Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD

APPOINTED BY EXECUTIVE ORDER 10875 DATED APRIL 22, 1960, PURSUANT TO SECTION 10 OF THE RAILWAY LABOR ACT, AS AMENDED

To Investigate a dispute between the Akron & Barberton Belt Railroad and other carriers represented by the Eastern, Western, and Southeastern Carriers' Conference Committees and Certain of their employees represented by Eleven Cooperating (nonoperating) Railway Labor Organizations.

(NMB Case Nos. A-6157 and A-6158)

WASHINGTON, D.C.
JUNE 8, 1960

(Emergency Board No. 130)

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LETTER OF TRANSMITTAL

WASHINGTON, D.C., *June 8, 1960*

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

MR. PRESIDENT: The Emergency Board created by your Executive Order 10875 of April 22, 1960, pursuant to the provisions of Section 10 of the Railway Labor Act, as amended, to investigate disputes between the Akron & Barberton Belt Railroad and other Carriers represented by the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees represented by eleven cooperating (nonoperating) Railway Labor Organizations has the honor to submit herewith its report and recommendations.

Respectfully submitted,

BENJAMIN AARON, *Member.*
ARTHUR W. SEMPLINER, *Member.*
JOHN T. DUNLOP, *Chairman.*

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SUMMARY OF RECOMMENDATIONS

WAGES AND HEALTH AND WELFARE

(1) The Board recommends that the parties agree to a general wage rate increase of 5 cents per hour over the rates currently prevailing, effective July 1, 1960.

(2) The Board recommends that the parties negotiate the following improvements in the health and welfare program, effective with the new policy year of their contract with the insurer:

(a) An increase in the contribution by the Carriers to the special account in an amount necessary to insure its financial integrity over the period ahead;

(b) Additional contributions by the Carriers to equalize dependents' benefits with employee benefits, except with respect to benefits that may result in disproportionate costs;

(c) Additional contributions by the Carriers to provide group life insurance benefits; and

(d) If mutually determined by the parties to be within reasonable limits, additional contributions by the Carriers to provide extension of employee benefits to furloughed employees for a period of 3 months, and to pay for the costs of injuries and illnesses arising out of employment.

(3) The Board's recommendations on the health and welfare issues are made in lieu of a recommendation for a further general wage increase, effective in early 1961, the recommended additional contributions by the Carriers to the health and welfare program being regarded by the Board as wage equivalents. The foregoing recommendations of the Board on health and welfare proposals are designed to assist the parties in reaching an agreement without prejudice to their respective contentions on the legal issues.

(4) The Board recommends that the Organizations and the Carriers diligently explore all avenues of cost control in order to improve the administration of their health and welfare program.

(5) The Board recommends that the 17 cents-per-hour, cost-of-living adjustments from May 1, 1957, through May 1, 1960, be incorporated in the basic wage rates.

VACATIONS

(1) The Board recommends that the present requirement of 5 years' service for a 2-week vacation be reduced to 3 years' service, effective for the calendar year, 1960. The Board recommends no change in the

present requirements of 1 year's service for a 1-week vacation and 15 years' service for a 3-week vacation, nor does it recommend an additional fourth week of vacation.

(2) The Board recommends that the parties negotiate a change in the present minimum work requirements for vacation eligibility on the basis of either or both of the following methods:

(a) Reducing the number of qualifying days below the present requirement of 133 days of compensated service in the previous calendar year, either uniformly for all employees, or in accordance with a schedule based on years of service;

(b) Allowing employees who would be entitled to vacations of 2 or 3 weeks on the basis of total years of continuous service, but who fail to meet the minimum work requirements in the preceding calendar year, some proportion of the vacation they would otherwise have received.

(3) The Board recommends that the parties consider, in connection with their review of minimum work requirements, the possibility of counting days lost because of off-the-job injuries as days of compensated service.

(4) The Board recommends that the parties negotiate an amendment to the present vacation agreement which will provide, subject only to limited and specific exceptions, that earned vacation allowances be paid to employees who quit or who are discharged for cause, and which will also provide that if an employee dies before receiving his earned-vacation allowance, the allowance be paid first to his designated beneficiary, if any, or to his estate.

(5) The Board recommends no changes in the present vacation rules with respect to employees returning from military service, or to administration of the vacation agreement generally.

HOLIDAYS

(1) The Board recommends that the parties negotiate a change in the present rules regarding eligibility and qualifications for holiday pay so as to include, in addition to employees who qualify under the present rules, employees who meet both of the following tests:

(a) A seniority status of at least 60 days, and

(b) Compensated service in the majority of all the work days in the 30 calendar days preceding the holiday.

(2) The Board recommends that the parties negotiate a further change in the present rules regarding eligibility and qualifications for holiday pay so that employees who have complied with all requirements for holiday pay, including those recommended by this Board, and who are available for work on both such days, but are not assigned on either or both, should be eligible for holiday pay.

(3) The Board recommends no changes in those rules regarding holidays during vacation period and rate of pay for holidays worked,

in view of the fact that the parties have not seen fit to review the doctrine that holiday pay is compensation for loss of take-home pay in its entirety.

(4) The Board recommends no increase in the present number of 7 holidays.

(5) The Board returns to the parties without recommendation, because of lack of sufficient evidence, the issue of holiday pay for dining car employees.

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INTRODUCTION

The parties before this Board are approximately 200 railroads and terminal switching companies represented by the 3 regional Carriers' Conference Committees and over half a million workers represented by 11 cooperating nonoperating railway labor Organizations. These workers in the railroad industry perform work other than that directly involved in the operation of trains.

The railroads operate approximately 90 percent of the railroad mileage, and they handle approximately 99 percent of freight and passenger traffic. The Organizations represent approximately 71.5 percent of the employees of the industry aside from officials and professional employees.

The issues before this Board arose out of two sets of proposals and counterproposals. On May 29, 1959, the Organizations served notices on the Carriers for improvements in holidays and vacations with pay to be effective November 1, 1959, and January 1, 1960, and the Carriers served counterproposals on June 8, 1959. It was no doubt the original expectation of the Organizations that this vacation and holiday case would be well advanced before additional proposals would be served shortly before or following the expiration of the 3-year agreement on November 1, 1959. The Carriers held that these holiday and vacation proposals were barred by the 3-year agreement then in effect. These objections were subsequently overruled by the National Mediation Board on November 13, 1959. The Organizations had meanwhile, on September 1, 1959, served a second set of notices on the Carriers for improvements in the health and welfare plan and for a general wage increase, and the Carriers had served counterproposals on September 20, 1959. All these various proposals and counterproposals arising from the 2 sets of notices have been presented to this Board and are the subject of this Report.

THE FUNCTIONS OF THE BOARD

The functions of the present Board and the way in which it views its responsibilities need to be clearly stated. This Board was created to "investigate promptly the facts as to the dispute and make a report thereon to the President. * * *" This Board is not an arbitration board, such as the tripartite arbitration board (No. 254) which rendered its award on June 3, 1960, on wage issues between the Carriers and the Locomotive Engineers. The present Board, com-

prised solely of neutrals, is not empowered to make a final and binding award. Its Report, including recommendations, is designed to facilitate the subsequent and further collective bargaining of the parties. This Report is not intended to write the precise language of the collective bargaining agreement nor to determine the exact terms of settlement of the disputes between the parties. Rather, it is designed to suggest a relatively narrow area of settlement which the parties should explore constructively. The purpose of the Board is to present the facts, appropriate standards, and suggestions, in the hope that these will persuade the parties voluntarily to reach an agreement.

This Board has a further responsibility: To clarify the public interest in the private collective bargaining between these parties in this vital transportation industry. The public interest in the terms of settlement of any labor dispute is a complex and controversial matter, and the members of the Board have no exclusive prerogative to define the precise impact of the public interest. But in a period in which there is much public comment and debate over the performance of collective bargaining it has seemed appropriate to indicate to the parties—before they have completed their negotiations and while they are preoccupied with their immediate problems—that this report is designed to be an expression of public interest in the final settlement. At the same time the report is designed to explain very briefly to the public the present status of collective bargaining in the railroad industry between the Carriers and the nonoperating Organizations. The report thus seeks to bring to the bargaining table a further measure of public interest, and to the public a greater appreciation of the problems and performance of collective bargaining in this vital industry.

THE STATE OF COLLECTIVE BARGAINING

Collective bargaining has had a long and constructive relationship between these parties. The leaders and spokesmen on each side are men of great ability and experience; many of them have been engaged in negotiating with each other at the national level for as long as 20 or 30 years. An Emergency Board entering, for the first time, the bargaining relationship between such parties for a brief period and for a limited purpose, is conscious of the complexity of the problems of the industry and the pragmatic wisdom of the industrial relations system that has gradually evolved over the years. Moreover, the accomplishments of the parties in collective bargaining have been considerable. Agreements made between the parties without an Emergency Board settled the wages and terms of employment for more than half of the years of the last decade. The Washington Job Protection Agreement of 1936, applicable to displacement arising

from the merger of railroads, and the more recent agreements between some organizations and individual carriers over automation, are illustrative of constructive relations and a long-run viewpoint.

There are reasons, however, for greater public interest in the state of collective bargaining in this industry between these parties. The railroad industry is in the midst of enormous change. Total employment in the industry declined spectacularly in the past decade, from 1,220,784 in 1950 to 815,254 in 1959. The number of nonoperating employees declined from 864,412 to 526,856 in the same period. The share of the railroads in intercity freight traffic declined from 56.2 percent in 1950 to 45.6 percent in 1959. Trains have become longer and faster, and technological changes have also significantly affected nonoperating employees. The prospects for the decade ahead are for an accelerated rate of change.

These enormous changes in technology and markets have imposed an increasing number of strains upon the parties in collective bargaining. It would be surprising indeed if they did not. The constructive relations of an older day seem in part to have been eroded. The pace of events has been so rapid that both parties are tending to look backwards rather than forwards. The events of the past year have created new suspicions and irritations. The parties are poles apart on the financial condition of the railroad industry. The Carriers describe their industry as "poor and troubled"; the Organizations describe the finances of the industry as "prosperous," their present position a result of "deliberate policies of management."

The parties seem to agree that the industry is in "retreat." The Organizations say it is a retreat to "monopoly" and the Carriers say it is a retreat to "extinction," "pursued by excessive and unreasonable labor costs." The American community expects more from both labor and management in this industry than retreat.

In the rapidly changing railroad scene of the past decade the parties have been unable or have not had the time to grapple with a growing number of fundamental problems. Among these may be mentioned the compression of the wage scale among nonoperating employees, arising from across-the-board cents-per-hour increases; the large backlog of grievances and the unduly long time required to process cases; the absence of measures to deal with the rapid rates of unemployment and layoffs; and the failure to develop joint machinery to explore the problems of the industry as a whole.

THE IMPACT OF PUBLIC POLICY

The changes in the railroad industry in the past decade have created even greater issues for public policy, and a large part of the growing difficulties of the parties in collective bargaining reflects a failure to develop adequate national policies for the railroads and

for a coordinated transportation system. Just as the parties to collective bargaining have been confronted by many serious problems arising from the rapid changes in technology and markets, so have legislative and regulatory bodies, national and local. Among these problems of public policy are the deficits in passenger service, the role of railroads in comprehensive policies for metropolitan development, the policies of regulatory commissions in an era in which railroads are confronted by severe competition, rather than operating largely as monopolies, the relative subsidization of various types of transportation, and the coordination of various forms of transportation.

These problems are clearly beyond the scope of the Board's inquiry, although they decisively affect the parties and their collective bargaining. They also circumscribe the recommendations of this Board. But the public, and public officials need to understand that the failure to treat decisively and in the immediate future such issues of a national transportation policy is certain to result in considerably greater conflict in collective bargaining between the parties in the future.

The Carriers and the Organizations have a great responsibility to work cooperatively for more comprehensive and forward-looking public policies, but they have not done so. The suggestion of the President and of the Secretary of Labor for joint bodies for continuing study of common problems, and for labor-management cooperation on an industry basis, merits adoption in the railroad industry.

