Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD

APPOINTED BY EXECUTIVE ORDER 10760 DATED MARCH 27, 1958, PURSUANT TO SECTION 10 OF THE RAILWAY LABOR ACT, AS AMENDED

To Investigate an unadjusted dispute between Trans World Airlines, Inc., a carrier, and certain of its employees represented by the Flight Engineers' International Association, TWA Chapter, a labor organization.

WASHINGTON, D. C.
JULY 25, 1958

(A-5630)

(No. 123)

LETTER OF TRANSMITTAL

WASHINGTON, D. C., *July 25, 1958.*

THE PRESIDENT

THE WHITE HOUSE, *Washington, D. C.*

Mr. PRESIDENT: The Emergency Board created by you on March 27, 1958, by Executive Order 10760, pursuant to Section 10 of the Railway Labor Act, as amended, to investigate an unadjusted dispute between Trans World Airlines, Inc., and certain of its employees represented by the Flight Engineers International Association—TWA Chapter, a labor organization, has the honor to submit herewith its report and recommendations based upon its investigation of the issues in dispute.

Respectfully submitted.

DUDLEY E. WHITING, *Sole Member.*

474591—58

TABLE OF CONTENTS

I. HISTORY OF THE EMERGENCY BOARD

Emergency Board No. 123 was created on March 27, 1958, pursuant to the provisions of Section 10 of the Railway Labor Act as amended, by Executive order of the President, to investigate and report on the labor dispute between Trans World Airlines, Inc., and certain of its employees represented by the Flight Engineers International Association—TWA Chapter. In due course the President appointed the following as members of the Board: David L. Cole of Paterson, N. J., chairman; Saul Wallen of Boston, member; and Dudley E. Whiting of Detroit, member.

The Board convened in Washington, D. C., on June 10, 1958. The parties then executed a stipulation as follows:

STIPULATION

It is hereby stipulated by Trans World Airlines, Inc., and Flight Engineers International Association, TWA Chapter, a labor organization representing certain employees of this air carrier that the Emergency Board proceedings instituted on March 27, 1958, by Executive order of the President pursuant to Section 10 of the Railway Labor Act be continued subject to the following modifications and understandings:

1. That the investigation and report be made by an Emergency Board consisting of one of the three Board members designated by the President namely, Dudley E. Whiting, in place of the three-man Board;

2. That said one-man Board be authorized to consult with the other two individuals named by the President in his Executive order of March 27, 1958, before rendering its report;

3. That the investigation contemplated by the Act will start on June 23, 1958, at Washington, D. C.;

4. That the Board as thus constituted shall report its findings to the President with respect to this dispute within 30 days from June 23, 1958;

5. That the proceedings as thus modified be deemed to be proceedings in accordance with Section 10 of the Railway Labor Act and that they have the same force and effect in all respects as the proceeding instituted by the President under the aforementioned Executive order.

Proceedings pursuant thereto commenced on June 23, 1958, and resulted in agreement by the parties except upon the Association's proposal for a scope clause and issues related to it.

II. BACKGROUND OF THE CASE

Trans World Airlines is both a domestic and an international carrier. Its domestic route structure is transcontinental and its international routes extend from the United States to points in Europe, the Middle East and the Far East. It started using mechanical specialist flight engineers in 1939 and has continuously used such employees since that time. On November 8, 1945, the National Mediation Board, in a representation proceeding, issued a certification of a bargaining representative for flight engineers and student flight engineers. As of May 1, 1958, it employed 671 of such flight engineers.

The existing agreement between TWA and the FEIA is dated October 26, 1955. It was subject to modification by 30-day notice prior to October 26, 1957, or any succeeding October 26th. On September 23, 1957, both parties gave notice of intent to modify that agreement. One of the proposals of the Association was for a scope clause to assure job security by, in essence, providing that, when a third cockpit flight crew member is required or used to perform the flight engineering function, he shall be assigned from the seniority list provided for in the agreement.

On April 2, 1958, the Company issued a statement of policy as follows:

> "For some time, the major United States air carriers have been considering the problem of whether the function performed by the third crew member on a jet could best be fulfilled by an individual with pilot qualifications or one with mechanic engineer qualifications.
>
> "Several carriers have recently announced their decision in this regard. The management of TWA has thoroughly studied the matter with the firm objective of making a decision that was in the overall best interests of all employees and that best suited to TWA's operation and objectives. In view of all factors, it has been determined that present Company policy will be to use mechanic engineer qualified individuals to perform the flight engineering function on TWA jet aircraft, when the Federal regulations require a separate crew member to perform this function and do not require such individual to possess pilot qualifications. It is felt all employees will be interested in this announcement in view of the widespread press publicity given the subject in recent weeks."

The failure of the parties to reach agreement upon a scope clause thereafter, and particularly in these proceedings, is not due to any basic difference in objectives but is due to their consideration of future contingencies, no matter how remote they appear, and their desire for the utmost protection in such cases.

