NATIONAL LABOR RELATIONS BOARD

RULES AND REGULATIONS

SERIES 5

AND

STATEMENTS OF PROCEDURE

AS AMENDED AUGUST 18, 1948

LABOR MANAGEMENT RELATIONS ACT, 1947

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NATIONAL LABOR RELATIONS BOARD

RULES AND REGULATIONS SERIES 5, AS AMENDED

GENERAL RULES AND REGULATIONS

The National Labor Relations Board issued its Rules and Regulations, Series 5, on August 19, 1947. They were published in the Federal Register and became effective on August 22, 1947 (12 Fed. Reg. 5656). Amendments were issued by the Board on August 18, 1948, and were published and became effective on August 21, 1948 (13 Fed. Reg. 4872). The following compilation presents the Rules and Regulations, Series 5, as so amended.

PART 203. RULES AND REGULATIONS

SERIES 5, AS AMENDED

Subpart A—Definitions

SECTION 203.1 *Terms defined in section 2 of the act.*—The terms "person," "employer," "employee," "representative," "labor organization," "commerce," "affecting commerce," and "unfair labor practice," as used herein, shall have the meanings set forth in section 2 of the National Labor Relations Act, as amended by title I of the Labor Management Relations Act, 1947.

SEC. 203.2 *Act; Board; Board agent.*—The term "act" as used herein shall mean the National Labor Relations Act, as amended. The term "Board" shall mean the National Labor Relations Board, and shall include any group of three or more members designated pursuant to section 3 (b) of the act. The term "Board agent" shall mean any member, agent or agency of the Board, including its general counsel.

SEC. 203.3 *General counsel.*—The term "general counsel" as used herein shall mean the General Counsel under section 3 (d) of the act.

SEC. 203.4 *Region.*—The term "region" as used herein shall mean that part of the United States or any Territory thereof fixed by the Board as a particular region.

SEC. 203.5 *Regional director; regional attorney.*—The term "regional director" as used herein shall mean the agent designated by the Board as regional director for a particular region. The term "regional attorney" as used herein shall mean the attorney designated by the Board as regional attorney for a particular region.

SEC. 203.6 *Trial examiner; hearing officer.*—The term "trial examiner" as used herein shall mean the agent of the Board conducting the hearing in an unfair labor practice or Telegraph Merger Act proceeding. The term "hearing officer" as used herein shall mean the agent of the Board conducting the hearing in a proceeding under section 9 or in a dispute proceeding under section 10 (k) of the act.

SEC. 203.7 *State.*—The term "State" as used herein shall include the District of Columbia and all States, Territories, and possessions of the United States.

SEC. 203.8 *Party.*—The term "party" as used herein shall mean the regional director in whose region the proceeding is pending, and

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any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Board proceeding, including, without limitation, any person filing a charge or petition under the act, any person named as respondent, as employer, or as party to a contract in any proceeding under the act, and any labor organization alleged to be dominated, assisted, or supported in violation of section 8 (a) (1) or 8 (a) (2) of the act; but nothing herein shall be construed to prevent the Board or its designated agent from limiting any party to participate in the proceedings to the extent of his interest only.

Subpart B—Procedure Under Section 10 (a) to (i) of the Act for the Prevention of Unfair Labor Practices [1]

Charge

SEC. 203.9 *Who may file; withdrawal and dismissal.*—A charge that any person has engaged in or is engaging in any unfair labor practice affecting commerce may be made by any person, provided that if such charge is filed by a labor organization, no complaint will be issued pursuant thereto, unless such labor organization is in compliance with the requirements of section 9 (f), (g), and (h) of the act, within the meaning of section 203.13. Any such charge may be withdrawn, prior to the hearing, only with the consent of the regional director with whom such charge was filed; at the hearing and until the case has been transferred to the Board pursuant to section 203.45, upon motion, with the consent of the trial examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to section 203.45, upon motion, with the consent of the Board. Upon withdrawal of any charge, any complaint based thereon shall be dismissed by the regional director issuing the complaint, the trial examiner designated to conduct the hearing, or the Board.

SEC. 203.10 *Where to file.*—Except as provided in section 203.33, such charge shall be filed with the regional director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the regional director for any of such regions.

SEC. 203.11 *Forms; jurat; or declaration.*—Such charge shall be in writing and signed, and shall either be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments, or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowl-

[1] Procedure under sec. 10 (j) to (l) of the act is governed by subparts E and F of these Rules and Regulations.

edge and belief. Four additional copies of such charge shall be filed.[2]

SEC. 203.12 *Contents.*—Such charge shall contain the following:

(*a*) The full name and address of the person making the charge.

(*b*) If the charge is filed by a labor organization, the full name and address of any national or international labor organization of which it is an affiliate or constituent unit.

(*c*) The full name and address of the person against whom the charge is made (hereinafter referred to as the "respondent").

(*d*) A clear and concise statement of the facts constituting the the alleged unfair labor practices affecting commerce.

SEC. 203.13 *Compliance with section 9 (f), (g), and (h) of the act.*—(*a*) For the purpose of these Rules and Regulations, compliance with section 9 (f) and (g) of the act means (1) that the Secretary of Labor has issued to the labor organization, pursuant to the rules of the Department of Labor, a letter showing that the labor organization has filed the material required under section 9 (f) and (g) of the Act; (2) that the labor organization has filed with the regional director, either as part of the charge (or petition) or otherwise, the duplicate copy of such compliance letter, and (3) that the labor organization has filed with the regional director for the region in which the proceeding is pending or in which it customarily files cases, either as part of the charge (or petition) or otherwise, a declaration executed by an authorized agent stating that the labor organization has complied with section 9 (f) (B) (2) of the act requiring that it furnish to all its members copies of the financial report filed with the Department of Labor, and setting forth the method by which such compliance was made.

(*b*) For the purpose of these Rules and Regulations, compliance with section 9 (h) of the act means (1) in the case of a national or international labor organization, that it has filed with the general counsel in Washington, D. C., and (2) in the case of a local labor organization, that any national or international labor organization of which it is an affiliate or constituent body has filed with the general counsel in Washington, D. C., and that the labor organization has filed with the regional director in the region in which the proceeding is pending:

(A) A declaration by an authorized representative of the labor organization, executed contemporaneously with the charge (or petition, or within the preceding 12-month period, listing the titles of all offices of the filing organization and stating the name of the incumbent, if any, in each such office and the date of expiration of each incumbent's term.

[2] A blank form for making a charge will be supplied by the regional director upon request.

(B) An affidavit by each officer referred to in subparagraph (A) of this paragraph, executed contemporaneously with the charge (or petition) or within the preceding 12-month period, stating that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

SEC. 203.14 *Service of charge.*—Upon the filing of a charge, the charging party shall be responsible for the timely and proper service of a copy thereof upon the person against whom such charge is made. The regional director will as a matter of course, cause a copy of such charge to be served upon the person against whom the charge is made, but he shall not be deemed to assume responsibility for such service.

COMPLAINT

SEC. 203.15 *When and by whom issued; contents; service.*—After a charge has been filed, if it appears to the regional director that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon all the other parties a formal complaint in the name of the Board stating the charges and containing a notice of hearing before a trial examiner at a place therein fixed and at a time not less than 10 days after the service of the complaint.

SEC. 203.16 *Hearing; extension.*—Upon his own motion or upon proper cause shown by any other party, the regional director issuing the complaint may extend the date of such hearing.

SEC. 203.17 *Amendment.*—Any such complaint may be amended upon such terms as may be deemed just, prior to the hearing, by the regional director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to section 203.45, upon motion, by the trial examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to section 203.45, at any time prior to the issuance of an order based thereon, upon motion, by the Board.

SEC. 203.18 *Withdrawal.*—Any such complaint may be withdrawn before the hearing by the regional director on his own motion.

SEC. 203.19 *Review by the general counsel of refusal to issue.*—If, after the charge has been filed, the regional director declines to issue a complaint, he shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds. The person making the charge may obtain a review of such action by filing a request therefor with the general counsel in Washington, D. C., and filing a copy of the request with the regional director, within 10 days from the service of the notice of such refusal by the regional

director. The request shall contain a complete statement setting forth tbe facts and reasons upon which the request is based.

ANSWER

SEC. 203.20 *Answer to complaint; time for filing; contents; allegations not denied deemed admitted.*—The respondent shall, within 10 days from the service of the complaint, file an answer thereto. Such answer shall contain a short and simple statement of the facts which constitute the grounds of defense. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and may be so found by the Board.

SEC. 203.21 *Where to file; service upon the parties; form; jurat.*—An original and four copies of the answer shall be filed with the regional director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on each of the other parties. The answer shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affirmed, and shall contain the post-office address of the respondent.

SEC. 203.22 *Extension of time for filing.*—Upon his own motion or upon proper cause shown by any other party the regional director issuing the complaint may by written order extend the time within which the answer shall be filed.

SEC. 203.23 *Amendment.*—The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the trial examiner or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the trial examiner or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the trial examiner or the Board.

MOTIONS

SEC. 203.24 *Motion; where to file prior to hearing and during hearing; contents; service on other parties.*—All motions made prior to the hearing shall be filed in writing with the regional director issuing the complaint, and shall briefly state the order or relief applied for and the grounds for such motion. The moving party shall file an

original and four copies of all such motions and immediately serve a copy thereof upon each of the other parties. All motions made at the hearing shall be made in writing to the trial examiner or stated orally on the record.

SEC. 203.25 *Ruling on motions; where to file motions after hearing and before transfer of case to Board.*—The trial examiner designated to conduct the hearing shall rule upon all motions (except as provided in secs. 203.16, 203.22, 203.29, and 203.47). The trial examiner may, before the hearing, rule on motions filed prior to the hearing, and shall cause copies of his ruling to be served upon all the parties. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to section 203.45, shall be filed with the trial examiner, care of the chief trial examiner, in Washington, D. C., and a copy thereof shall be served on each of the parties. Rulings by the trial examiner on motions, and any orders in connection therewith, if announced at the hearing, shall be stated orally on the record; in all other cases such rulings and orders shall be issued in writing. The trial examiner shall cause a copy of the same to be served upon each of the other parties, or shall make his ruling in the intermediate report. Whenever the trial examiner has reserved his ruling on any motion, and the proceeding is thereafter transferred to and continued before the Board pursuant to section 203.50, the Board shall rule on such motion.

SEC. 203.26 *Motions; rulings and orders part of the record; rulings not to be appealed directly to Board without special permission; requests for special permission to appeal.*—All motions, rulings, and orders shall become part of the record, except that rulings on motions to revoke subpenas shall become a part of the record only upon the request of the party aggrieved thereby, as provided in section 203.31. Unless expressly authorized by the Rules and Regulations, rulings by the regional director and by the trial examiner on motions, by the trial examiner on objections, and orders in connection therewith, shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board in reviewing the record, if exception to the ruling or order is included in the statement of exceptions filed with the Board, pursuant to section 203.46. Requests to the Board for special permission to appeal from such rulings of the regional director or the trial examiner shall be filed promptly, in writing and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

SEC. 203.27 *Review of granting of motion to dismiss entire complaint; reopening of record.*—If any motion in the nature of a motion to dismiss the complaint in its entirety is granted by the trial examiner before filing his intermediate report, any party may obtain a review of such action by filing a request therefor with the Board in Wash-

ington, D. C., stating the grounds for review, and immediately on such filing shall serve a copy thereof on the regional director and the other parties. Unless such request for review is filed within 10 days from the date of the order of dismissal, the case shall be closed.

SEC. 203.28 *Filing of answer or other participation in proceedings not a waiver of rights.*—The right to make motions or to make objections to rulings upon motions shall not be deemed waived by the filing of an answer or by other participation in the proceedings before the trial examiner or the Board.

INTERVENTION

SEC. 203.29 *Intervention; requisites; rulings on motions to intervene.*—Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such a motion shall be filed with the regional director issuing the complaint; during the hearing such motion shall be made to the trial examiner. An original and four copies of written motions shall be filed. Immediately upon filing such motion, the moving party shall serve a copy thereof upon each of the other parties. The regional director shall rule upon all such motions filed prior to the hearing, and shall cause a copy of said rulings to be served upon each of the other parties, or may refer the motion to the trial examiner for ruling. The trial examiner shall rule upon all such motions made at the hearing or referred to him by the regional director, in the manner set forth in section 203.25. The regional director or the trial examiner, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

WITNESSES, DEPOSITIONS, AND SUBPENAS

SEC. 203.30 *Examination of witnesses; depositions.*—Witnesses shall be examined orally under oath, except that for good cause shown after the issuance of a complaint, testimony may be taken by deposition.

(*a*) Applications to take depositions shall be in writing setting forth the reasons why such depositions should be taken, the name and post-office address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for the purposes of this section hereinafter referred to as the "officer"). Such application shall be made to the regional director prior to the hearing, and to the trial examiner during and subsequent to the hearing but before transfer of the case to the Board pursuant to section 203.45

or section 203.50. Such application shall be served upon the regional director or the trial examiner, as the case may be, and upon all other parties, not less than 7 days (when the deposition is to be taken within the continental United States) and 15 days (if the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. The regional director or trial examiner, as the case may be, shall upon receipt of the application, if in his discretion good cause has been shown, make and serve upon the parties an order which will specify the name of the witness whose deposition is to be taken and the time, the place, and the designation of the officer before whom the witness is to testify, who may or may not be the same officer as that specified in the application. Such order shall be served upon all the other parties by the regional director or upon all parties by the trial examiner.