PART I

GENERAL DISCUSSION AND CONCLUSIONS OF THE BOARD

WAGES AND HEALTH AND WELFARE

WAGES

The Organizations propose the incorporation into the basic wage rates of the cost-of-living adjustments made under the previous 3-year agreement through November 1, 1959, which aggregate 16 cents per hour; the cancellation of the cost-of-living escalator; and a general increase of 25 cents per hour, effective November 1, 1959.

The Carriers propose a general reduction of 15 cents per hour, effective November 1, 1959, and the cancellation of the cost-of-living adjustment provisions, effective October 31, 1959.

Although the foregoing proposals and counterproposals indicate that the parties are far apart on the wage issues, there appears to be no dispute over two matters: (1) The new agreement should not continue the cost-of-living escalation contained in the agreement of November 1, 1956, and (2) any general wage rate change should be expressed in cents per hour. The Board accepts these premises in developing its suggestions to the parties for settlement.

The cost-of-living escalation of the last agreement was directly related to the length of the agreement, which was 3 years. The removal of the escalation implies that the parties, although not necessarily in full agreement, have a shorter time period in mind. Indeed, unlike the collective bargaining practice in other industries, the traditional arrangement in the railroad industry, as in Great Britain, is for an agreement of indefinite duration with provision of notice of desire to change the agreement.

It is difficult, however, to negotiate wages for the future without having in mind some minimum period during which they shall remain unchanged. The Board believes that by suggesting a specific time period it will facilitate the understanding of this report and the bargaining of the parties. The period which the Board has in mind should last until some time in the late fall of 1961. A longer period would, of course, permit greater wage increases than those recommended in this report.

The proposed time period is relatively short, particularly in view of the time often required to complete wage cases in this industry. But there are compelling reasons at this juncture for a relatively short period, although a longer period would permit attention to some of the underlying problems of the industry. The past 2 years, 1958 and 1959, have been poor financially and the first quarter of

1960 has been no better; neither side, therefore, is likely to favor a long view at the present time. There are conflicting appraisals of the future course of business and of the seriousness of current financial conditions. For the parties there are also uncertainties of public policy in election years.

This Board does not believe that there is any mechanical formula by which wages can be determined by these parties in collective bargaining or recommended by an Emergency Board seeking to encourage a settlement. But the Board does believe there are a number of wage standards, many of which have been discussed by the parties, which may be applied to facilitate and to check the judgment of neutrals. In the present case the Board believes that four standards are most decisive and significant: Wage relationships with other industries, recent wage changes in industry generally, wage relationships within the railroad industry, and financial condition of the Carriers.

Wage Relationships with Other Industries.—For many years the parties have discussed their wage proposals in terms of the relationship of the wages of nonoperating railroad workers and wages in outside industry. The Board doubts that there is any unvarying relationship over long periods between the wages of one industry and those in other industries or with the average of all industry. Moreover, the railroad industry in the last decade has entered a new era.

The wage relationships between nonoperating railroad employees and workers in all manufacturing and durable goods industries is presented in table 1.

TABLE 1.—*Average straight time hourly earnings*

Period	Nonoperating railroad employees	All manufacturing	Durable goods
Sept. 1949	$1.19	$1.37	$1.43
Jan.-June 1950	1.49	1.39	1.45
1950	1.48	1.42	1.48
1951	1.65	1.53	1.60
1952	1.73	1.61	1.70
Oct. 1953	1.78	1.73	1.83
1953	1.77	1.71	1.80
1954	1.80	1.76	1.86
1955	1.81	1.82	1.93
Nov. 1956	2.05	1.96	2.08
1956	1.97	1.91	2.03
1957	2.11	2.01	2.14
1958	2.27	2.08	2.23
Jan.-June 1959	2.37	2.15	2.31
Jan. 1960	2.41	2.21	2.37

From the first half of 1950 to the early months of 1960, the wages of nonoperating railroad workers increased 10 cents per hour on the average more than those of workers in manufacturing industries and by the same amount (92 cents) as workers in durable goods indus-

tries. The Board concludes, therefore, that the historical relationship of railroad wages to those in outside industry provides no basis for a wage increase.

Recent Wage Changes in Industry Generally.—The 3-year agreement between the parties of November 1, 1956, provided for increases of 10 cents, 7 cents, and 7 cents on November 1, 1956, 1957, and 1958, respectively. The cost-of-living escalator yielded, in addition, increases of 16 cents through November 1, 1959. The increases over this period have been at a materially faster rate than in manufacturing generally or in durable goods industries. Thus, from November, 1956 (after the 10-cent increase) to January, 1960, straight time hourly earnings for nonoperating employees increased 36 cents compared to 25 cents for all manufacturing and 29 cents for durable goods workers. The Board notes that the parties negotiated the November 1, 1956, agreement without the intervention of an Emergency Board; there is added grounds to support the conclusion, therefore, that no basis exists, as of the early months of 1960, for a wage increase on the grounds of historical relationships to wages in outside industries.

But wages in industry generally are not static in 1960. They may be reasonably expected to rise in the period from now until the late fall of 1961. While wage setting in industry generally is widely recognized to be a prospective decision, there is a tendency for a variety of reasons for all parties in the railroad industry to think in terms of adjusting to conditions already created in outside industry. Under these circumstances the Board is loathe to predict the course of wage movements in outside industry in the year ahead. There are data available, however, to show the size of deferred wage increases agreed to before 1960 which are scheduled to go into effect in 1960. The Bureau of Labor Statistics reports that in situations affecting 1,000 or more workers, the great majority of deferred increases in manufacturing ranged between 6 and less than 7 cents. Indeed, deferred increases in that range covered 60 percent of all workers receiving deferred increases in 1960.

Wage Relationships Within the Railroad Industry.—Since the expiration of the moratorium on November 1, 1959, there have been no settlements made in the railroad industry indicating a pattern or level of wage change until the issuance, on June 3, 1960, of the unanimous arbitration award involving the Brotherhood of Locomotive Engineers. This award provided for basic daily rate increases of 2 percent, effective July 1, 1960, and of 2 percent, effective March 1, 1961. The terms of this award were adopted voluntarily by the Carriers and the Order of Railway Conductors and Brakemen on June 4, 1960, and it now appears that the award has set a pattern for the operating crafts.

The principle of pattern general increases between the operating and nonoperating classifications is well established in the railroad industry. Despite this fact, there has been considerable debate over the achievement of this principle and over its continuing application, particularly when various craft organizations have sought differential increases. Nor should this principle be interpreted to freeze forever differentials established as of one date. Nevertheless, the cumulative general wage increases of road operating employees, yard operating employees, and nonoperating employees have each totaled 156.5 cents between August 1, 1937, and May 1, 1960, except that the figure for nonoperating employees is .4 of a cent higher. The nonoperating employees have used 6.5 cents of this amount for a health and welfare program; the operating employees, on the other hand, have applied this amount as a wage equivalent. These figures indicate the decisive nature of intraindustry wage relationships in the railroad industry.

The Board highly regards the integrity of the several bargaining relationships and the right of each Organization to make its own settlements. The two principles referred to above—integrity of separate bargaining and equivalence of settlements—are logically inconsistent. Nonetheless, they have both persisted in the railroad industry. This Board recognizes the validity of both principles in its recommendations.

Financial Condition of the Railroads.—The Board believes that financial condition and business prospects are significant factors in wage determination in the railroads, just as they are in industry generally. Any measure of the financial condition of the railroads is not equally relevant to such diverse decisions as rate setting, marketing of securities, bank credit, dividend policies, or wage setting. The present concern of the Board and of the parties is solely with the relevance of financial conditions to wage decisions.

In the view of the Board, the financial and competitive position of the railroad industry, as part of the transportation system, is chronically affected by the following factors: The emergence of new and competitive forms of transport; the consequent difficulty of passing on wage-rate increases in the form of rate and fare increases; the difficulties imposed by public policy through regulatory bodies under new market conditions; the absence of a general public transportation policy integrating various forms of transportation; the high proportion of labor costs to total costs; and the difficulties of contracting and consolidating the railroad system for a smaller scale of operations. As a consequence, the volume of capital expenditures, although considerable, has been inadequate to accomplish the changes in the industry required by the new conditions which arose in the 1950's and which are likely to prevail in the 1960's.

The financial condition of the railroad industry in the immediate past has been particularly unsatisfactory. The recession of 1957–58 produced a poor record in 1958, and the steel strike apparently significantly affected financial results in 1959. The first months of 1960 have shown no better results, and the prospects for the balance of the year are not widely regarded as likely to improve substantially.

The Board believes that the impact of these financial conditions on employment is a factor to be taken into account in applying standards to this wage dispute. The Organizations seem to assume that a further decline in employment is "inevitable," particularly as a consequence of continuing technical change. This view appears to coincide with that of Mr. Symes, the chairman of the board of the Pennsylvania Railroad, who stated: "We are currently making a further intensified effort to eliminate every job which cannot be fully justified." The Board believes that the parties in their national bargaining have not given adequate attention to the impact on employment of the great changes that are taking place in this industry. A new railroad industry is being created by technological change and competition, and the Organizations and Carriers are being pushed and squeezed by these changes, rather than leading and directing them.

HEALTH AND WELFARE

The proposals of the Organizations and the counterproposals of the Carriers with respect to health and welfare involve the issues of the special account, equal benefits for employees and dependents, cost-control features, other benefits, group life insurance, and certain legal issues. The Board regards the following recommendations for further contributions by the Carriers to the health and welfare program as wage equivalents.

The Special Account.—When the current insurance contract is next open for review, the balance in the special account will be approximately $3.4 million. At that time the parties will face the alternative of increasing the contributions or reducing some of the present benefits. The Board believes that the health and welfare program has, in general, proved highly beneficial to the employees and to the industry. The Board recommends, therefore, that the parties agree upon further contributions by the Carriers to the special account in an amount necessary to insure its financial integrity over the period ahead.

Equal Benefits for Employees and Dependents.—The Board recognizes that the level of total employee benefits under the present health and welfare plan is relatively high in comparison with similar employee benefits in industry generally. On the other hand, there is little disparity between employee and dependents' benefits in industry generally, whereas nonoperating railroad employees receive

benefits appreciably greater than those to which their dependents are entitled. The Board believes that the level of dependents' benefits should, in principle, be equalized with that of employee benefits, but the Organizations themselves recognize the need for suitable safeguards and exceptions with respect to benefits which may result in disproportionate costs. Accordingly, the Board recommends that the parties agree upon further contributions by the Carriers to achieve these objectives.

Cost-Control Features.—The problem of cost control is common to all health and welfare programs. Moreover, it is one in which both parties have an equal interest. There are various methods of cost control, including the coinsurance and deductible features proposed by the Carriers, and vigilant administration and cooperative efforts by unions and management to eliminate abuses of the program. The Board recommends that the Organizations and the Carriers diligently explore all avenues of cost control in their mutual interest, in order to insure that employees receive maximum benefits per dollar of wage increase allocated to the health and welfare program, and that the contributions of the Carriers are most effectively used.

Other Benefits.—The Organizations propose the extension of health and welfare benefits to furloughed employees for an additional period of 3 months. They also propose that the Carriers pay the full cost of on-duty injuries or illness in addition to other health and welfare benefits. The Board is sympathetic with the objectives sought to be achieved by these proposals, and notes that they will involve relatively little additional cost. At the same time, the Board, like the parties, is hampered in its appraisal of the potential costs of these benefits by the lack of data based on experience. It recommends that the parties consider these proposals as part of their general review of the health and welfare program.

Group Life Insurance.—The vast majority of health and welfare plans include the feature of group life insurance. The Board does not share the belief that group life insurance of the type provided in other industries is to a large degree provided by benefits under the Railroad Retirement Act. Estimates of the cost of group life insurance have been presented in terms of both first-year premium costs and experience costs; the Board believes that experience costs are a more appropriate standard. Accordingly, the Board recommends that the parties agree upon further contributions by the Carriers to add group life insurance benefits to the health and welfare program.

Legal Issues.—The foregoing discussion and recommendations of the Board on health and welfare proposals are designed to assist the parties in reaching an agreement without prejudice to their respective contentions on the legal issues.

