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The UPS-Teamsters Labor Dispute and Taft-Hartley's National Emergency Provisions

Introduction

On August 22, 2023, United Parcel Service (UPS) package delivery drivers and warehouse logistics workers, who are represented by the International Brotherhood of Teamsters, voted to ratify a new five-year collective bargaining agreement. The new contract averts a strike that could have threatened the national economy. The ratification solidifies a tentative agreement that was reached by the parties on July 25, 2023. Prior to the tentative agreement, negotiations between the parties were at a standstill, and a strike seemed more likely. While a UPS strike in this instance has been avoided, similar labor disputes of congressional interest may arise in the future.

The Labor Management Relations Act, popularly known as the Taft-Hartley Act, establishes a framework for addressing serious labor disputes outside of the rail and air industries. Although Congress has enacted legislation in the past to resolve rail labor disputes that are governed by the Railway Labor Act, it has never intervened in a labor dispute subject to the Taft-Hartley Act's national emergency provisions. (For additional information on congressional intervention in rail labor disputes, see CRS Legal Sidebar LSB10861, *The Railway Labor Act and Congressional Action*.) This In Focus provides background on the UPS-Teamsters dispute and explains legally available options for the executive and legislative branches to intervene in labor disputes governed by the Taft-Hartley Act.

Background

UPS and the Teamsters began negotiations on a new five-year collective bargaining agreement on April 17, 2023. The Teamsters sought not only higher wages and more full-time positions in the new agreement but also an end to compulsory overtime and greater heat safety in UPS's delivery vehicles. As the parties' negotiations stalled, UPS's drivers and warehouse logistics workers voted to authorize a strike if an agreement was not reached before the existing contract expired on July 31, 2023.

Under the new agreement, current full- and part-time UPS employees represented by the union are to receive \$2.75 more per hour in 2023 and \$7.50 more per hour over the contract's duration. In addition, the minimum hourly wage for part-time employees is to increase to \$21, above the prior minimum starting wage of \$16.20. The average top hourly wage for full-time delivery drivers is to increase to \$49, above the current average wage of \$42. Drivers are not to be subject to compulsory overtime on their days off, and all employees are to receive Martin Luther King Jr. Day as

a holiday for the first time. Air conditioning is to be required in all larger delivery vehicles, sprinter vans, and package cars purchased after January 1, 2024.

As of the date of this In Focus, UPS and the Teamsters have been enthusiastic about the new agreement. UPS's chief executive described the agreement as a "win-win-win agreement on the issues that are important to Teamsters leadership, our employees and to UPS and our customers." The Teamsters president contended that the agreement "sets a new standard in the labor movement and raises the bar for all workers."

Legal Framework for Federal Intervention

In the event of a nationally disruptive labor dispute, the federal government has the ability to intervene. Section 206 of the Taft-Hartley Act, found at 29 U.S.C. § 176, authorizes the President to step in if the parties to a labor dispute fail to reach agreement and the following conditions are met:

1. There is "a threatened or actual strike or lockout;"
2. The strike or lockout affects all or a substantial part of an industry participating in "trade, commerce, transportation, transmission, or communication among the several States or with foreign nations;" and
3. It is the President's opinion that allowing the strike or lockout to occur or continue would "imperil the national health or safety."

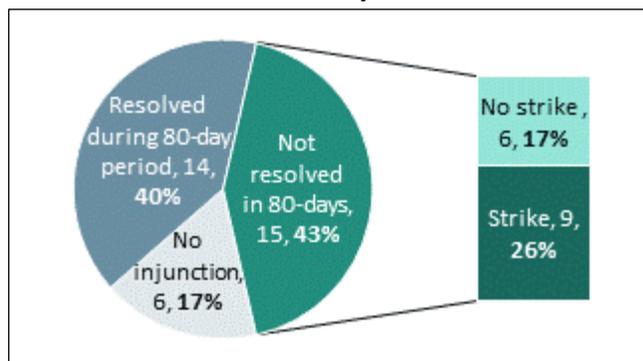
If these conditions are met, the President may appoint a board of inquiry (BOI) to write a report on the facts of the labor dispute. After receiving the BOI's report, the President may direct the Attorney General to petition a federal district court to enjoin the strike or lockout. If granted, the injunction starts an 80-day "cooling off" period, during which the parties are required by statute to "make every effort to adjust and settle their differences." If there is no agreement within 60 days following the start of the injunction, the BOI provides the President with a report on the parties' stances. Between 60 and 75 days, the employer makes a final offer, and the National Labor Relations Board (NLRB) holds an election for employees to vote on whether or not to adopt the offer. The NLRB certifies the results of the ballot to the Attorney General, and the Attorney General moves the district court to