(*b*) Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, including any agent of the Board authorized to administer oaths. If the examination is held in a foreign country, it may be taken before any secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States.

(*c*) At the time and place specified in said order the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and his testimony shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have power to rule upon any objections but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding or investigation. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two copies of said transcript, together with his certificate, in person or by registered mail to the regional director or the trial examiner, care of the chief trial examiner, in Washington, D. C., as the case may be.

(*d*) The trial examiner shall rule upon the admissibility of the deposition or any part thereof.

(*e*) All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the

deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(*f*) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

SEC. 203.31 *Issuance of subpenas; petitions to revoke subpenas; right to inspect or copy data.*—(*a*) Any member of the Board shall, on the written application of any party, forthwith issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents, in their possession or under their control. Applications for subpenas, if filed prior to the hearing, shall be filed with the regional director. Applications for subpenas filed during the hearing shall be filed with the trial examiner. Applications for subpenas may be made ex parte. The subpena shall show on its face the name and address of the party at whose request the subpena was issued.

(*b*) Any person subpenaed, if he does not intend to comply with the subpena, shall, within 5 days after the date of service of the subpena upon him, petition in writing to revoke the subpena. All petitions to revoke subpenas shall be served upon the party at whose request the subpena was issued. Such petition to revoke, if made prior to the hearing, shall be filed with the regional director and the regional director shall refer the petition to the trial examiner or the Board for ruling. Petitions to revoke subpenas filed during the hearing shall be filed with the trial examiner. Notice of the filing of petitions to revoke shall be promptly given by the regional director or the trial examiner, as the case may be, to the party at whose request the subpena was issued. The trial examiner or the Board, as the case may be, shall revoke the subpena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpena does not describe with sufficient particularity the evidence whose production is required. The trial examiner or the Board, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, any answer filed thereto, and any ruling thereon, shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(*c*) Persons compelled to submit data or evidence at a public proceeding are entitled to retain or, on payment of lawfully prescribed costs, to procure, copies or transcripts of the data or evidence submitted by them. Persons compelled to submit data or evidence in the nonpublic investigative stages of proceedings may, for good cause, be limited by the regional director to inspection of the official transcript of their testimony, but shall be entitled

to make copies of documentary evidence or exhibits which they have produced.

(*d*) Upon the failure of any person to comply with a subpena issued upon the request of a private party, the general counsel shall in the name of the Board but on relation of such private party, institute proceedings in the appropriate district court for the enforcement of such subpena, but neither the general counsel nor the Board shall be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court.

SEC. 203.32 *Payment of witness fees and mileage; fees of persons taking depositions.*—Witnesses summoned before the trial examiner 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. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

TRANSFER, CONSOLIDATION, AND SEVERANCE

SEC. 203.33 *Transfer of charge and proceeding from region to region; consolidation of proceedings in same region; severance.*—Whenever the general counsel deems it necessary in order to effectuate the purposes of the act or to avoid unnecessary costs or delay, he may permit a charge to be filed with him in Washington, D. C., or may, at any time after a charge has been filed with a regional director pursuant to section 203.10, order that such charge and any proceeding which may have been initiated with respect thereto:

(*a*) Be transferred to and continued before him for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(*b*) Be consolidated with any other proceeding which may have been instituted in the same region; or

(*c*) Be transferred to and continued in any other region for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such other region.

The provisions of sections 203.9 to 203.32, inclusive, shall, insofar as applicable, govern proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and

exercised by the general counsel. After the transfer of any charge and any proceeding which may have been instituted with respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such charge and such proceeding as if the charge had originally been filed in the region to which the transfer is made.

Motions to sever proceedings may be filed before hearing, with the regional director, and during the hearing, with the trial examiner. The regional director shall refer all such motions filed with him to the trial examiner for ruling. Rulings by the trial examiner on motions to sever may be appealed to the Board in accordance with section 203.26.

HEARINGS

SEC. 203.34 *Who shall conduct; to be public unless otherwise ordered.*—The hearing for the purpose of taking evidence upon a complaint shall be conducted by a trial examiner designated by the chief trial examiner, unless the Board or any member thereof presides. At any time a trial examiner may be designated to take the place of the trial examiner previously designated to conduct the hearing. Such hearings shall be public unless otherwise ordered by the Board or the trial examiner.

SEC. 203.35 *Duties and powers of trial examiners.*—It shall be the duty of the trial examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The trial examiner shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the Rules and Regulations of the Board and within its powers:

(*a*) To administer oaths and affirmations;

(*b*) To grant applications for subpenas;

(*c*) To rule upon petitions to revoke subpenas;

(*d*) To rule upon offers of proof and receive relevant evidence;

(*e*) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(*f*) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;

(*g*) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(*h*) To dispose of procedural requests or similar matters, including motions referred to the trial examiner by the regional

director and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened prior to issuance of intermediate reports (recommended decisions);

(*i*) To make and file intermediate reports in conformity with section 8 of the Administrative Procedure Act;

(*j*) To call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence;

(*k*) To take any other action necessary under the foregoing and authorized by the published Rules and Regulations of the Board.

SEC. 203.36 *Unavailability of trial examiners.*—In the event the trial examiner designated to conduct the hearing becomes unavailable to the Board after the hearing has been concluded and before the filing of his intermediate report, the Board may transfer the case to itself for purposes of further hearing or issuance of an intermediate report or both on the record as made, or may request the chief trial examiner to designate another trial examiner for such purposes.

SEC. 203.37 *Disqualification of trial examiners.*—A trial examiner may withdraw from a proceeding whenever he deems himself disqualified. Any party may request the trial examiner, at any time following his designation by the chief trial examiner and before filing of his intermediate report, to withdraw on grounds of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification. If, in the opinion of the trial examiner, such affidavit is filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If the trial examiner does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and proceed with the hearing, or if the hearing has closed, he shall proceed with issuance of his intermediate report, and the provisions of section 203.26, with respect to review of rulings of trial examiners, shall thereupon apply.

SEC. 203.38 *Rights of parties.*—Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence, except that the participation of any party shall be limited to the extent permitted by the trial examiner.

SEC. 203.39 *Rules of evidence controlling so far as practicable.*—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 the act of June 19, 1934 (U. S. C., title 28, secs. 723–B, 723–C).

SEC. 203.40 *Stipulations of fact admissible.*—In any such proceeding stipulations of fact may be introduced in evidence with respect to any issue.

SEC. 203.41 *Objection to conduct of hearing; how made; objections not waived by further participation.*—Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

SEC. 203.42 *Filing of briefs and proposed findings with the trial examiner and oral argument at the hearing.*—Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the trial examiner who may fix a reasonable time for such filing, but not in excess of 15 days from the close of the hearing. Requests for further extensions of time shall be made to the chief trial examiner in Washington, D. C.

SEC. 203.43 *Continuance and adjournment.*—In the discretion of the trial examiner, the hearing may be continued from day to day, or adjourned to a later date or to a different place, by announcement thereof at the hearing by the trial examiner, or by other appropriate notice.

SEC. 203.44 *Contemptuous conduct; refusal of witness to answer questions.*—Contemptuous conduct at any hearing before a trial examiner or before the Board shall be ground for exclusion from the hearing. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the trial examiner, be ground for striking all testimony previously given by such witness on related matters.

INTERMEDIATE REPORT AND TRANSFER OF CASE TO THE BOARD

SEC. 203.45 *Intermediate report and recommended order; contents; service; transfer of the case to the Board; contents of record in case.*—After hearing for the purpose of taking evidence upon a complaint, the trial examiner shall prepare an intermediate report and recommended order, but the initial decision shall be made by the Board. Such report shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record, and the recommended order shall contain recommendations as to what disposition of the case should be made,

which may include, if it be found that the respondent has engaged in or is engaging in the alleged unfair labor practices, a recommendation for such affirmative action by the respondent as will effectuate the policies of the act. The trial examiner shall file the original of the intermediate report and recommended order with the Board and cause a copy thereof to be served upon each of the parties. Upon the filing of the report and recommended order, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, upon all the parties.

The charge upon which the complaint was issued and any amendments thereto, the complaint and any amendments thereto, notice of hearing, answer and any amendments thereto, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, together with the intermediate report and recommended order and exceptions, shall constitute the record in the case.

EXCEPTIONS TO THE RECORD AND PROCEEDING

SEC. 203.46 *Exceptions or supporting briefs; time for filing; where to file; service on parties; extension of time; effect of failure to include matter in exceptions; oral arguments.*—(*a*) Within 20 days or within such further period as the Board may allow from the date of service of the order transferring the case to the Board, pursuant to section 203.45, any party may file with the Board in Washington, D. C., an original and six copies of a statement in writing setting forth exceptions to the intermediate report and recommended order or to any other part of the record or proceedings (including rulings upon all motions or objections), together with the original and six copies of a brief in support of said exceptions and immediately upon such filing copies shall be served on each of the other parties; and any party may, within the same period, file an original and six copies of a brief in support of the intermediate report and recommended order, copies of such exceptions and briefs shall immediately be served on each of the other parties. Statements of exceptions and briefs shall designate by precise citation the portions of the record relied upon. Upon special leave of the Board, any party may file a reply brief upon such terms as the Board may impose Requests for such leave or for extension of the time in which to file exceptions or briefs under authority of this section shall be in writing and copies thereof shall be immediately served on each of the other parties.

(*b*) No matter not included in a statement of exceptions may thereafter be urged before the Board, or in any further proceedings.

(*c*) Should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board

within 10 days after the date of service of the order transferring the case to the Board pursuant to section 203.45. The Board shall notify the parties of the time and place of oral argument, if such permission is granted.

(*d*) Oral arguments are limited to 30 minutes for each party entitled to participate. No request for additional time will be granted unless timely application is made in advance of oral argument.

(*e*) Exceptions to intermediate reports and recommended orders, or to the record, briefs in support of exceptions, and briefs in support of intermediate reports and recommended orders shall be legibly printed or mimeographed and, if mimeographed, shall be double spaced.

SEC. 203.47 *Filing of motion after transfer of case to Board.*—All motions filed after the case has been transferred to the Board pursuant to section 203.45 shall be filed with the Board in Washington, D. C., by transmitting an original and six copies thereof, together with an affidavit of service upon each of the parties. Such motions shall be legibly printed or mimeographed, and if mimeographed shall be double spaced.

PROCEDURE BEFORE THE BOARD

SEC. 203.48 *Action of Board upon expiration of time to file exceptions to intermediate report.*—(*a*) In the event no statement of exceptions is filed as herein provided, the findings, conclusions, and recommendations of the trial examiner as contained in his intermediate report and recommended order shall be adopted by the Board and become its findings, conclusions and order, and all objections and exceptions thereto shall be deemed waived for all purposes.

(*b*) Upon the filing of a statement of exceptions and briefs, as provided in section 203.46, the Board may decide the matter forthwith upon the record, or after oral argument, or may reopen the record and receive further evidence before a member of the Board or other Board agent or agency, or may close the case upon compliance with the recommendations of the intermediate report or may make other disposition of the case.

SEC. 203.49 *Modification or setting aside of order of Board before record filed in court; action thereafter.*—Within the limitations of the provisions of section 10 (c) of the act, and section 203.48 of these rules, until a transcript of the record in a case shall have been filed in a court, within the meaning of section 10 of the act, the Board may at any time upon reasonable notice modify or set aside, in whole or in part, any findings of fact, conclusions of law, or order made or issued by it. Thereafter, the Board may proceed pursuant to section 203.50, insofar as applicable.

SEC. 203.50 *Hearings before Board or member thereof.*—Whenever the Board deems it necessary in order to effectuate the purposes of the act or to avoid unnecessary costs or delay, it may, at any time after a complaint has issued pursuant to section 203.15 or section 203.33 order that such complaint and any proceeding which may have been instituted with respect thereto be transferred to and continued before it or any member of the Board. The provisions of this subpart shall, insofar as applicable, govern proceedings before the Board or any member pursuant to this section, and the powers granted to trial examiners in such provisions shall, for the purpose of this section, be reserved to and exercised by the Board or the member thereof who shall preside.

SEC. 203.51 *Settlement or adjustment of issues.*—At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have opportunity to submit to the regional director with whom the charge was filed, for consideration, facts, arguments, offers of settlement, or proposals of adjustment.

Subpart C—Procedure Under Section 9 (c) of the Act for the Determination of Questions Concerning Representation of Employees

SEC. 203.52 *Petition for certification or decertification; who may file; where to file; withdrawal.*—A petition for investigation of a question concerning representation of employees under paragraphs (1) (A) (i) and (1) (B) of section 9 (c) of the act (hereinafter called a petition for certification) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf or by an employer. A petition under paragraph (1) (A) (ii) of section 9 (c) of the act, alleging that the individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative (hereinafter called a petition or decertification), may be filed by any employee or group of employees or any individual or labor organization acting in their behalf. When any such petition is filed by a labor organization, no investigation shall be made of any question of representation raised by such labor organization unless such labor organization is in compliance with the requirements of section 9 (f), (g), and (h) of the act, within the meaning of section 203.13. Petitions under this section shall be in writing and signed,[3] and shall either be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments, or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents

[3] Blank forms for filing such petitions will be supplied by the regional office upon request.

are true and correct to the best of his knowledge and belief. Four copies of the petition shall be filed. Except as provided in section 203.64, such petitions shall be filed with the regional director for the region wherein the bargaining unit exists, or, if the bargaining unit exists in two or more regions, with the regional director for any of such regions. Prior to the close of the hearing, pursuant to section 203.55, the petition may be withdrawn only with the consent of the regional director with whom such petition was filed. After the close of the hearing, the petition may be withdrawn only with the consent of the Board. Whenever the regional director or the Board approves the withdrawal of any petition, the case shall be closed.

