilities for furnishing assistance to employers and the representatives of their employees in formulating for inclusion within such agreements provision for adequate notice of any proposed changes in the terms of such agreements, for the final adjustment of grievances or questions regarding the application or interpretation of such agreements, and other provisions designed to prevent the subsequent arising of such controversies.

Sec. 202. [§ 172. Federal Mediation and Conciliation Service]

(a) [Creation; appointment of Director] There is created an independent agency to be known as the Federal Mediation and Conciliation Service (herein referred to as the "Service," except that for sixty days after June 23, 1947, such term shall refer to the Conciliation Service of the Department of Labor). The Service shall be under the direction of a Federal Mediation and Conciliation Director (hereinafter referred to as the "Director"), who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall not engage in any other business, vocation, or employment

(b) [Appointment of officers and employees; expenditures for supplies, facilities, and services] The Director is authorized, subject to the civil service laws, to appoint such clerical and other personnel as may be necessary for the execution of the functions of the Service, and shall fix their compensation in accordance with sections 5101 to 5115 and sections 5331 to 5338 of title 5, United States Code [chapter 51 and subchapter III of chapter 53 of title 5], and may, without regard to the provisions of the civil service laws, appoint such conciliators and mediators as may be necessary to carry out the functions of the Service. The Director is authorized to make such expenditures for supplies, facilities, and services as he deems necessary. Such expenditures shall be allowed and paid upon presentation of itemized vouchers therefore approved by the Director or by any employee designated by him for that purpose.

(c) [Principal and regional offices; delegation of authority by Director; annual report to Congress] The principal office of the Service shall be in the District of Columbia, but the Director may establish regional offices convenient to localities in which labor controversies are likely to arise. The Director may by order, subject to revocation at any time, delegate any authority and discretion conferred upon him by this Act [chapter] to any regional director, or other officer or employee of the Service. The Director may establish suitable procedures for cooperation with State and local mediation agencies. The Director shall make an annual report in writing to Congress at the end of the fiscal year.

(d) [Transfer of all mediation and conciliation services to Service; effective date; pending proceedings unaffected] All mediation and conciliation functions of the Secretary of Labor or the United States Conciliation Service under section 51 [repealed] of title 29, United States Code [this title], and all functions of the United States Conciliation Service under any other law are transferred to the Federal Mediation and Conciliation Service, together with the personnel and records of the United States Conciliation Service. Such transfer shall take effect upon the sixtieth day after June 23, 1947. Such transfer shall not affect any proceedings pending before the United States Conciliation Service or any certification, order, rule, or regulation theretofore made by it or by the Secretary of Labor. The Director and the Service shall not be subject in any way to the jurisdiction or authority of the Secretary of Labor or any official or division of the Department of Labor.

FUNCTIONS OF THE SERVICE

Sec. 203. [§ 173. Functions of Service] (a) [Settlement of disputes through conciliation and mediation] It shall be the duty of the Service, in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.

(b) [Intervention on motion of Service or request of parties; avoidance of mediation of minor disputes] The Service may proffer its services in any labor dispute in any industry affecting commerce, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of commerce. The Director and the Service are directed to avoid attempting to mediate disputes which would have only a minor effect on interstate commerce if State or other conciliation services are available to the parties. Whenever the Service does proffer its services in any dispute, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

(c) [Settlement of disputes by other means upon failure of conciliation] If the Director is not able to bring the parties to agreement by conciliation within a reasonable time, he shall seek to induce the parties voluntarily to seek other means of settling the dispute without resort to strike, lockout, or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the Director shall not be deemed a violation of any duty or obligation imposed by this Act [chapter].

(d) [Use of conciliation and mediation services as last resort] Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective-bargaining agreement. The Service is directed to make its conciliation and mediation services available in the settlement of such grievance disputes only as a last resort and in exceptional cases.

(e) [Encouragement and support of establishment and operation of joint labor management activities conducted by committees] The Service is authorized and directed to encourage and support the establishment and operation of joint labor management activities conducted by plant, area, and industry wide committees designed to improve labor management relationships, job security and organizational effectiveness, in accordance with the provisions of section 205A [section 175a of this title].

[Pub. L. 95-524, § 6(c)(1), Oct. 27, 1978, 92 Stat. 2020, added subsec. (e).]

Sec. 204. [§ 174. Co-equal obligations of employees, their representatives, and management to minimize labor disputes] (a) In order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, employers and employees and their representatives, in any industry affecting commerce, shall--

(1) exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) whenever a dispute arises over the terms or application of a collective-bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) in case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the Service under this Act [chapter] for the purpose of aiding in a settlement of the dispute.

