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Report

OF PROCEEDINGS

OF THE

EMERGENCY BOARD

Appointed by the President of the United States
to investigate and report on certain differences

Between

Brotherhood of Locomotive Firemen and Enginemen
vs.
Bingham & Garfield Railway

REPORT OF THE BOARD

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1945

SALT LAKE CITY, UTAH,
November 25, 1944.

Mr. PRESIDENT: We have the honor to transmit herewith the report of the Emergency Board appointed by you on November 14, 1944, to investigate and report to you respecting the dispute existing between the Bingham and Garfield Railway Co., a carrier, and certain of its employees, represented by the Brotherhood of Locomotive Firemen and Enginemen.

Respectfully.

RICHARD F. MITCHELL, *Chairman.*
WALTER C. CLEPHANE.
A. G. CRANE.

PRESIDENT OF THE UNITED STATES.

REPORT TO THE PRESIDENT BY THE EMERGENCY BOARD APPOINTED UNDER THE PROVISIONS OF THE RAILWAY LABOR ACT, PURSUANT TO A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES

To investigate and report to him in respect to a dispute existing between the Bingham & Garfield Railway Co. and certain of its employees represented by the Brotherhood of Locomotive Firemen and Enginemen

INTRODUCTORY

The Emergency Board appointed by the President pursuant to the provisions of Section 10 of the Railway Labor Act in connection with the dispute referred to in the caption hereof, composed of the Honorable Richard F. Mitchell, Dr. A. G. Crane, and Col. Walter C. Clephane, met at the Hotel Utah in Salt Lake City at 10 o'clock a. m. on Tuesday, November 21, 1944. They elected the Honorable Richard F. Mitchell as chairman. The proceedings were reported by the Frank M. Williams Co., the official reporter selected by the National Mediation Board.

The following appearances were entered: For the Brotherhood, Mr. C. H. Keenen, 486 East State Street, Salamanca, N. Y., Vice President of the Brotherhood of Locomotive Firemen and Enginemen, and Mr. A. J. Chipman, 1025 U. S. National Bank Building, Denver, Colo., General Chairman of the same organization; for the Carrier, Mr. C. C. Parsons, Kearns Building, Salt Lake City, Counsel for the Bingham and Garfield Railway Co., and Mr. F. O. Haymond, Magna, Utah, Vice President and General Manager of that company.

The public hearing was concluded on the day hereinabove mentioned, at the close of which both parties to the controversy announced that they had no further evidence to submit. By agreement of the parties the Board spent practically all of the following day, accompanied by representatives of both parties, in visiting the road operated by the carrier and riding upon one of its electric locomotives, the visit being repeated the same evening and until 1:30 o'clock in the morning, the Board members remaining upon the locomotive witnessing the various traffic and switching movements of the trains upon the carrier's road, so that its members might have adequate first-hand knowledge of the conditions under which the employees work both by day and by night.

Efforts were made to adjust the dispute but without avail.

The Bingham and Garfield Railway Co. was incorporated July 8, 1908, and commenced operations in September 1911. It was organized and has since been operated in order to transport to the Utah Copper Co.'s processing mills the products of the mine operated by that copper company near Bingham, Utah. Incidentally, its transportation facilities have been utilized by one or two other industries located along its line. Its primary purpose, however, consists in moving the ore removed from these mines as above indicated, its loading average being 70,000 wet tons per day. It is a freight road, no passengers being transported. Its corporate stock is entirely owned by the copper company.

NATURE OF DISPUTE

The dispute herein involved concerns the manning of electric locomotives engaged in switching service in the three collecting yards at the mine and in the Magna and Arthur car dumper yards. The distance covered by the tracks of the company does not exceed 20 miles. Prior to September 1924, steam power was used in these yards. This was replaced by 750-volt G. E. electric trolley locomotives weighing 185,380 to 201,000 pounds on drivers. Each is manned by an engineer only, no fireman being employed thereon.

The Brotherhood contends that these locomotives should carry firemen as well as engineers. As far as we can gather from the brief of argument submitted herein, this contention is based upon two grounds: First, that a contract exists between the Brotherhood and the Carrier, requiring the latter to use firemen upon these locomotives; and second, that even if no such contract exists, there should be written into the existing agreement a provision to that effect.

HISTORY OF THE CONTROVERSY

The evidence was that in 1941 it was agreed that any general increases or decreases in basic wage rates on the Denver & Rio Grande Western Railroad in the District involved, applying to engineers and/or firemen, should be made applicable to the employees of the Bingham and Garfield Railway Co.

This understanding was later embodied as Rule 25 in the formal agreement between the Carrier and this Brotherhood, dated April 1, 1943, effective as of that date.