SEC. 203.53 *Contents of petition for certification; contents of petition for decertification.*—(*a*) A petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following:

(1) The name of the employer.

(2) The address of the establishments involved.

(3) The general nature of the employer's business.

(4) A description of the bargining unit which the petitioner claims to be appropriate.

(5) The names and addresses of any other persons or labor organizations who claim to represent any employees in the alleged appropriate unit, and brief descriptions of the contracts, if any, covering the employees in such unit.

(6) The number of employees in the alleged appropriate unit and the number who have designated the petitioner to act.

(7) A statement that the employer declines to recognize the petitioner as the representative within the meaning of section 9 (a) of the act.

(8) The name, affiliation, if any, and address of the petitioner.

(9) Any other relevant facts.

(*b*) A petition for certification, when filed by an employer, shall contain the following:

(1) The name and address of the petitioner.

(2) The general nature of the petitioner's business.

(3) A brief statement setting forth that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate; a description of such unit; and the number of employees in the unit.

(4) The name or names, affiliation, if any, and addresses of the individuals or labor organizations making such claim for recognition.

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(5) A statement whether the petitioner has contracts with any labor organization or other representatives of employees and, if so, their expiration date.

(6) Any other relevant facts.

(c) Petitions for decertification shall contain the following:

(1) The name of the employer.

(2) The address of the establishments and a description of the bargaining unit involved.

(3) The general nature of the employer's business.

(4) Name and address of the petitioner and affiliation, if any.

(5) Name or names of the individuals or labor organization, who have been certified or are being currently recognized by the employer and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees.

(6) An allegation that the individuals or labor organization who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in section 9 (a) of the act.

(7) The number of employees in the unit and the number who have designated the petitioner to act for them.

(8) Any other relevant facts.

SEC. 203.54 *Consent election agreements.*—(a) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of employees involved may, with the approval of the regional director, enter into a consent election agreement leading to a determination by the regional director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the pay roll to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such consent election shall be consistent with the method followed by the regional director in conducting elections pursuant to sections 203.61 and 203.62 except that the rulings and determinations by the regional director of the results thereof shall be final, and the regional director shall issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board.

(b) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the regional director, enter into an agreement providing for a waiver of hearing

and a consent election leading to a determination by the Board of the facts ascertained after such consent election. Such agreement shall also include a description of the appropriate bargaining unit, the time and place of holding the election, and the pay roll to be used in determining which employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such election and the postelection procedure shall be consistent with that followed by the regional director in conducting elections pursuant to sections 203.61 and 203.62.

SEC. 203.55 *Investigation of petition by Regional Director; notice of hearing; service of notice; withdrawal of notice.*—After a petition has been filed, if no agreement such as that provided in section 203.54 is entered into and if it appears to the regional director that there is reasonable cause to believe that a question of representation affecting commerce exists, that the policies of the act will be effectuated, and that an election will reflect the free choice of employees in the appropriate unit, he shall prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a notice of hearing before a hearing officer at a time and place fixed therein. A copy of the petition shall be served with such notice of hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing by the regional director on his own motion.

SEC. 203.56 *Conduct of hearing.*—(*a*) Hearings shall be conducted by a hearing officer and shall be open to the public unless otherwise ordered by the hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding. It shall be the duty of the hearing officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which the Board may discharge its duties under section 9 (c) of the act.

(*b*) The hearing officer may, in his discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing, or by other appropriate notice.

SEC. 203.57 *Motions; interventions.*—(*a*) All motions, including motions for intervention pursuant to paragraph (*b*) hereof, shall be in writing or, if made at the hearing, may be stated orally on the record, and shall briefly state the order or relief sought and the grounds for such motion. An original and four copies of written motions shall be filed and a copy thereof immediately shall be served upon each of the other parties to the proceeding. Motions made prior to the hearing shall be filed with the regional director, and motions made during the hearing shall be filed with the hearing officer. After the close of the

hearing all motions shall be filed with the Board. Such motions to the Board shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. The regional director may rule upon all motions filed with him, causing a copy of said ruling to be served upon each of the parties, or he may refer the motion to the hearing officer, provided that if the regional director grants a motion to dismiss the petition the petitioner may obtain a review of such ruling in the manner prescribed in section 203.63, *infra*. The hearing officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that he shall refer to the Board for appropriate action all motions to dismiss petitions, at such time as the Board considers the entire record.

(*b*) Any person desiring to intervene in any proceeding shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the proceeding. The regional director or the hearing officer, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper, and such intervenor shall thereupon become a party to the proceeding.

(*c*) All motions, rulings, and orders shall become a part of the record, except that rulings on motions to revoke subpenas shall become a part of the record only upon the request of the party aggrieved, as provided in section 203.58 (*c*). Unless expressly authorized by these Rules and Regulations, rulings by the regional director and by the hearing officer shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board when it reviews the entire record. Requests to the Board for special permission to appeal from such rulings of the regional director or the hearing officer shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

(*d*) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceedings.

SEC. 203.58 *Introduction of evidence; rights of parties at hearing; subpenas.*—(*a*) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have power to call, examine, and cross-examine witnesses, and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Stipulations of fact may be introduced in evidence with respect to any issue.

(*b*) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be

stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

(*c*) Applications for subpenas may be filed in writing by any party, with the regional director if made prior to hearing, or with the hearing officer if made at the hearing. Applications for subpenas may be made ex parte. The regional director or the hearing officer, as the case may be, shall forthwith grant the subpenas requested. Any person subpenaed, if he does not intend to comply with the subpena, shall, within 5 days after the date of service of the subpena, petition in writing to revoke the subpena. Such petition shall be filed with the regional director: *Provided, however*, That if the evidence called for is to be produced at a hearing and the hearing has opened, the petition to revoke shall be filed with the hearing officer. Notice of the filing of petitions to revoke shall be promptly given by the regional director or hearing officer, as the case may be, to the party at whose request the subpena was issued. The regional director or the hearing officer, as the case may be, shall revoke the subpena if, in his opinion, the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpena does not describe with sufficient particularity the evidence whose production is required. The regional director or the hearing officer, as the case may be, shall make a simple statement of procedural or other grounds for his ruling. The petition to revoke, any answer filed thereto, and any ruling thereon, shall not become part of the record except upon the request of the party aggrieved by the ruling. Persons compelled to submit data or evidence are entitled to retain or, on payment of lawfully prescribed costs, to procure, copies or transcripts of the data or evidence submitted by them.

(*d*) Contemptuous conduct at any hearing before a hearing officer or before the Board shall be ground for exclusion from the hearing. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer, be ground for striking all testimony previously given by such witness on related matters.

(*e*) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing, for oral argument, which shall be included in the stenographic report of the hearing.

(*f*) The hearing officer may submit an analysis of the record to the Board but he shall make no recommendations.

(*g*) Witness fees and mileage shall be paid by the party at whose instance the witness appears.

SEC. 203.59 *Record; what constitutes; transmission to Board.*—Upon the close of the hearing the regional director shall forward to the Board in Washington, D. C., the petition, notice of hearing, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, all of which shall constitute the record in the proceeding.

SEC. 203.60 *Proceedings before the Board; further hearing; briefs; Board direction of election; certification of results.*—The Board shall thereupon proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to direct a secret ballot of the employees, or to make other disposition of the matter. Should any party desire to file a brief with the Board, the original and six copies thereof shall be filed with the Board at Washington, D. C., within 7 days after the close of the hearing. Such brief shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Copies shall be served on all other parties to the proceeding. Requests for extension of time in which to file a brief under authority of this section shall be in writing and copies thereof shall immediately be served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

SEC. 203.61 *Election procedure; tally of ballots; objections; certification by regional director; report on challenged ballots; report on objections; exceptions; action of the Board; hearing.*—Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the regional director in whose region the proceeding is pending. All elections shall be by secret ballot. Any party may be represented by observers of his own selection, subject to such limitations as the regional director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election, the regional director shall cause to be furnished to the parties a tally of the ballots. After such tally has been furnished, any party may file with the regional director an original and three copies of objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons therefor. Copies of such objections shall be served upon each of the other parties by the party filing them. All such objections shall be filed within 5 days after the tally of ballots has been furnished, whether or not the challenged ballots are sufficient in number to affect the results of the election.

If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number of affect the result of the

election, and if no run-off election is to be held pursuant to section 203.62, the regional director shall proceed in the following manner:

(*a*) After an election conducted pursuant to an agreement waiving a hearing and providing for Board determination of the facts ascertained after such election, as contemplated by section 203.54 (b), and after any election in a case in which a determination of appropriate bargaining unit remains to be made by the Board, the regional director shall forthwith forward to the Board in Washington, D. C., the tally of ballots, which, together with the record previously made, shall constitute the record in the case, and the Board may thereupon decide the matter forthwith upon the record, or may make other disposition of the case.

(*b*) After an election not conducted pursuant to an agreement contemplated by section 203.54 (b), and where no determination of the appropriate bargaining unit remains to be made by the Board, the regional director shall forthwith issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board, and the proceeding will thereupon be closed.

If objections are filed to the conduct of the election or conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the result of the election, the regional director shall investigate the issues raised by such objections, challenges, or both, and shall prepare and cause to be served upon the parties a report on challenged ballots, objections, or both, including his recommendations, which report, together with the tally of the ballots, he shall forward to the Board in Washington, D. C. Within 5 days from the date of service of the report on challenged ballots, objections, or both, the parties may file with the Board in Washington, D. C., an original and six copies of exceptions to such report. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties, and shall file a copy with the regional director. If no exceptions are filed to such report the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record, or may make other disposition of the case.

The report on challenged ballots may be consolidated with the report on objections in appropriate cases.

If exceptions are filed, either to the report on challenged ballots, objections, or both if it be a consolidated report, and it appears to the Board that such exceptions do not raise substantial and material issues with respect to the conduct or results of the election, the Board may decide the matter forthwith upon the record, or may make other disposition of the case. If it appears to the Board that

such exceptions raise substantial and material issues, the Board may direct the regional director or other agent of the Board to issue and cause to be served upon the parties, a notice of hearing on said exceptions before a hearing officer. The hearing shall be conducted in accordance with the provisions of sections 203.56, 203.57, and 203.58, insofar as applicable. Upon the close of the hearing, the agent conducting the hearing shall forward to the Board in Washington, D. C., the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exceptions, documentary evidence, all of which, together with the objection to the conduct of the election or conduct affecting the results of the election, the report on such objections, the report on challenged ballots, and exceptions to the report on objections or to the report on challenged ballots, and the record previously made, shall constitute the record in the case. The Board shall thereupon proceed pursuant to section 203.60.

SEC. 203.62 *Run-off election.*—(*a*) The regional director shall conduct a run-off election, without further order of the Board, when an election in which the ballot provided for not less than three choices (i. e., at least two representatives and "neither") results in no choice receiving a majority of the valid ballots cast and no objections are filed as provided in section 203.61. Only one run-off shall be held pursuant to this section.

(*b*) Employees who were eligible to vote in the election and who are employed in an eligible category on the date of the run-off election shall be eligible to vote in the run-off election.

(*c*) The ballot in the run-off election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

(*d*) In the event the number of votes cast in an inconclusive election in which the ballot provided for a choice among two representatives and "neither" is equally divided among the three choices; or in the event the number of ballots cast for one choice in such election is equal to the number cast for another of the choices but less than the number cast for the third choice, the regional director shall declare the first election a nullity and shall conduct another election, providing for a selection between the three choices afforded in the original ballot; and he shall thereafter proceed in accordance with paragraphs (*a*), (*b*), and (*c*) of this section. Only one further election pursuant to this paragraph may be held.

(*e*) Upon the conclusion of the run-off election, the provisions of section 203.61 shall govern, insofar as applicable.

SEC. 203.63 *Refusal to issue notice of hearing; appeals to Board from action of the regional director.*—If, after a petition has been filed, it shall appear to the regional director that no notice of hearing should issue as provided in section 203.55, the regional director may dismiss

the petition, and shall so advise the petitioner in writing, accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., and filing a copy of such request with the regional director within 10 days of service of such notice of dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

SEC. 203.64 *Filing petition with general counsel; investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which he has assumed jurisdiction.*—Whenever the general counsel deems it necessary in order to effectuate the purposes of the act, or to avoid unnecessary costs or delay, he may permit a petition to be filed with him in Washington, D. C., or may, at any time after a petition has been filed with a regional director pursuant to section 203.52, order that such petition and any proceeding that may have been instituted with respect thereto:

(*a*) Be transferred to and continued before him, for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(*b*) Be consolidated with any other proceeding which may have been instituted in the same region; or

(*c*) Be transferred to and continued in any other region, for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such region; or

(*d*) Be severed from any other proceeding with which it may have been consolidated pursuant to this section.

The provisions of sections 203.52 to 203.63, inclusive, shall insofar as applicable, apply to proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section be reserved to and exercised by the general counsel. After the transfer of any petition and any proceeding which may have been instituted in respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such petition and such proceeding as if the petition had originally been filed in the region to which the transfer is made.

