

79TH CONGRESS  
2D SESSION

# H. R. 4908

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 8 (legislative day, JANUARY 18), 1946

Read twice and referred to the Committee on Education and Labor

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## AN ACT

To provide additional facilities for the mediation of labor disputes,  
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America, in Congress assembled,*

### 3 SHORT TITLE

4 SECTION 1. That this Act may be cited as the "Labor  
5 Disputes Act, 1946".

### 6 DECLARATION OF POLICY

7 SEC. 2. It is declared to be the policy of the United  
8 States that labor disputes affecting the public interest should  
9 be settled fairly and, so far as possible, without interruption  
10 or delay in the production and distribution necessary to the



1 public interest, and to that end it is the duty of both  
 2 employers and employees to bargain in good faith. The  
 3 right of labor to organize and bargain collectively with  
 4 employers is one of the cornerstones of competitive enter-  
 5 prise. The processes of such bargaining must be protected  
 6 and strengthened. Government is no less the guardian of  
 7 the general welfare than of individual freedom. In a com-  
 8 plex society warfare in one section of industry affects many  
 9 others.

10 Government decision should not be substituted for free  
 11 agreement, but governmental machinery to promote peace-  
 12 ful settlement of disputes should be improved. Demands  
 13 of either labor or management should be kept within the  
 14 bounds of reason and fairness, and both sides must recognize  
 15 the rights of the general public.

16 The desired end of bargaining between management and  
 17 labor is a contract. Once that contract is made, it must  
 18 be equally binding and enforceable on both parties. Free  
 19 collective bargaining and contracts resulting therefrom must  
 20 not be nullified or destroyed by resort on either side to will-  
 21 ful violence or unlawful possession, obstruction, or destruc-  
 22 tion of property. Collective bargaining requires that labor  
 23 be on one side of the table and management on the other.  
 24 The separate positions, responsibilities, duties, powers, and  
 25 rights of labor and management must be maintained.

1 Legislation has heretofore been enacted to guarantee  
 2 the right of collective bargaining. It is equally important  
 3 that legislation be enacted to protect the rights of labor,  
 4 industry, and the general public in the processes of collective  
 5 bargaining. Wrongful and unlawful conduct on either side  
 6 is destructive of collective bargaining; and conduct in pur-  
 7 suit of objectives that are not proper and legitimate ob-  
 8 jectives of collective bargaining and which are detrimental  
 9 to the interests of the general public are likewise destructive  
 10 of collective bargaining. The use of force, violence, and  
 11 compulsion are declared to be against public policy, as they  
 12 violate the principles of freedom and self-government upon  
 13 which our Government was formed and the purposes for  
 14 which it was founded.

15 To aid in the voluntary and expeditious settlement of  
 16 labor disputes affecting the public interest, therefore, there  
 17 are hereby established additional facilities and procedures for  
 18 the application of collective bargaining, conciliation, medi-  
 19 ation, and arbitration.

## 20 LABOR-MANAGEMENT MEDIATION BOARD 02

21 SEC. 3. (a) MEMBERSHIP.—There is hereby created  
 22 in the executive branch of the Government a board to be  
 23 known as the "Labor-Management Mediation Board" (in  
 24 this Act called the Board), which shall be composed of six  
 25 or more members appointed by the President, as the Presi-



1 dent from time to time finds that the work of the Board  
 2 requires. The Board shall consist of a number of members  
 3 representative of employers, a like number representative  
 4 of employees, and a number of disinterested members rep-  
 5 resentative of the public (in this Act called, respectively,  
 6 employer members, employee members, and public  
 7 members). The President shall appoint, by and with the  
 8 advice and consent of the Senate, a Chairman, a Vice Chair-  
 9 man, and Secretary of the Board from among the public mem-  
 10 bers. The terms of the first Chairman, Vice Chairman, and  
 11 Secretary shall begin as soon as they qualify, and expire as  
 12 designated by the President at the time of nomination, one on  
 13 February 1, 1948, one on February 1, 1949, and one on  
 14 February 1, 1950. The terms of office of all successors shall  
 15 expire three years after the expiration of the terms for which  
 16 their predecessors were appointed; but any member appointed  
 17 to fill a vacancy occurring prior to the expiration of the term  
 18 for which his predecessor was appointed shall be appointed  
 19 only for the unexpired term of his predecessor. The President  
 20 is also authorized to appoint such number of alternate public  
 21 members, alternate employer members, and alternate em-  
 22 ployee members as he deems appropriate, subject to salary  
 23 appropriations approved by the Congress. Upon designa-  
 24 tion by the Chairman, an alternate member may serve upon  
 25 the panels provided for in section 6, and may serve as a sub-

1 stitute for any absent regular member in the same repre-  
 2 sentative group, with full power to act as a regular member  
 3 of the Board.

