

Report
TO
THE PRESIDENT
BY THE
EMERGENCY BOARD

CREATED APRIL 24, 1946
PURSUANT TO SECTION 10
OF THE RAILWAY LABOR ACT

To investigate unadjusted disputes between Railway Express Agency, Incorporated, and certain employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, the International Association of Machinists, and the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers.

WASHINGTON, D. C.

MAY 23, 1946

(No. 35)

WASHINGTON, D. C., *May 23, 1946.*

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Herewith is submitted a report of the Emergency Board created by you April 24, 1946, to investigate and report respecting unadjusted disputes between the Railway Express Agency and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, the International Brotherhood of Machinists, and the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers.

ROBERT W. WOOLLEY, *Chairman*
LEVERETT EDWARDS, *Member*
I. L. SHARFMAN, *Member*

EXECUTIVE ORDER

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE RAILWAY EXPRESS AGENCY, INC., AND CERTAIN OF ITS EMPLOYEES

Whereas a dispute exists between the Railway Express Agency, Inc., a carrier, and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, a labor organization; and

Whereas this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

Whereas this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a large section of the country of essential transportation service:

Now, therefore, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate said dispute. No member of the said board shall be pecuniarily or otherwise interested in any organization of railway employees or any carrier.

The board shall report its findings to the President with respect to the said dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Railway Express Agency, Inc. or its employees in the conditions out of which the said dispute arose.

HARRY S. TRUMAN.

THE WHITE HOUSE,
April 24, 1946.

APRIL 25, 1946.

EXECUTIVE ORDER

DIRECTING THE EMERGENCY BOARD CREATED BY EXECUTIVE ORDER 9716 OF APRIL 24, 1946, TO INVESTIGATE A DISPUTE BETWEEN THE RAILWAY EXPRESS AGENCY, INC., AND CERTAIN OF ITS EMPLOYEES, ALSO TO INVESTIGATE DISPUTES BETWEEN THE AGENCY AND CERTAIN OTHER OF ITS EMPLOYEES

Whereas disputes exist between the Railway Express Agency, Inc., a carrier, and certain of its employees represented by the Interna-

tional Association of Machinists and the International Brotherhood of Blacksmiths, Drop Forgers and Helpers; and

Whereas these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

Whereas these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive a large section of the country of essential transportation service:

Now, therefore, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), the board created by Executive Order 9716 of April 24, 1946, to investigate the dispute between the Railway Express Agency, Inc., and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, a labor organization, is hereby further directed to investigate and to include in its report to the President its findings with respect to the disputes which also exist between the Railway Express Agency, Inc., and certain of its employees represented by the International Association of Machinists and the International Brotherhood of Blacksmiths, Drop Forgers and Helpers.

As provided by section 10 of the Railway Labor Act, as amended, from April 24, 1946, and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Railway Express Agency, Inc., or the said employees in the conditions out of which the said disputes arose.

HARRY S. TRUMAN.

THE WHITE HOUSE,

April 25, 1946.

INTRODUCTION

On April 24, 1946, Harry S. Truman, President of the United States, upon being notified by the National Mediation Board, in accordance with the provisions of Section 10 of the Railway Labor Act, as amended, that certain employees of the Railway Express Agency had given notice of an intention to withdraw from its service because of an unadjusted dispute between these employees and the Agency and that said dispute threatened to deprive a large section of the country of essential transportation service, by proclamation created an Emergency Board to investigate said dispute and report to him its findings and recommendations. A second proclamation of like import was issued on April 25, 1946.

The President appointed Dr. I. L. Sharfman, Ann Arbor, Mich., Leverett Edwards, Oklahoma City, Okla., and Robert W. Woolley, Washington, D. C., members of said Board, and ordered them to organize and promptly investigate the facts; on the basis of the evidence adduced, to endeavor to adjust the dispute and report to him thereon within 30 days from the date of said proclamation of April 24.

Pursuant to said proclamations, the Board met in room 107, department of Agriculture Building, on May 2. All members were present. The Board selected Mr. Woolley as chairman and confirmed the appointment of Frank M. Williams as reporter.

Public hearings were held, commencing on May 2, 1946, and concluding on May 17, 1946, the first 2 days in Room 107 of the Department of Agriculture Building and the remaining days in the Gold Room of the Hotel Hamilton, Washington, D. C.

