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Report
TO
THE PRESIDENT
BY THE
EMERGENCY BOARD

APPOINTED MARCH 7, 1945

Pursuant to Section 10 of the
Railway Labor Act

To investigate an unadjusted dispute
between the Des Moines and Central
Iowa Railroad and certain of its
employees represented by the
Brotherhood of Locomotive
Engineers and the Brother-
hood of Railroad Train-
men.

MARCH 28, 1945

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1945

DES MOINES, IOWA,
March 28, 1945.

THE PRESIDENT,

The White House.

DEAR MR. PRESIDENT: Herewith is submitted a report of the Emergency Board appointed by you on March 7, 1945, to investigate and report to you respecting a dispute between the Des Moines and Central Iowa Railroad and certain of its employees represented by the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen.

At the conclusion of the hearings the carrier and its employees negotiated an agreement which fully settled and disposed of the controversy.

Respectfully submitted,

[S] H. NATHAN SWAIM, *Chairman.*

[S] JOHN W. YEAGER, *Member.*

[S] GRADY LEWIS, *Member.*

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**REPORT TO THE PRESIDENT BY THE EMERGENCY BOARD,
APPOINTED MARCH 7, 1945, PURSUANT TO SECTION 10
OF RAILWAY LABOR ACT OF 1926 AS AMENDED.**

In re Brotherhood of Locomotive Engineers, Brotherhood of Railroad Trainmen, and Des Moines and Central Iowa Railroad.

The Emergency Board appointed by the President on March 7, 1945, pursuant to the provisions of the Railway Labor Act and in accordance with his Executive Proclamation of the same date to investigate and report its Findings with respect to certain matters in dispute between the Des Moines and Central Iowa Railroad and certain of its employees represented by the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen, convened at Room 314 Federal Office Building, Des Moines, Iowa, on March 13, 1945. All of the members of the Board consisting of H. Nathan Swaim, who was elected Chairman, Grady Lewis, and John W. Yeager, were present. Frank M. Williams of Washington, D. C., was confirmed by the Board as the Reporter. The Board held public hearings commencing on March 13, 1945, and concluding on March 20, 1945. The Board then went into executive session and held informal conferences with the parties, which were concluded on March 22, 1945. Appearances were made on behalf of the Brotherhoods by the following persons:

J. A. Zanger, Vice-President, Brotherhood of Railroad Trainmen, 67 W. Madison Street, Chicago, Illinois.

Frank E. Welch, Chairman, Brotherhood of Railroad Trainmen, 2207 Southwest 9th Street, Des Moines, Iowa.

A. J. Snyder, Secretary of Committee, Brotherhood of Railroad Trainmen, 1363 E. 12th Street, Des Moines, Iowa.

Frank Comer, Member Grievance Committee, Brotherhood of Railroad Trainmen, Granger, Iowa.

W. R. Seymour, Member Brotherhood of Railroad Trainmen, Route No. 1, Des Moines, Iowa.

James Ryan, Member, Brotherhood of Locomotive Engineers, 1425 Walker Street, Des Moines, Iowa.

John Connolly, Jr., Attorney at Law, 415 Royal Union Building, Des Moines, Iowa.

Appearances on behalf of the Carrier were by—

R. H. Work, Attorney at Law, 114 11th Street, Des Moines, Iowa.

H. A. Benjamin, President, Des Moines and Central Iowa Railroad, 114 11th Street, Des Moines, Iowa.

E. B. Beighler, Treasurer and Auditor, Des Moines and Central Iowa Railroad, 114 11th Street, Des Moines, Iowa.

Evidence was submitted and exhibits presented to the Board on behalf of the Brotherhoods and the Carrier, and on such evidence and exhibits and the statements of the parties we base the following

Findings and Report:

The Emergency. The Carrier involved in this dispute is an electrically powered railway operating 94.07 miles of railway lines extending from Des Moines to Colfax, Iowa, Des Moines to Perry, Iowa, from Des Moines to Fort Des Moines, and a short line from Moran to Woodward, Iowa. It has direct trunk connection with the Minneapolis & St. Louis Railroad at Perry, the Chicago, Milwaukee, St. Paul & Pacific at both Granger and Woodward, and with the Chicago, Northwestern & Fort Dodge, Des Moines & Southern, Chicago, Great Western, and Chicago, Rock Island & Pacific at Highland Junction just north of the city limits of Des Moines. It also connects through an intermediate carrier with the Chicago, Burlington & Quincy, Wabash, Des Moines Union, Chicago, Milwaukee, St. Paul & Pacific, and Minneapolis & St. Louis at Des Moines. The intermediate carriers are those with which connections are made at Highland Junction. It interchanges standard equipment with steam railroads and participates in tariffs now filed with the Interstate Commerce Commission. This carrier transports outbound freight consisting of manufactured products, canned goods, grain and other commodities, while the inbound traffic consists principally of coal, petroleum products, lumber and manufactured articles. Located on the lines of this carrier are many important industries, including the plant of the Firestone Tire & Rubber Company which is just being completed and which will be used in the manufacture of tires for trucks. Also located on the lines of this carrier are Camp Dodge, Iowa, formerly used as an Army Induction Center, and now as a plant for temporary storage of ordnance, and also Fort Des Moines, where there are now stationed units of the Women's Army Corps. The industries and these two camps which are located on the lines of this railway are not directly served by any other carrier. The continued operation of this carrier is, therefore, essential to the prosecution