The Board's recommendations on the health and welfare issues are made in lieu of a recommendation for a further general wage increase, effective in early 1961. It is impossible, however, for the Board to estimate the precise costs of the health and welfare benefits it has recommended: Sufficient data are not available on all items; experience is lacking on some items; and the parties must bargain not only between themselves but also with the insurance carrier. Moreover, the Board fully expects that the further cost-control measures which it has urged the parties to undertake will effect some reduction in the costs of present health and welfare benefits. Even in the absence of precise cost estimates, however, the Board is impressed with the very narrow difference between the preliminary cost estimates of the parties with respect to the benefits recommended.

On the basis of the foregoing discussion, the Board recommends that the parties settle the wage issues by an agreement providing for a general wage-rate increase of 5 cents per hour over the rates currently prevailing, effective July 1, 1960, and that they settle the health and welfare issues by negotiating improvements in the health and welfare program recommended above, effective with the new policy year of their contract with the insurer.

The Board further recommends that the 17 cents-per-hour, cost-of-living adjustments from May 1, 1957, through May 1, 1960, be included in the basic wage rates.

VACATIONS

The proposals of the Organizations and the counterproposal of the Carriers with respect to vacations involve length of vacations, length-of-service requirements, minimum work requirements, military service, survival of vacation benefits, and administration of vacation rules.

Length of Vacations.—The Organizations' request for a fourth week of vacation is predicated not so much on existing practice in industry generally as on the trend toward adoption of a fourth week, which they argue will become accepted practice considerably before the vacation agreement to be negotiated following the present proceeding can be reopened. The evidence available does not indicate that the development of that trend into general industry practice is imminent. Even assuming that several years will elapse before the parties again bargain over the subject of vacations on a national basis, the gap that then exists between the maximum vacation allowance in the railroad industry and in other industries, if one exists at all, is likely to be slight and of brief duration. Finally, the present maximum allowance of 3 weeks' vacation in the railroad industry is in line with general industry practice, and a recommendation that the Carriers grant a fourth week seems inadvisable.

Length-of-Service Requirements.—The present allowances in the railroad industry of 1 week's vacation after 1 year's service and 3 weeks' vacation after 15 years' service conform to the practice prevailing in industry generally. On the basis of the evidence, and for the reasons set forth in the preceding paragraph, the Board recommends no changes in those requirements.

The evidence does indicate very clearly, however, that the requirement of 5 years' service for a 2-week vacation in the railroad industry lags substantially behind the prevailing practice in other industries. Accordingly, the Board recommends that the parties reduce the requirement for a 2-week vacation to 3 years' service, effective for the calendar year, 1960.

Minimum Work Requirements.—The practice in outside industry with respect to this issue is not an especially valuable guide; no minimum work requirement is imposed by a majority of employers, while a growing minority imposes requirements more stringent than those presently applicable in the railroad industry.

The Board notes that minimum work requirements have been an integral part of the vacation program in the railroad industry since its initial handling on a national basis in 1941. The extent of those requirements was first determined and later reduced in the context of bargaining over the vacation program as a whole; in the Board's opinion the parties should continue to handle the issue in that manner. The proposal to count days lost because of off-the-job injuries as days of compensated service should be a part of such negotiations.

To assist the parties in their bargaining the Board makes the following two recommendations:

First, the problem of minimum work requirements is closely associated with declining employment and diminishing work opportunities for those workers still employed in the railroad industry. While this situation cannot be remedied simply by rewriting vacation eligibility rules, the Board believes that those rules ought to reflect changing conditions. Accordingly, it recommends that the parties consider some reduction in the number of qualifying days below the present requirement of 133, either uniformly for all employees, or in accordance with a schedule based on years of service.

Second, the failure to meet present minimum work requirements leads to rather harsh results in the case of employees with relatively long continuous service in the industry, many of whom stand to lose as much as 3 weeks' vacation in a given year. The Board recommends that the parties consider an arrangement whereby an employee who would be entitled to a vacation of 2 or 3 weeks on the basis of his total years of continuous service, but who fails to meet

the minimum work requirements in the preceding calendar year, be given some proportion of the vacation he would otherwise have received, instead of forfeiting the entire amount.

These two recommendations represent quite different approaches to the problem. The Board expresses no opinion as to the relative merits of either proposal, but urges the parties to consider both carefully and to adopt one or the other, or possibly a combination of both.

Military Service.—The present rules in the railroad industry regarding vacation allowances to returning servicemen are reasonable, and the interests of the employees involved are further protected by applicable federal statutes. Perhaps there have been abuses in the administration of these rules; if so, they do not appear to have occurred on an industrywide basis or in conformance with any specific pattern. Such problems as may exist are unsuited for treatment by specific rule in a national vacation agreement; rather, they should be examined and dealt with on those properties where they occur. The Board believes that the proposals of the Organizations on this issue go substantially beyond the practices of which they complain and are not in the best interests of the collective bargaining relationship.

Survival of Vacation Benefits.—The Board believes that a vacation represents payment for past services rendered; accordingly, it recommends that the parties change the existing vacation practices to the extent of paying earned vacations to employees who quit or who are discharged for cause in the future. If the parties feel that some offenses are so severe that punishment for them should include forfeiture of accrued vacation benefits, they should specify such offenses and declare the vacation benefits forfeited in those instances only. In keeping with the view that vacation benefits have been earned by the employee, the Board further recommends for the future that, in the event of his death, they be paid first to his designated beneficiary if any, or to his estate.

Administration of Vacation Rules.—The abuses of administration of which the Organizations complain are not well suited to national handling. Moreover, the Board is not persuaded that the means proposed by the Organizations to correct unsatisfactory conditions on those properties where they exist will accomplish their intended purposes. The Board is convinced, on the contrary, that the proposed changes in the national rules are not in the best interests of the parties, and that the problems to which they are directed should be resolved by the labor organizations and the carriers particularly concerned.

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HOLIDAYS

The proposals of the Organizations and the counterproposals of the Carriers with respect to paid holidays involve the number of paid holidays; eligibility and qualifications for holiday pay; holidays during vacation period; holidays for dining car employees; and double time for holiday work.

Number of Paid Holidays.—The Organizations' request for an eighth and ninth paid holiday is based more on a trend toward a greater number of holidays than on the practice now prevailing in industry generally. The interindustry comparison indicates that the present provisions for 7 paid holidays will be representative of industry practice for the likely duration of the agreement to be negotiated at this time.

Eligibility and Qualifications for Holiday Pay.—The current agreement requires that in order to qualify for holiday pay an employee must be a "regularly assigned" employee and must have been credited with compensation paid by the carrier for the workday immediately preceding and the workday immediately following such holiday. In addition, the holiday must fall on a workday of the workweek of the individual employee.

The Board feels that the words "regularly assigned" have an unduly restrictive effect in comparison with the standards applied in industry generally. The Board does not recommend, however, that these words be stricken from the agreement. Rather, the present provisions in the agreement providing for paid holidays should be enlarged prospectively to include additional employees not regularly assigned who meet 2 tests: (1) A seniority status of at least 60 days, and (2) compensated service in the majority of all the work days in the 30 calendar days preceding the holiday. The Board recognizes, of course, that these standards, as in the case of any alternatives which the parties may elect, cannot be applied so as to avoid all hardships or inequities.

The Board feels that there is no good cause for denying holiday pay to any employee because he did not perform work on the workday preceding and the workday following a holiday, when the employee would otherwise have qualified for holiday pay but was not assigned work on such work days. The Board proposes, without enlarging the area of excused absences on those days, that employees who have complied with all requirements for holiday pay, including those requirements recommended by this Board, and who are available for work on both such days, but are not assigned work on either or both, should be eligible for holiday pay in the future.

Holidays During Vacation Period.—The interindustry comparison with respect to holidays occurring during a vacation period is not a valuable guide for nonoperating railroad employees. Holiday pay

for these employees, first established after the report of Emergency Board No. 106, was premised on a doctrine of maintenance of take-home pay. Thus, unlike many employees in other industries that also recognize a fixed number of holidays, nonoperating employees in the railroad industry are paid only for those holidays which fall on a scheduled workday of the workweek. This doctrine explains why employees on vacation are not entitled to additional pay for holidays falling during the vacation period, since their vacation pay already covers the day on which the holiday occurs. The Organizations' proposal for additional pay for holidays falling during a vacation period is inconsistent with the doctrine of maintenance of take-home pay. The Board believes that this doctrine should not be abandoned with respect to only one feature of holiday pay; any such change should affect all aspects of holiday pay equally. Accordingly, although the Board has grave doubts as to the wisdom of this doctrine, it recommends no change in the existing rules with respect to payment for holidays during a vacation period.

Holidays for Dining Car Employees.—The proposal that the dining car employees be given the same paid holiday provisions as other nonoperating employees has been advanced by the Organizations. Little evidence was presented to support the proposal. The Board is mindful that dining car employees ride the trains and have, in that respect, some of the attributes of other crafts which have not negotiated paid holiday provisions. The evidence before the Board consists only of the proposal and a statement that in the 1954 bargaining this organization did not receive paid holidays. The Board does not feel that it has sufficient information regarding this issue on which it can base a recommendation.

Double-Time Rate for Holiday Work.—The Carriers propose a reduction of the current pay rate for holiday work from double time and one-half to double time. This issue also involves the doctrine of maintenance of take-home pay, and the Board, for the reasons already noted, recommends no change in the established rule.

The Board feels that if it were to recommend changes in the present rules with respect to eligibility for pay for holidays not falling on a workday or for holidays falling during a vacation period, or to the rate of pay for holidays worked, it would be compelled also to recommend abandonment of the doctrine of maintenance of take-home pay as presently applied to all 3 situations. The parties, however, are free to bargain on these issues separately if they see fit to do so.

PART II

POSITIONS OF THE PARTIES, THE FACTS, AND ANALYSIS BY THE BOARD

WAGES

The proposals of the Organizations relating to Wages and the counter-proposals of the Carriers (EE–1; CE–1) read in their entirety as follows:

ORGANIZATIONS' PROBLEMS

1. Effective November 2, 1959, "Article IV-Cost-of-Living Adjustment" contained in the Agreement of November 1, 1956 between the carriers represented by the Eastern, Western and Southeastern Carriers' Conference Committees and the employees thereof represented by the Railway Labor Organizations signatory thereto, through the Employees' National Conference Committee, Eleven Cooperating Railway Labor Organizations, shall be cancelled and adjustments theretofore made under said Article IV, including any adjustment effective November 1, 1959, shall be included in the basic rates.

2. After the inclusion in the basic rates of the adjustments as provided in paragraph 1, above, all resulting rates of pay shall be increased, effective November 1, 1959, by the addition thereto of twenty-five (25) cents per hour, this increase to be applied to all types of rates so as to give effect to the requested increase of twenty-five cents per hour.

CARRIERS' PROBLEMS

1. Effective November 1, 1959, all rates of pay shall be decreased 15¢ per hour, this decrease to be applied to all types of rates so as to give effect to the proposed reduction of 15¢ per hour.

2. The cost-of-living adjustment provisions contained in existing agreement or agreements shall be cancelled effective October 31, 1951.

These proposals and counterproposals are discussed in terms of a number of wage standards. These standards are dealt with by the Board under the following headings:

(1) Inter-Industry Comparisons
(2) Recent Increases in Other Industries
(3) Productivity
(4) Financial Condition of the Railroads

(1) *Inter-Industry Comparisons*

Where wage rates for particular classifications or groupings of workers are determined on an industrywide basis, as in the railroads, it is not surprising that parties in collective bargaining should appeal to the standards of wages in other industries, wages in industry generally, or to wage developments in other industries, particularly in leading cases or pattern settlements. It is apparent that the parties have been debating the various problems involved in these

comparisons for many years. A number of issues of measurement arise in making comparisons with wages in other industries.

(a) *Appropriate Industries.*—The Organizations contend that a grouping of industries with which to compare the wages of nonoperating railroad workers should be selected on the basis of the following criteria: The outside industries should be organized and engaged in national bargaining, as in the railroads. The outside industries should have a significant percentage of craftsmen and a low percentage of female workers, as in the railroads. (EE–12; Tr. 960–75.) In accordance with these criteria, the Organizations selected 16 industries with which to compare the wage movements of nonoperating railroad employees. (EE–13.) These industries were blast furnaces, steel works and rolling mills; railroad equipment; automobiles; container (metal); petroleum refining; shipbuilding and repairing; aircraft and parts; primary refining of copper; rolling, drawing and alloying of copper; aluminum, primary refining; rolling, drawing, and alloying of aluminum; agricultural machinery and tractors; glass and glass ware (pressed or blown); tires and inner tubes; meat packing; and electrical machinery.