Appearances: For the Railway Express Agency, Inc.—Albert M. Hartung, vice president in charge of personnel, Peter W. Wilson, attorney; for the International Association of Machinists.—Harry J. Carr, general vice president, Bert Cima, W. E. Frazier, and George E. Wolff, representatives; for the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees—George M. Harrison, grand president, Robert Morgan, vice grand president, R. L. Davis, research director, W. M. Daughtrey, assistant to vice president, J. I. Gilbert, general chairman, E. E. Longley, general chairman, Hartman Barbor, legislative representative, J. O. Jackson, general chairman, Edward Gubser, Research assistant; for the International Brotherhood of Blacksmiths, Drop Forgers and Helpers—William J. Kennedy, international representative; counsel for all the employees—Lester P. Schoene.

Upon the conclusion of evidence offered at the public hearing and of arguments on behalf of the employees and express agency, during

which the employees presented 55 exhibits and the agency 11 exhibits, and a record of 1819 pages of testimony was made, the Board held informal conferences with the parties in an earnest but unsuccessful effort to adjust their differences. The entire record is made a part of this report.

THE DEMANDS AND THE EVIDENCE

This dispute arises out of the demand of the three organizations here represented for an increase in pay of 30 cents per hour.

The machinists have an additional demand for 10 cents per hour shift differential for working the second shift, and 15 cents per hour for the third shift.

Prior to this hearing, all other procedures under the Railway Labor Act had been exhausted.

Under date of October 31, 1945, an Emergency Board known as the Swaim Board recommended an increase of 10 cents per hour to about 7,000 express employees represented by the International Brotherhood of Teamsters. The agency here contends the Swaim report set a pattern for the express business. It appeared that the agency had offered a wage increase of 10 cents per hour, which had been refused by the employees.

While the present wage demands were pending, two Arbitration Boards were appointed, and one Emergency Board was created, to consider similar demands of the railroad workers in both the operating and nonoperating groups. These demands were resolved at Chicago during April 1946, resulting in awards of 16 cents per hour by the Arbitration Boards and in a recommendation of an increase of 16 cents an hour by the Emergency Board.

The agency here contends that the express business is a separate and independent industry and is not a part of the railroad industry, and that there is no relationship between the wage rates of the two. The employees contend that the express business is an integral part of the railroad industry. They further contend that this Board may consider additional factors, particularly gross inequities, as justifying their present demand for the full 30 cents per hour increase.

The employees offered evidence for the purpose of proving a close similarity of work performed by railroad workers and express workers; that the classifications of jobs for reporting purposes are likewise similar; that the businesses are covered by the same laws and regulated by the same bodies; that their wage movements, at least since 1929, have almost always been parallel, and have been often handled at the same time by joint committees; that all of the stock of the agency is owned by the railroads; that the revenues of the agency are accounted for by the agency to the railroads in full after deduction of operating expenses and other charges.

The employees also introduced numerous exhibits tending to show that the wage increases paid in general to railroad and express employees, both during the war and prior thereto, have not kept pace with the general movement of wage increases in the vast majority of other industries with which they may fairly be compared.

The agency offered evidence tending to bring out any differences that may exist between railroad employment and express employment; that the proportion of each dollar of express revenue paid over to the railroad companies as express-privilege payments has steadily declined; that there has been a great increase in the proportion of revenue devoted to labor cost; that the productivity of the employees generally has declined; and that the agency cannot afford a substantial wage increase.

This is the merest summary of the issues and the character of the evidence. In view of further discussion in our findings, and considering the conclusions that we have unanimously reached, we do not deem it necessary to amplify.

CONCLUSIONS OF THE BOARD

It is common knowledge that since VJ-day, in August of 1945, there have been numerous wage increases in a great variety of industries, including many industries of national scope. Representative examples of these wage increases, together with the large number of employees affected thereby, are set forth in the record. This movement for increased wage rates has stemmed from many causes. Perhaps the most important of these have been the actual and prospective reductions in take-home pay resulting from loss of overtime compensation, the failure of straight-time hourly earnings to keep pace with increases in living costs resulting from the application of the Little Steel Formula during the war period, and the survival and intensification of gross inequities, especially as between various industries, resulting from the rigidities of the wartime stabilization program. The postwar wage increases in all industries have reflected for the most part considerations of this character, either singly or in combination.