of the War, and if such operation were to cease for any reason, interstate commerce within the Des Moines area would be seriously interfered with.

Issues Involved in This Dispute. The issues presented to this Board were as follows:

The employees were demanding (1) a wage increase of 9 cents per hour representing "the same awarded the operating employees in Operating Case No. A-1400 of 4 cents per hour plus an additional 5 cents awarded them by the President acting as arbitrator."

(2) That the carrier grant to the operating employees a vacation of one week annually with pay.

The carrier requested (1) "That a freight crew in road service consist of three (3) men—a conductor, motorman and brakeman, instead of four (4) men—a conductor, motorman and two brakemen—as at present."

(2) "That the line car be operated with one (1) man instead of the two-man requirement—as at present."

(3) That the overtime rule be changed to apply "beginning with the tenth hour instead of the ninth hour—as at present."

History of the Dispute. In 1932 the wages of the employees of this railroad were reduced 10 percent. An additional 10 percent reduction was made in the spring of 1933. On January 1, 1938, the carrier granted a 5 percent increase as a partial restoration of the 20 percent reduction.

On July 9, 1941, the carrier and the employees executed an agreement granting certain increases retroactive to January 1, 1938, and an additional increase effective July 1, 1941. These increases were predicated upon an increase of 44 cents per day which had been granted in 1937 to railroad employees generally. By the agreement of July 9, 1941, it was provided that, effective July 1, 1941, the employees were to be paid time and one-half for overtime after eight hours. This was the first agreement between this carrier and these employees granting penalty payment for overtime.

On October 22, 1942, the carrier and the employees executed another agreement which provided for a 7 percent increase in rate of pay to these employees effective October 1, 1942, and further provided that "all other matters in dispute, including additional wage increase. * * * shall be submitted to the War Labor Board for decision." This agreement was made while the employees were out of service on an unauthorized strike. The

National Mediation Board refused to take jurisdiction of the dispute while the strike continued.

Pursuant to the latter agreement the dispute then existing was submitted to the National War Labor Board. The wage increase then being demanded by the employees was to reinstate the established differential between the wages of these employees and the wages of railway employees generally.

Hearings were held in Des Moines, Iowa, on February 3, 1943, by the referee designated by the National War Labor Board. According to the report of the referee, exhibits and briefs submitted by the parties were interchanged in accordance with the established procedure of the National War Labor Board.

The report of the referee was submitted to the carrier with a letter dated August 6, 1943. By his report the referee recommended an increase of approximately 10 cents per hour to the employees involved in the instant dispute.

On January 25, 1943, during the pendency of the proceedings before the National War Labor Board, by a national movement the representatives of the operating employees filed letters with the management of the various railroads demanding that the basic daily wage of such employees be increased by 30 percent effective as of March 1, 1943. No such demand, however, was made on this carrier.

The subject matter of the 30 percent demand was handled through negotiation and mediation without reaching any agreement and then was submitted to the Stacy Emergency Board which made a recommendation that the operating scale be increased by 4 cents per hour. This recommendation was not accepted by the operating employees, and under the threat of a strike the President agreed to, and did, act as an arbitrator in the controversy. He granted an additional 5 cents per hour increase in the operating wage scale "in lieu of claims for time and one-half pay for time over forty hours and for expenses while away from home."

This made a total increase of 9 cents per hour for all operating employees who were parties to the proceedings before the Stacy Board and to the arbitration by the President. The Des Moines & Central Iowa Railroad, however, was not a party to the dispute before the Stacy Emergency Board, nor was it a party to the arbitration by the President, nor did it have any stand-by agreement to be governed by either of these awards.