In order to understand this controversy its history as related by the Brotherhood follows:

In May 1941, a concerted movement was inaugurated by locomotive firemen throughout the United States (including those then employed by this railroad) to change the method of computing pay, and on the 10th day of that month notice was served upon many of

the western, eastern, and southeastern roads, including this carrier, of a desire of the engineers to change the then current agreement so as to "secure certain changes in the agreement covering their rates of pay, rules, and working conditions." Conferences were held without the desired results and, following the ordinary process of the Railway Labor Act, an emergency board was appointed which reported on May 21, 1943. This report the Brotherhood "considered wholly inadequate," and the attention of the President of the United States was invited to the situation, with the result that an agreement was reached on November 27, 1943, between the Western Carriers Association and the Brotherhood. This agreement contains certain covenants with regard to the employment of firemen on locomotives and for the establishment of new rates of pay for enginemen and other employees. This carrier had declined to become a party to this national wage movement and had refused to permit anyone connected therewith to represent them. Consequently it was in nowise a party to the national agreement referred to. Later, however, the carrier did agree to place in effect the new rates of pay provided in the national agreement. It did not agree to comply with the other provisions of that contract. This resulted in a dispute, so that the services of the National Mediation Board were invoked, and the case is now before us for report.

The only agreement relating to this matter in effect between the Carrier and the Brotherhood is that above referred to dated April 1, 1943. That agreement contains no requirement that firemen shall be employed on the class of electric locomotives then and now in use on this carrier's road, notwithstanding that agreement was entered into subsequent to the notice of May 1941, of a desire to secure certain changes in the agreement covering their rates of pay, rules, and working conditions. It is not claimed by the Brotherhood that any such agreement exists unless it is found in Section 25 next referred to. The request made by the Brotherhood, on the other hand, seems to recognize the binding force of that agreement, but contends that because of the provisions of Section 25, the Carrier is obligated to place this change into effect.

Section 25 is in the following language: "Any general increases or decreases in basic wage rates on the Denver & Rio Grande Western Railroad in this district, applying to engineers and/or firemen, shall be made applicable to the employees on the Bingham and Garfield Railway Co. covered by this agreement as of the date effective on the Denver & Rio Grande Western Railroad Company."

If, therefore, the request now made does not involve any "general increases or decreases in basic wage rates * * * applying to engineers or firemen" this claim is without foundation. No argument

has been presented to show that any changes in basic wage rates are involved in this dispute, and the Board is unable to find that such a change would be created by either employing firemen as requested or by declining such employment.

SECOND CONTENTION

The second contention as indicated in the Brotherhood's brief is based upon the "request for the application of Items 3 and 4 of the Memorandum of Agreement between the Western Carriers Conference Committee and the Brotherhood of Locomotive Firemen and Engine men dated at Chicago, Ill., November 27, 1943, to the Agreement governing Engine Service Employees on the Bingham and Garfield Railway effective April 1, 1943, retroactive to the effective date of that part of the November 27th Agreement, or August 29, 1943."

We are informed by the Brotherhood that on January 14, 1944, the above request with others was placed before the management "for adoption;" that conferences were held at which the management agreed to apply the increased wage rates covered by the national agreement, but that the management declined the request above quoted, and that this resulted in an invocation of the service of the National Mediation Board, followed by mediation, and because of the refusal of the Carrier to thus modify the contract, and the failure of the mediation proceedings the employees voted unanimously to leave the service. Hence, the question appears to be before this Board on its merits.

DESCRIPTION OF THE RAILROAD AND ITS OPERATION

A brief allusion has heretofore been made to the character of the railroad. To describe it more in detail it may be said that the Utah Copper Co. owns a mountain which contains an exceedingly valuable store of copper and other minerals. In order to remove the ore containing these minerals and transfer it as above indicated this railroad has been built up the side of the mountain. It proceeds upon an upward grade to a convenient point and then, because of the nature of the operations, instead of turning it is built in the form of a "Y" so that trains running into the base of the "Y" are switched back in the other direction upgrade to the next convenient point where a "Y" is also located, and so on to the top of the mountain. There are no public highway crossings along the routes on which the electric locomotives referred to operate. The ore is loaded by power shovels at the several levels and is brought to intermediate assembly yards at which switching operations are necessary. For these switching operations the electric locomotives are used, one locomotive working two 8-hour shifts daily at the Bingham yard and one locomotive

working three 8-hour shifts in each of the other yards daily. The track is of standard size and the road is well supplied with efficient road and yard signals and switches as well as flood lights at necessary points, so that when a train is working either in the yards or on the main-line tracks it is well protected by signal devices.