Subpart D—Procedure for Referendum Under Section 9 (e) of the Act

SEC. 203.65 *Petition for referendum under section 9 (e) (1) of the act; who may file; where to file; withdrawal.*—A petition for authority to make an agreement requiring membership in a labor organization as a

condition of employment, pursuant to section 9 (e) (1) of the act, may be filed by a labor organization, which is the representative of employees as provided in section 9 (a) of the act, provided that such petition will not be entertained unless the labor organization filing it is in compliance with the requirements of section 9 (f), (g), and (h) of the act, within the meaning of section 203.13. The petition shall be in writing and signed, and shall either be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgements, or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief.[4] Four copies of the petition shall be filed with the regional director wherein the bargaining unit exists, or, if the unit exists in two or more regions, with the regional director for any of such regions. The petition may be withdrawn only with the approval of the regional director with whom such petition was filed, except that if the proceeding has been transferred to the Board, pursuant to section 203.59, the petition may be withdrawn only with the consent of the Board. Upon approval of the withdrawal of any petition the case shall be closed.

SEC. 203.66 *Contents of petition.*—Such petition shall contain the following:

(*a*) The name of the employer.

(*b*) The address of the establishments involved.

(*c*) The general nature of the employer's business.

(*d*) A description of the bargaining unit to be covered by the agreement if made.

(*e*) The number of employees in the unit.

(*f*) The names and addresses of any other persons or labor organizations who claim to represent any employees in the unit.

(*g*) The name, affiliation, if any, and address of the petitioner.

(*h*) The date of certification or date of recognition of the labor organization by the employer if there is no certification, or any other facts to support petitioner's claim to be the representative of the employees.

(*i*) The approximate number of employees within the unit who have authorized the petitioner to make such an agreement.

(*j*) Any other relevant facts.

SEC. 203.67 *Investigation of petition by regional director; consent referendum; directed referendum.*—Where a petition has been filed pursuant to section 203.65 and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of the em-

[4] Forms for filing such petitions will be supplied by the regional office upon request.

ployees within an appropriate unit desire to authorize the petitioner to make an agreement with their employer requiring membership in the union as a condition of employment and when it further appears to the regional director that no question of representation affecting such employees exists, he shall proceed forthwith to conduct a secret ballot of the employees involved on the question whether they desire to authorize the petitioner to enter into such agreement: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board before election he may issue and cause to be served on the parties, a notice of hearing before a hearing officer at a time and place fixed therein. The regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the regional director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting by the regional director or by the Board.

SEC. 203.68 *Hearing; posthearing procedure.*—The method of conducting the hearing and the procedure following the hearing, including transfer of the case to the Board, shall be governed, insofar as applicable, by sections 203.55 to 203.60, inclusive.

SEC. 203.69 *Method of conducting balloting; postballoting procedure.*—The method of conducting the balloting and the postballoting procedure shall be governed by the provisions of section 203.61, insofar as applicable.

SEC. 203.70 *Refusal to conduct referendum; appeal to Board.*—If, after a petition has been filed, it shall appear to the regional director that no referendum should be conducted, he shall dismiss the petition. Such dismissal shall be in writing and accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., and filing a copy of such request with the regional director, within 10 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

SEC. 203.71 *Petition for referendum under section 9 (e) (2) of the act; who may file; where to file; withdrawal.*—A petition to rescind the authority of a labor organization to make an agreement requiring as a condition of employment membership in a labor organization may be filed by, or by any employee or group of employees on behalf of, 30 percent or more of the employees in a bargaining unit for which the labor organization has been authorized to make such an agreement

with their employer. The provisions of section 203.65 shall apply in all other respects.

SEC. 203.72 *Contents of petition to rescind authority.*—Such petition shall contain the following:

(*a*) The name of the employer.

(*b*) The address of the establishments involved.

(*c*) The general nature of the employer's business.

(*d*) A description of the bargaining unit involved.

(*e*) The name and address of the labor organization whose authority it is desired to rescind, and the date of the last referendum conducted by the Board.

(*f*) The number of employees in the unit and the number on whose behalf the petitioner is authorized to act.

(*g*) The date of execution and of expiration of any contract in effect covering the unit involved.

(*h*) The name and address of the person designated to accept service of documents for petitioners.

(*i*) Any other relevant facts.

SEC. 203.73 *Subsequent proceedings under section 9 (e) (2).*—Where a petition has been filed pursuant to section 203.71, and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of the employees within an appropriate unit for which the labor organization has been authorized to make an agreement with the employer requiring membership in such organization as a condition of employment, desire to rescind such authority, he shall proceed forthwith to conduct a secret ballot of the employees to determine whether they desire to rescind such authority: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board before the balloting is held, he may issue and cause to be served on the parties, a notice of hearing before a hearing officer at a time and place fixed therein.

The provisions of sections 203.67 to 203.70, inclusive, shall, insofar as applicable, govern the proceedings.

Subpart E—Procedure to Hear and Determine Disputes Under Section 10 (k) of the Act

SEC. 203.74 *Initiation of proceedings; notice of filing charge; notice of hearing.*—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), the regional director shall investigate such charge, giving it priority over all other cases in the office except cases under paragraph (4) (A), (4) (B), and (4) (C) of section 8 (b) and other

cases under paragraph (4) (D) of section 8 (b). If it appears to the regional director that further proceedings should be instituted, he shall cause to be served on all parties to the dispute out of which such unfair labor practice may have arisen a notice of the filing of said charge together with a notice of hearing before a hearing officer at a time and place fixed therein which shall be not less than 10 days after service of the notice of hearing. The notice of hearing shall contain a simple statement of the issues involved in such dispute.

SEC. 203.75 *Adjustment of dispute; withdrawal of notice of hearing; hearing.*—If, within 10 days after service of the notice of hearing the parties submit to the regional director satisfactory evidence that they have adjusted or agreed upon methods of voluntary adjustment of the dispute, the regional director shall withdraw the notice of hearing and shall dismiss the charge. Hearings shall be conducted by a hearing officer and the procedure shall conform, insofar as applicable, to the procedure set forth in sections 203.56 to 203.59, inclusive.

SEC. 203.76 *Proceedings before the Board; further hearings; briefs; certification.*—Upon the close of the hearing, the Board shall proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, as it may determine, to certify the labor organization or the particular trade, craft or class of employees, as the case may be, which shall perform the particular work tasks in issue, or to make other disposition of the matter. Should any party desire to file a brief with the Board, an original and six copies thereof shall be filed with the Board at Washington, D. C., within 7 days after the close of the hearing. Immediately upon such filing, a copy shall be served on the other parties. Such brief shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Requests for extension of time in which to file a brief under authority of this section shall be in writing and copies thereof shall immediately be served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

SEC. 203.77 *Compliance with certification; further proceedings.*—If, after issuance of certification by the Board, the parties submit to the regional director satisfactory evidence that they have complied with the certification, the regional director shall dismiss the charge. If no satisfactory evidence of compliance is submitted, the regional director may proceed with the charge under paragraph (4) (D) of section 8 (b) and section 10 of the act and the procedure prescribed in sections 203.9 to 203.51, inclusive, shall, insofar as applicable, govern.

SEC. 203.78 *Review of certification.*—The record of the proceeding under section 10 (k) and the certification of the Board thereon, shall become a part of the record in such unfair labor practice proceeding and shall be subject to judicial review insofar as it is in issue, in

proceedings to enforce or review the final order of the Board under 10 (e) and (f) of the act.

Subpart F—Procedure in Cases Under Section 10 (j) and (l) of the Act

SEC. 203.79 *Expeditious processing of section 10 (j) cases.*—(*a*) Whenever temporary relief or a restraining order pursuant to section 10 (j) of the act has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be heard expeditiously and the case shall be given priority by the Board in its successive steps following the issuance of the complaint (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all other cases except cases of like character and cases under section 10 (l) of the act.

(*b*) In the event the trial examiner hearing a complaint concerning which the Board has procured temporary relief or a restraining order pursuant to section 10 (j), recommends a dismissal in whole or in part of such complaint, the regional attorney shall forthwith suggest to the district court which issued such temporary relief or restraining order, the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

SEC. 203.80 *Priority of cases pursuant to section 10 (l) of the act.*—Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of paragraph 4 (A), (B), or (C), of section 8 (b) of the act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character.

SEC. 203.81 *Issuance of complaint promptly.*—Whenever the regional attorney or other Board officer to whom the matter may be referred seeks injunctive relief of a district court pursuant to section 10 (l) of the act, a complaint against the labor organization sought to be enjoined, covering the same subject matter as such application for injunctive relief, shall be issued promptly, normally within 5 days of the date upon which such injunctive relief is first sought.

Sec. 203.82 *Expeditious processing of section 10 (l) cases in successive stages.*—Any complaint issued pursuant to section 203.80 shall be heard expeditiously and the case shall be given priority in its successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except cases of like character.

Subpart G—Service of Papers

SEC. 203.83 *Service of process and papers; proof of service.*—Complaints, orders, and other process and papers of the Board, its

member, agent, or agency, may be served personally or by registered 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 therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same.

SEC. 203.84 *Same; by parties; proof of service.*—Service of papers by a party on other parties shall be made by registered mail or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. When service is made by registered mail, the return post-office receipt shall be proof of service. When service is made in any manner provided by such law, proof of service shall be made in accordance with such law.

SEC. 203.85 *Filing of proof of service.*—The person or party serving the papers or process on other parties in conformance with sections 203.83 and 203.84 shall make proof of service thereof to the Board promptly and in any event within 24 hours after the returned post-office receipt or other evidence for such proof of service comes into the possession of the party making the service. Failure to make proof of service does not affect the validity of the service.

SEC. 203.86 *Time; additional time after service by mail.*—In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event, the period runs until the end of the next day, which is neither a Sunday nor a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. For the purpose of this section a Saturday on which the Board's offices are not open for business shall be considered as a holiday, but a half holiday shall be considered as other days and not as a holiday. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served upon him by mail, 3 days sball be added to the prescribed period.

Subpart H—Certification and Signature of Documents

SEC. 203.87 *Certification of papers and documents.*—The executive secretary of the Board, or, in the event of his absence or disability, whosoever may be designated by the Board in his place and stead, shall certify copies of all papers and documents which are a part of

any of the files or records of the Board as may be necessary or desirable from time to time.

SEC. 203.88 *Signatures of orders.*—The executive secretary, or, in the event of his absence or disability, whosoever may be designated by the Board in his place and stead, is hereby authorized to sign all orders of the Board.

Subpart I—Records and Information

SEC. 203.89 *Files, records, etc., in exclusive custody of Board and not subject to inspection; formal documents and final opinions and orders subject to inspection.*—(*a*) The formal documents described as the record in the case or proceeding and defined in sections 203.45, 203.59, and 203.61 are matters of official record, and are available to inspection and examination by persons properly and directly concerned, during usual business hours, at the appropriate regional office of the Board or in Washington, D. C., as the case may be. True and correct copies thereof will be certified upon submission of such copies a reasonable time in advance of need and payment of lawfully prescribed costs; *Provided, however,* That if the Board, the general counsel, or the regional director with whom the documents are filed shall find in a particular instance good cause why a matter of official record should be kept confidential, such matter shall not be available for public inspection or examination. Application for such inspection, if desired to be made at the Board's office in Washington, D. C., shall be made to the executive secretary or the general counsel, as the case may be, and if desired to be made at any regional office, shall be made to the regional director. The executive secretary, general counsel, or the regional director may, in his discretion, require that the application be made in writing and under oath and set forth the facts upon which the applicant relies to show that he is properly and directly concerned with such inspection and examination. Should the executive secretary, general counsel, or the regional director, as the case may be, deny any such application, he shall give prompt notice thereof, accompanied by a simple statement of procedural or other grounds.

(*b*) All final opinions or orders of the Board in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and its Rules and Regulations are available to public inspection during regular business hours at the Board's offices in Washington, D. C. Copies may be obtained upon request made to any regional office of the Board at its address as published in the Federal Register, or to the Director of Information in Washington. Subject to the provisions of sections 203.31 and 203.58, all files, documents, reports, memoranda, and records pertaining to the internal management of the Board or to the investigation or disposition of charges or petitions during the nonpublic investigative stages of pro-

ceedings and before the institution of formal proceedings, and all matters of evidence obtained by the Board or any of its agents in the course of investigation, which have not been offered in evidence at a hearing before a trial examiner or hearing officer or have not been made part of an official record by stipulation, whether in the regional offices of the Board or in its principal office in the District of Columbia, are for good cause found by the Board held confidential and are not matters of official record or available to public inspection, unless permitted by the Board, its chairman, the general counsel, or any regional director.

SEC. 203.90 *Same; Board employees prohibited from producing files, records, etc., pursuant to subpena duces tecum, prohibited from testifying in regard thereto.*—No regional director, field examiner, trial examiner, attorney, specially designated agent, general counsel, member of the Board or other officer or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board or testify in behalf of any party to any cause pending in any court or before the Board, or any other board, commission, or other administrative agency of the United States, or of any State, Territory, or the District of Columbia with respect to any information, facts, or other matter coming to his knowledge in his official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board, whether in answer to a subpena, subpena duces tecum or otherwise, without the written consent of the Board or the Chairman of the Board, if the official or document is subject to the supervision or control of the Board; or the general counsel if the official or document is subject to the supervision or control of the general counsel. Whenever any subpena or subpena duces tecum calling for records or testimony as described hereinabove shall have been served upon any such persons or other officer or employee of the Board, he will, unless otherwise expressly directed by the Board or the Chairman of the Board, or the general counsel, as the case may be, appear in answer thereto and respectfully decline by reason of this rule to produce or present such files, documents, reports, memoranda or records of the Board or give such testimony.