The report of the President granting the 5 cents increase was executed December 29, 1943. On January 24, 1944, the National War Labor Board issued its "Directive Order" ap-

proving the report of its referee as to the increases recommended for the employees involved in this dispute, and in that Directive Order said: "The foregoing action constitutes the decision of the National War Labor Board made pursuant to the agreement of the parties on October 22, 1942, submitting 'all other matters in dispute, including additional wage increase * * * to the War Labor Board for decision'. The decision is made as of December 30, 1943, and the Directive Order is issued after the termination of the Secretary of War's possession of the railroads."

On January 13, 1944, the local committee of the Brotherhoods representing the employees involved in this dispute wrote a letter to H. A. Benjamin, the president and general manager of the carrier, demanding that the awards by the Stacy Emergency Board and the President granting increases in the basic pay totaling 9 cents per hour and one week's vacation annually with pay, be applied to said employees. In answer to this demand Mr. Benjamin, by letter dated January 15, pointed out that there had as yet been no decision by the National War Labor Board on the dispute which this carrier and its employees had before said Board, and that following the decision of that Board "the question of a further increase to cover overtime and 'away from home' expenses may then become a matter of negotiation." After further correspondence between the parties, and conferences regarding such pay increases and vacations with pay, and after the carrier had requested a change in the current agreement between the parties which would eliminate one man from the crew of the freight road service, and one man from the line car, and would also postpone the payment of overtime to the tenth hour instead of the ninth hour, the parties failed to agree on a settlement of any of these questions, and the entire controversy was thereupon referred to the National Mediation Board. Mediation also failed to bring the parties together, and on February 26, 1945, the two Brotherhoods distributed a strike ballot to their members who voted unanimously to withdraw from the service of the carrier in an effort to effect a settlement of the controversy.

Upon the appointment of this Emergency Board the strike was postponed.

Hearings Before This Board. During the hearings conducted by this Board the carrier presented two principal contentions upon which it based its refusal to meet the demands of the employees for an increase in wages and for vacation with pay: First, that the financial condition of the company made it impossible to meet the demands of the men, and second, that

increases which had already been granted to the men would make it impossible to grant a further increase without violating the Stabilization Program.

Financial Condition of the Carrier. The carrier, by its Exhibit No. 2, has presented a rather clear picture of the operating revenues and expenses of the company from 1927 to 1944, both years inclusive. This exhibit shows that within that period 1940 was the first year in which the company showed any net income available for fixed charges. This net income shown for 1940 as \$8,311.00 increased to \$60,963.00 in 1942, and then decreased in 1943, and further in 1944 to a net income for the latter year of \$34,110.00. It was explained that the higher income for 1942 and 1943 was principally due to the fact that during those two years Camp Dodge was being operated as an Army Induction Center and the carrier was also receiving revenue from certain coal mines in this vicinity which have since closed down. It was shown that for the years covered by the exhibit there was a total deficit of income available for fixed charges of \$532,357.00. It was later explained, however, that the carrier had included in operating expenses total depreciation for this period of \$776,871.00, leaving income available for fixed charges before depreciation of \$244,514.00. It was also explained, however, that during this period there had been withheld by the government amounts due the carrier on traffic handled for the government the sum of \$68,513.00 which had been included in the gross revenue shown by the exhibit. It was also shown that during the same period there had been capital expenditures of \$52,352.00, and penalties and interest on tax payment of \$28,888.00, and that after deducting these three items there was actually left for fixed charges the total sum of only \$94,761.00. The exhibit also contained a statement of assets and liabilities which showed a deficit of over three and one-half million dollars, unpaid matured funded debt and unpaid matured interest of almost five million dollars, and loans and notes payable of more than 378 thousand dollars. It was explained that the carrier had permitted its taxes to remain unpaid and accumulate penalties and interest over a period of several years, but had finally paid such taxes during January of this year. The statement of assets and liabilities also showed capital stock liability of \$1,160,000 on which there had never been a dividend payment since the organization of the company. It was also explained that because of the lack of funds the carrier had been unable to properly maintain its facilities.

In the light of the evidence as to the financial condition of this carrier it is an academic question as to whether the wages of the employees of carriers which have funds available for the payment of such wages should be affected by the general financial condition of such carriers. Here the question is whether this carrier will have funds available for continued operations if there is any increase in its operating expenses.

It is difficult to understand how this carrier was able to meet its operating expenses in the years prior to 1940. Beginning with that year, however, the company has had net operating income after paying all operating expenses, and the Board finds that as presently operating, as shown by its exhibit No. 2 and the explanations thereof, this carrier could grant an increase of 3½ cents per hour to its employees and could also grant said employees a vacation of one week annually with pay and still meet all of its other operating expenses.