Sec. 205. [§ 175. National Labor-Management Panel; creation and composition; appointment, tenure, and compensation; duties] (a) There is created a National Labor-Management Panel which shall be composed of twelve members appointed by the President, six of whom shall be elected from among persons outstanding in the field of management and six of whom shall be selected from among persons outstanding in the field of labor. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, four at the end of the first year, four at the end of the second year, and four at the end of the third year after the date of appointment. Members of the panel, when serving on business of the panel, shall be paid compensation at the rate of \$25 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence.

(b) It shall be the duty of the panel, at the request of the Director, to advise in the avoidance of industrial controversies and the manner in which mediation and voluntary adjustment shall be administered, particularly with reference to controversies affecting the general welfare of the country.

Sec. 205A. [§ 175a. Assistance to plant, area, and industry wide labor management committees]

(a) [Establishment and operation of plant, area, and industry wide committees]

(1) The Service is authorized and directed to provide assistance in the establishment and operation of plant, area and industry wide labor management committees which--

(A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

(B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

(2) The Service is authorized and directed to enter into contracts and to make grants, where necessary or appropriate, to fulfill its responsibilities under this section.

(b) [Restrictions on grants, contracts, or other assistance] (1) No grant may be made, no contract may be entered into and no other assistance may be

provided under the provisions of this section to a plant labor management committee unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement.

(2) No grant may be made, no contract may be entered into and no other assistance may be provided under the provisions of this section to an area or industry wide labor management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such committee. Nothing in this clause shall prohibit participation in an area or industry wide committee by an employer whose employees are not represented by a labor organization.

(3) No grant may be made under the provisions of this section to any labor management committee which the Service finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. § 157) [section 157 of this title], or the interference with collective bargaining in any plant, or industry.

(c) [Establishment of office] The Service shall carry out the provisions of this section through an office established for that purpose.

(d) [Authorization of appropriations] There are authorized to be appropriated to carry out the provisions of this section \$10,000,000 for the fiscal year 1979, and such sums as may be necessary thereafter.

[Pub. L. 95-524, § 6(c)(2), Oct. 27, 1978, 92 Stat. 2020, added Sec. 205A.]

NATIONAL EMERGENCIES

Sec. 206. [§ 176. Appointment of board of inquiry by President; report; contents; filing with Service] Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public.

Sec. 207. [§ 177. Board of inquiry]

(a) [Composition] A board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

(b) [Compensation] Members of a board of inquiry shall receive compensation at the rate of \$50 for each day actually spent by them in the work of the board, together with necessary travel and subsistence expenses.

(c) [Powers of discovery] For the purpose of any hearing or inquiry conducted by any board appointed under this title, the provisions of sections 49 and 50 of title 15, United States Code [sections 49 and 50 of title 15] (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the powers and duties of such board.

Sec. 208. [§ 178. Injunctions during national emergency]

(a) [Petition to district court by Attorney General on direction of President] Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof, and if the court finds that such threatened or actual strike or lockout--

(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) if permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

(b) [Inapplicability of chapter 6] In any case, the provisions of sections 101 to 115 of title 29, United States Code [chapter 6 of this title] [known as the "Norris-LaGuardia Act"] shall not be applicable.

(c) [Review of orders] The order or orders of the court shall be subject to review by the appropriate United States court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code [section 1254 of title 28].

Sec. 209. [§ 179. Injunctions during national emergency; adjustment efforts by parties during injunction period]

(a) [Assistance of Service; acceptance of Service's proposed settlement] Whenever a district court has issued an order under section 208 [section 178 of this title] enjoining acts or practices which imperil or threaten to imperil the national health or safety, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act [chapter]. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service.

(b) [Reconvening of board of inquiry; report by board; contents; secret ballot of employees by National Labor Relations Board; certification of results to Attorney General] Upon the issuance of such order, the President shall reconvene the board of inquiry which has previously reported with respect to the dispute. At the end of a sixty-day period (unless the dispute has been settled by that time), the board of inquiry shall report to the President the current position of the parties and the efforts which have been made for settlement, and shall include a statement by each party of its position and a statement of the employer's last offer of settlement. The President shall make such report available to the public. The National Labor Relations Board, within the succeeding fifteen days, shall take a secret ballot of the employees of each employer involved in the dispute on the question of whether they wish to accept the final offer of settlement made by their employer, as stated by him and shall certify the results thereof to the Attorney General within five days thereafter.

Sec. 210. [§ 180. Discharge of injunction upon certification of results of election or settlement; report to Congress] Upon the certification of the results of such ballot or upon a settlement being reached, whichever happens sooner, the Attorney General shall move the court to discharge the injunction, which motion shall then be granted and the injunction discharged. When such motion is granted, the President shall submit to the Congress a full and comprehensive report of the proceedings, including the findings of the board of inquiry and the ballot taken by the National Labor Relations Board, together with such recommendations as he may see fit to make for consideration and appropriate action.