Subpart J—Practice Before the Board of Former Employees

SEC. 203.91 *Prohibition of practice before Board of its former regional employees in cases pending in region during employment.*—No person who has been an employee of the Board and attached to any of its regional offices shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding which was pending in any regional office to which he was attached during the time of his employment with the Board.

SEC. 203.92 *Same; application to former employees of Washington staff.*—No person who has been an employee of the Board and attached to the Washington staff shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding pending before the Board or any regional offices during the time of his employment with the Board.

Subpart K—Construction of Rules

SEC. 203.93 *Rules to be liberally construed.*—The Rules and Regulations in this part shall be liberally construed to effectuate the purposes and provisions of the act.

Subpart L—Enforcement of Rights, Privileges, and Immunities Granted or Guaranteed Under Section 222 (f), Communications Act of 1934, as Amended, to Employees of Merged Telegraph Carriers

SEC. 203.94 *Enforcement.*—All matters relating to the enforcement of rights, privileges, or immunities granted or guaranteed under section 222 (f) of the Communications Act of 1934, as amended, shall be governed by the provisions of subparts A, B, G, H, I, and K of these Rules and Regulations, insofar as applicable, except that reference in subpart B to "unfair labor practices" or "unfair labor practices affecting commerce" shall for the purposes of this article mean the denial of any rights, privileges, or immunities granted or guaranteed under section 222 (f) of the Communications Act of 1934, as amended.

Subpart M—Amendments

SEC. 203.95 *Amendment or rescission of rules.*—Any rule or regulation may be amended or rescinded by the Board at any time.

SEC. 203.96 *Petitions for issuance, amendment or repeal of rules.*—Any interested person may petition the Board, in writing, for the issuance, amendment, or repeal of a rule or regulation. An original and five copies of such petition shall be filed with the Board in Washington, D. C., and shall state the rule or regulation proposed to be issued, amended or repealed, together with a statement of grounds in support of such petition.

SEC. 203.97 *Action on petition.*—Upon the filing of such petition, the Board shall consider the same, and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate hearing thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial is self-explanatory.

Part 202—Statements of Procedure [1]

Subpart A—General Statement

SECTION 202.1 *General statement.*—By virtue of the authority vested in it by the National Labor Relations Act, 49 Stat. 449, as amended by the Labor Management Relations Act, 1947, Public Law 101, Eightieth Congress, first session, the National Labor Relations Board hereby issues and causes to be published in the Federal Register the following amendments to its Statements of Procedure, which are promulgated to carry out the provisions of the act. Said amendments shall become effective upon the signing of the original by the members of the Board and the publication thereof in the Federal Register. The Statements of Procedure, as hereby amended, shall be in force and effect until further amended or rescinded by the Board.

Subpart B—Unfair Labor Practice Cases Under Section 10 (a) to (i) of the Act and Telegraph Merger Act Cases

SEC. 202.2 *Initiation of unfair labor practice cases.*—The investigation of an alleged violation of the National Labor Relations Act is initiated by the filing of a charge, which must be in writing and signed, and must either be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. The charge is filed with the regional director for the region in which the alleged violations have occurred or are occurring. A blank form for filing such charge is supplied by the regional office upon request. The charge contains the name and address of the person against whom the charge is made and a statement of the facts constituting the alleged unfair labor practices. Any person may file a charge, but no complaint will be issued upon a charge filed by a labor organization unless that labor organization is in compliance with section 9 (f), (g), and (h) of the act. (See sec. 203.3 *infra.*)

SEC. 202.3 *Compliance with section 9 (f), (g), and (h) of the act.*—If a charge (or petition) is filed by a labor organization, that labor organization and every national or international labor organization of which it is an affiliate or constituent unit must have complied with

[1] The National Labor Relations Board issued its Statements of Procedure on August 19, 1947. They were published in the Federal Register and became effective on August 22, 1947, (12 Fed. Reg. 5651). Amendments were issued August 18, 1948, and were published and became effective on August 21, 1948, (13 Fed. Reg. 4871). The following compilation presents the Statements of Procedure as so amended.

section 9 (f) (b) (2) of the act. At the time of filing the charge (or petition), or prior thereto or within a reasonable period of time thereafter not to exceed 10 days, the labor organization must present the duplicate copy of a letter from the United States Department of Labor showing that it has filed the material required under section 9 (f) and (g) of the act and a declaration executed by an authorized agent stating the labor organization has complied with section 9 (f) (b) (2) and setting forth the method by which compliance was made.

In addition, the labor organization and every national or international labor organization of which it is an affiliate or constituent unit must have complied with section 9 (h) of the act as follows: At the time of filing the charge (or petition) or prior thereto, or within a reasonable period not to exceed 10 days thereafter, the national or international labor organization shall have on file with the general counsel in Washington, D. C., and the local labor organization shall have on file with the regional director in the region in which the proceeding is pending, or in which it customarily files cases, a declaration by an authorized agent executed contemporaneously or within the preceding 12-month period listing the titles of all offices of the filing organization and stating the names of the incubents, if any, in each such office and the date of expiration of each incumbent's term, and an affidavit from each such officer, executed contemporaneously or within the preceding 12-month period, stating that he is not a member of the Communist Party or affiliated with such party and that he does not believe in, and is not a member of nor supports any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

SEC. 202.4 *Investigation of charges.*—When the charge is received in the regional office it is filed, docketed, and assigned a case number. The regional director will, on request of the charging party, and may in any case cause a copy of the charge to be served upon the person against whom the charge is made, but timely service of a copy of the charge within the meaning of the proviso to section 10 (b) of the act is the exclusive responsibility of the charging party and not of the general counsel or his agents. The regional director requests the person filing the charge to submit evidence in its support. The person against whom the charge is filed, hereinafter called the respondent, is asked to submit a written statement of his position in respect to the allegations. The case is then assigned to a member of the field staff for investigation, who interviews representatives of all parties and those persons who have knowledge as to the charges. In the investigation and in all other stages of the proceedings, charges alleging violation of section 8 (b) (4) (A), (B), and (C) are given priority over all other cases in the office in which they are pending except cases of like character and charges alleging violation of section

8 (b) (4) (D) are given priority over all cases except section 8 (b) (4) (A), (B), and (C) cases and other cases alleging violation of section 8 (b) (4) (D). After full investigation, the case may be disposed of through informal methods such as withdrawal, dismissal, and settlement; or, the case may necessitate formal methods of disposition. Some of the informal methods of handling unfair labor practice cases will be stated first.

SEC. 202.5 *Withdrawal of charges.*—If investigation reveals that there has been no violation of the National Labor Relations Act or the evidence is insufficient to substantiate the charge, the regional director recommends withdrawal of the charge by the person who filed. The complainant may also, on its own initiative, request withdrawal. If the complainant accepts the recommendation of the director or requests withdrawal on its own initiative, the respondent is immediately notified of the withdrawal of the charge.

SEC. 202.6 *Dismissal of charges and appeals to general counsel.*—If the complainant refuses to withdraw the charge as recommended, the regional director dismisses the charge. The regional director thereupon informs the parties of his action, together with a simple statement of the grounds therefor, and the complainant of his right of appeal to the general counsel in Washington within 10 days. If the complainant appeals to the general counsel, the entire file in the case is sent to Washington where the case is fully reviewed by the general counsel with the assistance of his staff. Following such review, the general counsel may sustain the regional director's dismissal, stating the grounds of his affirmance, or may direct the regional director to take further action.

SEC. 202.7 *Settlements.*—Before any complaint is issued or other formal action taken, the regional director affords an opportunity to all parties for the submission and consideration of facts, argument, offers of settlement or proposals of adjustment, except where time, the nature of the proceeding, and the public interest do not permit. Normally prehearing conferences are held, the principal purpose of which is to discuss and explore such submissions and proposals of adjustment. The regional office provides Board-prepared forms for such settlement agreements, as well as printed notices for posting by the respondent. These agreements, which are subject to the approval of the regional director, provide for the withdrawal of the charge by the complainant at such time as the respondent has complied with the terms of the settlement agreement. Proof of such compliance is obtained by the regional director before the case is closed. If the respondent fails to perform his obligations under the informal agreement, the regional director may determine to institute formal proceedings.

SEC. 202.8 *Complaints.*—If the charge appears to have merit and efforts to dispose of it by informal adjustment are unsuccessful, the regional director institutes formal action by issuance of a complaint and notice of hearing. In certain types of cases, involving novel and complex issues, the regional director, at the discretion of the general counsel, must submit the case for advice from the general counsel before issuing complaint. The complaint, which is served on all parties, sets forth the facts upon which the Board bases its jurisdiction and the facts relating to the alleged violations of law by the respondent. The respondent must file an answer to the complaint within 10 days of its receipt, setting forth a statement of its defense.

SEC. 202.9 *Settlement after issuance of complaint.*—(*a*) Even though formal proceedings have begun, the parties again have full opportunity at every stage to dispose of the case by amicable adjustment and in compliance with the law. Thus, after the complaint has been issued and a hearing scheduled or even begun, the attorney in charge of the case and the regional director afford all parties every opportunity for the submission and consideration of facts, arguments, offers of settlement or proposals of adjustment, except where time, the nature of the proceeding, and the public interest do not permit.

(*b*) All settlement stipulations which provide for the entry of an order by the Board are subject to the approval of the Board in Washington. If the settlement provides for the entry of an order by the Board, the parties agree to waive their right to hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the adjustment. Usually the settlement stipulation also contains the respondent's consent to the Board's application for the entry of a decree by the appropriate circuit court of appeals enforcing the Board's order.

(*c*) In the event the respondent fails to comply with the terms of a settlement stipulation, upon which a Board order and court decree are based, the Board may petition that court to adjudge the respondent in contempt. If the respondent refuses to comply with the terms of a stipulation settlement providing solely for the entry of a Board order, the Board may petition the court for enforcement of its order, pursuant to section 10 of the National Labor Relations Act.

SEC. 202.10 *Hearings.*—Except in extraordinary situations the hearing is open to the public and usually conducted in the region where the charge originated. A trial examiner, designated by the chief trial examiner and sent from the Washington staff, presides over the hearing. The Government's case is conducted by an attorney attached to the Board's regional office, who has the responsibil-

ity of presenting the evidence in support of the complaint. The rules of evidence applicable in the district courts of the United States under the Rules of Civil Procedure adopted by the Supreme Court are, so far as practicable, controlling. Counsel for the Board, all parties to the proceeding, and the trial examiner have the power to call, examine and cross-examine witnesses, and to introduce evidence into the record. They may also submit briefs, engage in oral argument, and submit proposed findings and conclusions to the trial examiner. The attendance and testimony of witnesses and the production of evidence material to any matter under investigation may be compelled by subpena.

The functions of all trial examiners and other Board agents or employees participating in decisions in conformity with section 8 of the Administrative Procedure Act, are conducted in an impartial manner and any such trial examiner, agent, or employee may at any time withdraw if he deems himself disqualified because of bias or prejudice. The Board's attorney has the burden of proof of violations of section 8 of the National Labor Relations Act and section 222 (f) of the Telegraph Merger Act. In connection with hearings subject to the provisions of section 7 of the Administrative Procedure Act:

> (*a*) No sanction is imposed or rule or order issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the preponderance of the reliable, probative, and substantial evidence;
>
> (*b*) Every party has the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts; and
>
> (*c*) Where any decision rests on official notice of a material fact not appearing in the evidence in the record, any party is on timely request afforded a reasonable opportunity to show the contrary.

SEC. 202.11 *Intermediate report (recommended decision).*—(*a*) At the conclusion of the hearing the trial examiner prepares an intermediate report (recommended decision) stating findings of fact and conclusions, as well as the reasons for his determinations on all material issues, and making recommendations as to action which should be taken in the case. The trial examiner may recommend dismissal or sustain the complaint, in whole or in part, and recommend that the respondent cease and desist from the unlawful acts found and take action to remedy their effects.

(*b*) The intermediate report is filed with the Board in Washington and copies are simultaneously served on each of the parties. At the

same time the Board, through its executive secretary, issues and serves on each of the parties an order transferring the case to the Board. The parties may accept and comply with the recommendations of the trial examiner, and thus normally conclude the entire proceedings at this point. Or, the parties or counsel for the Board may file exceptions to the intermediate report with the Board and may also request permission to appear and argue orally before the Board in Washington. They may also submit proposed findings and conclusions to the Board. Oral argument is very frequently granted.

SEC. 202.12 *Board decision and order.*—(*a*) If any party files exceptions to the intermediate report, the Board, with the assistance of the legal assistants to each Board member who function in much the same manner as law clerks do for judges, reviews the entire record, including the trial examiner's report and recommendations, the exceptions thereto, the complete transcript of evidence and the exhibits, briefs, and arguments. The Board does not consult with members of the trial examining staff or with any agent of the general counsel in its deliberations. It then issues its decision and order in which it may adopt, modify, or reject the findings and recommendations of the trial examiner. The decision and order contains detailed findings of fact, conclusions of law, and basic reasons for decision on all material issues raised, and an order either dismissing the complaint in whole or in part or requiring the respondent to cease and desist from its unlawful practices and to take appropriate affirmative action.

