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TO PROVIDE FOR THE PROMPT DISPOSITION OF DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES, AND FOR OTHER PURPOSES

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Mr. WATSON, from the Committee on Interstate Commerce, submitted the following

REPORT

[To accompany S. 2306]

The Committee on Interstate Commerce, to whom was referred the bill (S. 2306) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes, after holding hearings and giving consideration to the bill, recommends that it do pass as amended.

The amendments relate in the main to administrative features and do not change any of the substantive or essential provisions in the bill.

Briefly stated, the bill provides—

First. That it shall be the duty of the parties to exert every reasonable effort to make and maintain agreements.

Second. That any and all disputes shall first be considered in confrence between the parties directly interested.

Third. That adjustment boards shall be established by agreement, which shall be either between an individual carrier and its employees, or regional or national, such adjustment boards to have jurisdiction over disputes relating to grievances or to the interpretation or application of existing agreements but having no jurisdiction over changes in rates of pay, rules, or working conditions. It is, however, provided that nothing in the act shall be construed to prohibit an individual carrier and its employees from agreeing upon a settlement of disputes through such machinery of contract and adjustment as they may mutually establish.

Fourth. A board of mediation is created, to consist of five members appointed by the President, by and with the advice and consent of the Senate, none of whom shall be in the employment of or pecuniarily or otherwise interested in any organization of employees or any carrier. The duty is imposed upon this board of mediation to

intervene, at the request of either party or on its own motion, in any unsettled labor dispute, whether it be a grievance, or a difference as to the interpretation or application of agreements not decided in conference, or by the appropriate adjustment board, or a dispute over changes in rates of pay, rules, or working conditions not adjusted in conference between the parties. If it is unable to bring about an amicable adjustment between the parties, it is required to make an effort to induce them to consent to arbitration.

Fifth. Boards of arbitration are provided for, when both parties consent to arbitration. The method of selecting members of the boards and the arbitration procedure are also set out. It is provided that the award of the arbitrators shall be binding upon the parties and shall be filed in the appropriate district court of the United States and become a judgment of the court, which judgment shall be binding upon the parties.

Sixth. In the possible event that a dispute between a carrier and its employees is not settled under any of the foregoing methods, provision is made that the board of mediation, if in its judgment the dispute threatens to substantially interrupt interstate commerce, shall notify the President, who is thereupon authorized, in his discretion, to create a board, known as an emergency board, to investigate and report to him within 30 days from the date of the creation of the board. It is also provided that after the creation of such a board and for 30 days after it has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose.

The bill abolishes the Railroad Labor Board and repeals Title III of the transportation act, 1920, and the act of July 15, 1913, known as the Newlands Act, which latter provides for mediation, conciliation, and arbitration.

This bill had its origin in conferences and a resulting agreement between a large majority of Class I railroads and their employees.

It was submitted to a meeting of the Association of Railway Executives, at which 52 roads with 199 votes, representing 167,915.69 miles, favored it; and 20 roads with 48 votes, representing 36,564.67 miles, opposed it. This was out of a total membership of 107 roads with 288 votes, representing 222,842.84 miles. Of these, 32 roads with 38 votes, representing 18,134.45 miles, were absent; and 3 roads with 3 votes, representing 228.03 miles, did not vote.

The railroads favoring the bill appeared before the committee through their representatives and advocated it. None of the railroads opposing the bill appeared either in person or by any representative.

The bill was agreed to also by all the organizations known as "standard recognized railway labor organizations," 20 in number, and these appeared by their representatives before the committee in advocacy of the bill.

The conferences referred to were invited by the President in more than one message to Congress, the first of these being his message of December 6, 1923, in which he said:

> The settlement of railroad labor disputes is a matter of grave public concern. The labor board was established to protect the public in the enjoyment of continuous service by attempting to insure justice between the companies and their employees. It has been a great help, but is not altogether satisfactory to the

public, the employees, or the companies. If a substantial agreement can be reached among the groups interested, there should be no hesitation in enacting such agreement into law. If it is not reached, the labor board may very well be left for the present to protect the public welfare.

Again, in his message to Congress of December 3, 1924, a similar suggestion of change in existing law was made.

It should also be noted that dissatisfaction with the method of adjusting disputes between carriers and their employees now provided by the provisions of the transportation act relating to labor was expressed in the platforms adopted in 1924 by both the Republican and Democratic Parties.

The Republican platform contained the following provision:

> The labor-board provision of the present law should be amended whenever it appears necessary to meet changed conditions. Collective bargaining, mediation, and voluntary arbitration are the most important steps in the maintaining peaceful labor relations and should be encouraged. We do not believe in compulsory action at any time in the settlement of disputes. Public opinion must be the final arbiter in any crisis which so vitally affects public welfare as the suspension of transportation. Therefore the interests of the public require the maintenance of an impartial tribunal which can in an emergency make an investigation of the facts and publish its conclusion. This is essential as the basis for popular judgment.