COMPILATION OF COLLECTIVE-BARGAINING AGREEMENTS, ETC.

Sec. 211. [§ 181.] (a) For the guidance and information of interested representatives of employers, employees, and the general public, the Bureau of Labor Statistics of the Department of Labor shall maintain a file of copies of all available collective bargaining agreements and other available agreements and actions thereunder settling or adjusting labor disputes. Such file shall be open to inspection under appropriate conditions prescribed by the Secretary of

Labor, except that no specific information submitted in confidence shall be disclosed.

(b) The Bureau of Labor Statistics in the Department of Labor is authorized to furnish upon request of the Service, or employers, employees, or their representatives, all available data and factual information which may aid in the settlement of any labor dispute, except that no specific information submitted in confidence shall be disclosed.

EXEMPTION OF RAILWAY LABOR ACT

Sec. 212. [§ 182.] The provisions of this title [subchapter] shall not be applicable with respect to any matter which is subject to the provisions of the Railway Labor Act [45 U.S.C. § 151 et seq.], as amended from time to time.

CONCILIATION OF LABOR DISPUTES IN THE HEALTH CARE INDUSTRY

Sec. 213. [§ 183.] (a) [Establishment of Boards of Inquiry; membership] If, in the opinion of the Director of the Federal Mediation and Conciliation Service, a threatened or actual strike or lockout affecting a health care institution will, if permitted to occur or to continue, substantially interrupt the delivery of health care in the locality concerned, the Director may further assist in the resolution of the impasse by establishing within 30 days after the notice to the Federal Mediation and Conciliation Service under clause (A) of the last sentence of section 8(d) [section 158(d) of this title] (which is required by clause (3) of such section 8(d) [section 158(d) of this title]), or within 10 days after the notice under clause (B), an impartial Board of Inquiry to investigate the issues involved in the dispute and to make a written report thereon to the parties within fifteen (15) days after the establishment of such a Board. The written report shall contain the findings of fact together with the Board's recommendations for settling the dispute, with the objective of achieving a prompt, peaceful and just settlement of the dispute. Each such Board shall be composed of such number of individuals as the Director may deem desirable. No member appointed under this section shall have any interest or involvement in the health care institutions or the employee organizations involved in the dispute.

(b) [Compensation of members of Boards of Inquiry] (1) Members of any board established under this section who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out its duties under this section.

(2) Members of any board established under this section who are not subject to paragraph (1) shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for GS-18 of the General Schedule

under section 5332 of title 5, United States Code [section 5332 of title 5], including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(c) [Maintenance of status quo] After the establishment of a board under subsection (a) of this section and for 15 days after any such board has issued its report, no change in the status quo in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time of the impasse in the case of an initial bargaining negotiation, except by agreement, shall be made by the parties to the controversy.

(d) [Authorization of appropriations] There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE III

[Title 29, Chapter 7, Subchapter IV, United States Code]

SUITS BY AND AGAINST LABOR ORGANIZATIONS

Sec. 301. [§ 185.] (a) [Venue, amount, and citizenship] Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act [chapter], or between any such labor organization, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

(b) [Responsibility for acts of agent; entity for purposes of suit; enforcement of money judgments] Any labor organization which represents employees in an industry affecting commerce as defined in this Act [chapter] and any employer whose activities affect commerce as defined in this Act [chapter] shall be bound by the acts of its agents. Any such labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against a labor organization in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(c) [Jurisdiction] For the purposes of actions and proceedings by or against labor organizations in the district courts of the United States, district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal offices, or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) [Service of process] The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

(e) [Determination of question of agency] For the purposes of this section, in determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

RESTRICTIONS ON PAYMENTS TO EMPLOYEE REPRESENTATIVES

Sec. 302. [§ 186.] (a) [Payment or lending, etc., of money by employer or agent to employees, representatives, or labor organizations] It shall be unlawful for any employer or association of employers or any person who acts as a labor relations expert, adviser, or consultant to an employer or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value--

(1) to any representative of any of his employees who are employed in an industry affecting commerce; or

(2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce;

(3) to any employee or group or committee of employees of such employer employed in an industry affecting commerce in excess of their normal compensation for the purpose of causing such employee or group or committee directly or indirectly to influence any other employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing; or

(4) to any officer or employee of a labor organization engaged in an industry affecting commerce with intent to influence him in respect to any of his actions, decisions, or duties as a representative of employees or as such officer or employee of such labor organization.

(b) [Request, demand, etc., for money or other thing of value]

(1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a) [of this section].