These factors are equally applicable to the demands of the employees of the Railway Express Agency; and the facts of record support the conclusion that these employees are entitled to a very substantial wage increase. While there is disagreement between the parties as to the quantitative measurement of these specific elements, the Railway Express Agency concedes that take-home pay is being reduced and that an increase in wage rates is necessary to bring straight-time hourly compensation to a level comparable to the increase in the cost of living (as officially determined); and what is more important, the evidence submitted by both the employees and the carrier establishes without

question that there has been a marked lag in the movement of express wages, particularly during the war period, as compared with the movement of wages in most other spheres. In view, however, of the disposition of this proceeding which the Board deems to be required by the stabilization program as now operative, no purpose would be served by special findings with respect to the magnitude of the take-home-pay reductions, or of the necessary cost-of-living adjustments, or of the gross inequities.

Under Executive Order 9697 of February 14, 1946, as supplemented by the regulations of the Office of Economic Stabilization of March 8, 1946, wage stabilization agencies are directed to approve wage increases which they find to be consistent with the general pattern of wage adjustments which has been established in the particular industry during the period between August 18, 1945, and February 14, 1946. Only where no applicable pattern has thus been established are stabilization agencies directed to approve wage increases found to be necessary to correct gross inequities or to remove cost-of-living maladjustments.

In these circumstances the basic issue before this Board is what wage pattern, if any, has been established for these express employees; and this question requires a determination as to whether the business conducted by the Railway Express Agency constitutes an independent and distinct industry or an integral part of the railroad industry.

The Railway Express Agency contends that a wage pattern has been duly established for the express employees; and with this contention the Board finds itself in full agreement. The agency further contends, however, that this pattern is one of an increase of 10 cents per hour recommended by the Emergency Board appointed October 10, 1945, for express-vehicle employees represented by the International Brotherhood of Teamsters, which increase has been paid to these employees (though no formal contract appears as yet to have been fully executed) since August 20, 1945. This increase, according to the agency, provides the wage pattern for the express employees because the express business constitutes an industry entirely independent of the railroad industry. With this contention the Board finds itself in complete disagreement.

Even if the express business constituted an independent industry, it is doubtful whether the 10-cent adjustment would provide the wage pattern contemplated by the stabilization requirements. This adjustment involved only vehicle employees, and only about one-third of even these vehicle employees—being confined to those represented by the teamsters, in eight cities and a few small localities in the vicinity of these cities. About 90 percent of the employees of the Railway Express Agency, which are represented by the three railroad labor or-

ganizations whose demands are under consideration in the instant proceeding, were not involved in the dispute which resulted in the wage increase of 10 cents an hour. Furthermore, the demands of the teamsters, which, aside from those for the New York Metropolitan District, did not exceed 10 cents an hour, were submitted in January and February of 1945, prior to the termination of hostilities either in Europe or in the Pacific, and under then existing stabilization policy. In these circumstances there is no adequate basis for assuming that the recommended increase of 10 cents was designed to set the postwar wage pattern referred to in the stabilization requirements now in effect, even for the employees directly involved, let alone for all the employees of the Railway Express Agency. But the basic defect in the position of the agency springs from its insistence that the express business constitutes a separate industry, distinct from, and independent of, the railroad industry.

The Railway Express Agency, as its very name indicates, is the agency of the railroads for the conduct of express business. It came into being, in 1929, as a means of enabling the railroads to perform their own express service, instead of farming it out, as theretofore, to independent express companies. It is wholly owned by 70 large railroads, which handle about 98 percent of express traffic, and it constitutes the exclusive joint agent of the railroads for the conduct of express transportation. The board of directors of the agency, aside from the President, consists of officials of the stock-owning railroads. The agency has no net income of its own, nor does it pay any dividends on its stock. It is accountable to the railroads for all of its revenues; after deducting operating expenses, taxes, and other charges, the remainder is distributed among the railroads, as "Rail Transportation Revenue" ("Express Privileges" in the accounting classifications as established in 1914, prior to the organization of the agency), in proportion to the amount of express transportation performed over each contract line. As an integral part of the railroad industry, the agency, like the railroads, is required to accord land-grant rates to the Government. Like the railroads, too, it is subject to the Interstate Commerce Act, the Railway Labor Act, the Railroad Retirement Act, and the Railroad Unemployment Insurance Act. The employees, as already noted, are represented predominantly by standard railroad labor organizations. As stated in a recent court proceeding on behalf of the agency itself: "The Agency was organized and is maintained as an integral part of the railroad industry * * * The railroads are the principals of the agency which on their behalf conducts an express transportation business and performs auxiliary transportation services." (Civil Action No. 44 C 1023: *Chester Bowles, Administrator, Office of Price Administration*

v. *Railway Express Agency, Incorporated*, March 18, 1946. Brief and Argument of Defendant in Support of its Motion to Dismiss the Complaint.)