(*b*) If no exceptions are filed to the intermediate report, and the respondent does not comply with its recommendations, the Board adopts the report and recommendations of the trial examiner. All objections and exceptions, whether or not previously made during or after the hearing, are deemed waived for all purposes.

(*c*) If no exceptions are filed to the intermediate report and its recommendations and the respondent complies therewith, the case is normally closed but the Board may, if it deems necessary in order to effectuate the policies of the act, adopt the report and recommendations of the trial examiner.

SEC. 202.13 *Compliance with Board decision and order.*—(*a*) Shortly after the Board's decision and order is issued the director of the regional office in which the charge was filed communicates with the respondent for the purpose of obtaining compliance. Conferences may be held to arrange the details necessary for compliance with the terms of the order.

(*b*) The regional director submits to the Board a report on compliance when compliance is obtained. This report must meet the approval of the Board before the case may be closed. Despite compliance, however, the Board's order is a continuing one; therefore, the closing of a case on compliance is necessarily conditioned upon the continued

observance of that order; and in some cases it is deemed desirable, notwithstanding compliance, to implement the order with an enforcing decree. Subsequent violations of the order may become the basis of further proceedings.

SEC. 202.14 *Judicial review of Board decisions and orders.*—If the respondent does not comply with the Board's order, or the Board deems it desirable to implement the order with a court decree, the Board may petition the appropriate Federal court for enforcement. Or, the respondent may petition the circuit court of appeals to review and set aside the Board's order. Upon such review or enforcement proceedings, the court reviews the record and the Board's findings and order and sustains them if they are in accordance with the requirements of law. The court may enforce, modify, or set aside in whole or in part the Board's findings and order, or it may remand the case to the Board for further proceedings as directed by the court. Following the court's decree, either the Government or the private party may petition the Supreme Court for review upon writ of certiorari. Such applications for review to the Supreme Court are handled by the Board through the Solicitor General of the United States.

SEC. 202.15 *Compliance with court decree.*—After a Board order has been enforced by a court decree, the Board has the responsibility of obtaining compliance with that decree. Investigation is made by the regional office of the respondent's efforts to comply. If it finds that the respondent has failed to live up to the terms of the court's decree, the general counsel may, on behalf of the Board, petition the court to hold him in contempt of court. The court may order immediate remedial action and impose sanctions and penalties.

Subpart C—Representation Cases Under Section 9 (c) of the Act

SEC. 202.16 *Initiation of representation case.* The investigation of the question as to whether a union represents a majority of an appropriate grouping of employees is initiated by the filing of a petition by any person or labor organization acting on behalf of a substantial number of employees or by an employer when one or more individuals or labor organizations present to him a claim to be recognized as the exclusive bargaining representative. If there is a certified or currently recognized representative, any employee, or group of employees or any individual or labor organization acting in their behalf may also file decertification proceedings to test the question of whether the certified or recognized agent is still the representative of the employees. The petition must be in writing and signed, and must either be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the proposed or actual

bargaining unit exists. Petition forms, which are supplied by the regional office upon request, provide, among other things, for a description of the contemplated or existing appropriate bargaining unit, the approximate number of employees involved, and the names of all labor organizations which claim to represent the employees. If the petition is filed by a labor organization, no investigation will be made of any question of representation raised by such labor organization unless such labor organization is in compliance with section 9 (f), (g), and (h) of the act. (See sec. 202.3, *supra.*) If a petition is filed by a labor organization or in the case of a petition to decertify a certified or recognized bargaining agent, the petitioner must supply within 48 hours after filing, but in no event later than the last day on which the petition might timely be filed, evidence of representation. Such evidence is usually in the form of cards authorizing the labor organization to represent the employees or authorizing the petitioner to file a decertification proceeding.

SEC. 202.17 *Investigation of petition.*—(*a*) Upon receipt of the petition in the regional office, it is docketed and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) the appropriateness of the unit of employees for the purposes of collective bargaining and the existence of a bona fide question concerning representation within the meaning of the act, (3) whether the election would effectuate the policies of the act and reflect the free choice of employees in the appropriate unit, and (4) whether, if the petitioner is a labor organization seeking recognition, there is a sufficient probability, based on the evidence of representation of the petitioner, that the employees have selected it to represent them. The evidence of representation submitted by the petitioning labor organization or by the person seeking decertification is ordinarily checked to determine the number or proportion of employees who have designated the petitioner, it being the Board's administrative experience that in the absence of special factors the conduct of an election serves no purpose under the statute unless the petitioner has been designated by at least 30 percent of the employees. However, in the case of a petition by an employer, no proof of representation on the part of the labor organization claiming a majority is required and the regional director proceeds with the case if other factors require it unless the labor organization withdraws its claim to majority representation. The field examiner, or other member of the staff, attempts to ascertain from all interested parties whether or not the grouping or unit of employees described in the petition constitutes an appropriate bargaining unit.

(*b*) The petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that no question

of representation exists within the meaning of the statute, because, among other possible reasons, the unit is not appropriate, or a written contract precludes further investigation at that time, or where the petitioner is a labor organization or a person seeking decertification, the showing of representation among the employees is insufficient to warrant an election under the 30-percent principle stated in paragraph (*a*) of this section.

(*c*) For the same or similar reasons the regional director may request the petitioner to withdraw its petition. If, despite the regional director's recommendations, the petitioner refuses to withdraw the petition, the regional director then dismisses the petition stating the grounds for his dismissal and informing the petitioner of his right of appeal to the Board in Washington, D. C. The petitioner may within 10 days appeal from the regional director's dismissal by filing such request with the Board in Washington. After a full review of the file with the assistance of its staff, the Board may sustain the dismissal, stating the grounds of its affirmance, or may direct the regional director to take further action.

SEC. 202.18 *Consent adjustments before formal hearing.*—The Board has devised and makes available to the parties two types of informal consent procedures through which representation issues can be resolved without recourse to formal procedures. These informal arrangements are commonly referred to as (*a*) consent election agreement, followed by regional director's determination, and (*b*) consent election agreement, followed by Board certification. Forms for use in these informal procedures are available in the regional offices.

(*a*) (1) The consent election agreement followed by the regional director's determination of representatives is the most frequently used method of informal adjustment of representation cases. The terms of the agreement providing for this form of adjustment are set forth in printed forms, which are available upon request at the Board's regional offices. Under these terms the parties agree with respect to the appropriate unit, the pay roll to be used as the basis of eligibility to vote in an election, and the place, date, and hours of balloting. A Board agent arranges the details incident to the mechanics and conduct of the election. For example, he usually arranges preelection conferences in which the parties check the list of voters and attempt to resolve any questions of eligibility. Also, prior to the date of election, official notices of election are, whenever possible, posted conspicuously in the plant. These notices reproduce a sample ballot and outline such election details as location of polls, time of voting, and eligibility rules.

(2) The actual polling is always conducted and supervised by Board agents. Appropriate representatives of each party

may assist them and observe the election. As to the mechanics of the election, a ballot is given to each eligible voter by the Board's agents. The ballots are marked in the secrecy of a voting booth. The Board agents and authorized observers have the privilege of challenging for reasonable cause employees who apply for ballots.

(3) Customarily the Board agents, in the presence and with the assistance of the authorized observers count and tabulate the ballots, immediately after the closing of the polls. A complete tally of the ballots is served upon the parties upon the conclusion of the count.

(4) If challenged ballots are sufficient in number to affect the results of the count, the regional director conducts an investigation and rules on the challenges. Similarly, if objections to the conduct of the election are filed within 5 days of the issuance of the tally of ballots, the regional director likewise conducts an investigation and rules upon the objections. If, after investigation, the objections are found to have merit, the regional director may void the election results and conduct a new election.

(5) This form of agreement provides that the rulings of the regional director on all questions relating to the election (for example, eligibility to vote and the validity of challenges and objections) are final and binding. Also, the agreement provides for the conduct of a run-off election, in accordance with the provisions of the Board's Rules and Regulations, if two or more labor organizations appear on the ballot and no one choice receives the majority of the valid votes cast.

(6) The regional director issues to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board.

(*b*) The consent election agreement followed by a Board certification provides that the agreed-upon election shall be the basis of a formal decision by the Board instead of an informal determination by the regional director. In this agreement also it is provided that the Board, rather than the regional director, makes the final determination of questions raised concerning eligibility, challenged votes, and objections to the conduct of the election. Thus, if challenged ballots are sufficient in number to affect the results of the count, the regional director conducts an investigation and issues a report on the challenges instead of ruling thereon. Similarly, if objection to the conduct of the election are filed within 5 days after issuance of the tally of ballots, the regional director likewise conducts an investigation

and issues a report instead of ruling upon the validity of the objections. In either event, the regional director's report is served upon the parties, who may file exceptions thereto within 5 days with the Board in Washington. The Board then reviews the entire record made and may, if a substantial issue is raised, direct a hearing on the challenged ballots or the objection to the conduct of the election. Or, the Board may, if no substantial issues are raised, affirm the regional director's report and take appropriate action in termination of the proceedings. If a hearing is held upon the challenged ballots or objections, all parties are heard and the record made on the hearing is reviewed by the Board with the assistance of its legal assistants and a final determination made thereon. If the objections are found to have merit, the election results may be voided and a new election conducted under the supervision of the regional director. If the union has been selected as the representative, the Board issues its certification and the proceeding is terminated. If upon a decertification or employer petition the union loses the election the Board certifies that the union is not the chosen representative.

SEC. 202.19 *Formal hearing.*—If no informal adjustment of the question concerning representation has been effected and it appears to the regional director that formal action is necessary, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues, which is followed by Board decision and direction of election or dismissal of the case. In certain types of cases, involving novel or complex issues, the regional director may submit the case for advice from the general counsel before issuing notice of hearing.

SEC. 202.20 *Hearing; procedure after hearing.*—(*a*) The notice of hearing, together with a copy of the petition, is served upon the unions and employer filing or named in the petition and upon other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(*b*) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case by the Board. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(*c*) Upon the close of the hearing, the entire record in the case is forwarded to the Board in Washington. The hearing officer also transmits an analysis of the issues and the evidence, but makes no recommendations in regard to resolution of the dispute. All parties may file briefs with the Board within 7 days after the close of the hearing and may also request to be heard orally by the Board. Because of the nature of the proceedings, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues its decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in section 202.18 above.

(*d*) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in connection with the postelection procedures in cases involving consent elections to be followed by Board certifications.

(*e*) If the election involves two or more labor organizations and if the election results are inconclusive because no choice on the ballot received the majority of valid votes cast, a run-off election is held as provided in the Board's Rules and Regulations.

Subpart D—Referendum Cases Under Section 9 (e) (1) and (2) of the Act

SEC. 202.21 *Initiation of authorization cases.*—The investigation of the question as to whether a labor organization which is the representative of employees as provided in section 9 (a) of the act is authorized by a majority of the eligible employees within a unit appropriate for such purpose to enter into an agreement with the employer requiring union membership of such employees as a condition of employment is initiated by the filing of a petition by such labor organization. No petition will be entertained, however, unless the petitioning labor organization is in compliance with section 9 (f), (g), and (h) of the act. (See sec. 202.3, *supra.*) The petition must be in writing and signed, and must either be notarized or must contain a declaration by the person signing it that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the appropriate bargaining unit exists. The blank petition form, which is supplied by the regional office upon request, provides, among other things, for a description of the bargaining unit to be covered by the agreement if made, the approximate number of employees involved, the date of certification or recognition by the employer of the petitioner if there is no certification, the approximate number of employees within the unit who have authorized the petitioner to make such an agreement, and the

names of any other labor organizations which claim to represent the employees. The petitioner must supply with the petition, or within 48 hours after filing, its evidence of authorization to make an agreement with the employer requiring membership in the labor organization as a condition of employment.

SEC. 202.22 *Investigation of petition.*—(*a*) Upon receipt of the petition in the regional office, it is filed, docketed, and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) whether a question concerning representation exists within the meaning of the act which requires resolution (3) whether an election would effectuate the policies of the act by providing for a free expression of choice by the employees, and (4) whether the petitioner has been authorized by at least 30 percent of the employees to make such an agreement. The evidence of authorization submitted by the petitioner is usually in the form of cards signed by individual employees authorizing or expressing a desire for petitioner to enter into such an agreement and is checked to determine the proportion of employees who desire to authorize the petitioner.

(*b*) The petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that an election is inappropriate, because, among other possible reasons, a question of representation exists which requires resolution, by a section 9 (c) proceeding or the petitioner's card showing of authorization by the employees is insufficient to meet the 30-percent statutory requirement referred to in paragraph (*a*) of this section.

(*c*) For the same or similar reasons the regional director may request the petitioner to withdraw its petition. If petitioner, despite the regional director's recommendation, refuses to withdraw the petition, the regional director then dismisses the petition, stating the grounds for his dismissal and informing petitioner of his right of appeal to the Board in Washington, D. C. The petitioner may within 10 days appeal from the regional director's dismissal by filing such request with the Board in Washington. The request shall contain a complete statement setting forth the facts and reasons upon which the request is made. After a full review of the file with the assistance of its staff, the Board may sustain the dismissal, stating the grounds of its affirmance, or may direct the regional director to take further action.