4 (b) TERMS AND SALARIES.—The members and alter-  
 5 nate members, other than the Chairman and Vice Chairman,  
 6 shall be appointed for such terms and shall receive such  
 7 compensation for their services as the President shall, from  
 8 time to time, determine. The Chairman shall receive com-  
 9 pensation at the rate of \$12,000 per annum; the Vice  
 10 Chairman and the Secretary shall receive compensation at  
 11 the rate of \$10,000 per annum.

12 (c) MEETINGS.—The Board shall meet on call of the  
 13 Chairman or on the written request of a majority of the  
 14 Board filed with the Secretary. In the absence of the Chair-  
 15 man of the Board, the Vice Chairman shall be authorized  
 16 to act as Chairman. The Chairman shall designate some  
 17 public member or alternate public member of the Board to  
 18 act as Chairman in the absence of both the Chairman and  
 19 Vice Chairman. Two members or alternate members from  
 20 each representative group shall constitute a quorum of the  
 21 Board. The Board shall have an official seal which shall be  
 22 judicially noticed.

23 (d) ORGANIZATION POWERS.—The Board is authorized  
 24 to employ and fix the compensation of such officers and em-  
 25 ployees not otherwise provided for, as may be necessary,



1 within appropriations made therefor by the Congress. The  
 2 Board may establish or utilize such regional, local, or other  
 3 agencies and utilize such voluntary and uncompensated serv-  
 4 ices and, with the approval of the President, the services and  
 5 facilities of, such other departments and agencies of the Gov-  
 6 ernment as may from time to time be needed. The Board  
 7 may delegate to any public member or alternate public mem-  
 8 ber or to an executive secretary such administrative duties  
 9 relating to the internal management of the Board's affairs as  
 10 it may deem appropriate: *Provided, however,* this provision  
 11 shall not apply to the Bureau of Internal Revenue, Federal  
 12 Social Security Agency, or any other department or agency  
 13 of the Government which holds as confidential any and all  
 14 information submitted to it.

15 (e) OFFICE OF THE BOARD.—The principal office of the  
 16 Board shall be in the District of Columbia, but it may meet  
 17 and exercise any or all of its powers in any other place.

18 (f) The National Mediation Board created by the Rail-  
 19 way Labor Act, as amended by the Act approved June 21,  
 20 1934 (Public, Numbered 442, Seventy-third Congress),  
 21 shall hereafter be known as the National Carrier Mediation  
 22 Board.

## 23 DUTIES OF LABOR AND MANAGEMENT

24 SEC. 4. (a) Employers, employees, and their respective

1 representatives shall have the following duties in the public  
 2 interest:

3 (1) DUTY OF EMPLOYER.—It shall be the duty of an  
 4 employer to refrain from conducting a lock-out until after  
 5 the expiration of five days from the date on which such  
 6 employer or his representative has given to the Chairman  
 7 of the Board the written notice of his intention so to do,  
 8 containing a statement of his reasons for such intended lock-  
 9 out; and if the Board within such five days assumes jurisdic-  
 10 tion of the dispute, it shall be the duty of the employer to  
 11 refrain from conducting the intended lock-out until after the  
 12 expiration of thirty days from the date of the notice.

13 (2) DUTY OF EMPLOYEES.—It shall be the duty of  
 14 employees of an employer to refrain from striking until after  
 15 the expiration of five days from the date on which they, or  
 16 their representatives, have given to the Chairman of the  
 17 Board written notice of their intention so to do, containing  
 18 a statement of their reasons for such intended strike; and if  
 19 within such five days the Board assumes jurisdiction of the  
 20 dispute, it shall be the duty of the employees to refrain from  
 21 striking until after the expiration of thirty days from the  
 22 date of the notice.