The Carriers hold that the only proper basis for interindustry comparisons of the wages of nonoperating railroad employees is the average for all manufacturing industries. The Carriers reject the comparisons made by the Organizations on the grounds that they are "selected" industries and that it is improper to compare "bonanza" or rapidly expanding high-profit industries with the railroads. The Carriers also reject the average wages for durable goods as an appropriate standard for interindustry comparison on the following grounds: The Geographical distribution of nonoperating employees is less heavily concentrated in urban areas; there are relatively more clerical and unskilled workers among nonoperating employees; there is little, if any, incentive pay among nonoperating employees; and the nonoperating employees are engaged in services incidental to the operation of trains, while durable goods workers are engaged in producing goods. (CE–16.)

(b) *Base Dates.*—Organizations have used the base dates of June 1946, October 1948, and September 1949, in making comparisons between the wages of nonoperating railroad workers and those in other industries. (EE–13; Tr. 987–1025.) They regard the date of October 1953, stressed by the Carriers, as most inappropriate. Thus, counsel for the Organizations stated that, "As of that date, railway nonoperating employees' wages were about as maladjusted with wages in other industries as they have ever been in history." (Tr. 2713; EE–17; Tr. 2612–21.)

The Carriers propose the date of October 1953, as appropriate for comparisons with wages in outside industries in recent years.

They also suggest that 1922–26 and 1936 be used for longrun or historical purposes. They regard the dates selected by the Organizations as highly selective, claiming that September 1949, and June 1946, were dates immediately following the two largest wage rate increases in the history of the industry. (Tr. 2765.)

(c) *Wage Rates and Hourly Earnings.*—In making interindustry comparisons the Organizations correct the wages of nonoperating railroad workers in order to adjust for a greater increase in earnings than in wage rates. They calculate that between the end of World War II and 1958, straight time hourly earnings increased approximately 7 cents more than "constructed earnings," which reflect only increases in wage rates. In the words of a witness for the Organization, "It is not until this period * * * that the work force changes in composition sufficiently to be significant with respect to the average hourly earnings. * * * That discrepancy is great enough so that for a measurement against industries it needs to be taken into account." (Tr. 949.)

The Carriers emphasize that a wide variety of factors affect the relative movement of hourly earnings as compared to wage rates. They cite 12 other factors influencing hourly earnings, including merit increases, incentive earnings, changing composition of the work force, and shifts in the relative importance or weights of various firms with different wage levels. (CE–4; Tr. 1381–89.) They stress that outside industries are affected by all these factors.

(d) *Three-Cent Inequity.*—The Organizations correct the nonoperating railroad wages for the period 1948 to 1955 in an amount of 3 cents per hour on the grounds that Emergency Board No. 114 found such an inequity to exist for this period. Three cents per hour was added to the base of September 1949, or October 1948, for nonoperating employees in making interindustry wage comparisons. (Tr. 958; EE–13.)

The Carriers regard such a correction of wage data for nonoperating railroad workers as inappropriate. They stress that the 3 cents "* * * was an inequity between the wages of operating and nonoperating employees and not an inequity as between the wages and earnings of nonoperating employees and workers in outside industry." (Tr. 1407.) Moreover, they point out that Emergency Board No. 114 said, "* * * the nonoperating employees should now be entitled to a 'catch up' of the three-cents-per-hour conversion wage offset they experienced in 1948, but which did not become an actual wage inequity until October 1, 1955." (EE–12, p. 8; CE–5, p. 34.)

The Board recognizes that for many years both these parties have been comparing various measures of the relative movements of wages for nonoperating employees and those in outside industry. These

comparisons seem to imply an unvarying relationship between railroad wages and those of other industries. The Board has some reservations regarding such an application of this wage standard, particularly over long periods of time. Indeed, studies of the interindustry wage structure suggest that typically a single industry moves up or down in the ranking of industries as a consequence of a wide variety of factors which affect the interindustry wage structure. The relationship of any one industry to the average of all industries is likewise variable over long periods. This Board is less impressed by such a mechanical standard than by the factors that are appropriate to the ranking of an industry in the total wage structure at a given time. Thus, the expanding or contracting nature of the industry, the rates of increase in productivity, the level of profits, the changes in the skill composition of the work force, the changes in the methods of wage payment, and the competition in the product markets are among the factors which have been suggested to influence the position of an industry in the wage structure of the economy or its relationship to an average of industries. Interindustry comparisons are most useful for wage-setting purposes when the wages of any one industry are traced against the full array of wage movements, and when such comparisons are made for relatively short periods, such as a decade.

This Board is inclined to believe there is no single appropriate base date from which to make wage comparisons between nonoperating railroad wages and those of other industries. Actually, it is important to test wage comparisons among industries at different dates which have varying significance. The Board is of the view, however, that relatively little significance can be attached to wage comparisons prior to 1950, both because of changes in the railroad industry and changes in outside industry generally. To a marked degree the decade of the 1950's was a different world for wage comparisons than the past. The 40-hour week was instituted in 1949. The Diesel motive power was dominant by the early 1950's. (EE–10.) Motor trucks and oil pipelines had become a significant factor, and the passenger business was affected by air transport. The relationship between nonoperating railroad wages and wages in all manufacturing or durable goods industries was significantly different in the decade of the 1950's than in earlier decades. (CE–2, pp. 10–11.)

It is true that average hourly earnings may rise faster than wage rates. A variety of factors may be operative, including merit increases, incentive earnings, increased rates for particular jobs, shifts in the composition of the work force, and the like. The Organizations hold that "If we could get for other industries the type of figures we have in railroads, it would almost certainly not show this

kind of a change." (Tr. 949.) The Carriers on the other hand hold that the impact of these changes is greater in outside industry. A comparison between changes in basic rates and changes in straight time hourly earnings in a number of industries and the railroads would be useful, but the data do not permit such comparisons. In any event interindustry comparisons should be based upon comparable wage series.

(2) *Recent Increases in Other Industries*

The agreement of November 1, 1956, provided for an increase of 10 cents per hour, effective November 1, 1956, and for increases of 7 cents per hour, effective November 1, 1957, and November 1, 1958, in addition to cost-of-living escalation. Nonoperating railroad workers received, as a consequence, wage increases of 15 cents per hour in 1957; 12 cents per hour in 1958; 3 cents per hour in 1959; and 1 cent per hour on May 1, 1960.

The pattern of wage increases for manufacturing in 1959, as reported by the Bureau of National Affairs, showed that the most frequent settlements fell in the range of 7 to 9 cents. The settlements for the first quarter of 1960 appear to be in approximately the same range, although there were significant concentrations of settlements at 4 to 6 cents and 10 to 12 cents. The BLS reports that deferred wage increases scheduled to go into effect in 1960, in situations affecting 1,000 or more workers in manufacturing, showed a very marked concentration of workers receiving between 6 and 7 cents. (EE–13, p. 41; CE–18, p. 10.)

(3) *Productivity*

The Organizations point to the increasing productivity in the American economy generally and to the railroad industry in particular. They stress that productivity in industry generally is increasing at an accelerating rate. "It is now a well-accepted principle of wage determination that wages must rise not only with the cost of living but to provide rising living standards." (Organizations' Br. p. 114.) Total revenue ton-miles per manhour on Class I railroads increased by 5.1 percent per year on the average in the period 1950–59. The rise in total revenue passenger miles per manhour in the same period was negligible. The Organizations stress that compensation per traffic unit has remained relatively constant in recent years, reflecting a rise in productivity which has offset increased wage rates in the railroad industry. On the other hand, payroll per unit of output has increased appreciably in manufacturing industry. (EE–10, pp. 26–27; Tr. 823–33; Carriers' Prehearing Br. p. A–8.)

The Carriers entitle their Exhibit 22, "Productivity–A False Wage Determinant." In the Carriers' view, "productivity gains of our economy belong to the economy as a whole and should go to the economy as a whole and not be directed in any one way or another to special groups. * * * The best way by far, and the only truly equitable way to distribute the productivity gains of the economy resulting from technological progress and innovations generally is through gradually declining prices and quality improvements." (Tr. 2473.)

The Board does not believe it necessary to discuss the general problem of the relationship between changes in productivity, however, measured, and wage rates in the economy generally. The relevance of increases in productivity to wage rates in a particular industry depends in part upon the ratio of labor costs to total costs; the competitive character of the industry, which influences whether such gains are transmitted rapidly into price and quality changes; the methods of wage payment; and other factors. In an industry with declining output there is the further question whether increases in conventional measures of productivity reflect the concentration of output in the higher productivity sectors or genuine technical change. The relevance of such different types of increases in conventional measures of productivity are quite different for wage determination.

(4) *Financial Condition of the Railroads*

The Carriers commence their discussion of this wage standard by pointing out that each Emergency Board which has had occasion to discuss the issue has recognized the materiality and relevance of the financial conditions and future prospects of the industry to wage setting. In their view the railroad industry is vital to the country, and "labor costs should be held at levels which are not destructive to this industry."

"Railway operations during the postwar years have been so adversely affected by subsidized competition, excessive and discriminatory taxation and inordinate and unnecessary labor costs that resort must be had to data for predepression years to find results of operations in this industry that are comparable to those of even the poorer of leading outside industries." (Carriers' Pre-Hearing Br. p. 52.)

The rate of return on net investment of class I line-haul railroads was 5.11 percent in 1929; the highpoint in the 1950's was 4.22 percent in 1955; in 1958 and 1959 the figures had declined to 2.76 and 2.72 percent, respectively. These industry averages do not reflect the position of many railroads, particularly the "Troubled Thirty." (CE–10, p. 2.) The Carriers declare that any increase in

labor costs at this time would threaten the solvency of a large segment of the railroad industry.

The share of the railroads in intercity freight traffic declined from 74.9 percent in 1929 to 56.2 percent in 1950 and to 45.6 percent in 1959. Their share of intercity passenger traffic declined from 70.7 percent in 1929 to 45.3 percent in 1950 and to 28.5 percent in 1959. (CE–8.) The railroads assert that they are particularly sensitive to increases in labor costs because of the relatively high ratio of labor costs to sales. Moreover, the point out that labor costs have increased substantially as a percentage of sales in recent years, from 48.4 percent in 1939 to 58.2 in 1958.

Increases in freight rates and passenger fares do not result in proportionately increased revenue. The railroads have lost the short-haul and high-rated traffic to competitive forms of transport. The remaining traffic is lower rated. The railroads have not been able to place into effect increases in freight rates approved in many cases owing to the competitive situation. (Tr. 1866–67.) Although the Interstate Commerce Commission authorized overall increases in freight rates since June 30, 1946, equal to 112.1 percent of the rates in effect on that date, the actual increase in revenue per ton-mile since 1946 has been only 47.8 percent. (CE–8.)

The railroad industry emphasizes that it has had to forego maintenance and capital expenditures on account of its financial position:

"The railroads do not propose to pay substandard wages to their employees, but this industry can not afford to maintain, and the public interest will not permit it to maintain, the earnings of railroad employees at levels that exceed the average levels of wages paid in a prosperous and expanding economy in which the railroads have had and will unquestionably continue to have an ever diminishing share." (Carriers' Post-Hearing Br. p. 99.)

The Organizations commence their discussion of this wage standard by stating that the Carriers "inject the question of their financial ability to bear the employees' proposals, and predict their ruin if the proposal is granted. Their plaint generally has varied between a lament and a dirge, depending on the season. Normally, they portray themselves as imminently prospective corpses, with the granting of the then current proposal as the last nail that would seal their remains from the light of the world." (Organizations Br. p. 125.)

The Organizations agree that there may be merit to the contention of the Carriers that the railroad industry is overly regulated, but there is very little which an Emergency Board can do about this and other complaints of the Carriers as to public policy.

