

THE CONGRESS PROJECT

Assignment Prompt Sheet

National Labor Relations Act of 1935

Overview

Act Title: National Labor Relations Act of 1935

Congress: 74th Congress (1935-1936)

Session/Sessions: 1

Statute No: 49 Stat. 449-457

Public Law No: 74 PL 198

Eid: 740198

Gid: 241-005

Bill: S 1958

Sponsor: Sen. [Robert Ferdinand Wagner](#) (D-NY)

House Committees: Labor

Senate Committees: Education and Labor

Companion Bill: HR 6288

Related Bills: HR 7978; HR 4884

House Rules: Hres 263

Past Bills: 73 HR 8423; 72 S 2926

Introduced Date- Law Date: February 15 – July 5, 1935

House Floor Days: 2

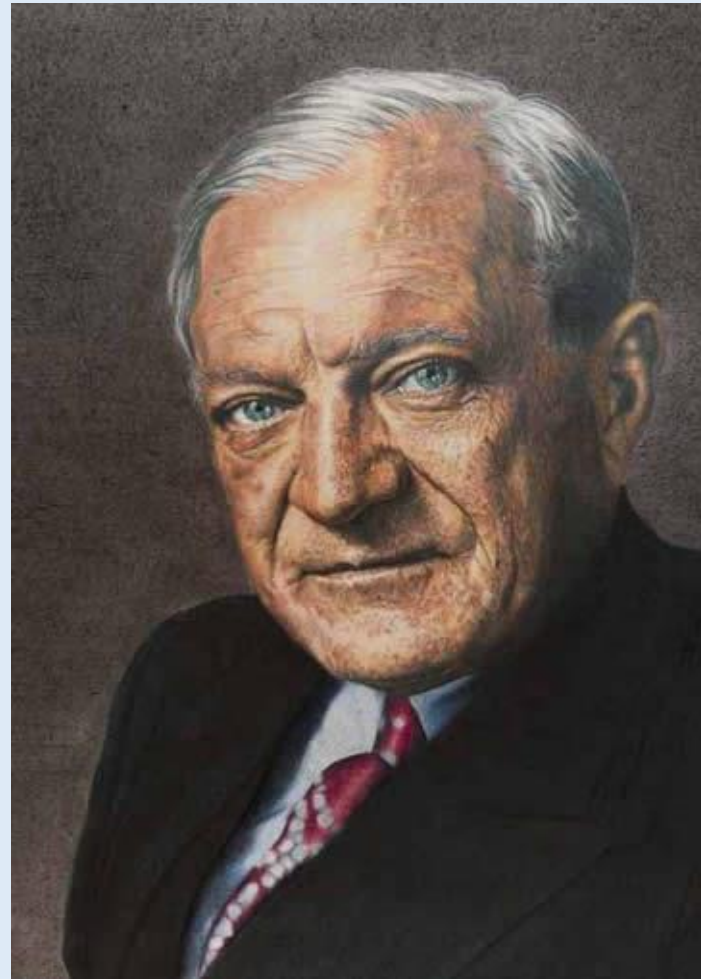
Senate Floor Days: 3

Roll Call Votes: 2 (2 in the Senate, 0 in the House)

Issues: labor; social welfare; economics; executive power

Procedures: open rule; failed yeas; conference; amendments; voice vote

Last Updated: 2/20/23



(Above) Sen. Robert F. Wagner (D-NY), the sponsor of the National Labor Relations Act of 1935. When he passed away in 1953, the *New York Times* asserted he “epitomized” the New Deal. It added that, if you were looking for “legislation designed, at least in theory, to better the lot of the common man” the chances were high that Wagner’s name was attached to it (“Robert F. Wagner Dies at Age of 75.” *New York Times*, May 5, 1953).

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Legislative History Comments

The National Labor Relations Act of 1935, also known as the “Wagner” or “Wagner-Connery Act” is generally viewed as the foundational labor statute in the United States. It was enacted after its predecessor, the National Industrial Recovery Act of 1933, was struck down by the Supreme Court in [Schechter Poultry Corp. v. United States \(1935\)](#). The NLRA “prohibited company-dominated unions, established the majority rule principle for worker representation, and required employers and unions to negotiate in good faith ([CRS 2014](#)).” The Act established and empowered the National Labor Relations Board “to hold elections for forming trade unions at the workers’ request (Stathis 2014, 249).”

The act is generally regarded as a success, and rated as the second most impactful law passed by the 75th Congress. It was, however, substantially weakened by the Taft-Hartley Labor Act of 1947 (80 PL 101). That law, amongst other things, “supplemented existing unfair labor practices for employers by establishing unfair labor practices for unions”; prohibited secondary strikes; banned ‘closed shops’ “that required an employee to be a union member prior to being hired” and established that states may pass ‘right-to-work laws’ which “bar union security agreements in labor contracts ([Collins 2014, 2](#)).”