23 (3) It shall be the duty both of employers, their em-  
 24 ployees, and their respective representatives, to withhold



1 giving the notices provided for in this section until after  
2 other available conciliation and mediation procedures have  
3 been attempted, and the notices shall state what has been  
4 tried.

5 (b) For the purposes of this section "employer" does  
6 not include any person who regularly has in his employ  
7 less than two hundred and fifty individuals.

#### 8 JURISDICTION OF THE BOARD

9 SEC. 5. The Chairman, Vice Chairman, and Secretary  
10 shall determine, in the case of any labor dispute (excluding  
11 any matter coming within the purview of the Railway Labor  
12 Act), whether such labor dispute is one which substantially  
13 obstructs or interferes with interstate or foreign commerce  
14 and affects the public interest and cannot be expeditiously  
15 adjusted by collective bargaining. If they so determine, the  
16 Board shall have jurisdiction of the dispute.

#### 17 PROCEDURE FOR MEDIATION

18 SEC. 6. After the Board has taken jurisdiction of a dis-  
19 pute, the Board, under the direction of the Chairman, shall  
20 make every reasonable effort to assist the parties to adjust  
21 and settle the dispute and make agreements for that purpose.  
22 To such end, the Board may utilize, and the Chairman may  
23 designate, a mediation panel consisting exclusively of dis-  
24 interested persons representative of the public, or consist-  
25 ing of one or more persons representative of employers, a

1 like number representative of employees, and a disinter-  
2 ested person or persons representative of the public. The  
3 persons designated may be members of the Board, alternate  
4 members of the Board, or other persons named by the  
5 Board. The Chairman or mediation panel may at any time  
6 request the parties to a dispute to negotiate by collective  
7 bargaining or to meet with any representatives of the Board.

#### 8 VOLUNTARY ARBITRATION

9 SEC. 7. In the event a dispute is not settled by col-  
10 lective bargaining or by mediation under section 6, the  
11 Chairman or the mediation panel shall endeavor to induce  
12 the parties to the dispute voluntarily to submit their dif-  
13 ferences to arbitration. If the parties consent to such arbi-  
14 tration, they shall file with the Board a notice of the  
15 agreement to arbitrate the dispute. The award of the  
16 arbitrator shall be filed with the Board and shall be binding  
17 upon all parties consenting to such arbitration.

#### 18 MAINTENANCE OF STATUS QUO

19 SEC. 8. (a) After the Board has taken jurisdiction of  
20 a dispute as provided in section 6, the Chairman, in order  
21 to effectuate the purposes of this Act, shall have the power  
22 to issue an order (1) requiring any person to refrain or  
23 cease and desist from calling, or assisting in any manner, a  
24 strike arising out of such dispute; or (2) requiring the



1 employer, who is involved in the dispute, to refrain or cease  
 2 and desist from practices which change the situation existing  
 3 at the time the dispute arose, or which by changing an exist-  
 4 ing situation which led to the dispute and which the Chair-  
 5 man deems shall be prejudicial to the prompt settlement of  
 6 the dispute. No order of the Chairman or process of any  
 7 court under this Act shall require an individual employee  
 8 to render labor or services without his consent nor shall any  
 9 provision of such order or process be construed to make  
 10 the refusal to work of an individual employee a violation  
 11 of such order or process or otherwise an illegal act.

12 (b) Such order shall be effective for such period as the  
 13 Chairman shall determine, but shall in no event be effective  
 14 for a longer period than thirty days from the date on which  
 15 the Board took jurisdiction.

16 (c) The Attorney General, at the request of the  
 17 Chairman, during such thirty-day period of jurisdiction,  
 18 shall petition any district court of the United States, in  
 19 any State or in the District of Columbia, or the United  
 20 States court of any Territory or possession, within the  
 21 jurisdiction of which any person to whom an order is directed  
 22 resides, transacts business, or is found, for the enforcement  
 23 of such order, and for appropriate temporary relief or re-  
 24 straining order. Upon the filing of such petition, the court  
 25 shall have jurisdiction of the proceedings, and shall have

1 power, during, but not beyond, the Board's thirty-day  
 2 period of jurisdiction, to grant such temporary relief or  
 3 restraining order and to make and enter a decree enforce-  
 4 ing the order of the Chairman. Notice or process of the  
 5 court under this section may be served in any judicial dis-  
 6 trict, either personally or by leaving a copy thereof at the  
 7 residence or principal office or place of business of the per-  
 8 son to be served. Petitions filed under this section shall be  
 9 heard with all possible expedition. The judgment and de-  
 10 cree of the court shall be subject to review by the appro-  
 11 priate circuit court of appeals, or by the United States Court  
 12 of Appeals for the District of Columbia in the case of a  
 13 judgment of the District Court of the United States for  
 14 the District of Columbia, and by the Supreme Court of the  
 15 United States upon writ of certiorari.