The Organizations claim that operating revenues in the "bad" year 1959 exceeded those in prewar years and even in war years. They stress that current assets are in excess of any prewar years and that capital expenditures in the postwar years have been the highest in history. The number of Carriers showing net deficits in the 1950's has been the lowest in railroad history, and the railroad mileage in receivership or bankruptcy is also at an all-time low. The ratio of earnings to capital stock in the hands of the public has averaged in the last 10 years above the levels of the 1920's. (EE–14.)

The Organizations emphasize that the history of wage changes, including the introduction of the 40-hour week, shows that labor costs do not increase with wage rate changes. According to them, the Carriers assume that wage increases and improvements in benefits simply add proportionately to future labor costs and to that extent cut into net railway operating income. The Organizations insist, however, that experience shows this not to be true.

The Board recognizes the relevance and significance of the financial conditions and future business prospects of enterprises as a standard in wage setting. The competitive conditions of the markets in which enterprises sell their products or services directly affect the wages of the workers they hire and the volume of employment they provide. But it is not always clear as to the way in which financial ability to pay affects wage rates. In the present dispute the parties are poles apart on the application of this wage standard.

The interaction between wages and ability to pay is not simple, direct, or immediate; wages do not vary up or down in the short run with every change in financial conditions or prospects. When wages are determined on an industry basis, nationally or in a locality, the financial conditions of different enterprises may be expected to vary considerably, ranging from some which are relatively profitable to others which may be incurring losses. It does not follow that there is a single pocketbook for the enterprises among which wage rates are set at one time. Neither does it follow that the financial condition of individual enterprises is irrelevant; for the financial state of an industry depends not only upon the average condition, but also upon the condition of individual enterprises. Thus, two industries could show the same average rate of return, but in one case enterprises with 10 percent, and in the other case, with 30 percent of the output or employment, could be in financial distress. Such differences are significant to wage decisions.

Financial distress or high profits do not tend in large-scale industry to affect wages in the very short period. The relationship between wages and financial conditions in large-scale industry is typically more gradual. Erosion of financial conditions and the

decline in longrun prospects, or a series of profitable years with continuing good prospects, influence wage setting. The financial experience of the railroads over a series of recent years and their prospects for the next several years are most significant to current decisions on wages.

In determining ability to pay one must consider the potential effects of higher prices (freight and passenger rates) on the volume of business and employment. The record is clear that in recent years the railroads have felt the impact of severe competition from other forms of transportation which, apart from the action of public regulatory bodies, has limited the possibilities of increasing freight rates and fares. The composition of railroad business has also been affected by competition; other forms of transportation have taken many relatively profitable items.

There are possibilities of financing increases in wage rates in industry, aside from price increases, through reductions in labor costs arising from increases in productivity. There have been considerable increases in productivity in the railroads, as in other industries, in recent years. But the significance of this factor in the railroad industry with respect to wage rates is limited by the relatively high proportion of wages to total costs or sales and by the rise in this ratio in the past decade. In 1959 total wage and salary payments, payroll taxes, and wage supplements constituted 58.2 percent of sales in the railroad industry.

In this respect it differs from industries in which wages are only 5 to 10 percent of sales. In the latter there are greater possibilities of savings in other than labor costs and of absorption of wage increases without price increases.

The Organizations have pointed to the very considerable gross capital outlays made by the railroads in the past decade. (EE–14.) These sums have averaged $973 million over that period, although the outlays in 1958 and 1959 were $738 million and $818 million respectively. (CE–10.) In view of the rate of technical developments in transportation, the rapid changes in urban developments, the keen competition of other forms of transportation, and the possibilities of saving labor costs by further mechanization, there seems little doubt that the recent rates of gross capital outlays are inadequate by a substantial amount for the task of transforming and modernizing the railroad system of the country.

Although it is possible to debate almost endlessly the standards to be applied to appraise the profits or rate of return of an industry for a variety of different purposes, clearly the record of net railroad operating income, and the rate of return of the last 2 or 3 years, and

particularly its decline from earlier levels, are not conducive to the capital expenditures and expansion required by the public interest.

Table 2 reflects the decline of the financial condition of the railroad industry in the past decade.

TABLE 2.—*Railroad conditions, 1950–59*

	Total employment	Percentage of intercity freight traffic	Percentage of intercity passenger traffic	Net railway operating income (millions)	Rate of return on net investment
1950	1,220,784	56.2	45.3	1,039.7	4.28
1951	1,276,000	55.6	45.0	942.5	3.76
1952	1,226,663	54.5	42.6	1,078.2	4.16
1953	1,206,312	51.0	39.8	1,109.5	4.19
1954	1,064,705	49.5	38.4	874.0	3.28
1955	1,058,216	49.4	36.3	1,128.0	4.22
1956	1,042,664	48.2	34.8	1,068.2	3.95
1957	986,001	47.2	33.3	922.3	3.36
1958	840,575	46.3	31.1	762.3	2.76
1959	815,254	45.6	28.5	749.5	2.72

HEALTH AND WELFARE PLAN

The proposals of the Organizations relating to health and welfare and the counterproposals of the Carriers (EE–1; CE–1) read in their entirety as follows:

ORGANIZATIONS' PROPOSALS

1. Hospital, surgical and medical benefits shall be improved as follows:
   a. With respect to dependents of employees as defined in The Travelers Insurance Company Group Policy Contract Number GA–23000, benefits shall be provided in all respects identical to all benefits now provided under that Policy Contract with respect to employees except that the Medical Expense Benefits provided under subsection (b) of Section 1 of Part C of Article VII thereof for employees not confined as admitted inpatients in a hospital shall not be included.
   b. Employees whose rights to employee benefits or dependents benefits or both based on payments by the employer would under present agreements lapse by reason of the employee's not having rendered compensated service in a month or months shall have their rights to such benefits extended for any period, not exceeding three consecutive months, during which such rights would not exist under present agreements, provided the employee retains an employment relationship with the employer during such period.
   c. In addition to monthly payments to an insurance company with respect to qualifying employees or hospital association dues required to be paid by the employer, the employer shall, at reasonable intervals, pay to the insurer or hospital association such amounts as will reimburse the insurer or hospital association for the cost of all benefits provided by reason of occupational diseases of employees or injuries of employees arising out of or in the course of their employment by the employer.
   d. The amount transmitted by employers to an insurance company each month with respect to each qualifying employee shall be increased to an amount sufficient, to pay the premium for employee and dependents

benefits provided under existing agreements as modified pursuant to the preceding paragraphs of this proposal, without requiring any change in such increased amount before March 1, 1962, and without requiring any premium charge to a special account other than to the extent of any direct payments into such account in, or retroactive premium credit credited thereto for the year ending February 28, 1961. The maximum hospital association dues required to be paid by employers for each qualifying employee shall be increased to the difference between (1) the amount required under the preceding sentence of this paragraph to be transmitted with respect to employees insured for employee and dependents benefits plus any allowance for railroad costs and (2) the amount so required to be transmitted with respect to employees insured for dependents benefits only plus any allowance for railroad costs.

2. The employer shall, without cost to the employee, provide life insurance for each employee, to pay upon his death an amount equal to the full time annual earnings at the rate of pay of the highest rated position held by the employee in the service of the employer but not in excess of $5,000 to his designated beneficiary.

CARRIERS' PROPOSALS

The September 20, 1959 notice of the carriers provided as follows:

1. Effective November 1, 1959, the hospital, medical and surgical plan covered by The Travelers Insurance Company Group Policy Contract Number GA–23000, as amended, shall be revised to provide that The Travelers Insurance Company will pay:

(a) 85% of the amount by which the hospital and surgical expenses now covered by Parts A and B of Article VII exceed the sum of $25.00 within any 60-day period;

(b) 75% of the amount by which the medical and poliomyelitis expenses now covered by Parts C and D of Article VII exceed the sum of $50.00 within any 60-day period;

(c) 85% of the amount by which the hospital and surgical expenses now covered by Parts AD and BD of Article IX exceed the sum of $25.00 within any 60-day period, and

(d) 75% of the amount by which the medical and poliomyelitis expenses now covered by Parts CD and DD of Article IX exceed the sum of $50.00 within any 60-day period.

2. Effective November 1, 1959, Article IV of The Travelers Insurance Company Group Policy Contract Number GA–23000, as amended, shall be revised to reflect the reduction in premiums resulting from the above proposed changes in benefits payable under the policy, without changing the specified sums to be transmitted to the Insurer by the Employer; and Paragraph 1(a) of Article V of said Group Policy Contract, as amended, and the last sentence of Paragraph 4 of Part C of the Agreement of January 18, 1955, as amended, shall be deleted.

3. Nothing contained in this proposal shall be construed to alter, vary or affect any term, provision or condition of said The Travelers Insurance Company Group Policy Contract Number GA–23000, or the Agreement of January 18, 1955, or previous amendments thereof, other than as above stated.

The Carriers further stated in their proposals of September 20, 1959 as follows:

"It is the position of this carrier that your proposals to increase the benefits provided by the hospital, medical and surgical insurance plan, cov-

ering employees covered by your notice and their dependents, and your demand that the employer, without cost to the employee, provide life insurance for each employee, are barred by the provisions of Article VI of that Agreement.

It is further the position of this carrier that those proposals are outside the ambit of "rates of pay, rules and working conditions," as those words are used in the Railway Labor Act, and do not come within the scope of mandatory bargaining. In this connection we call your attention to the fact that the above described hospital, medical and surgical insurance plan is an employee-financed plan, and that we will insist that it continue to be so financed in the future.

These proposals and counterproposals are discussed below under the following headings:

(1) The Special Account
(2) Equal Benefits for Employees and Dependents
(3) Cost-Control Features
(4) Other Benefits
(5) Group Life Insurance
(6) The Legal Issues

(1) *The Special Account*

The first health and welfare agreement of these parties was entered into in 1954 pursuant to the recommendations of Emergency Board No. 106 that the parties provide for a reasonable level of benefits to be financed at a cost to the Carriers and to the employees of 2 to 3 cents each per hour for full-time employment. The parties agreed, effective March 1955, upon a level of benefits to be financed by a payment to an insurance company of $3.40 a month (2 cents per hour) each by the employee and the carrier. Approximately 60 percent of the nonoperating employees were covered by the group insurance contract. The other 40 percent of the employees are members of long standing hospital associations, and in each instance the carrier was to pay the amount of the hospital association's dues up to $3.40 a month.

In 1955, pursuant to the recommendations of Emergency Board No. 114, the parties agreed that the Carriers pay the full cost of $6.80 a month. The cost to the Carriers was now 4 cents per hour. The plan thus ceased to be jointly contributory. In the 1956 negotiations the parties agreed to add dependents' benefits, and the Carriers were to pay a total of $11.05 per month (6.5 cents per hour) for employee and dependents' benefits. In the case of hospital associations $4.25 a month was to be sent to the insurance company for dependents' benefits. Carrier costs of 1 percent were deducted from these sums.

The initial insurance premium in 1955 was $5.95 per month, with the difference between this figure and the $6.80 a month payment to the insurance company being deposited into a special account. The

insurance policy provided that retroactive premium credits, based on actual experience, also be deposited in this special account. By March 1, 1958, a balance of over $25 million had been built up in the special account. (CX–13.)

Hospital, surgical, and medical costs have been increasing since the level of benefits for employees was originally established. It is estimated that the special account will have decreased to a balance of only $3,400,000 by March 1, 1961. In other words, the current insurance premiums for the same benefits are in excess of the current contributions of $6.80 per month for employees and $11.05 per month for employees and dependents combined. The premium for the current policy year has been established by the insurance company at $7.07 per month per employee. The estimated per-employee cost of dependents' benefits for the current policy year is $6.10 per month, or a total of $13.17 per employee per month for both employee and dependents' benefits. "The benefits now provided nonoperating employees and their dependents * * * now exceed a cost of 6.5 cents per hour and actually cost approximately 7.6 cents per hour." (Tr. 2142.)

Moreover, in looking to the future it is clear that the costs of the existing level of benefits for employees will increase as medical costs continue to rise. In establishing the current premiums the insurers estimated that costs would rise by 7.5 percent a year. (Tr. 186, 2196.) The Carriers estimate that $3.25 per month or 1.9 cents per hour increase would be necessary to continue the present level of benefits for 2 years. (Tr. 2196.) The Organizations state that "the total effect of two 7½ percent increases would be approximately 11 percent" (Tr. 197), which would be equivalent to $1.70 a month or 1 cent per hour per employee. These cost estimates do not reflect basic differences between the parties. They both project the premium rate increases estimated by the insurance company.