Today, the NLRA and the National Labor Relations Board are highly salient. And debates over labor rights and unions are common. On the latter point, there’s an interesting *Last Week Tonight* episode from 2021 on the broader issue of union decline that’s worth a look here:

- <https://www.youtube.com/watch?v=Gk8dUXRpoy8>

From a procedural standpoint, this should be fairly straight-forward. Only two recorded votes, both in the Senate. The first of these is on an amendment by Tydings that seems like a precursor to right-to-work laws. The Senate adopted [S 1958 by a 63-12](#) vote. The House considered the measure under an open rule. They dispensed with a number of amendments and adopted a number of them before passing the bill by voice vote. A request for a recorded vote was rejected. Conference Report consideration moves fairly quickly.

Don’t hesitate to e-mail me with questions! The CRS Report linked above should be useful for dealing with technical questions.

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Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1. Open

#2. Open

#3. Open

Background Questions

1. What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify? Define the key terms that the legislators were wrestling with here.

What was the National Industrial Recovery Act of 1933? What happened to it in the Supreme Court in [Schechter Poultry Corp. v. United States \(1935\)](#)? Why did Congress think this measure would avoid a similar fate?

2. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation?

What did existing federal policy look like in this specific issue area? Why did reformers feel it needed to be changed? Why did this bill not get considered in the previous Congress?

Was this a nation-wide movement? Adapted from other countries? See e.g. [CRS \(2014\)](#); Rice (1942) for more on this question.

3. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress? How did the previous election go?

Moreover, what did the various parties stand for? Was there a conservative/liberal split in the Democratic Party at this point? The Republican Party? Were the Progressives still active?

The Stathis (2014) piece might worth a citation here.

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Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. The first session index for S 1958 is presented below.

S. 1958—To diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes.
Mr. Wagner; Committee on Education and Labor, 2368.—Reported with amendments (S. Rept. 573), 6749.—Debated, 7483, 7565, 7576, 7596, 7648, 7668.—Amended and passed Senate, 7681.—Referred to House Committee on Labor, 7780.—Reported with amendments (H. Rept. 972), 7961.—Recommitted to Committee on Labor, 8727.—Reported with amendments (H. Rept. 1147), 9029.—Made special order (H. Res. 263), 9676–9683.—Debated, 9683, 9711, 6713–9731.—Amended and passed House, title amended, 9731.—Senate disagrees to House amendments; asks conference, 9778.—Conferees appointed, 9778, 9864.—Reprint of bill ordered, 9818.—House insists upon its amendments; agrees to conference, 9864.—Ordered to be printed with amendments of the House of Representatives numbered; conference report submitted in House (H. Rept. 1371), 10298.—Agreed to, 10300.—House insists upon its amendment to the title of the bill, 10300.—Conference report submitted in Senate, 10259.—Agreed to, 10259.—Senate concurs to the amendment of the House to the title of the bill, 10259.—Examined and signed, 10585, 10587.—Presented to the President, 10688.—Approved [Public, No. 198], 10719.

#1. Senate Consideration of S 1958 (May 15-16, 1935)

Sen. Robert Wagner (D-NY) introduced S 1958 to the Senate on February 15, 1935. The measure was referred to the Senate Committee on Education and Labor.

Floor debate over S 1958 began on May 15, 1935. Wagner asked for, and received, unanimous consent that “the formal reading of the bill be dispensed with and that the bill be read for amendment, the amendments of the committee to be first considered (*Congressional Record*, 74th Congress, May 15, 1935, 7565).”

Much of the debate the following debate centered on an amendment offered by Sen. Millard Tydings (D-MD) that sought to bare unions from “coercing” individuals into joining them. He argued his amendment sought “to give [workers] the right to have the kind of organization they want and not be coerced into having the kind of organization they do not want (*Congressional Record*, 74th Congress, May 16, 1935, 7650).”

Tydings amendment [was rejected 21-50](#).¹

The Senate then adopted [S 1958 63-12](#) on May 16th.

¹ See also “Wagner Labor Bill Passed by Senate by Vote of 63 to 12.” *New York Times*, May 17, 1935.

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#2. House Consideration of S 1958 (June 19, 1935)

Prior to considering S 1958, Rep. John O'Connor (D-NY), the chairman of the House Rules Committee, brought up Hres 263. Hres 263 sought to provide for consideration of S 1958 under an "open rule." After some debate, Hres 263 was adopted by voice vote.