16 (d) When granting temporary relief or restraining or-  
 17 der, or making or entering a decree enforcing an order of  
 18 the Chairman, as provided in this section, the jurisdiction  
 19 of courts sitting in equity shall not be limited by the Act  
 20 entitled "An Act to amend the Judicial Code, to define and  
 21 limit the jurisdiction of courts sitting in equity, and for other  
 22 purposes", approved March 23, 1932, except that sections  
 23 11 and 12 of such Act shall apply in cases of contempt.

#### 24 REGULATIONS OF THE BOARD

25 SEC. 9. The Board shall have authority, in conformity



1 with the provisions of this Act, from time to time to make,  
2 amend, and rescind regulations providing appropriate pro-  
3 cedures for carrying out the powers vested in it.

4 SEC. 9A. It shall be the further duty of the Board to  
5 make a broad and comprehensive study of the field of labor-  
6 management relations from the viewpoint of both labor,  
7 industry, and the public to determine what adjustments are  
8 necessary to promote continuity and regularity of employ-  
9 ment, industrial peace, and the uninterrupted production and  
10 distribution of goods and services for commerce. The Board  
11 shall make its final report to the President and to the  
12 Congress, including recommendations with respect to legis-  
13 lation, not later than June 30, 1946.

#### 14 MISCELLANEOUS PROVISIONS

15 SEC. 10. BINDING EFFECT OF COLLECTIVE-BARGAINING  
16 CONTRACTS.—All collective-bargaining contracts shall be  
17 mutually and equally binding and enforceable against each  
18 of the parties thereto, any other law to the contrary not-  
19 withstanding. In the event of a breach of any such contract  
20 or of any agreement contained in such contract by either  
21 party thereto, then, in addition to any other remedy or  
22 remedies existing, a suit for damages for such breach may  
23 be maintained by the other party or parties in any State or  
24 United States district court having jurisdiction of the parties.

25 SEC. 11. VIOLENCE AND INTIMIDATION.—(a) It shall

1 be unlawful for any person, by the use of force or violence  
2 or threats thereof, to prevent or to attempt to prevent any  
3 individual from quitting or continuing in the employment  
4 of, or from accepting or refusing employment by, any em-  
5 ployer, or from entering or leaving any place of employment  
6 of such employer. The district courts of the United States  
7 shall have jurisdiction, notwithstanding the Act of March 23,  
8 1932, entitled "An Act to amend the Judicial Code and to  
9 define and limit the jurisdiction of courts sitting in equity,  
10 and for other purposes", to enjoin violations and threatened  
11 violations of any of the provisions of this section, and by  
12 appropriate order or decree to compel compliance with such  
13 provisions: *Provided*, said courts shall not issue an injunction  
14 against the right to strike, peaceful assembly, or peaceful  
15 picketing. Any individual who violates any of the pro-  
16 visions of this section shall on and after such violation cease  
17 to have, and cease to be entitled to, the status of an employee  
18 for the purposes of sections 7, 8, and 9 of the National Labor  
19 Relations Act, or the status of a representative for the  
20 purposes of such Act.

21 (b) An employee whom a preponderance of the testi-  
22 mony taken (in appropriate proceedings before the National  
23 Labor Relations Board) shows has willfully engaged in  
24 violence, intimidation, or unlawful destruction or seizure of  
25 property in connection with a labor dispute involving his



1 employer, or in connection with any organizational activities  
 2 of a labor organization among employees of his employer,  
 3 shall not be entitled to reinstatement by, or any back pay  
 4 from, such employer under section 10 of the National Labor  
 5 Relations Act.