When the current insurance policy is next open for review, the parties will face a problem of increasing the contributions to the health and welfare plan or reducing some of the present benefits or practices.

(2) *Equal Benefits for Employees and Dependents*

The present level of dependents' benefits is lower than the level of employees' benefits. (CE–13.) The Organizations propose that they be made equal, except for the allowance for doctors' home and office calls, which the experience in other industries shows increases the cost disproportionately. (Tr. 194.) The difference between the level of benefits for employees and for dependents dates from the November 1, 1956, agreement. At that time it was agreed that 2.5 cents per hour would be used to secure "as nearly as practicable, the same hospital, medical and surgical benefits now provided" to

employees. (CE–13, p. 6.) The initial premium for dependents' benefits established by the insurance company was actually $5.35 a month or 3.15 cents per hour instead of the $4.25 a month or 2.5 cents per hour. The difference between the $4.25 per month and the $5.35 premium cost for dependents' benefits was made up out of that portion of the $6.80 per month allocated for the employee coverage, which was being accumulated in the special account. (Tr. 2134.)

The Carriers estimate that the proposal to equalize the benefits of dependents with those of employees, except for doctors' home and office calls, would cost $2.90 a month or 1.7 cents per hour, assuming that 80 percent of the employees have dependents and that the rate cannot be changed for 2 years. (Tr. 2192–93.) The Organizations estimate the costs of this feature of their proposals at $2.29 per month or 1.3 cents per hour. (Tr. 186.)

The Board is of the view that there is merit in the principle of providing the same level of benefits to dependents as to employees, with suitable safeguards and exceptions for doctors' home and office calls and other benefits which may reveal disproportionate costs. This principle appears to be generally established in industry. (EE–8; CE–13.)

(3) *Cost-Control Features*

The Carriers propose that the present benefits under the health and welfare plan be modified so that the plan can be financed within the present allocation of 6.5 cents per hour. In particular the Carriers propose that the first $25 of hospital and surgical benefits no longer be paid for employees and dependents; that the first $50 of medical and polio benefits be deductible; that 85 percent of hospital and surgical expenses in excess of $25 be paid; and that 75 percent of medical and polio expenses in excess of $50 be paid. In other words, the Carriers propose that coinsurance and deductible features be introduced.

(4) *Other Benefits*

The Organizations propose that furloughed employees who retain an employment relationship and whose rights to benefits lapse should be provided a continuation of benefits for themselves and their dependents for an additional period of 3 months. They also propose that the Carriers pay the full cost of on-duty injuries or illness in addition to any other required payments for health and welfare benefits.

The Organizations estimate that the extension of benefits for furloughed employees would add 13 cents per month or .08 cents per hour. The Carriers state that it is very difficult to estimate the cost of this proposal, because they believe many individuals will

seek additional medical services during a period of layoff and there are no data on the medical experience with furloughed employees in the railroad industry.

The Carriers estimate the cost of on-duty injuries and illnesses as 60 to 70 cents per month or .4 cents per hour.

(5) *Group Life Insurance*

The Organizations propose that the health and welfare plan be revised so that the Carriers provide, without cost to the employees, an amount of life insurance equal to the full-time annual earnings of each employee, with a maximum of $5,000. The Carriers estimate that the minimum premium for group life insurance under the requirements of the New York State Department of Insurance would be $1.25 to $1.30 per month for each $1,000 of life insurance, given the age distribution of railroad workers. They estimate the first-year premium cost at $5.75 to $6.50 per employee per month for 1960, or 3.4 to 3.8 cents per hour. (Tr. 2198.)

The actual cost of group life insurance based on experience would probably be less than that estimated on the basis of the first-year premium cost. The Carriers estimate that the cost might be as low as $4.25 to $4.50 per month, or 2.5 cents per hour. They point out that experience costs will rise as average age increases. (Tr. 2198.) The Organizations estimate the cost of the proposal at $4.00 a month per employee, or 2.4 cents per hour. (Tr. 186.)

The Carriers point out that an almost identical proposal was submitted to and rejected by Emergency Board No. 106. That Board concluded: "* * * the benefits sought by the employees in connection with group life insurance are to a large degree provided by benefits under the Railroad Retirement Act." (CE–6.)

The Organizations stress that the railroad industry is one of the very few that has a health and welfare program that does not include group life insurance. They disagree with the conclusion of Emergency Board No. 106, urging that the benefits under the Railroad Retirement Act are not basically different from those under the Social Security Act, and that social security does not "to a large degree" dispense with the need for life insurance.

(6) *Legal Issues*

The Carriers take the position (1) that the proposals of the Organizations do not come within the scope of mandatory bargaining because such proposals are "outside the ambit of 'rates of pay, rules, and working conditions,' as those words are used in the Railway Labor Act"; (2) that the proposals require the Carriers to assume liability contrary to the Federal Employers' Liability Act; and (3) that the proposals for life insurance relate to a field preempted by Congress through passage of the Railroad Retirement

Act. An action for a declaratory judgment on this issue is pending in the United States District Court for the Northern District of Illinois, Eastern Division. (*Akron & Barberton Belt Railroad* v. *International Association of Machinists*)

The Organizations deny the validity of the arguments advanced by the Carriers and contend that the Carriers are required to bargain on these subjects.

The Board does not wish to intrude into the judicial determination of these issues, nor does it presume to predict the outcome of the litigation. The foregoing discussion and the recommendations of the Board on the health and welfare proposals are designed to assist the parties in reaching an agreement without prejudice to their respective contentions on the legal issues involved.

VACATIONS

The proposals of the Organizations relating to Vacations and the counterproposals of the Carriers (EE–1; CE–1) read in their entirety as follows:

ORGANIZATIONS' VACATION PROPOSALS

ARTICLE I—VACATIONS

Section 1. Article 1 of the Vacation Agreement of December 17, 1941, as amended by the Agreement of August 21, 1954, is hereby amended to read as follows:

(a) Effective with the calendar year 1960, an annual vacation of ten (10) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than ninety (90) days during the preceding calendar year.

(b) Effective with the calendar year 1960, an annual vacation of fifteen (15) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than 90 days during the preceding calendar year and who has five or more years of continuous service and who, during such period of continuous service, renders compensated service on not less than 90 days (133 days in the years 1950–1958, inclusive, 151 days in 1949 and 160 days in each of such years prior to 1949) in each of five (5) of such years not necessarily consecutive.

(c) Effective with the calendar year 1960, an annual vacation of twenty (20) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than 90 days during the preceding calendar year and who has ten or more years of continuous service and who, during such period of continuous service renders compensated service on not less than 90 days (133 days in the years 1950–1958, inclusive 151 days in 1949 and 160 days in each of such years prior to 1949) in each of ten (10) of such years not necessarily consecutive.

(d) Paragraphs (a), (b) and (c) hereof shall be construed to grant to weekly and monthly rated employees, whose rates contemplate more than five days of service each week, vacations of two, three or four work weeks.

(e) Service rendered under agreements between a carrier and one or more of the Nonoperating Organizations parties to the General Agreement of

August 21, 1954, or to the Agreement of ————————, 1959, of which this Article is a part, shall be counted in computing days of compensated service and years of continuous service for vacation qualifying purposes under this Agreement.

(f) Calendar days in each current qualifying year on which an employee renders no service because of his own sickness or because of his own injury shall be included in computing days of compensated service and years of continuous service for vacation qualifying purposes on the basis of a maximum of ten (10) such days for an employee with less than five (5) years of service; a maximum of twenty (20) such days for an employee with five (5) but less than ten (10) years of service; and a maximum of thirty (30) such days for an employee with ten (10) or more years of service with the employing carrier.

(g) In instances where employees have performed some compensated service in each of four months, not necessarily consecutive, and subsequently become members of the Armed Forces of the United States the time spent by such employees in the Armed Forces will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the employing carrier. Such an employee shall be granted a vacation in the year in which he returns to the service of the employing carrier if he returns on or before September 1 of that year, and for this purpose return to service shall mean reporting and being available for work. In determining the qualification of such an employee for a vacation in the year following his return to the service of the employing carrier, days spent in the Armed Forces of the United States shall be counted as days on which compensated service was rendered and shall be combined with the days on which compensated service was rendered to the employing carrier.

(b) Eliminate by reason of proposed revision of Article 8.

Section 2. Article 2 of the Vacation Agreement of December 17, 1941 as amended by the Agreement of August 21, 1954, is hereby eliminated by reason of the provisions of Article I, Section I of this Agreement.

Section 3. Effective January 1, 1960, Section 3 of the Agreement of August 21, 1954, is amended to read as follows:

Section 3. When any of the nine recognized holidays (New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day and Christmas) or any day which by agreement has been substituted or is observed in place of any of the nine holidays enumerated above, occurs during an employee's vacation period the following shall apply:

(a) If the holiday falls on a work day of the employee's regular assignment in the case of an employee having a regular assignment, or on a work day of the position on which the employee last worked before the holiday in the case of an employee not having a regular assignment, then:

(1) If such assignment or position is not regularly assigned to work on the holiday, the holiday shall not be considered as a vacation day of the period for which the employee is entitled to vacation, such vacation period shall be extended accordingly, and the employee shall be entitled to his holiday pay for such day.

(2) If such assignment or position is regularly assigned to work on the holiday, the holiday shall be considered as a vacation day of the period for which the employee is entitled to vacation and the employee shall be entitled to vacation and the employee shall be entitled to a straight time day's pay plus pay at the rate of time and one-half for time the position is assigned to work on such holiday.

(b) If the holiday falls on a rest day of the employee's regular assignment in the case of an employee having a regular assignment, or on a rest day of the position on which the employee last worked before the holiday in the case of an employee not having a regular assignment, the holiday shall not be considered as a vacation day of the period for which the employee is entitled to vacation and the employee shall be entitled to his holiday pay for such day.

Section 4. Effective January 1, 1960, Article 5 of the Vacation Agreement of December 17, 1941, as amended by the Agreement of August 21, 1954, is hereby amended to read as follows:

Each employee who is entitled to vacation shall take same at the time scheduled, and, while it is intended that the vacation date scheduled will be adhered to so far as practicable, the management shall have the right to defer same provided the employee so affected is given in writing as much advanced notice as possible but not less than ten (10) working days. If it becomes necessary to advance the scheduled date, not less than thirty (30) days' notice in writing will be given the affected employee. If a scheduled vacation is deferred or advanced a new scheduled vacation date shall be established by agreement between the management and the organization at the time of deferral or advancement, and deferment or advancement shall not be subject to cancellation after the affected employee has been notified thereof. If notice as herein required is not given, the employee shall be entitled to work throughout the scheduled vacation period and shall be compensated for such work at the rate of time and one-half in addition to his regular vacation pay.

If a carrier does not release an employee for a vacation during the calendar year such employee shall, in lieu of the vacation, be additionally compensated at the rate of time and one-half for the number of vacation days to which entitled.

NOTE.—This Article does not supersede provisions of the individual collective agreements that require payment of double time under specified conditions.

Section 5. Article 8 of the Vacation Agreement of December 17, 1941 as amended by the Agreement of August 21, 1954, is hereby amended to read as follows:

The vacation provided for in this Agreement shall be considered to have been earned when the employee has qualified under Article 1 hereof. If an employee so qualified is furloughed, he shall at the time of such furlough be granted full vacation pay for vacation earned in the preceding year or years and not yet granted, and any vacation earned in the current year or years and not yet granted, and any vacation earned in the current year shall be granted or paid for as provided in this Agreement. If an employee's employment status is terminated for any reason whatsoever (other than for noncompliance with a union shop agreement), including but not limited to retirement, resignation, discharge, or failure to return after furlough he shall at the time of such termination be granted full vacation pay earned up to the time he leaves the service including pay for vacation earned in the preceding year or years and not yet granted, and the vacation for the succeeding year if the employee has qualified therefor under Article 1. If an employee thus entitled to vacation or vacation pay shall die the vacation pay earned and not received shall be paid to such beneficiary as may have been designated, or the surviving spouse or children or estate, in that order of preference.