The House considered a number of floor amendments, the bulk of which were offered on behalf of the committee. Perhaps the most significant of these amendments was one that would have changed the Senate bill by eliminating the National Labor Relations Board as an independent agency and place it under the Department of Labor. This was defeated by a division vote of 48-130.²

Arguing in opposition to the bill, Rep. Thomas Blanton (D-TX) asserted: "I am the kind of an American who believes that employees who are well paid and are well satisfied do not have to join a union unless it is their wish and will. I am against forcing them to do anything that interferes with their inherent, constitutional rights (*Congressional Record*, 74th Congress, June 19, 19135, 9704)."

In contrast, Rep. Vito Marcantonio (R-NY) criticized opponents of the bill who spoke of liberty for employers, but ignored "the liberty of the worker." He added that: "Unless Congress protects the workers what liberty have they? Liberty to be enslaved, liberty to be crucified under the spread-out system, liberty to be worked to death under the speed-up system, the liberty to work at charity wages, the liberty to work long hours (*Congressional Record*, 74th Congress, June 19, 19135, 9699-9700)."

After some debate and a number of amendments, the House rejected a motion to recommit with instructions by Rep. Fred Hartley (R-NJ) by voice vote. Hartley's motion would have added the Senate's "Tydings Amendment" to the bill.

A request by Rep. John Taber (R-NY) for the yeas and nays was refused due to the lack of a sufficient second. S 1958 then passed via voice vote, as amended by the House.

#3. Senate Consideration of the Conference Report on S 1958 (June 27, 1935)

Press accounts suggest the agreement on the conference report came about fairly quickly. The most controversial difference between the chambers was the "unit" amendment adopted on the House floor. This amendment, offered by Rep. Robert Ramspeck (D-GA) would have prevented the NLRB "from designating the employees of more than one employers as a collective bargaining group." It had been adopted narrowly 127-87. The amendment was omitted from the conference report in exchange for other language.³

Sen. David Walsh (D-MA) asked for, and received, unanimous consent the Senate consider the conference report on June 27, 1935. It was adopted after minimal discussion by voice vote.

² "Measure on Labor Disputes Adopted After House Debate." *Washington Post*, June 20, 1935.

³ "Conferees Agree on Wagner Bill." *New York Times*, June 26, 1935.

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#3. House Consideration of the Conference Report on S 1958 (June 27, 1935)

Rep. William Patrick Connery (D-MA), the House bill sponsor, moved the House consider the conference report on S 1958 later in the day on June 27. Ramspeck called the compromise on his amendment “satisfactory to everybody involved (*Congressional Record*, 74th Congress, June 19, 19135, 10299).”

After some discussion, S 1958 was adopted by division 132-45.

Once again, Taber’s request for the yeas and nays was denied for the lack of a sufficient second.

Member Spotlight

Choose one of the following for your member spotlight:

#1. Sen. Robert Wagner (D-NY); Sen. Arthur Vandenberg (R-MI); Sen. Millard Tydings (D-MD); Sen. William Borah (R-ID); Sen. Charles McNary (R-OR); Sen. Robert La Follette, Jr. (P-WI)

#2. Rep. William Patrick Connery (D-MA); Rep. John O’Connor (D-NY)⁴; Rep. Vito Marcantonio (R-NY)⁵; Rep. John Taber (R-NY); Rep. Fred Hartley (R-NJ); Rep. Thomas Blanton (D-TX)⁶

⁴ As Chairman of the Rules Committee, O’Connor rarely issued restrictive rules, drawing the ire of President Roosevelt. This led Roosevelt and his supporters to successfully back a Democratic primary challenger to O’Connor (D-NY) in 1938 (Polenberg 1968). In addition to forcing the majority to discharge a rule providing for consideration of the Fair Labor Standards Act, O’Connor had led the successful fight against Roosevelt’s Government Reorganization Act in the 75th Congress (1937-1938). During the campaign, O’Connor asserted that Roosevelt was a “dictator” who employed “demagogic expressions.” He would later run unsuccessfully as a Republican (see “Sees Purge as Step to Dictatorship,” *The New York Times*, August 19, 1938). In breaking with Roosevelt, O’Connor also broke with his brother, Basil, who was a close friend and former partner of the President. Basil O’Connor’s admiration for the President led him to donate “hundreds of millions of dollars” in the fight against polio, eventually leading to the first vaccine (Whitman, Alden. 1972. “Basil O’Connor, Polio Crusader, Dies.” *New York Times*, March 10).