III. BOARD DISCUSSION

As noted the Company started using mechanic qualified flight engineers 9 years before the use of a flight engineer was required by CAB regulations. It is natural that long-service employees are concerned about and are seeking job protection as we approach the jet age in air transportation. It fairly appears that the Company desires to extend to them the greatest protection possible that is consistent with its responsibility to provide safe, economical, and efficient service to the public. To that end it has exercised its right and responsibility to evaluate the qualifications it deems necessary for flight engineers on jet aircraft.

It announced and stands upon that decision so there is no dispute here as to qualifications of flight engineers thereon.

Many varied forms of a scope clause were advanced and discussed during the proceedings of this Board. The language here recommended seems suitable to meet the objectives of both parties and to express the obligations of the Company under the National Mediation Board certification.

The principal contingencies which require some protection for one or the other party are, (1) possible change of flight engineer qualifications by Government regulation, (2) possible change in such qualifications by the Company, and (3) in the event of a change which would require other than a flight engineer license the possibility of an insufficient number of qualified flight engineers on the seniority list to operate the airline. Both parties recognize the existence of those problems and it is absolutely essential that each be completely fair in evaluating the necessities of each problem and the interest of each other therein.

If addition qualifications or licenses are required by Government regulation the employees should be allowed a reasonable time to qualify but, since that is no fault of the Company, the employee has an obligation to obtain such qualification or license at his own expense and on his own time. If, however, the Company imposes additional qualifications it is only fair that the employees be given a reasonable time to obtain such qualifications on Company time and at Company expense. Appropriate language will be recommended to achieve those results.

It is quite conceivable that if some future change, in qualifications for flight engineers becomes effective, such as, for example, a pilot license, not enough flight engineers on the seniority list could or would be able to qualify to operate the aircraft involved. In such event it would be absolutely necessary for the Company to be able to hire qualified people. It would be confronted, however, with the

contractual requirement that new employees possess an aircraft and aircraft engine mechanic's certificate. It does not appear probable that it could find pilots with such a certificate or who would even be able to obtain one within any reasonable time. The first obligation of the Company is to provide service to the public and no contractual restriction should be permitted to render the fulfilling of that responsibility impossible. Appropriate language will be recommended to eliminate such possibility and still preserve the provision to the fullest extent possible.

These recommendations certainly are an appropriate basis for a fair and reasonable agreement which will achieve the greatest possible job security in a changing era. It is obvious that employees can reasonably expect such security only to the extent of their capability to meet different job requirements on new equipment. It would be impossible to anticipate all of the problems involved in the advent of radically new equipment, so it is essential that the agreement provide flexibility and such protection as is possible to the parties in meeting necessary changes in the qualifications required by employees to efficiently operate such equipment. That appears to be accomplished by the following recommendations:

IV. RECOMMENDATIONS

I recommend:

1. That the parties incorporate in their agreement a scope clause as follows:

Scope

A flight engineer, who is included on the seniority list provided for and covered by this agreement, shall be assigned to, and used on all flights, without regard to the type of equipment used and operated, in all instances when a cockpit flight crew member in excess of two is assigned to perform the flight engineering function. This agreement shall be applicable to all flights and to the operation and use of all types of equipment without regard to any other name or description by which the flight engineering function may be designated: Provided, however, that if the regulation of any Government agency require that, in the use and operation of any specified type of equipment, all members of a minimum cockpit flight crew of three or more, on such equipment shall possess specified qualifications and/or specified licenses which are not solely incident or necessary to the performance of the flight engineering function, the member of such minimum crew who is to, or does, perform the flight engineering function shall be selected and assigned from the seniority list, covered by this agreement, of flight engineers, who may possess or acquire the qualifications and/or licenses required by such regulations:

Provided, further that the Company will not enter into any collective bargaining agreement, with any other organization or association, covering employees who perform the flight engineering function so long as the certification of the Association as bargaining representative for such employees remains in effect: and Provided, further that "the flight engineering function" as used herein is defined to mean that function as it is generally known.

For the purposes of the foregoing, the following are not considered part of the minimum flight crew: Crew member carried, (1) because of the nature of the route (such as Navigators), (2) because of the schedule being flown (such as more than two pilots on multiple crew operation), (3) as supervisors or employees to instruct or check crew member proficiency, and (4) as cabin attendants and other service employees.

* * * * * * *

The allocation of cockpit duties will be determined by the Company.

2. That the parties add to section XXII the following paragraphs:

v. All flight engineers included on the seniority list covered by this agreement, shall be accorded and allowed a reasonable length of time to acquire and obtain at their own expense, on their own time, any additional qualifications, and/or licenses which may be required by Government regulation for the performance of the flight engineering function.

w. In the event that additional Company requirements for flight engineers are imposed, flight engineers in the employ of the Company shall be granted a reasonable period of time in which to meet such additional requirements on Company time and at Company expense.

x. If other than a flight engineer license is required by Government rules, and/or regulations for the flight engineering function, the A and E provisions in this agreement will not prohibit the Company from hiring and retaining an individual for the flight engineering function if he possesses the license or licenses required by such rules or regulations. So long as he performs the flight engineering function, such an individual shall be subject to all of the provisions of this agreement and related documents other than those provisions relating to the requirement of an A and E license.

Respectfully submitted.

DUDLEY E. WHITING, *Sole Member.*

U. S. GOVERNMENT PRINTING OFFICE: 1953