(2) It shall be unlawful for any labor organization, or for any person acting as an officer, agent, representative, or employee of such labor organization, to demand or accept from the operator of any motor vehicle (as defined in part II of the Interstate Commerce Act [49 U.S.C. § 301 et seq.]) employed in the transportation of property in commerce, or the employer of any such operator, any money or other thing of value payable to such organization or to an officer, agent, representative or employee thereof as a fee or charge for the unloading, or in connection with the unloading, of the cargo of such vehicle: Provided, That nothing in this paragraph shall be construed to make unlawful any payment by an employer to any of his employees as compensation for their services as employees.

(c) [Exceptions] The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): Provided, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund,

together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, (B) child care centers for preschool and school age dependents of employees, or (C) financial assistance for employee housing: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, or this Act [under subchapter II of this chapter or this chapter]; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor- Management Reporting and Disclosure Act of 1959 [29 U.S.C. § 401 et

seq.]; or (9) with respect to money or other things of value paid by an employer to a plant, area or industry wide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.

[Sec. 302(c)(7) was added by Pub. L. 91-86, Oct. 14, 1969, 83 Stat. 133; Sec. 302(c)(8) by Pub. L. 93-95, Aug. 15, 1973, 87 Stat. 314; Sec. 302(c)(9) by Pub. L. 95-524, Oct. 27, 1978, 92 Stat. 2021; and Sec. 302(c)(7) was amended by Pub. L. 101-273, Apr. 18, 1990, 104 Stat. 138.]

(d) [Penalty for violations] Any person who willfully violates any of the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor and be subject to a fine of not more than \$10,000 or to imprisonment for not more than one year, or both.

(e) [Jurisdiction of courts] The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of rule 65 of the Federal Rules of Civil Procedure [section 381 (repealed) of title 28] (relating to notice to opposite party) to restrain violations of this section, without regard to the provisions of section 7 of title 15 and section 52 of title 29, United States Code [of this title] [known as the "Clayton Act"], and the provisions of sections 101 to 115 of title 29, United States Code [chapter 6 of this title] [known as the "Norris-LaGuardia Act"].

(f) [Effective date of provisions] This section shall not apply to any contract in force on June 23, 1947, until the expiration of such contract, or until July 1, 1948, whichever first occurs.

(g) [Contributions to trust funds] Compliance with the restrictions contained in subsection (c)(5)(B) [of this section] upon contributions to trust funds, otherwise lawful, shall not be applicable to contributions to such trust funds established by collective agreement prior to January 1, 1946, nor shall subsection (c)(5)(A) [of this section] be construed as prohibiting contributions to such trust funds if prior to January 1, 1947, such funds contained provisions for pooled vacation benefits.

BOYCOTTS AND OTHER UNLAWFUL COMBINATIONS

Sec. 303. [§ 187.] (a) It shall be unlawful, for the purpose of this section only, in an industry or activity affecting commerce, for any labor organization to engage in any activity or conduct defined as an unfair labor practice in section 8(b)(4) of the National Labor Relations Act [section 158(b)(4) of this title].

(b) Whoever shall be injured in his business or property by reason of any violation of subsection (a) [of this section] may sue therefore in any district court

of the United States subject to the limitation and provisions of section 301 hereof [section 185 of this title] without respect to the amount in controversy, or in any other court having jurisdiction of the parties, and shall recover the damages by him sustained and the cost of the suit.

RESTRICTION ON POLITICAL CONTRIBUTIONS

Sec. 304. Repealed.

[See sec. 316 of the Federal Election Campaign Act of 1972, 2 U.S.C. § 441b.]

Sec. 305.[§ 188.] Strikes by Government employees. Repealed.

[See 5 U.S.C. § 7311 and 18 U.S.C. § 1918.]

TITLE IV

[Title 29, Chapter 7, Subchapter V, United States Code]

CREATION OF JOINT COMMITTEE TO STUDY AND REPORT ON BASIC PROBLEMS AFFECTING FRIENDLY LABOR RELATIONS AND PRODUCTIVITY

Secs. 401-407. [§§ 191-197.] Omitted.

TITLE V

[Title 29, Chapter 7, Subchapter I, United States Code]

DEFINITIONS

Sec. 501. [§ 142.] When used in this Act [chapter]--

(1) The term "industry affecting commerce" means any industry or activity in commerce or in which a labor dispute would burden or obstruct commerce or tend to burden or obstruct commerce or the free flow of commerce.

(2) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(3) The terms "commerce," "labor disputes," "employer," "employee," "labor organization," "representative," "person," and "supervisor" shall have the same meaning as when used in the National Labor Relations Act as amended by this Act [in subchapter II of this chapter].

SAVING PROVISION

Sec. 502. [§ 143.] [Abnormally dangerous conditions] Nothing in this Act [chapter] shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act [chapter] be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act [chapter].

SEPARABILITY

Sec. 503. [§ 144.] If any provision of this Act [chapter], or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act [chapter], or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.