⁵ Marcantonio was a Republican in 1935, but would later join the American Laborite Party in the 76th Congress, was a frequent critic of New Deal programs for not being liberal enough. When he passed away, the *New York Times* asserted he “was an enigma—yet he built up such unique power that it took both major parties” working together to defeat him (“Vito Marcantonio Falls Dead in NY,” *Washington Post*, August 10, 1954).

⁶ A colorful, conservative Texas Democrat first elected to the House in 1917, he came within eight votes of being expelled in 1921. Blanton had used the word “damn” during debate on the Congressional floor in October. Considered an inappropriate curse word, a resolution expelling him from the House was introduced. While many anticipated Blanton would apologize, he instead gave an hour and half long speech defending himself, declaring that “the man who is not afraid to lose his own head does not consider his political head (*Congressional Record*, 67th Congress, October 27, 1921, 6886).” His defense was largely led by the noted parliamentarian, Rep. Robert Luce (R-MA). A Republican, Luce announced it was difficult to defend Blanton but he felt duty-bound to oppose expulsion, which he felt was too extreme an option. Luce argued, “A seemingly righteous precedent set now may be turned to unrighteous ends next year (*Congressional Record*, 67th Congress, October 27, 1921, 6890).” After the expulsion resolution was defeated, Blanton was unanimously censured. Blanton would faint on the floor afterwards (Stevens 1982; Fishbein 2018).

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#3. Rep. Robert Ramspeck (D-GA); Sen. David Walsh (D-MA); Rep. Eugene “Goober” Cox (D-GA)⁷; Rep. Joseph W. Martin, Jr. (R-MA); Rep. Charles A. Halleck (R-IN); Sen. Alben W. Barkley (D-KY)

Aftermath Questions

1. How has this law evolved over time? Has it been featured in any major Supreme Court cases? What happened in [National Labor Relations Board v. Jones & Laughlin Steel Corporation \(1937\)](#)? Why was this significant? What explains the shift in the Supreme Court from [Schechter Poultry Corp. v. United States \(1935\)](#) to Jones & Laughlin?

What have scholars said? What was FDR’s “court-packing plan”? The “switch-in-time that saved the nine”? See e.g. Caldeira (1987); Ho and Quinn (2010); Carson and Kleinerman (2002).

2. Was this measure significantly altered by subsequent legislation? What happened with the Taft-Hartley Labor Act of 1947 (80 PL 101)?⁸ Why had there been such an aggressive effort to alter this act? What happened in 1966 when Democrats attempted to repeal Taft-Hartley? On this point, see e.g. [CQ Almanac \(1966\)](#).

How relevant is this law currently? Are there additional issues related to it that reformers have been pushing to change? On this question, it might be worth addressing the debate over “Right-to-Work” legislation.⁹

3. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others?

Discuss the relevance of this act as it pertains to contemporary policy. What major rules has the NLRB issued in recent years? How have they been received?

⁷ It’s unclear to me why his nickname was “Goober,” but the *New York Times* did mention that in his obituary. For several congresses, Cox served as the second most senior Democrat on the Rules Committee, behind the chairman, Sabath. In 1949, Cox, then 69 years old, and Sabath, the 83 year-old Dean of the House, got into a fist fight on the House floor during consideration of a housing bill. However, newspaper accounts asserted the number of blows, both landing and missing, were “few” in number (Trussell, C.P. 1949. “Sabath and Cox Trade Blows in Bitter Feud over Housing.” *New York Times*, June 23).

⁸ The Taft-Hartley Labor Act of 1947 (80 PL 101) significantly amended the National Labor Relations Act of 1935 (Stathis 2014). The measure, amongst other things, “supplemented existing unfair labor practices for employers by establishing unfair labor practices for unions”; prohibited secondary strikes; banned ‘closed shops’ “that required an employee to be a union member prior to being hired” and established that states may pass ‘right-to-work laws’ which “bar union security agreements in labor contracts ([Collins 2014, 2](#)).”

⁹ By 2022, 27 of 50 states had passed right-to-work legislation. These laws “prevent unions from forcing workers they represent to pay fees or dues ([Vox 2015](#)).”

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Suggested Sources

Scholarly Articles

Cohen, Wilbur J. "The Development of the Social Security Act of 1935: Reflections Some Fifty Years Later." *Minn. L. Rev.* 68 (1983): 379.

Rice, Ralph S. "The Wagner Act: It's Legislative History and It's Relation to National Defense." *Ohio St. ULJ* 8 (1942): 17.

Gould iV, William B. "Some Reflections on Fifty Years of the National Labor Relations Act: The Need for Labor Board and Labor Law Reform." *Stan. L. Rev.* 38 (1985): 937.