Effect on Stabilization Program. The carrier has insisted throughout these hearings that in view of the increases in the wages of its employees heretofore granted, which amount to more than the 15 percent provided for in the Little Steel Formula, it is impossible to grant any further increase without violating the provisions of the Stabilization Program. It further insisted that we are not faced in this controversy with a question of substandards of living, nor with any gross inequalities or inequities which would justify an increase beyond the Little Steel Formula.

The employees in support of their demand for an increase in wages have insisted that the wages which they are at present being paid by this carrier are far below the rates of pay on standard railroads, and that while there might be a justification for some differential, the present differential is greater than the long established differential by reason of increases to the employees of railways generally, which were not applied to the employees of this carrier; that this has resulted in the present increased differential which is so great that it amounts to a gross inequality; and that this gross inequality should be, and may legally be, adjusted without violating the provisions of the Stabilization Program. They point out that the increase given these employees of approximately 10 cents per hour by the National War Labor Board was to make an adjustment in the differential which existed at the time their controversy was submitted to said Board, which differential was then greater than the established differential because of increases which had been granted to railway employees generally prior to that time.

They further point out that while the Directive Order of the National War Labor Board which actually granted them a 10 cent increase in wages was issued after the increases granted by the Stacy Emergency Board and by the President, the War Labor Board did not have before it any controversy between these employees and this carrier as to the 9 cent increase so obtained; that the hearing which was held by the referee for the National War Labor Board was held on February 3, 1943, and the differential then shown between the rate of pay of these employees and the rate of pay of carrier employees generally was shown as of that date; that at that time the nation-wide demand for a 30 percent increase had not been made, and hence the resultant 9 cent increase could not then have been in the mind of the referee. Nevertheless he found that the differential then existing was so great as to amount to a gross inequity and to properly adjust said differential recommended an increase to these employees of approximately 10 cents per hour. They also pointed out that the Directive Order of the National War Labor Board; although reciting that it was made as of December 30, 1943, and after the termination of the possession of the railroads by the Secretary of War, adopted the recommendation made by the referee regarding the increases of rates of pay to these employees, and that the Board likewise therefore could not have properly intended to include the later 9 cent increase.

The employees further insisted that since the War Labor Board award did not include the 9 cent increase, and since the 9 cent increase was found not to be in violation of the provisions of the Stabilization Program, it could be made applicable to these employees without any violation of said program.

It has been many times pointed out in the awards of various emergency boards and of the War Labor Board that differentials which have been long established and accepted by the parties cannot be considered as such gross inequities or inequalities as to justify an increase in wages beyond the Little Steel Formula. When we examine the record of these proceedings, we find that there has been for many years an established and recognized differential between the rates of pay of the employees of this short line carrier and the rates of pay of standard carriers. It has been shown by the evidence in the hearings before this Board that when we compare the total increases in rates of pay granted since October 1, 1937, to the employees of standard carriers, and to the employees of this carrier, the established differential has been increased by 3½ cents per hour. In other words the rate of increase to the employees of this carrier has

failed by 3½ cents per hour to maintain the established differential.

This Board has concluded and has so advised the parties to this dispute that an increase of 3½ cents per hour could be granted to these employees of the Des Moines & Central Iowa Railroad in order to reestablish said differential, without violating the provisions of the Stabilization Program.

Carrier Demands. In presenting its case the carrier in support of its demand that its current agreement with the men be amended by providing that one man should be taken off of the freight road crew, and one man should be taken off of the crew of the line car, pointed out that this would result in a saving to the carrier which would materially help it to meet some increase in the rate of pay to the employees. It also stated that other carriers operating similarly to this one were using in this type of work crews consisting of one man less. The employees insisted that removing one man from each of these crews would result in slowing up the work and would increase the hazards. It was explained that on many of the switches into the industries served by this carrier there were sharp curves which required all of the men now being used on the freight crew to safely shift cars in and out of such switches. It was also pointed out as to the line car crews, now consisting of an engineer and a conductor, that if the conductor were taken off of the crew it would make it necessary for either the engineer or the line man to throw switches, protect the line car, and do other work covered by the contract of the carrier with the trainmen, and would result in inadequate protection for the line car and other trains operating on the line. The employees also contended that the poles and guy wires along the tracks of the carrier, and the wires overhead supporting the trolley were extra hazards, and that the property of this carrier had been so poorly maintained as to create additional hazards for the men doing switching operations on freight service.

In support of its demand for a nine hour day without overtime penalty, representatives of the carrier contended that it was a necessary economy which this carrier should be entitled to because some other carriers had such a rule in their agreements with their employees. The employees contended that the present overtime agreement is the standard rule and was obtained by these employees in 1941 after many years of negotiation, and that the advantage of this rule should not now be taken from them.