The electric locomotives mentioned can proceed in either direction with equal facility. At both ends there are two large glass windows. Immediately behind the windows on each end are seats for the engineer, these seats being on opposite sides of the car. On certain portions of the road the power is supplied by Pantagraph above the locomotive. On other portions of the road the power is supplied by a yard arm extension connecting with a wire running along the side of the road-bed. When passing from one method of transferring power to the other, it is necessary for the engineer to adjust the arm. This is done electrically, and in doing so the engineer must step from one side of the car to the other to make the adjustment. This involves taking several steps from the seat which he customarily occupies. When this transition is accomplished the trains are moving very slowly and generally stop at that point long enough for the engineer to make the transfer. The engineer's seat is high enough to enable him to look forward over the entire length of the train of ore cars which are used for purposes indicated, so that on a straight line he can see the signal man at the extreme end of the train, which is never more than 18 cars in length and seldom more than 16 cars, and frequently less. In going around curves where the engineer would not ordinarily be able to see the member of the crew at the end of the car, the disposition of the crew is such that the crewman who is always at the end of the train can relay the signals back to the engineer through another crewman stationed in an intermediate position. These signals can thus be transmitted either by day or by night.

The cars used for the transportation of the ore are especially designed for this service, weighing about 20 tons each and are of 100-ton capacity. They are equipped with air brakes and upon each end of each car there is a small platform upon which crewmen can stand.

When these cars are in operation there is always a member of the crew stationed at the end of the leading car, and in case of emergency he can apply the brakes, so that if for any reason the engineer in the cab should be disabled or an occasion should present itself for stopping the train, which occasion would not be apparent to the engineer, the crewman referred to could do this from his end of the train. The maximum speed at which any of the locomotives in question operate, is 12 miles an hour, but during the greater part of the time the speed is nowhere near that and frequently these trains proceed at a rate of from 4 to 8 miles an hour.

A real difficulty, however, presents itself when it is necessary to push a boxcar or a car full of lumber, something that happens several times a week. The view of the engineer cannot extend beyond the boxcar except by leaning out a considerable distance, and having this crewman also extend his signal for a considerable distance beyond the side of the car upon which he is stationed. Upon a straight stretch of track this can be done and is done. In the opinion of the majority of this Board the addition of a fireman in the cab of the locomotive would not tend to improve the situation. He could see no more than could the engineer; but on a curve, with the ordinary methods of signaling it would be difficult for the engineer to observe his signal from the other end of the train, if the crewmen are stationed in their usual positions.

Each crew consists of four men, the engineer, the engine foreman, and two brakemen.

The majority of the Board cannot see how conditions would be noticeably improved by the addition of a fireman, in view of the facts hereinabove related, considering particularly the slow speed at which these trains travel, and the possibility of stopping them in case of emergency by the air brakes on the cars.

It is not without significance that with one reported exception during the entire period of better than 20 years since this road has been in operation, during which time it has handled approximately 344,000,000 tons of ore, there has been no accident of a character which could have been avoided by the addition of a fireman. The one exception referred to is that of a collision which occurred on October 27, 1944, long after the request had been made for the modification of the existing agreement and less than a month before this report is being written. It is not necessary to go into the details concerning this case. We should mention, however, that no deaths nor personal injuries occurred as a result of this collision. The damage was confined to property owned by the railroad company. The majority of the Board is not satisfied that the collision would have been avoided if a fireman had been stationed in the locomotive, although it is possible that the presence of a fireman might have avoided this accident.

The testimony shows that on the Salt Lake & Utah Railway, which runs from Salt Lake City to Payson (about 60 miles south of Salt Lake), there is a branch leading off of the main track going to Magna, which is about 7 or 8 miles in length, on which branch freight of all kinds is transported. Only one man is on the electric locomotives used on that branch. The same is true on the Bamberger line which runs from Salt Lake City to Ogden and which carries not only freight but also passengers. Likewise, on the Utah & Idaho Central, running from Ogden north to Logan, there is only one man in the cab. The trains on this road haul both passengers and freight.

Under all the circumstances the majority of this Board does not feel that it can recommend the addition of a fireman to the crew.

Inasmuch as this Board is making no recommendations of any kind which change the existing practices, we deem it unnecessary to insert any specific finding and certification contemplated by the amendment of October 2, 1942, to Section 4 of the Act to the effect that any recommendations in this report are consistent with the standards established pursuant to law for the purpose of controlling inflationary tendencies.

RICHARD F. MITCHELL, *Chairman.*
WALTER C. CLEPHANE.

SALT LAKE CITY, UTAH,
Saturday, November 25, 1944.

I have concurred in the statement of fact in the above report and have concurred in the final decision. However, as a personal opinion, viewing the broad question of the necessity and advisability of a fireman (helper) on these electric engines, I believe that it would be advisable for the protection of both employees and the railroad to add a fireman (helper), as a further factor of safety in what in my judgment appeared to be a highly hazardous operation. I realize that this is largely a personal judgment and is worthy of consideration only as such. I have, therefore, joined in concurring with the majority of the Board.

A. G. CRANE.

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