The Democratic platform contained the following:

> The labor provisions of the act (transportation act, 1920) have proven unsatisfactory in settling differences between employer and employee. * * * It must therefore be so rewritten so that the high purposes which the public welfare demands may be accomplished.

Pursuant to the suggestions of the President, representatives of the railroads and representatives of their employees, after the adjournment of the last session of Congress, began conferences to ascertain whether or not there was a basis on which they could agree and present a plan for the adjustment of disputes. These conferences were long continued and resulted in the agreement set out in the form of the bill now under consideration.

As stated, both parties to this agreement have appeared before the committee in advocacy of the bill and have represented to the committee that in their belief the bill, if enacted into law, will promote peaceful relationships between the carriers and their employees, will prevent interruptions of transportation, and will amply protect the paramount interests of the public in every way.

The committee has been impressed by the evident earnestness and sincerity of both parties directly interested, as both have represented to the committee that if the plan on which they have agreed is enacted into law they will each feel under moral obligations to see that the law works, that it will avoid interruptions of commerce, and will protect the paramount public interest.

The first fundamental question with which the committee was confronted was whether or not the provisions of the present labor law, as contained in the transportation act, 1920, should be repealed and the Railroad Labor Board abolished.

In view of the fact that the employees absolutely refuse to appear before the labor board and that many of the important railroads are themselves opposed to it, that it has been held by the Supreme Court to have no power to enforce its judgments, that its authority is not recognized or respected by the employees and by a number of im-

portant railroads, that the President has suggested that it would be wise to seek a substitute for it, and that the party platforms of both the Republican and Democratic Parties in 1924 clearly indicated dissatisfaction with the provisions of the transportation act relating to labor, the committee concluded that the time had arrived when the labor board should be abolished and the provisions relating to labor in the transportation act, 1920, should be repealed.

The question was consequently presented whether the substitute should consist of a compulsory system with adequate means provided for its enforcement, or whether it was in the public interest to create the machinery for amicable adjustment of labor disputes agreed upon by the parties and to the success of which both parties were committed.

Manifestly, it is unwise to commingle the two. One plan or the other should be adopted.

The committee is of opinion that it is in the public interest to permit a fair trial of the method of amicable adjustment agreed upon by the parties, rather than to attempt under existing conditions to use the entire power of the Government to deal with these labor disputes. If the plan proposed by the parties does not work, it will then be proper to consider what other methods are essential to protect the public interest in adequate and uninterrupted transportation.

The only interest which, through its representatives, appeared in opposition to the bill was certain associations of industrial and manufacturing concerns. It is to be noted that these opponents of the bill did not advocate the retention of the labor board or oppose the repeal of the labor provisions of the transportation act of 1920.

They proposed certain amendments to the pending bill, which they urged would be in the public interest.

These amendments related, except in one particular hereinafter to be mentioned, to paragraph (8) of section 9, which deals with prohibitions against the use of legal process to make an individual employee work against his will, and to section 10 of the bill, which relates to the emergency board.

As to paragraph (8) of section 9, it was urged that it should be clarified so as certainly to apply only to the use of legal process against an individual employee and so as not to apply to combinations or conspiracies between several employees, or groups of employees, to interrupt interstate commerce.

It was frankly stated by the advocates of the bill, both those representing the carriers and those representing the employees, that the purpose of the paragraph was to deal merely with individual employees, to express only the constitutional right of individuals against involuntary servitude, and was not intended to deal with combinations, conspiracies, or group action. This construction has been made abundantly clear by an amendment to the bill by which the word "individual" has been inserted before the word "employee" wherever the latter word appears in the paragraph.

It was further objected that section 10 of the bill should not make the action of the President dependent upon a report from the board of mediation, that it should authorize the emergency board to issue compulsory process to obtain evidence, and that it should provide in

express terms that no strike should occur until 30 days after the report of the emergency board to the President.

The committee is of opinion that there is no danger to the public interest in requiring a report from the board of mediation to the President prior to the exercise by him of his discretion as to the appointment of an emergency board. The board of mediation is a body composed entirely of representatives of the public with no connection with either party, and it is inconceivable that this board would fail to notify the President in case of a threatened interruption of commerce. Its members are subject to removal by him for malfeasance in office, and it would undoubtedly be malfeasance in office for the board to neglect to notify the President in case of public emergency. Moreover, the provision referred to is a means of protecting the President from unnecessary urgency on the part of the parties in cases not requiring the exercise of Executive action.