SEC. 202.23 *Consent agreements providing for election.*—The Board makes available to the parties two types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as (*a*) consent election agreement, fol-

lowed by regional director's determination, and (*b*) consent election agreement, followed by Board certification. Forms for use in these informal procedures are available in regional offices.

The procedures to be used in connection with a consent election agreement providing for regional director's determination and a consent election agreement providing for Board certification are the same as those already described in subpart C in connection with representation cases under section 9 (c) of the act, except that no provision is made for run-off elections.

SEC. 202.24 *Procedure respecting election conducted without hearing.*—(*a*) If the regional director determines that the case is an appropriate one for election without formal hearing, an election is conducted as quickly as possible among the employees and upon the conclusion of the election the regional director furnishes to the parties a tally of the ballots. The parties, however, have an opportunity to make appropriate challenges and objections to the conduct of the election and they have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in subpart C in connection with the postelection procedures in representation cases under section 9 (c) of the act, except that no provision is made for a run-off election. If no such objections are filed within 5 days, and if the challenged ballots are insufficient in number to affect the results of the election, the regional director issues to the parties a certification of the results of the election, with the same force and effect as if issued by the Board.

SEC. 202.25 *Formal hearing and procedure respecting elections conducted after hearing.*—(*a*) If the preliminary investigation indicates that there are substantial issues which require Board determination before an appropriate election may be held, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues which, after hearing, is followed by Board decision and direction of election or dismissal. The notice of hearing, together with a copy of the petition is served upon petitioner, the employer, and upon any other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(*b*) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case by the Board. The parties are afforded full opportunity to present their respective posi-

tions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(*c*) Upon the close of the hearing, the entire record in the case is then forwarded to the Board in Washington, together with an informal analysis by the hearing officer of the issues and the evidence but without recommendations. All parties may file briefs with the Board within 7 days after the close of the hearing and may also request to be heard orally by the Board. Because of the nature of the proceedings, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues its decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in section 202.18.

(*d*) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election, and challenged ballots, as has already been described in connection with the postelection procedures in cases involving consent elections to be followed by Board certifications.

SEC. 202.26 *Initiation of rescission of authority cases.*—The investigation of the question as to whether the authority of a labor organization to make an agreement requiring membership in a labor organization as a condition of employment is rescinded is initiated by the filing of a petition by any employee or group of employees on behalf of 30 percent or more of the employees in a bargaining unit for which the labor organization has been authorized to make such an agreement. The petition must be in writing and signed, and must either be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the alleged appropriate bargaining unit exists. Petitioner must supply, with the petition, or within 48 hours after filing, its evidence of authorization from the employees.

SEC. 202.27 *Investigation of petition; withdrawals and dismissals.*—(*a*) Upon receipt of the petition in the regional office, it is filed, docketed, and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) whether the time is appropriate for holding such an election, (3) whether an election would effectuate the policies of the act by providing for a free expression of choice by the employees, and (4) whether petitioner has been authorized by at least 30 percent

of the employees to file such a petition. The evidence of designation submitted by petitioner, usually in the form of cards signed by individual employees authorizing the filing of such a petition, is checked to determine the proportion of employees who desire rescission.

(*b*) Petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that an election is inappropriate, because, among other possible reasons, a written contract held by the labor organization whose authority petitioner desires to rescind precludes further investigation at that time, or petitioner's card showing is insufficient to meet the 30-percent statutory requirement referred to in paragraph (*a*) of this section.

(*c*) The same procedure is followed with respect to the regional director's request for withdrawal or dismissal, as has already been described in section 202.22.

SEC. 202.28 *Consent agreements; elections conducted without hearings; formal hearings and elections conducted after hearings; postelection procedures.*—The same procedure is followed with respect to consent agreements providing for election, elections conducted without hearings, formal hearings and elections conducted after hearings and subsequent procedures as has already been described in sections 202.23 to 202.25, inclusive.

Subpart E—Jurisdictional Dispute Cases Under Section 10 (k) of the Act

SEC. 202.29 *Initiation of proceedings to hear and determine jurisdictional disputes under section 10 (k).*—The investigation of a jurisdictional dispute under section 10 (k) is initiated by the filing of a charge, as described in section 202.2, by any person alleging a violation of paragraph (4) (D) of section 8 (b).

SEC. 202.30 *Investigation of charges; withdrawal of charges; dismissal of charges and appeals to Board.*—These matters are handled as described in sections 202.3 to 202.7, inclusive. Cases involving violation of paragraph (4) (D) of section 8 (b) are given priority over all other cases in the office except cases under paragraphs (4) (A), (4) (B), and (4) (C) of section 8 (b).

SEC. 202.31 *Initiation of formal action; settlement.*—If, after investigation, it appears to the regional director that further proceedings should be instituted, he issues a notice of filing of the charge together with a notice of hearing which includes a simple statement of issues involved in the jurisdictional dispute and which is served on all parties to the dispute out of which the unfair labor practice is alleged to have arisen. The hearing is scheduled for not less than 10 days after service of the notice of hearing. If within 10 days after service of the notice of hearing, the parties present to the regional director satisfactory evidence that they have adjusted or agreed upon

methods of voluntary adjustment of the dispute, the regional director withdraws the notice of hearing and either permits the withdrawal of the charge or dismisses the charge. The parties may agree on an arbitrator, a proceeding under section 9 (c) of the act, or any other satisfactory method to resolve the dispute.

SEC. 202.32 *Hearing.*—If the parties have not adjusted the dispute or agreed upon methods of voluntary adjustment, a hearing, usually open to the public, is held before a hearing officer. The hearing is nonadversary in character, and the primary interest of the hearing officer is to insure that the record contains as full a statement of the pertinent facts as may be necessary for a determination of the issues by the Board. All parties are afforded full opportunity to present their respective positions and to produce evidence in support of their contentions. The parties are permitted to argue orally on the record before the hearing officer. At the close of the hearing, the case is transmitted to the Board for decision. The hearing officer prepares an analysis of the issues and the evidence but makes no recommendations in regard to resolution of the dispute.

SEC. 202.33 *Procedure before the Board.*—The parties have 7 days after the close of the hearing to file briefs with the Board and to request oral argument which the Board may or may not grant. The Board then considers the evidence taken at the hearing and the hearing officer's analysis together with any briefs that may be filed and the oral argument, if any, and issues its certification of the labor organization or the particular trade, craft, or class of employees which shall perform the particular work tasks in issue.

SEC. 202.34 *Compliance with certification; further proceedings.*—After the issuance of certification by the Board, the regional director in the region in which the proceeding arose communicates with the parties for the purpose of ascertaining their intentions in regard to compliance. Conferences may be held for the purpose of working out details. If the regional director is satisfied that parties are complying with the certification, he dismisses the charge. If the regional director is not satisfied that the parties are complying, he issues a complaint and notice of hearing, charging violation of section 8 (b), (4) (D) of the act, and the proceeding follows the procedure outlined in sections 202.8 to 202.15.

Subpart F—Procedure Under Section 10 (j) and (l) of the Act

SEC. 202.35 *Application for temporary relief or restraining orders.*—Whenever the regional director deems it advisable to seek temporary injunctive relief under section 10 (j), or whenever he determines that complaint should issue alleging violation of section 8 (b) (4) (A), (B), or (C), or whenever he deems it appropriate to seek temporary

injunctive relief for a violation of section 8 (b) (4) (D), the officer or regional attorney to whom the matter has been referred will make application for appropriate temporary relief or restraining order in the district court of the United States within which the unfair labor practice is alleged to have occurred or within which the party sought to be enjoined resides or transacts business.

SEC. 202.36 *Change of circumstances.*—Whenever a temporary injunction has been obtained pursuant to section 10 (j) and thereafter the trial examiner hearing the complaint, upon which the determination to seek such injunction was predicated, recommends dismissal of such complaint, in whole or in part, the officer or regional attorney handling the case for the Board suggests to the district court which issued the temporary injunction the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

LABOR MANAGEMENT RELATIONS ACT, 1947

[PUBLIC LAW 101—80TH CONGRESS]

[CHAPTER 120—1ST SESSION]

[H. R. 3020]

AN ACT

To amend the National Labor Relations Act, to provide additional facilities for the mediation of labor disputes affecting commerce, to equalize legal responsibilities of labor organizations and employers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND DECLARATION OF POLICY

SECTION 1. (a) This Act may be cited as the "Labor Management Relations Act, 1947".

(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, 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—AMENDMENT OF NATIONAL LABOR RELATIONS ACT

SEC. 101. The National Labor Relations Act is hereby amended to read as follows:

"FINDINGS AND POLICIES

"SECTION 1. 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 hereby 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. When used in this Act—

"(1) The term 'person' includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, 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 corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, 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.

"(3) The term 'employee' shall include any employee, and shall not be limited to the employees of a particular employer, unless the Act

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, 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.

"(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.

"(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.

"NATIONAL LABOR RELATIONS BOARD

"SEC. 3. (a) The National Labor Relations Board (hereinafter called the 'Board') created by this Act prior to its amendment by the Labor Management Relations Act, 1947, is hereby 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) 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. 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) The Board shall at the close of each fiscal year make a report in writing to Congress and to the President stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board, and an account of all moneys it has disbursed.

"(d) 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 trial examiners 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, 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.

"SEC. 4. (a) Each member of the Board and the General Counsel of the Board shall receive a salary of $12,000 a year, 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 trial examiner'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 trial examiner 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 shall be construed to authorize the Board to appoint individuals for the purpose of conciliation or mediation, or for economic analysis.

"(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 therefor approved by the Board or by any individual it designates for that purpose.

"SEC. 5. 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. The Board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of this Act.

"RIGHTS OF EMPLOYEES

"SEC. 7. 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).

"UNFAIR LABOR PRACTICES

"SEC. 8. (a) 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;

"(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, 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, 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 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), in the appropriate collective-bargaining unit covered by such agreement when made; and (ii) if, following the most recent election held as provided in section 9 (e) the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to authorize such labor organization to make such an agreement: *Provided further*, That no employer shall justify any discrimination against an employee for nonmembership 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;

"(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9 (a).

"(b) 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: *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) 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);

"(4) to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is: (A) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other 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; (B) 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; (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; (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) 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;

"(5) to require of employees covered by an agreement authorized under subsection (a) (3) 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; and

"(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.

"(c) 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, if such expression contains no threat of reprisal or force or promise of benefit.

"(d) 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 lock-out, 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) 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), 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 the sixty-day period specified in this subsection 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, as amended, but such loss of status for such employee shall terminate if and when he is reemployed by such employer.

"REPRESENTATIVES AND ELECTIONS

"SEC. 9. (a) 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) 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, 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 vote 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) (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), 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); 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);

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).

"(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 on strike who are not entitled to reinstatement shall not be eligible to vote. 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) the extent to which the employees have organized shall not be controlling.

"(d) Whenever an order of the Board made pursuant to section 10 (c) 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), 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) (1) Upon the filing with the Board by a labor organization, which is the representative of employees as provided in section 9 (a), of a petition alleging that 30 per centum or more of the employees within a unit claimed to be appropriate for such purposes desire to authorize such labor organization to make an agreement with the employer of such employees requiring membership in such labor organization as a condition of employment in such unit, upon an appropriate showing thereof the Board shall, if no question of representation exists, take a secret ballot of such employees, and shall certify the results thereof to such labor organization and to the employer.

"(2) 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 a labor organization made pursuant to section 8 (a) (3) (ii), of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit, and shall certify the results thereof to such labor organization and to the employer.

"(3) 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.

"(f) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under section 9 (e) (1) shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless such labor organization and any national or international labor organization of which such labor organization is an affiliate or constituent unit (A) shall have prior thereto filed with the Secretary of Labor copies of its constitution and bylaws and a report, in such form as the Secretary may prescribe, showing—

"(1) the name of such labor organization and the address of its principal place of business;

"(2) the names, titles, and compensation and allowances of its three principal officers and of any of its other officers or agents whose aggregate compensation and allowances for the preceding year exceeded $5,000, and the amount of the compensation and allowances paid to each such officer or agent during such year;

"(3) the manner in which the officers and agents referred to in clause (2) were elected, appointed, or otherwise selected;

"(4) the initiation fee or fees which new members are required to pay on becoming members of such labor organization;

"(5) the regular dues or fees which members are required to pay in order to remain members in good standing of such labor organization;

"(6) a detailed statement of, or reference to provisions of its constitution and bylaws showing the procedure followed with respect to, (a) qualification for or restrictions on membership, (b) election of officers and stewards, (c) calling of regular and special meetings, (d) levying of assessments, (e) imposition of fines, (f) authorization for bargaining demands, (g) ratification of contract terms, (h) authorization for strikes, (i) authorization for disbursement of union funds, (j) audit of union financial transactions, (k) participation in insurance or other benefit plans, and (l) expulsion of members and the grounds therefor;

and (B) can show that prior thereto it has—

"(1) filed with the Secretary of Labor, in such form as the Secretary may prescribe, a report showing all of (a) its receipts of any kind and the sources of such receipts, (b) its total assets and liabilities as of the end of its last fiscal year, (c) the disbursements made by it during such fiscal year, including the purposes for which made; and

"(2) furnished to all of the members of such labor organization copies of the financial report required by paragraph (1) hereof to be filed with the Secretary of Labor.