Negotiation and Agreement. At the conclusion of the formal hearings in this proceeding, and acting pursuant to the suggestions and recommendations of this Board, the parties by direct negotiations between themselves, entered into and executed the following agreement:

MEDIATION CASE No. A-1770, A-1771

A G R E E M E N T

AGREEMENT made in Des Moines, Iowa, on March 22, 1945, between Brotherhood of Railroad Trainmen and Brotherhood of Locomotive Engineers, hereinafter called Party of the First part, and the Des Moines & Central Iowa Railroad, hereinafter called the party of the Second part,

WHEREIN, IT IS MUTUALLY AGREED:

FIRST, with respect as to vacations it is agreed:

A. That beginning with the year 1944, one week's vacation with pay each year shall be allowed to the engine and train service employees represented by the Brotherhood of Locomotive Engineers and by the Brotherhood of Railroad Trainmen, and based upon the National Settlement and interpretations thereto, arrived at between the carrier and the above two (2) named organizations, dealing with the vacation question insofar as the number of days to be paid for, is concerned. Other details to be worked out by the Management and the Committees representing these employees.

B. Employees who have left the service of the Des Moines & Central Iowa Railroad, subsequent to January 1, 1944, will be included in these payments provided they have qualified, as prescribed for in Section 1 (a), of the National Settlement, by having served 160 basic days or more during the year 1943.

SECOND, Party of the Second part, withdraws its demands for punitive overtime commencing after the ninth (9th) hour, which withdrawal will leave the matter as it now is, namely, punitive overtime at time and one-half shall start after the eighth (8th) hour.

THIRD, Party of the Second part withdraws its demands for withdrawing one (1) man from the through freight service crew and one (1) man from the line car, leaving it as it now is, namely, one (1) engine man, one (1) conductor, and two (2) brakemen, on the through freight crew, and one (1) engine man and one (1) conductor on the line car.

FOURTH, Party of the Second part will pay an increase to party of the First part, in the sum of three and one-half (3½) cents per hour, effective as of January 13, 1944.

FIFTH, This present wage increase of three and one-half (3½) cents per hour does bring the pay of the party of the First part, up to the established differential between employees of the party of the Second part and the employees of Class I Carriers.

SIXTH, This agreement shall be in effect for the duration of the present war, and for six (6) months thereafter, and in the event there is some change in rates of pay or rules, as a result of some National Movement, then either party may negotiate with the other party as to the application of the National Settlement to the parties herein involved.

In witness whereof, the parties hereto have hereunto set their hands, the day and year first above written.

By [S] H. A. BENJAMIN
President of the Des Moines
& Central Iowa Railroad.

By [S] FRANK E. WELCH,
Chairman of Brotherhood
of Railroad Trainmen.

By [S] JAMES RYAN,
Chairman of Brotherhood
of Locomotive Engineers.

Approved:

By [S] J. S. ZANGER,
Vice-President of B. of R. T.
also representing B. of L. E.

In a meeting before the board this agreement was by joint offer made a part of the record of this proceeding and the representatives of the Brotherhoods and of the carrier agreed that the Fourth paragraph of said agreement was a promise on behalf of the carrier to pay to its employees represented by said Brotherhoods an increase of 3½ cents per hour effective as of January 13, 1944, and the representative of the Brotherhoods agreed that the employees were accepting said increase as a satisfactory settlement of their demand for an increase of 9 cents per hour, and that said agreement constituted a settlement of all demands, disputes and controversies between the parties to this proceeding, and that the strike would be immediately called off and cancelled.

FINDING

This Board finds that the settlement of the controversies between these parties as embodied in the above agreement made by the parties on the recommendation of the Board, embodies only such changes as are consistent with the standards which are now in effect established by or pursuant to law for the purpose of controlling inflationary tendencies.

The members of the Board wish to express their appreciation of the splendid spirit of cooperation and helpfulness shown both by the representatives of the management and of the Brotherhoods throughout the hearings and the negotiations before this Board.

[S] H. NATHAN SWAIM, *Chairman.*

[S] JOHN W. YEAGER

[S] GRADY LEWIS

Members, Emergency Board.

CERTIFICATION

We hereby certify that the Findings and Recommendations of this Board, and the settlement of the dispute between the parties made pursuant thereto are consistent with the standards now in effect, established by or pursuant to law for the purpose of controlling inflationary tendencies.

[S] H. NATHAN SWAIM, *Chairman.*

[S] JOHN W. YEAGER, *Member.*

[S] GRADY LEWIS, *Member.*

Dated: Des Moines, Iowa, this 28th day of March, 1945.