6 SEC. 12. SUPERVISORY EMPLOYEES.—(a) As used in  
 7 this section the term “supervisory employee” means an em-  
 8 ployee whose primary duties consist of—

9 (1) the direction or supervision of the activities  
 10 of other employees but who regularly do no productive  
 11 manual work; or

12 (2) the computation of the pay of other employees  
 13 and does not include persons who are selected by pro-  
 14 ductive workers under established practice; or

15 (3) the determination of the time worked by other  
 16 employees, or the supervision or administration of the  
 17 factors on the basis of which the pay of other employees  
 18 is computed;  
 19 but does not include any employee within the purview of  
 20 the Railway Labor Act.

21 (b) Hereafter no supervisory employee shall have the  
 22 status of an “employee” for the purposes of section 7, 8,  
 23 and 9 of the National Labor Relations Act.

24 SEC. 13. BOYCOTT, AND SO FORTH.—Whenever any  
 25

1 interstate or foreign commerce (a) it shall be unlawful  
 2 (1) by means of a concerted refusal to use, handle, or  
 3 otherwise deal with articles or materials produced or manu-  
 4 factured by any person, to induce or require or to at-  
 5 tempt to induce or require another person to recognize,  
 6 deal with, comply with the demands of, or employ members  
 7 of, any labor organization; or (2) by means of a concerted  
 8 refusal to use, handle, or otherwise deal with articles or  
 9 materials purchased, produced, manufactured, or used by an  
 10 employer, to induce or require or to attempt to induce or  
 11 require such employer to recognize, deal with, comply with  
 12 the demands of, or employ members of, one labor organiza-  
 13 tion instead of another labor organization with which such  
 14 employer has an applicable collective-bargaining agreement  
 15 or (3) by means of a concerted refusal to use, handle, in-  
 16 stall, or otherwise deal with articles, materials, or parts  
 17 thereof or tools produced or manufactured by a manufacturer  
 18 or producer who has produced or manufactured said articles,  
 19 materials, or parts thereof, and tools during the existence of a  
 20 contract with a labor union certified to said manufacturer or  
 21 producer by the National Labor Relations Board.

22 (b) Whoever violates the provisions of this section (1)  
 23 shall on and after such violation cease to have, and cease to  
 24 be entitled to, the status of an employee for the purposes of  
 25

sections 7, 8, and 9 of the National Labor Relations Act



1 or the status of a representative for the purposes of such  
 2 Act; (2) in case such violation is by a labor organization,  
 3 such organization shall thereof cease to have and cease to  
 4 be entitled to a status of a representative or labor organiza-  
 5 tion under the National Labor Relations Act, for a period of  
 6 not less than ninety days, nor more than six months.

7 That notwithstanding the provisions of "An Act to  
 8 amend the Judicial Code and to define and limit the juris-  
 9 diction of courts sitting in equity, and for other purposes",  
 10 any district court of the United States having jurisdiction  
 11 of the parties may award either a restraining order or a  
 12 temporary or permanent injunction restraining any violation  
 13 of this section, where it shall affirmatively appear from the  
 14 pleadings and evidence that irreparable injury will other-  
 15 wise occur due to the perishable nature of the articles or  
 16 materials referred to in subsection (a) including livestock  
 17 and live poultry.

18 SEC. 14. DEFINITIONS.—As used in this Act—

19 (a) "Person" means an individual, partnership, asso-  
 20 ciation, corporation, business trust, or any organized group  
 21 of persons.

22 (b) The terms "employer", "employee", "representa-  
 23 tive", "labor organization", and "labor dispute" shall have  
 24 the same meaning as in section 2 of the National Labor  
 25 Relations Act. The term "Agricultural labor" as used in

1 section 2 (3) of the National Labor Relations Act means  
 2 any person employed in performing "agricultural labor" as  
 3 that term is defined in section 1426 (h) of the Internal  
 4 Revenue Code as amended.

5 SEC. 15. If any part of this Act shall be held uncon-  
 6 stitutional, it shall not affect the validity of the remaining  
 7 provisions of the Act.

8 SEC. 16. There is hereby authorized to be appropriated  
 9 out of the Treasury any sums necessary to the purposes of  
 10 this Act not otherwise appropriated.

Passed the House of Representatives February 7, 1946

Attest:

SOUTH TRIMBLE,

*Clerk.*



79<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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