As far as movements for changes in the general level of wages are concerned, express employees, at least since the organization of the Railway Express Agency in 1929, have received substantially the same treatment as railroad employees. The 10 percent wage deduction which became effective February 1, 1932, was negotiated on behalf of the agency as well as the railroads, and the same was true of the various extensions of the original agreement and of the final arrangement for the progressive restoration of this deduction. The 5 cent per hour wage increase for nonoperating railroad employees which became effective August 1, 1937, was likewise made applicable to the express employees. The 1938 request of the railroads for a 15 percent reduction in wages was also made by the agency for express employees, and the request was finally withdrawn by the Agency as well as by the railroads. The 10-cent per hour wage increase which became effective in December 1941 was made equally applicable to the nonoperating railroad employees and to the express employees. The increases in wage rates which resulted from the 1943 railroad wage disputes followed the same pattern for the express employees as for the railroad employees, except in connection with the supplementary increases in lieu of overtime, which were reduced somewhat because of the shorter workweek of the express employees.

These developments comprise the results of all of the general wage movements since the organization of the Railway Express Agency. In some of the proceedings involved—as in 1932 and 1937—the Agency was actually represented by the railroads' conference committees; and it also sought to be so represented in the 1938 proceeding. In 1941 and 1943 it requested separate handling of its wage cases; but they were heard by the same Emergency Board in 1941 which handled the cases of both the operating and the nonoperating railroad employees, and by the same Emergency Board in 1943 which handled the case of the nonoperating railroad employees. The fact of separate handling is, of course, a matter of no basic significance. It is merely wasteful of time and expense, and tends to render complicated issues of great practical importance even more complicated. The significant consideration is to be found in the fact that the Railway Express Agency has been recognized as part and parcel of the railroad industry, and that express employees have been treated for the most part like other railroad employees. The cases of groups of railroad employees have also been handled separately on various occasions. In 1943, for example, two separate Emergency Boards dealt with the demands of the nonoperating railroad employees and of the operating

railroad employees. The current wage disputes on the railroads have involved four separate agencies under the Railway Labor Act: an Arbitration Board for the nonoperating employees; an Arbitration Board for the firemen, conductors, and switchmen; an Emergency Board for the engineers and trainmen; and an Emergency Board for the express employees. This separate handling does not alter the fact that the disputes are all concerned with the relations between the railroads and their employees, whether these employees serve the railroads individually and directly or through their joint agency for the conduct of the express transportation business.

In light of all these circumstances, and in view of the fact that the wage demands of the clerks, the machinists, and the blacksmiths in this proceeding concern the general wage level rather than any issue of wage relationships between particular classes of employees, the wage pattern contemplated by the prevailing stabilization requirements must be found in the wage pattern of the railroad industry. This pattern was established April 3, 1946, in National Mediation Board Docket No. A-2215, Arb. 62, in which the Arbitration Board awarded to the nonoperating railroad employees represented by the fifteen cooperating railway labor organizations a uniform increase of 16 cents per hour, effective January 1, 1946. The three labor organizations involved in the instant proceeding were also parties to this arbitration proceeding, and their demand in the arbitration proceeding, as in the instant proceeding, was for an increase of 30 cents per hour. A recommendation by this Emergency Board of an increase of either more or less than 16 cents per hour would not only depart from the pattern there established, but would itself create unjustifiable wage inequities in the railroad industry.

It should be noted that on the same day, April 3, 1946, on which the award of 16 cents was made for the nonoperating employees, a like arbitration award of 16 cents per hour was made, in National Mediation Board Docket No. A-2215, Arb. 61, for the operating employees represented by the Brotherhood of Locomotive Firemen and Engineers, the Order of Railway Conductors, and the Switchmen's Union of North America; and that on April 18, 1946, the Emergency Board appointed March 8, 1946, also recommended an increase of 16 cents per hour for the employees represented by the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen. The 16-cent increase awarded by the two Arbitration Boards was held by the Emergency Board to have fixed a pattern for the railroad industry binding upon it; and in explanation of this view it added the following: "The organizations here urge that this is not a binding pattern upon us, contending that under the technical language of Executive Order 9697 'patterns' are only such as were established between VJ-day

and the date of that order, February 14, 1946. We believe this is too narrow a construction of the intent of that order; rather, that it was intended to apply as well to patterns thereafter established. Adjustments have been made amounting to patterns since that date and have met with the approval of the stabilization authorities." The Emergency Board in the instant proceeding finds no adequate ground for departing from this view.