discharge the injunction. If the employees adopted the employer's final offer, then the dispute has been resolved. If the final offer is not adopted, the parties are free to engage in self-help. The President then sends to Congress a report containing the BOI's reports, the election results, and recommendations "for consideration and appropriate action."

Not all labor disputes would have, in the opinion of past Presidents, "imperil[ed] the national health or safety." For example, former President Bill Clinton did not intervene in the 15-day UPS strike of 1997. When asked why he did not intervene, Clinton emphasized that there must be "severe damage to the country" before the President is authorized to intervene under Section 206. In contrast, former President George W. Bush appointed a BOI when 29 Pacific Coast ports initiated a lockout against members of the International Longshore and Warehouse Union in 2002. Bush cited concerns that the lockout was detrimental to the economy and national security, as it impeded foreign trade and had the potential to slow the movement of military supplies.

Since its enactment, Presidents have intervened in labor disputes under Section 206 on 37 occasions. The following table shows when and how these disputes were resolved:

Figure 1. Results of Presidential Intervention Under Section 206 of the Taft-Hartley Act



Source: CRS analysis in CRS Report 98-70 (archived) and Exec. Order No. 13,275, 67 Fed. Reg. 62,869 (Oct. 7, 2002).

Notes: This chart does not include two nationwide strikes: a strike of maritime unions between June 3, 1948, and November 25, 1948, and a strike of steelworkers between July 15, 1959, and January 28, 1960. During these disputes, multiple separate unions were involved and reached resolutions at different stages of the President's intervention.

Considerations for Congress

Article I, Section 8, Clause 3, of the U.S. Constitution states that the Congress shall have power "[t]o regulate Commerce with foreign Nations, and among the several

States, and with the Indian Tribes[.]" In *Wilson v. New*, the Supreme Court recognized Congress's constitutional authority to intervene in rail labor disputes that threaten to disrupt interstate commerce. Following a bargaining impasse and strike threat that would have affected the entire country, Congress enacted a law that established an eight-hour workday and temporarily regulated the wages for rail carrier employees engaged in interstate and foreign commerce. The carriers challenged the law, arguing that Congress lacked the authority to enact it. The Court determined, however, that Congress's authority over rail carriers in interstate commerce was within its legislative power to regulate commerce and "not subject to dispute." The Court maintained that Congress has the ability to "guard against the cessation of interstate commerce" by responding legislatively to a failure of employers and employees to agree on working conditions, such as a wage standard that was "an essential prerequisite to the uninterrupted flow of interstate commerce."

Although Congress has not enacted similar legislation to resolve a non-rail-labor dispute, *New* arguably suggests that this kind of legislation would be permissible if a strike could disrupt interstate commerce. For example, UPS reportedly handles one-quarter of all packages shipped daily across the country. A strike, according to some observers, would have disrupted the supply chain and threatened the U.S. economy. Given the threat to interstate commerce, it seems that Congress could have enacted legislation establishing employment conditions for the relevant UPS employees.

Furthermore, while Congress has not intervened historically in labor disputes involving the appointment of BOIs, legislation that would have amended the Taft-Hartley Act's national emergency provisions has been introduced in the past. During the 114th Congress, Members of Congress introduced the Protecting Orderly and Responsible Transit of Shipments Act of 2015 (PORTS Act) (H.R. 3433/S. 1519) in response to work slowdowns and lockouts at U.S. ports. The PORTS Act would have allowed a state or territorial governor to appoint a BOI if the President did not make such an appointment. The bill would have also allowed for the appointment of a BOI if a work slowdown occurred that affected "an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations...." Thus, the legislation would have allowed a BOI to be appointed even if there were no threatened or actual strike or lockout.

Madeline W. Donley, Legislative Attorney
Jon O. Shimabukuro, Legislative Attorney

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