Section 6. Effective January 1, 1960, Article 11 of the Vacation Agreement of December 17, 1941, is hereby amended to read as follows:

While the intention of this Agreement is that the vacation period will be continuous, the vacation may, at the request of an employee, be given in installments if the management and the organization agree thereto.

Section 7. Effective January 1, 1960, the last sentence of paragraph (b) of Article 12 of the Vacation Agreement of December 17, 1941, is hereby amended to read as follows:

For the filling of the positions of vacationing employees regular relief positions, established, bulletined and filled according to the applicable rules and working conditions agreement shall be utilized so far as possible, and in the filling of positions of vacationing employees in any other manner the seniority provisions of the applicable agreement shall in all cases be strictly observed.

Section 8. Article 15 of the Vacation Agreement of December 17, 1941, as amended, is modified to read as follows:

This Agreement shall be effective as of January 1, 1960 and shall be incorporated in existing agreements as a supplement thereto and shall be in full force and effect for a period of one (1) year from January 1, 1960, and continue in effect thereafter, subject to not less than seven (7) months' notice in writing (which notice may be served in 1960 or in any subsequent year) by any carrier or organization party hereto, of desire to change this agreement as of the end of the year in which the notice is served. Such notice shall specify the changes desired and the recipient of such notice shall then have a period of thirty (30) days from the date of the receipt of such notice within which to serve notice specifying changes which it or the ydesire to make. Thereupon such proposals of the respective parties shall thereafter be negotiated and progressed concurrently to a conclusion.

When such notice is served, the proceedings shall be under the provisions of the Railway Labor Act, Amended.

CARRIERS' VACATION PROPOSALS

(Served on the ten cooperating labor organizations representing railroad nonoperating employees, other than the Hotel & Restaurant Employees & Bartenders International Union)

Paragraphs (a), (b) and (c) of Article 1 of the Vacation Agreement of December 17, 1941, as amended by the Agreement of August 21, 1954, shall be amended to read as follows:

(a) Effective with the calendar year 1960, an annual vacation of 5 consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than 160 days during the preceding calendar year.

(b) Effective with the calendar year 1960, an annual vacation of 10 consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than 160 days during the preceding calendar year and who has five or more years of continuous service and who, during such period of continuous service, renders compensated service on not less than 160 days (182 days in 1949 and 192 days in each of such years prior to 1949) in each of 5 of such years not necessarily consecutive.

(c) Effective with the calendar year 1960, an annual vacation of 15 consecutive work days with pay will be granted to each employee covered

by this Agreement who renders compensated service on not less than 160 days during the preceding calendar year and who has fifteen or more years of continuous service and who, during such period of continuous service renders compensated service on not less than 160 days (182 days in 1949 and 192 days in each of such years prior to 1949) in each of 15 or such years not necessarily consecutive.

(Served on the Hotel & Restaurant Employees & Bartenders International Union)

Effective with the calendar year 1960, the provisions of rules which provide for vacations with pay shall be amended to increase by one-fifth, or 20 per cent, the compensated service required during each individual calendar year in order to qualify for vacations.

These proposals and counterproposals are discussed below under the following headings:

(1) Length of Vacations
(2) Length-of-Service Requirements
(3) Minimum Work Requirements
(4) Military Service
(5) Survival of Vacation Benefits
(6) Administration of Vacation Rules

The issue of holiday pay during vacation is discussed in the section on Holidays.

(1) *Length of Vacations*

Under the current vacation agreement eligible employees, with the exceptions noted below, receive 1 week's vacation with pay after 1 year of service, 2 weeks after 5 years, and 3 weeks after 15 years. The Organizations have proposed to increase these vacation allowances to 2 weeks after 1 year, 3 weeks after 5 years, and 4 weeks after 10 years. In this subsection (1) only the proposed increase in the maximum vacation from 3 to 4 years is discussed.

Vacation rules and agreements in the railroad industry were negotiated on a national basis for the first time in 1941. In an agreement dated December 17, 1941, the Organizations and the Carriers established, pursuant to the recommendations of Emergency Board No. 11, a 1-week paid vacation for employees with 1 year of service. A second week after 5 years of service was provided in an agreement dated February 23, 1945.

Prior to 1941, certain groups of clerks and telegraphers, comprising about one-third of all the nonoperating employees, were receiving vacation of 1 week after 1 year of service, 1½ weeks after 2 years, and 2 weeks after 3 years. These vacation allowances have been preserved in subsequent national vacation agreements. The Organizations' current proposals, however, would give the clerks and the telegraphers the same vacation allowances as those asked for all other nonoperating employees.

The present pattern of vacation benefits was adopted in the agreement of August 21, 1954, and followed the recommendations of Emergency Board No. 106 (CX–6). That Board based its recommentions on "the general practice in industry, to the extent that data is [*sic*] available, and the ability of the Carriers to pay." It found that a maximum vacation of 3 weeks was "becoming generally available in industry" and that a minimum requirement of 15 years of service for the third week was reasonable in view of industrial practice," notwithstanding the fact that under such a service requirement "a larger proportion of railroad workers would qualify for a third week of vacation than would be true in industry generally."

In the instant case the Board concludes from its study of the evidence presented that a maximum vacation allowance of 3 weeks is still the predominant practice in industry generally. The most comprehensive and most reliable data have been compiled by the Bureau of Labor Statistics. A study published by BLS in the August, 1952, Monthly Labor Review, upon which Emergency Board No. 106 relied, covered 1,064 agreements in effect in 1952, applicable to over 5 million workers in manufacturing and nonmanufacturing industries. Of that group of agreements, 893 provided for graduated vacations. The median maximum vacation was 3 weeks or less in 851 agreements (95.3 percent) covering 3,696,000 workers (95.6 percent). (EE–5; CE–12.)

A broader survey of vacation agreements in effect in 1957, published in BLS Bulletin No. 1233, reveals relatively small changes in the maximum vacation pattern indicated by the earlier study. The sample in Bulletin No. 1233 consisted of 1,813 agreements, each covering 1,000 or more workers. It included a total of over 8 million workers in 21 manufacturing industry groups and in 10 nonmanufacturing industry groups, excluding railroads and airlines. Of the 1,515 agreements providing for graduated vacations, 1,122 (74 percent) covering 4,568,300 workers (71.1 percent) granted 3 weeks or less. In only 4 industry groups did the median maximum vacation exceed 3 weeks, although the total number of plans providing a maximum of more than 3 weeks' vacation was about 26 percent of the total, as contrasted to a corresponding figure of 4.7 percent in 1952. (EE–4; CE–12.)

Both parties have claimed that the 1957 study reflects an unfavorable bias. The Organizations point out that, as compared with the 1952 study, the survey reported in Bulletin No. 1233 included more smaller companies with less advanced labor practices. They also emphasize that it included 609,500 construction workers covered by 120 agreements, of which only 6, covering 11,400 workers, pro-

vided for graduated vacations. (Tr. 499.) The Carriers, on the other hand, point out that Bulletin No. 1233 covered only about 29.6 percent of the workers employed in industries included in the BLS Hours and Earnings Series for 1957, and that the percentage of workers covered in each industry was uneven, ranging from 95.7 percent in transportation equipment to 1 percent in wholesale trade. They argue, therefore, that if the 1957 vacation survey had been as broad in its coverage as the hours and earnings series for the same year, which covered over 27 million workers, the vacation practices would have been somewhat less liberal on the average than those reported in Bulletin No. 1233. (Tr. 1990.) The Board concludes with respect to this particular point that the Carriers' argument is more persuasive, although none of the alleged biases in the 1957 data have material significance for this discussion.

A comparison of the data in BLS Bulletin No. 1233 with the current vacation allowances for nonoperating railroad employees shows that 1,122 agreements (74.1 percent) covering 4,568,300 workers (71.2 percent) in manufacturing and nonmanufacturing industries provided the same or lower maximum vacation benefits than those of nonoperating railroad employees. (CE–12.)

The data submitted by the Organizations with respect to the development of 4-week vacations outside the railroad industry in the period 1958–60 (EE–5) were compiled from a variety of sources and not on a uniform basis; meaningful comparison of these data with the BLS surveys are therefore rather difficult. The most appropriate method of comparison seems to be that adopted in CE–12; it consists in listing for each industry group included in EE–5 the total number of workers involved in settlements covering 1,000 or more workers which established maximum vacations of 4 weeks during the period from 1958 to the early months of 1960. (Tr. 1999.) The results are as follows: 487,883 workers in 14 industry groups were covered by such settlements. This figure represents 7.6 percent of all workers covered by graduated plans surveyed in BLS Bulletin No. 1233. Moreover, 259,618 (53 percent) of the workers covered in the Organization's survey were employed in one industry (communications).

More extensive data were supplied by the Organizations with respect to maximum vacation allowances in agreements negotiated by the International Association of Machinists in a variety of industries and by the Amalgamated Association of Street, Electric Railway and Motor Coach Employes in the transit industry. (EE–4, 6.) The machinists' agreements show the following: Of 1,349 agreements in manufacturing industries survey in 1959, 70 percent provided a maximum vacation of 3 weeks; 14.3 percent, a maximum of 4 weeks

or more; and 15 percent, a maximum of 2 weeks. In nonmanufacuring industries a similar pattern prevailed: Of the 89 agreements surveyed, 69.7 percent provided a maximum vacation of 3 weeks; 14.6 percent, a maximum of 4 weeks or more; and 10.1 percent, a maximum of 2 weeks.

Transit industry data for 1959 shows that 410 out of 516 agreements provided for a maximum vacation of 3 weeks or less; 99 provided a maximum of 4 weeks. Transit industry agreements providing 4-week vacations are also listed in EE–6 in chronological order of first achievement of that maximum. Some 89 agreements, covering 70,541 employees, are cited. The great majority of these, however, were negotiated prior to either 1957 or 1959.

It also appears from all the foregoing data that the trend toward 4-week vacations in industry generally, while clearly discernible, does not yet justify the conclusion that this maximum will become the prevailing practice in the next few years. As previously noted, the number of agreements providing vacations of over 3 weeks and the number of workers covered by such agreements rose from 42 (4.7 percent)and 169,000 (4.4 percent), respectively, in 1952 to 302 (26 percent) and 1,251,300 (28.9 percent), respectively, in 1957. Even if these figures are adjusted to reflect the trend for the period 1958–60, 3 weeks of vacation remains the predominant maximum for industry as a whole. Nor does it appear that the data in BLS Bulletin No. 1233 are as obsolete as the Organizations suggest. Of the agreements included in the 1957 study that provided for graduated vacations, approximately 50 percent, covering about 60 percent of the workers, were to continue in effect during all or part of 1958; 20 percent, covering 25 percent of the workers, were to continue into 1959.

(2) *Length-of-Service Requirements*

The Organizations' proposal to reduce the length-of-service requirements for vacations of 2 and 3 weeks has been set forth in subsection (1) above. On this issue, as in the case of maximum length of vacations, the most comprehensive and reliable data are to be found in the BLS studies of vacation plans in 1952 and 1957. They show that in 1952 the service requirements for 2-week vacation were 5 years for 71.3 percent of the workers covered; more than 1 but less than 5 years for 12.1 percent; and 1 year or less for 16.6 percent. The service requirement for a 3-week vacation was 15 years for 70.9 percent of the workers covered; more than 15 years for 24.9 percent; and less than 15 years for 4.2 per cent. (EE–4.)

The 1957 survey shows that the service requirement for 1 week's vacation in 1,077 out of 1,358 agreements (79.3 percent), covering 81.9 percent of the workers in all industries, was 1 year.

