

Report
TO
THE PRESIDENT
BY THE
EMERGENCY BOARD

CREATED AUGUST 26, 1948
BY EXECUTIVE ORDER 9991
PURSUANT TO SECTION 10
OF THE RAILWAY LABOR ACT

To investigate a dispute between the Pittsburgh
and West Virginia Railway Company and certain
of its employees represented by the Brotherhood
of Railroad Trainmen.

Pittsburgh, Pennsylvania

SEPTEMBER 13, 1948

(No. 64)

PITTSBURGH, PA., *September 13, 1948.*

THE PRESIDENT,
The White House.

MR. PRESIDENT: The Emergency Board appointed by you on September 2, 1948, pursuant to section 10 of the Railway Labor Act to investigate a dispute between the Pittsburgh & West Virginia Railway Co. and certain of its employees represented by the Brotherhood of Railroad Trainmen, has the honor to submit herewith its report of investigation and findings in connection with the aforesaid dispute.

Respectfully submitted.

JOHN W. YEAGER, *Chairman.*

JOHN T. McCANN, *Member.*

THOMAS J. REYNOLDS, *Member.*

(II)

REPORT OF EMERGENCY BOARD APPOINTED SEPTEMBER 2, 1948, PURSUANT TO AN EXECUTIVE ORDER 9991, DATED AUGUST 26, 1948, UNDER SECTION 10 OF THE RAILWAY LABOR ACT AS AMENDED

To investigate a dispute between the Pittsburgh & West Virginia Railway Co. and certain of its employees represented by the organization named in said Executive order, and to report findings as to the dispute to the President within 30 days from the date of the Executive order.

INTRODUCTORY

On August 26, 1948, the President of the United States issued an Executive order creating an Emergency Board, the said Executive order reading as follows:

EXECUTIVE ORDER

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE PITTSBURGH & WEST VIRGINIA RAILWAY COMPANY AND CERTAIN OF ITS EMPLOYEES

Whereas a dispute exists between the Pittsburgh & West Virginia Railway Company, a carrier, and certain of its employees represented by the Brotherhood of Railroad Trainmen, 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 within the States of Ohio and Pennsylvania to a degree such as to deprive those states 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 the 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 Pittsburgh & West Virginia Railway Company or its employees in the conditions out of which the said dispute arose.

HARRY S. TRUMAN.

THE WHITE HOUSE,

August 26, 1948.

The President appointed John W. Yeager of Nebraska, John T. McCann of New York, and Thomas J. Reynolds of New Jersey, members of said Emergency Board.

The time fixed for the convening of the Board was 10 a. m. on Wednesday morning, September 8, 1948, at the Hotel Roosevelt, Pittsburgh, Pa. The Board convened at said place on the day and hour named.

The Board met in executive session and elected John W. Yeager chairman, and appointed Ward & Paul, of Washington, D. C., as the official reporter. The Board then called the hearing to order.

Appearances before the Board were as follows: J. P. Cahill, deputy president; U. D. Hartman, general chairman; and W. E. Hood, local chairman; for the Brotherhood of Railroad Trainmen.

T. W. Pomeroy, Jr., Esq., general counsel; M. F. Mayes, superintendent of personnel; L. G. Walker, vice president of operations and maintenance; H. A. Ross, vice president and secretary; and W. E. Robinholt, superintendent of transportation; for the carrier.

The hearing in the above-entitled matter was closed at 11:55 a. m., Friday, September 10, 1948.

At the conclusion of the hearing the Emergency Board proffered its mediation services to the parties.

BACKGROUND OF THE CASE

The issue in this dispute involved the claim for reinstatement and back pay for John F. Downey, who was a trainman in the employ of the carrier. Sometime during 1941 Downey was involved in an accident on the property of the carrier. Thereafter Downey brought suit against the carrier, claiming total and permanent disability. The suit was settled by agreement and the entering of a consent judgment.

Thereafter, in October 1942, Downey requested that he be returned to service with unbroken seniority. The employer refused to reassign Downey to duty. Following certain negotiations between the carrier and the Brotherhood, Downey's case was submitted, during the year 1943, as a dispute to the National Railroad Adjustment Board, Division 1.

Under date of March 10, 1948, the National Railroad Adjustment Board issued an award in this case. The parties thereupon found certain difficulties and differences in carrying out the terms of said award. Their disagreement as to the force and effect of the award persisted even after an interpretation of said award had been sought and obtained. The Brotherhood thereupon circulated under date of August 4, 1948, a strike ballot, which resulted in a vote of 97.54 per-

cent in favor of withdrawing from the service unless the case was settled satisfactorily.

The National Mediation Board thereupon took jurisdiction of the dispute for purposes of mediating the issue between the parties. The efforts of the Board were not successful. Thereupon this Emergency Board was created by the Executive order dated August 26, 1948.

ISSUES PRESENTED TO THE BOARD

The issue presented by the parties at the hearing was the original claim by the Brotherhood for reinstatement and full back pay for Mr. Downey, together with the disagreement between the parties as to the meaning and effect of the award of the National Railroad Adjustment Board.

DISCUSSION

Both parties presented a full and complete statement of their position with respect to the issue. Voluminous testimony was had covering both the underlying merits of the original dispute and the meaning and effect of the award afore-mentioned.

Following the close of the hearing, both parties having accepted this Board's offer of mediation, a series of informal meetings with the individual parties was undertaken. At 6:30 p. m. on Saturday, September 11, a memorandum of settlement was signed by the parties, completely resolving the dispute and terminating the strike notice.

RECOMMENDATION

The Board recommends that, the issue in dispute having been settled by agreement among the parties, the case be closed.

JOHN W. YEAGER, *Chairman.*

JOHN T. McCANN, *Member.*

THOMAS J. REYNOLDS, *Member.*