It is not deemed by the committee necessary to invest the emergency board with the compulsory power to secure testimony. The period of 30 days at the end of which the board is to make its report to the President, the practical fact that the merits of the case will turn upon large and easily ascertained considerations, and that neither party could decline to give all the information desired by the board without the certainty of the concentration of public opinion against that party, convince the committee that it is not essential to bestow the power to issue subpoenas upon the emergency board. It is not expected that the board will go into a long drawn out inquiry into details, for that, besides being unnecessary to intelligently inform public opinion on the larger and controlling features of the controversy, would preclude a very desirable class of men from accepting appointment to such an exacting and prolonged duty.

The objection that the bill should in express terms forbid strikes during the period of the inquiry by the emergency board and for 30 days thereafter is successfully met, in the opinion of the committee, by the contention that in forbidding a change in the conditions out of which a dispute arose, one of which and a very fundamental one is the relationship of the parties, it already forbids any interruption of commerce during the period referred to; and if strikes were in express terms forbidden for a given period there might be an implication that after that period strikes to interfere with the passage of the United States mails and with continuous transportation service might be made legal. In the opinion of the committee, this possible implication should be avoided.

The remaining objection above referred to was that the power of the Labor Board, under section 307 of the existing labor act, to suspend agreements between the parties as to wages the result of which would have an effect upon rates should be in substance preserved by creating that power in the Interstate Commerce Commission or in some other public body.

This was objected to on the part of the representatives of the employees for a number of reasons, among which was that the power to control agreements as to wages between the employer and the employee is, as they contend, unconstitutional under the case of Wilson *v.* New (243 U. S. 332).

However this may be, there is an objection, which the committee deems conclusive, to giving the Interstate Commerce Commission

jurisdiction over agreements as to wages. That, in the committee's opinion, would involve the commission in a field of fierce controversy, which might, and probably would, impair its usefulness.

Undoubtedly, under section 15a of the interstate commerce act, the Interstate Commerce Commission has jurisdiction, in fixing rates, to examine into the carriers' expenditures of all sorts, and not to increase rates to provide for extravagant expenditures, whether for labor or for any other purpose.

In addition to the reasons above given, there was a fundamental objection to making changes of a substantive character in the agreement which the parties had reached. The proposals above mentioned for amendments suggested that in the arrangement there should be included provisions looking to force or compulsion. Viewed from that standpoint, they are clearly inadequate for the purposes of compulsion, and, if compulsion is to be resorted to, it clearly should be of an adequate character. If agreement is to be resorted to, the committee is of opinion that the agreement should not be destroyed by placing in the act provisions which would have that effect.

The committee was informed that in agreeing to the emergency board the representatives of the employees had gone further than they had ever gone before in the history of their organizations, that they could go no further as a matter of agreement, and that, if what they had agreed to was changed, the proposal would be deprived of the attributes of agreement and the success of it would have to rest on the legislation and not upon the agreement of the parties.

In the course of the hearings it was urged in opposition to the bill that the argument in favor of the method proposed in it for adjustment of disputes based on the fact of agreement between the carriers and their employees lost its force when it is remembered that both the Erdman Act and the Newlands Act were based on agreements, and it was argued that neither of these worked satisfactorily. While neither of these acts may have worked perfectly, it must be admitted that each of them served a very important public service when the results of the two acts are reviewed. A review of the results under the Erdman Act will be found on page 37 and of the Newlands Act on pages 50 and 51 of the bulletin of the United States Bureau of Labor Statistics, No. 303, published in 1922.

Under all the circumstances, the committee is of opinion that the public interest will best be promoted by the enactment of the bill in its present form, and it attaches value to the fact that it establishes good will and amicable relations between the parties and places upon them the responsibility of seeing that it works so as to avoid any impairment of the public interest. If it does not so work, Congress will be unembarrassed in adopting any means it sees fit to protect the public interest.

It will be noted that the President, in his message to Congress delivered at the opening of the present session, having been informed that the railroad managers and their employees had reached a substantial agreement as to what legislation is necessary to regulate and improve their relationship, said:

> It is gratifying to report that both the railroad managers and railroad employees are providing boards for the mutual adjustment of differences in harmony with the principles of conference, conciliation, and arbitration. The solution of their problems ought to be an example to all other industries. Those who

ask the protection of civilization should be ready to use the methods of civilization.

A strike in modern industry has many of the aspects of war in the modern world. It injures labor and it injures capital. If the industry involved is a basic one it reduces the necessary economic surplus and, increasing the cost of living, it injures the economic welfare and general comfort of the whole people. It also involves a deeper cost. It tends to embitter and divide the community into warring classes and thus weakens the unity and power of our national life.

Labor can make no permanent gains at the cost of the general welfare. All the victories won by organized labor in the past generation have been won through the support of public opinion. The manifest inclination of the managers and employees of the railroads to adopt a policy of action in harmony with these principles marks a new epoch in our industrial life.