Caldeira, Gregory A. "Public opinion and the US Supreme Court: FDR's court-packing plan." *American Political Science Review* 81.4 (1987): 1139-1153.

Ho, Daniel E., and Kevin M. Quinn. "Did a Switch in Time Save Nine?." *Journal of Legal Analysis* 2.1 (2010): 69-113.

Carson, Jamie L., and Benjamin A. Kleinerman. "A switch in time saves nine: Institutions, strategic actors, and FDR's court-packing plan." *Public Choice* 113.3-4 (2002): 301-324.

Casebeer, Kenneth. "Drafting Wagner's act: Leon Keyserling and the precommittee drafts of the labor disputes act and the National Labor Relations Act." *Indus. Rel. LJ* 11 (1989): 73.

Perea, Juan F. "The echoes of slavery: Recognizing the racist origins of the agricultural and domestic worker exclusion from the National Labor Relations Act." *Ohio St. LJ* 72 (2011): 95.

McCartin, Joseph A. "'A Wagner Act for Public Employees': Labor's Deferred Dream and the Rise of Conservatism, 1970–1976." *The Journal of American History* 95.1 (2008): 123-148.

Eigen, Zev J., and Sandro Garofalo. "Less Is More: A Case for Structural Reform of the National Labor Relations Board." *Minn. L. Rev.* 98 (2013): 1879.

Madden, J. Warren. "Origin and Early History of the National Labor Relations Board." *Geo. Wash. L. Rev.* 29 (1960): 234.

Gross, James A. *The Making of the National Labor Relations Board: A Study in Economics, Politics, and the Law 1933-1937*. Vol. 1. SUNY Press, 1974.

Skocpol, Theda, Kenneth Finegold, and Michael Goldfield. "Explaining New Deal Labor Policy." *American Political Science Review* 84.4 (1990): 1297-1315.

Stryker, Robin. "Limits on Technocratization of the Law: The Elimination of the National Labor Relations Board's Division of Economic Research." *American Sociological Review* (1989): 341-358.

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Newspaper Pieces

- <https://www.nytimes.com/interactive/2020/02/19/magazine/labor-law-unions.html>
- <https://sgp.fas.org/crs/misc/R42703.pdf>
- <https://www.nytimes.com/1946/11/17/archives/next-congress-to-try-to-revise-wagner-act-critics-of-1935-statute.html>
- <https://archive.nytimes.com/economix.blogs.nytimes.com/2010/10/28/labor-law-is-broken-economist-says/>
- <https://www.nytimes.com/topic/organization/national-labor-relations-board>
- <https://www.nlr.gov/about-nlr/who-we-are/our-history/1935-passage-of-the-wagner-act>
- <https://www.nytimes.com/1935/05/19/archives/new-chapter-opening-in-history-of-unions-wagner-bill-offers-labor.html>
- <https://www.washingtonpost.com/outlook/2022/09/02/young-workers-unions-starbucks-amazon/>
- <https://www.nytimes.com/2022/10/31/us/politics/affirmative-action-history.html>
- <https://www.nytimes.com/1995/10/27/us/a-big-job-for-labor.html>
- <https://www.washingtonpost.com/news/made-by-history/wp/2018/04/24/the-right-to-work-really-means-the-right-to-work-for-less/>
- <https://www.washingtonpost.com/outlook/2021/09/03/filibuster-has-long-hurt-american-workers-too/>
- <https://www.theatlantic.com/business/archive/2014/07/when-the-boss-says-dont-tell-your-coworkers-how-much-you-get-paid/374467/>
- <https://www.theatlantic.com/magazine/archive/1940/06/labor-must-decide/654258/>
- <https://www.theatlantic.com/magazine/archive/1943/01/how-much-trade-unionism-as-usual/657240/>
- <https://slate.com/business/2021/05/first-100-days-biden-fdr-new-deal-social-security.html>
- <https://www.npr.org/2021/09/04/1033177379/labor-day-history-triangle-shirtwaist-factory-fire-patco-strike>
- https://www.npr.org/sections/politicaljunkie/2009/05/on_this_day_in_1953_exsen_robe.html
- <https://www.npr.org/2020/04/04/826909516/in-the-1930s-works-program-spelled-hope-for-millions-of-jobless-americans>
- <https://www.npr.org/2014/04/13/301989789/pay-secrecy-policies-at-work-often-illegal-and-misunderstood>
- <https://www.vox.com/the-big-idea/2017/9/1/16240036/labor-day-constitution-free-speech-unionization>
- <https://www.vox.com/policy-and-politics/21290981/police-union-contracts-minneapolis-reform>
- <https://www.vox.com/22423690/american-jobs-plan-care-workers-new-deal>