"(g) It shall be the obligation of all labor organizations to file annually with the Secretary of Labor, in such form as the Secretary of Labor may prescribe, reports bringing up to date the information required to be supplied in the initial filing by subsection (f) (A) of this section, and to file with the Secretary of Labor and furnish to its members annually financial reports in the form and manner prescribed in subsection (f) (B). No labor organization shall be eligible for certification under this section as the representative of any employees, no petition under section 9 (e) (1) shall be entertained, and no complaint shall issue under section 10 with respect to a charge filed by

a labor organization unless it can show that it and any national or international labor organization of which it is an affiliate or constituent unit has complied with its obligation under this subsection.

"(h) No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under section 9 (e) (1) shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 10, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods. The provisions of section 35 A of the Criminal Code shall be applicable in respect to such affidavits.

"PREVENTION OF UNFAIR LABOR PRACTICES

"SEC. 10. (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) 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 predominantly 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 or has received a construction inconsistent therewith.

"(b) 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 the Act of June 19, 1934 (U. S. C., title 28, secs. 723–B, 723–C).

"(c) 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 back pay, as will effectuate the policies of this Act: *Provided*, That where an order directs reinstatement of an employee, back pay 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), 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 back pay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the Board, or before an examiner or examiners thereof, such member, or such examiner or examiners, 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 effective as therein prescribed.

"(d) Until a transcript of 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) The Board shall have power to petition any circuit court of appeals of the United States (including the United States Court of Appeals for the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the District Court of the United States for the District of Columbia), 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 certify and file in the court a transcript of the entire record in the proceedings, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, 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 upon the pleadings, testimony, and proceedings set forth in such transcript 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 members, agent, or agency, and to be made a part of the transcript. 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 questions 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. 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 circuit 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 sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

"(f) 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 circuit court of appeals of the United States 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 served upon the Board, and thereupon the aggrieved

party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered, and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e), and shall have the same exclusive 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) 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) 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 on the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled 'An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (U. S. C., Supp. VII, title 29, secs. 101–115).

"(i) Petitions filed under this Act shall be heard expeditiously, and if possible within ten days after they have been docketed.

"(j) The Board shall have power, upon issuance of a complaint as provided in subsection (b) charging that any person has engaged in or is engaging in an unfair labor practice, to petition any district court of the United States (including the District Court of the United States for the District of Columbia), 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) 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), 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) 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), 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 district court of the United States (including the District Court of the United States for the District of Columbia) 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. 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).

"INVESTIGATORY POWERS

"SEC. 11. 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—

"(1) 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 subpenas 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 subpena 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 subpena 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 subpena 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) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States courts of any Territory or possession, or the District Court of the United States for the District of Columbia, 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) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpena of the Board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(4) Complaints, orders, and other process and papers of the Board, its member, agent, or agency, may be served either personally or by registered 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 therefor when registered and mailed or 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) All process of any court to which application may be made under this Act may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

"(6) 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. 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 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. Nothing in this Act, 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. (a) 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 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) Nothing in this Act 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.

"SEC. 15. Wherever the application of the provisions of section 272 of chapter 10 of the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898, and Acts amendatory thereof and supplementary thereto (U. S. C., title 11, sec. 672), conflicts with the application of the provisions of this Act, this Act shall prevail: *Provided*, That in any situation where the provisions of this Act cannot be validly enforced, the provisions of such other Acts shall remain in full force and effect.

"SEC. 16. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act, 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. This Act may be cited as the 'National Labor Relations Act'."

EFFECTIVE DATE OF CERTAIN CHANGES

SEC. 102. No provision of this title shall be deemed to make an unfair labor practice any act which was performed prior to the date of the enactment of this Act which did not constitute an unfair labor practice prior thereto, and the provisions of section 8 (a) (3) and section 8 (b) (2) of the National Labor Relations Act as amended by this title shall not make an unfair labor practice the performance of any obligation under a collective-bargaining agreement entered into prior to the date of the enactment of this Act, or (in the case of an agreement for a period of not more than one year) entered into on or after such date of enactment, but prior to the effective date of this title, if the performance of such obligation would not have constituted an unfair labor practice under section 8 (3) of the National Labor Relations Act prior to the effective date of this title, unless such agreement was renewed or extended subsequent thereto.

SEC. 103. No provisions of this title shall affect any certification of representatives or any determination as to the appropriate collective-bargaining unit, which was made under section 9 of the National Labor Relations Act prior to the effective date of this title until one year after the date of such certification or if, in respect of any such certification, a collective-bargaining contract was entered into prior to the effective date of this title, until the end of the contract period or until one year after such date, whichever first occurs.

SEC. 104. The amendments made by this title shall take effect sixty days after the date of the enactment of this Act, except that the

authority of the President to appoint certain officers conferred upon him by section 3 of the National Labor Relations Act as amended by this title may be exercised forthwith.

TITLE II—CONCILIATION OF LABOR DISPUTES IN INDUSTRIES AFFECTING COMMERCE; NATIONAL EMERGENCIES

SEC. 201. That 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 interests 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. (a) There is hereby 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 the date of the enactment of this Act 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 receive compensation at the rate of $12,000 per annum. The Director shall not engage in any other business, vocation, or employment.

(b) 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 the Classification Act of 1923, as amended, and may, without regard to the provisions of the civil-service laws and the Classification Act of 1923, as amended, appoint and fix the compensation of 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 therefor approved by the Director or by any employee designated by him for that purpose.

(c) 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 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) All mediation and conciliation functions of the Secretary of Labor or the United States Conciliation Service under section 8 of the Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (U. S. C., title 29, sec. 51), and all functions of the United States Conciliation Service under any other law are hereby 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 the date of enactment of this Act. 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. (a) 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) 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) 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, lock-out, 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.

(d) Final adjustment by a method agreed upon by the parties is hereby 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.

SEC. 204. (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 for the purpose of aiding in a settlement of the dispute.

SEC. 205. (a) There is hereby created a National Labor-Management Panel which shall be composed of twelve members appointed by the President, six of whom shall be selected 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.

NATIONAL EMERGENCIES

SEC. 206. Whenever in the opinion of the President of the United States, a threatened or actual strike or lock-out 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. (a) 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) 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) For the purpose of any hearing or inquiry conducted by any board appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U. S. C. 19, title 15, secs. 49 and 50, as amended), are hereby made applicable to the powers and duties of such board.

SEC. 208. (a) 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 lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—

(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 lock-out, or the continuing thereof, and to make such other orders as may be appropriate.

(b) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable.

(c) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 29, secs. 346 and 347).

SEC. 209. (a) Whenever a district court has issued an order under section 208 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. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service.

(b) 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. 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. (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. The provisions of this title shall not be applicable with respect to any matter which is subject to the provisions of the Railway Labor Act, as amended from time to time.

TITLE III

SUITS BY AND AGAINST LABOR ORGANIZATIONS

SEC. 301. (a) Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act, or between any such labor organizations, 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) Any labor organization which represents employees in an industry affecting commerce as defined in this Act and any employer whose activities affect commerce as defined in this Act 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) 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 office, or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) The service of summons, subpena, 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) 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. (a) It shall be unlawful for any employer to pay or deliver, or to agree to pay or deliver, any money or other thing of value to any representative of any of his employees who are employed in an industry affecting commerce.

(b) It shall be unlawful for any representative of any employees who are employed in an industry affecting commerce to receive or accept, or to agree to receive or accept, from the employer of such employees any money or other thing of value.

(c) The provisions of this section shall not be applicable (1) with respect to any money or other thing of value payable by an employer to any representative who is an employee or former employee of such employer, as compensation for, or by reason of, his services 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; or (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 the 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.

(d) 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) 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 section 17 (relating to notice to opposite party) of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U. S. C., title 28, sec. 381), to restrain violations of this section, without regard to the provisions of sections 6 and 20 of such Act of October 15, 1914, as amended (U. S. C., title 15, sec. 17, and title 29, sec. 52), and the provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (U. S. C., title 29, secs. 101–115).

(f) This section shall not apply to any contract in force on the date of enactment of this Act, until the expiration of such contract, or until July 1, 1948, whichever first occurs.

(g) Compliance with the restrictions contained in subsection (c) (5) (B) 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) 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. (a) It shall be unlawful, for the purposes of this section only, in an industry or activity affecting commerce, for any labor organization to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is—

(1) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other 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;

(2) 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 of the National Labor Relations Act;

(3) 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 of the National Labor Relations Act;

(4) 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 National Labor Relations Board determining the bargaining representative for employees performing such work. Nothing contained in 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 the National Labor Relations Act.

(b) Whoever shall be injured in his business or property by reason or any violation of subsection (a) may sue therefor in any district court of the United States subject to the limitations and provisions of section 301 hereof 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. Section 313 of the Federal Corrupt Practices Act, 1925 (U. S. C., 1940 edition, title 2, sec. 251; Supp. V, title 50, App., sec. 1509), as amended, is amended to read as follows:

"SEC. 313. It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section. Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than $5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, in violation of this section shall be fined not more than $1,000 or imprisoned for not more than one year, or both. For the purposes of this section '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."

STRIKES BY GOVERNMENT EMPLOYEES

SEC. 305. It shall be unlawful for any individual employed by the United States or any agency thereof including wholly owned Government corporations to participate in any strike. Any individual employed by the United States or by any such agency who strikes shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for three years by the United States or any such agency.

TITLE IV

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

SEC. 401. There is hereby established a joint congressional committee to be known as the Joint Committee on Labor-Management Relations (hereafter referred to as the committee), and to be composed of seven Members of the Senate Committee on Labor and Public Welfare, to be appointed by the President pro tempore of the Senate, and seven Members of the House of Representatives Committee on Education and Labor, to be appointed by the Speaker of the House of Representatives. A vacancy in membership of the committee shall not affect the powers of the remaining members to execute the functions of the committee, and shall be filled in the same manner as the

original selection. The committee shall select a chairman and a vice chairman from among its members.

SEC. 402. The committee, acting as a whole or by subcommittee, shall conduct a thorough study and investigation of the entire field of labor-management relations, including but not limited to—

(1) the means by which permanent friendly cooperation between employers and employees and stability of labor relations may be secured throughout the United States;

(2) the means by which the individual employee may achieve a greater productivity and higher wages, including plans for guaranteed annual wages, incentive profit-sharing and bonus systems;

(3) the internal organization and administration of labor unions, with special attention to the impact on individuals of collective agreements requiring membership in unions as a condition of employment;

(4) the labor relations policies and practices of employers and associations of employers;

(5) the desirability of welfare funds for the benefit of employees and their relation to the social-security system;

(6) the methods and procedures for best carrying out the collective-bargaining processes, with special attention to the effects of industry-wide or regional bargaining upon the national economy;

(7) the administration and operation of existing Federal laws relating to labor relations; and

(8) such other problems and subjects in the field of labor-management relations as the committee deems appropriate.

SEC. 403. The committee shall report to the Senate and the House of Representatives not later than March 15, 1948, the results of its study and investigation, together with such recommendations as to necessary legislation and such other recommendations as it may deem advisable, and shall make its final report not later than January 2, 1949.

SEC. 404. The committee shall have the power, without regard to the civil-service laws and the Classification Act of 1923, as amended, to employ and fix the compensation of such officers, experts, and employees as it deems necessary for the performance of its duties, including consultants who shall receive compensation at a rate not to exceed $35 for each day actually spent by them in the work of the committee, together with their necessary travel and subsistence expenses. The committee is further authorized, with the consent of the head of the department or agency concerned, to utilize the services, information, facilities, and personnel of all agencies in the executive branch of the Government and may request the governments of the several States, representatives of business, industry, finance, and labor, and such other persons, agencies, organizations, and instrumentalities as it deems appropriate to attend its hearings and to give and present information, advice, and recommendations.

SEC. 405. The committee, or any subcommittee thereof, is authorized to hold such hearings; to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Eightieth Congress; to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents; to administer oaths; to take such testimony; to have such printing and binding

done; and to make such expenditures within the amount appropriated therefor; as it deems advisable. The cost of stenographic services in reporting such hearings shall not be in excess of 25 cents per one hundred words. Subpenas shall be issued under the signature of the chairman or vice chairman of the committee and shall be served by any person designated by them.

SEC. 406. The members of the committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the committee, other than expenses in connection with meetings of the committee held in the District of Columbia during such times as the Congress is in session.

SEC. 407. There is hereby authorized to be appropriated the sum of $150,000, or so much thereof as may be necessary, to carry out the provisions of this title, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman.

TITLE V

DEFINITIONS

SEC. 501. When used in this Act—

(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 slow-down 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.

SAVING PROVISION

SEC. 502. Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act 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.

SEPARABILITY

SEC. 503. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the

remainder of this Act, 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.

JOSEPH W. MARTIN JR.
Speaker of the House of Representatives.

A H VANDENBERG.
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
June 20, 1947.

The House of Representatives having proceeded to reconsider the bill (H. R. 3020) entitled "An Act to amend the National Labor Relations Act, to provide additional facilities for the mediation of labor disputes affecting commerce, to equalize legal responsibilities of labor organizations and employers, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest: JOHN ANDREWS
Clerk.

I certify that this Act originated in the House of Representatives.
JOHN ANDREWS
Clerk.

IN THE SENATE OF THE UNITED STATES,
June 23 (legislative day, April 21), 1947.

The Senate having proceeded to reconsider the bill (H. R. 3020) "An Act to amend the National Labor Relations Act, to provide additional facilities for the mediation of labor disputes affecting commerce, to equalize legal responsibilities of labor organizations and employers, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senate having voted in the affirmative.

Attest: CARL A. LOEFFLER
Secretary.