

arising over the meaning or application of the award should any arise. There is no provision setting forth the grounds, if any, upon which the award could be impeached. There is no procedure for resolving disputes over interpretations or applications of the award, or "mediation with finality." Could the parties go to the National Railroad Adjustment Board? Could they go back to the Special Board with such disputes? Could the parties resort to self help over such disputes, as distinguished from disputes over the original notices? The proposed legislation does not tell us. Could the parties, within the two-year period, serve new Section 6 proposals to become effective at the end of the two years, and would bargaining be required on such proposals? The proposed resolution does not tell us. Under Public Law 88-108 it was held that bargaining was not required until after the two years expired. That question is now pending on appeal. Do we want such turmoil again?

The failure of the proposed resolution to deal with any of these matters results in the denial to the parties involved in this dispute of any effective recourse even should the Special Board render an award which goes far beyond the scope of the issues assigned to it for determination, or render an award which is utterly without foundation or even corrupt. There is no recourse to a party even if it could be shown that one of the members of the Special Board rendering the award was guilty of fraud or corruption.

I do not imply that furnishing the safeguards of Public Law 88-108 would solve the problems,—it would only make this legislation no worse than Public Law 88-108. Arbitration Board No. 282, convened under Public Law 88-108, had submitted to it something like 437 requests for interpretations of its Award,—more than ten times as many as the preceding 281 arbitration boards combined were asked to make under their voluntary arbitrations. And the litigation that has resulted from that arbitration is incalculable and apparently interminable,—so courts are not the satisfactory answer to these problems. The only answer is collective bargaining to an agreement, prodded perhaps by resort to or the imminence of self-help and accompanying temporary public inconvenience.

The Congress and the President are understandably trying to avoid "the paralysis of our economy"—the fact is it has never yet happened from a strike. Left alone, the parties have always ultimately agreed. But the repetition of compulsory arbitration will lead to paralysis—not of the economy, but of collective bargaining in the railroad industry.

The railroads will feel secure in their confidence that Congress will always provide them with the last ditch of compulsory arbitration, a trench they have long sought and one which enables them to shirk their obligation, if they are so inclined, to make agreements.

I urge that legislation is not the solution. But if there is to be legislation, for a remedy in perspective of the future of collective bargaining, if it is to include procedures that are anathema to the employees, it must include also provisions that are anathema to the railroads.

Mr. SCHOENE. The first issue that I would like to discuss is whether the bill under consideration, House Joint Resolution 559, does or does not provide for compulsory arbitration.

You will recall when the Secretary of Labor appeared at the outset of the hearings, he was quite insistent that the bill did not, in fact, provide for compulsory arbitration but, rather, what he called mediation to finality. The distinction which he drew was that this bill proposes to build onto what the parties have achieved through direct collective bargaining.

He says the parties have built the arch and this bill aims only to place the keystone of the arch into position.

I would remind you that on the previous occasion when the Congress enacted compulsory arbitration, the same thing was true.

I will discuss more fully the experiences under Public Law 88-108, but I draw your attention at this time to the fact that that, too, was supposed to build upon what the parties had accomplished by collective bargaining, and very narrowly defined the issue to be arbitrated, just as this bill does.