While the two arbitration awards, which apply to about 85 percent of the employees of the railroads, have actually been put into effect, this Board is aware, of course, that the nonoperating employees have instituted proceedings for a further increase of 14 cents per hour; that the firemen, conductors, and switchmen have instituted proceedings for a further increase of \$1.20 per day; and that the engineers and trainmen have rejected the recommendations of the Emergency Board. These developments do not, however, alter the wage pattern of the railroad industry as it now stands. Future changes must be subject to the procedures of the Railway Labor Act. But whatever the basis of the 16 cents per hour increase, there can be no question that such increase is in accord with prevailing stabilization policy. General Wage Approval No. 1, issued by the chairman of the National Railway Labor Panel, April 24, 1946, and approved by the Economic Stabilization Director, recites that the chairman of the panel "approves the granting by a carrier (as 'carrier' is defined in Sec. 1, First, of Title I of the Railway Labor Act amended), to such of its employees as are subject to the jurisdiction of the chairman, of wage or salary increases, effective as of January 1, 1946, in such amounts as will not exceed 16¢ per hour, \$1.28 per basic day, or the equivalent thereof expressed in weekly or monthly rates, above straight time rates currently in effect for such employees on April 2, 1946, less the amount of any general, across-the-board increases which a given carrier may have granted between August 18, 1945, and April 2, 1946, inclusive." Since the Railway Express Agency is a carrier subject to the Railway Labor Act whose wage-setting practices follow the movements of the railroad industry, this advance approval applies to the agency as well as to the railroads.

Much emphasis has been placed by the agency upon the financial results of its operations, in their bearing upon its ability to pay wage increases. These financial considerations were urged upon the Board despite the fact that for the full year 1945, which included a period of 4 months after VJ-day, both its operating revenues and its so-called express privilege payments exceeded any levels previously attained in the conduct of the express business, and that for the first 2 months of 1946 these items were still within the general range of wartime levels. On the basis of the agency's own estimates of revenues and

expenses for the full year 1946, including the effect of a wage increase of 16 cents per hour for all its employees, express privilege payments would still amount to \$86,582,215, which exceeds the express privilege payments in 11 of the 17 years of the agency's existence. The question as to whether express privilege payments are sufficient to compensate the railroads for the services performed by them cannot be answered without elaborate and complicated cost determinations. The scattered estimates submitted in this proceeding are totally inadequate for this purpose. Moreover, such considerations are primarily relevant in rate proceedings rather than in wage proceedings. There is no basis whatever in the financial data offered by the agency for altering the Board's wage determination.

In the view of the Board the request of the machinists for shift differentials, which have come to be widely established, possesses much merit. Since, however, no such differentials have been negotiated between the machinists and the railroads, and since, furthermore, the pattern of wage adjustments recently established in the railroad industry is being followed in this proceeding, we recommend that the Machinists withdraw their request for shift differentials.

On the basis of the entire record, and after careful consideration of all testimony, exhibits, and argument, the Board recommends a uniform wage increase of 16 cents per hour for all the employees involved in this proceeding, such increase, which is to be added to all existing rates of pay, to become effective as of January 1, 1946, for the employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, as of February 1, 1946, for the employees represented by the International Association of Machinists, and as of March 1, 1946, for the employees represented by the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers.

CERTIFICATION

In accordance with the provisions of the Stabilization Act of October 2, 1942, as amended by Section 202 of the Stabilization Extension Act of 1944, approved June 30, 1944, we hereby certify that the recommendations of this Board relating to changes in compensation are consistent with such standards now in effect, established by or pursuant to law, for the purpose of controlling inflationary tendencies, and are approvable for purposes of seeking rate increase relief.

Respectfully submitted.

ROBERT W. WOOLLEY, *Chairman*

LEVERETT EDWARDS, *Member*

I. L. SHARFMAN, *Member*

MAY 23, 1946.