The service requirements for a 2-week vacation, by number of agreements and by number of workers, are summarized in the following tables:

TABLE 3.—*Service requirements: Two-week vacation, number of agreements*

Industry group	Total	1 year or less		2 years		3 years		5 years	
		No.	Percent of total	No.	Percent of total	No.	Percent of total	No.	Percent of total
All industries	1,493	277	18.6	293	19.6	312	20.9	545	36.5
Manufacturing	1,067	158	14.8	126	11.8	223	20.9	513	48.1
Nonmanufacturing	426	119	27.9	167	39.2	89	20.9	32	7.5

TABLE 4.—*Service requirements: Two-week vacation, number of workers*

[Thousands]

Industry group	Total	1 year or less		2 years		3 years		5 years	
		No.	Percent of total	No.	Percent of total	No.	Percent of total	No.	Percent of total
All industries	6,318.4	1,182.4	18.7	1,073.3	17.0	1,187.4	18.8	1,719.6	43.0
Manufacturing	4,533.9	724.1	15.9	351.5	7.8	725.8	16.0	2,627.5	58.0
Nonmanufacturing	1,784.5	458.3	25.7	721.8	40.5	461.6	25.8	92.1	5.2

The service requirements for a 3-week vacation, by number of agreements and by number of workers, are summarized in the following tables:

TABLE 5.—*Service requirements: Three-week vacation, number of agreements*

Industry Group	Total	5 years or less		6 to 12 years (inclusive)		15 to 25 years (inclusive)	
		No.	Percent of total	No.	Percent of total	No.	Percent of total
All industries	1,274	66	5.2	326	25.5	858	67.3
Manufacturing	922	27	2.9	197	21.4	683	74.1
Nonmanufacturing	352	39	11.1	139	36.6	175	49.8

TABLE 6.—*Service requirements: Three-week vacation, number of workers*

[Thousands]

Industry Group	Total	5 years or less		6 to 12 years (inclusive)		15 to 25 years (inclusive)	
		No.	Percent of total	No.	Percent of total	No.	Percent of total
All industries	5,538.6	156.9	2.8	1,180.7	21.3	4,080.4	73.7
Manufacturing	4,018.5	53.8	1.4	644.6	16.1	3,224.5	80.3
Nonmanufacturing	1,520.2	103.1	6.8	536.1	35.2	855.9	56.3

The data summarized in tables 3 and 4 indicate that a service requirement of 5 years for a 2-week vacation is no longer the prevailing practice in industry generally. Thus, 882 out of 1,493 agreements (59.1 percent), covering 3,443,100 out of 6,318,400 workers in manufacturing and nonmanufacturing industries (54.5 percent), required only 3 years' service or less for a 2-week vacation in 1957.

Additional data have been provided by the Organizations for specific unions and industries. (EE–4.) Of 1,410 machinists' agreements reviewed in December 1959, 827 (58.7 percent) provided for a 2-week vacation after less than 5 years' service. A February 1960, survey of 410 agreements negotiated by the Amalgamated Street, Electric Railway and Motor Coach Employes, covering 102,509 workers, shows that 305 agreements (72.8 percent), covering 89,592 workers (87.4 per cent), provided for a 2-week vacation after less than 5 years' service. A survey of agreements negotiated by the International Brotherhood of Electrical Workers in effect in December 1959, shows that all of 35 agreements with telephone companies, all of 122 agreements with radio and television stations, and all of 101 agreements with electric and gas companies provided for a 2-week vacation after less than 5 years' service.

While it is a little difficult to fix prevailing industry service requirements for a 2-week vacation more precisely than less than 5 years, the data certainly support the conclusion that a 2-week vacation after 3 years' service conforms to general practice.

On the other hand, tables 5 and 6 indicate that a service requirement of 15 years for a 3-week vacation is still the prevailing practice in both manufacturing and nonmanufacturing industries. This picture is altered somewhat, but not greatly, by the additional data provided by the Organizations for the specific unions and industries referred to above. As of December 1, 1959, 705 out of 1,205 agreements negotiated by the machinists (58.6 percent) required 15 years' service for a 3-week vacation. Similarly, as of February 1960, 26 out of 35 agreements negotiated by the IBEW with telephone companies (74.3 percent) required 15 years' service for a 3-week vacation. However, all of that union's 111 agreements with radio and television stations and 77 of its 101 agreements with electric and gas companies required less than 15 years' service for a 3-week vacation. The February 1960, survey of agreements negotiated by the Amalgamated Street, Electric Railway and Motor Coach Employes showed that of 330 agreements covering 96,329 workers, 199 agreements (60.5 percent), covering 84,994 workers (88.2 percent), required less than 15 years' service for a 3-week vacation.

The trend toward reducing the service requirements for a 3-week vacation is illustrated by the increase in the percentage of workers covered by agreements providing for a 3-week vacation after less

than 15 years' service from 4.2 in the 1952 BLS study to 24.1 in the 1957 study. This trend is somewhat less rapid than that toward a fourth week of vacation previously noted. There is no indication, therefore, that a requirement of less than 15 years' service for a 3-week vacation is likely to become prevailing practice in industry generally within the next few years.

(3) *Minimum Work Requirements*

Under the current vacation agreement an employee must render 133 days of compensated service in the preceding calendar year in order to qualify for a vacation. The Organizations have proposed that the number of qualifying days be reduced to 90; the Carriers have proposed that the number be increased to 160.

Minimum work requirements were incorporated in the first national vacation agreement in 1941. Emergency Board No. 11 recommended that the work requirement for vacation eligibility be fixed at 60 percent of the total available work days, which at that time would have amounted to 188 days. The parties agreed, however, to require only 160 days of compensated service. (Tr. 2016–17.) In 1949, when the 40-hour work week was established in the railroad industry, the work requirement in the vacation agreement was modified to reflect this change by reducing the requirement of 160 days of compensated service to 133. (Tr. 2019.)

In the case submitted to Emergency Board No. 106 in 1954 the Organizations did not propose a reduction in the number of qualifying days below 133; they did ask, however, that all days not worked because of sickness, injury, jury duty, court attendance, or holidays be counted as days of compensated service. The Board found that there was "nothing substantial to support the view that the present number and definition of qualifying days is unreasonable," and declined to recommend any change in that provision. It also found that "the employees gave up the opportunity to count days due to illness and injury in preference for a reduction in the number of days [from 188 to 160] in the vacation eligibility yardstick." The Board concluded its discussion of this issue, however, by pointing out that "the bargaining question occurred some years ago and * * * may properly be reconsidered on the basis of current concepts and practices." With that thought in mind it recommended that "an employee should not be deprived of a vacation because of failure to accumulate the minimum number of qualifying days due to illness, within the limits of sick leave, or injury on the job, within reasonable limits." (CE–6.)

Accordingly, the parties included in their 1954 vacation agreement a provision that calendar days in each current qualifying year on which an employee rendered no service because of his own sickness or injury on the job would be included in computing days of

compensated service and years of continuous service for vacation qualifying purposes on the basis of a maximum of 10 such days for an employee with less than 5 years' service; 20 such days for an employee with 5 but less than 15 years' service; and 30 such days for an employee with 15 or more years' service with the employing carrier. (EE–4.) The Organizations now propose that the present arrangement be extended to off-the-job injuries and that the 30-day maximum be extended to employees with 10 or more years' service.

As in the case of length of vacations and of length-of-service requirements, the most comprehensive and reliable data on minimum work requirements are to be found in BLS Bulletin No. 1233. They show that 773 of the 1,664 agreements providing for paid vacations in 1957 specified some form of minimum work requirement. About 4 out of 5 of these agreements specified 6 months of work or longer. Minimum time units, ranging from 50 to less than 75 percent of the full working time available during the year, were specified in 365 agreements, while 246 agreements required time units equivalent to 75 percent or more of full working time.

BLS Bulletin No. 1233 also noted that in some agreements the minimum worktime specified varied in accordance with a number of criteria, including reasons for absences. Thus, 473 of the 773 agreements modified the work requirements in order to protect workers who were unable to work for reasons beyond their control, such as sickness, accidents, and layoffs. A few agreements also further modfied minimum work requirements by providing that credit would be given for the entire unit—day, week, month, or pay period—if any part of it was worked.

Minimum work-requirement provisions were more common in manufacturing than in nonmanufacturing agreements. In the former category 603 out of 1175 agreements providing for paid vacations (57.3 percent), covering 3,00,900 out of 5,039,700 workers (60 percent), contained such clauses. In the latter category such clauses appeared in 170 out of 489 agreements (34.7 percent), covering 829,000 out of 2,275,200 workers (36.4 percent). (EE–4; CE–12.)

The Organizations have supplemented the foregoing material with excerpts from a 1956 study by the National Industrial Conference Board and from 1956 and 1960 studies by the Bureau of National Affairs, Inc. (EE–4.) The Conference Board Studies in Personnel Policy, No. 156, found that in most companies surveyed employees who fulfilled the length-of-service requirement were eligible for vacations. It noted that some companies also required the employee to have worked a certain amount of time during the previous year. Such requirements were found for hourly employees in about one-third of the companies, but only about one-tenth of the companies imposed similar requirements for salaried employees.

The Bureau of National Affairs found in 1956 that 45 percent of all agreements surveyed required that employees work a minimum time or percentage of time available during the year in order to qualify for a vacation; this figure represented a 12 percent increase over 1954. Three-fifths of the provisions required an employee to be on the job from one-half to three-quarters of the time; over one-fourth set the work requirement at over three-quarters of the available time; and only 1 out of every 8 specified less than half time. Like BLS, the Bureau of National Affairs noted the heavy preponderance of those provisions in manufacturing industries (55 percent), in contrast with nonmanufacturing (17.8 percent). The 1960 study by the Bureau of National Affairs shows much the same results: Minimum work requirements are imposed by 47 percent of vacation provisions; the amount of available time that must be worked ranges from more than 75 percent in the majority of cases to less than 50 percent in a small minority.

The only positive conclusions to be drawn from the foregoing data are that a majority of collective bargaining agreements outside the railroad industry did not include minimum work requirements for vacation eligibility in 1957, that the sizable number which did specified more stringent requirements than those included in the current vacation agreement between the Organizations and the Carriers; and that the number of agreements including minimum work requirements seems to be increasing. The Organizations emphasize, however, that employment among nonoperating employees in the railroad industry is constantly diminishing, so that even employees with many years of service are finding it increasingly difficult to perform 133 days of compensated service in a calendar year. This situation represents a change in the conditions that prevailed when the parties negotiated the present minimum work requirement.

(4) *Military Service*

Under the current vacation agreement employees who have performed 7 months' service with the employing carrier or have performed, in a calendar year, service sufficient to qualify for a vacation in the following calendar year (i.e., 133 days of compensated service) are credited with time spent in the Armed Forces in determining the length of vacations to which they are entitled upon their return to the service of the employing carried. (EE–4.)

The Organizations have proposed to substitute for the foregoing the following provisions:

(a) If the employee has rendered "some compensated service" in each of 4 months, not necessarily consecutive, before entering the Armed Forces, all the time spent in the Armed Forces must be credited as qualifying time in determining the length of vacation to which he is entitled upon his return.

(b) Such employee must be granted a vacation in the year in which he returns to the service of the carrier if he returns on or before September 1. "Return to service" includes "reporting and being available for work," whether or not work is available.

(c) Time spent in the Armed Forces must be counted as days of compensated service in determining whether the employee is entitled, under the minimum work requirements, to a vacation in the year following his return to the service of the carrier.

The employment rights of returning veterans are protected by the Universal Military Training and Service Act; it is not contended that the vacation practices now in effect in the railroad industry violate any provisions of that statute. Members of the Armed Forces also accumulate vacation credits under the provisions of the Armed Forces Leave Act, at the rate of 2½ days a month, or 30 days a year. Consequently, in the year in which the serviceman leaves the Armed Forces he obtains terminal leave under the provisions of that statute.

BLS Bulletin No. 1233 included in the 1957 survey of vacation practices a table on vacation allowances for employees entering or returning from military service. Of the 1,664 agreements providing for paid vacations, 1,227 (73.7 percent) had no provision with respect to employees entering military service; 1,258 had no provision with respect to employees returning from military service. It may be assumed, therefore, that there is no established practice on this matter in outside industry generally.

Concerning that portion of the Organizations' proposal summarized in paragraph (a) above, the Carriers point out that it would permit one "who had performed one day of service in each of four months * * * to build up substantial vacation qualification during service in the armed forces * * * to use that qualifying time to obtain vacation benefits upon his return without having performed any significant service for the carrier at all." (Carriers' Post-Hearing Br., p. 46.) They point out, further, that the portions of the Organizations' proposal summarized in paragraphs (b) and (c) above would make it possible for the returning serviceman to receive a vacation for the calendar year in which he reported himself available for work, even though no work was available, and to receive a vacation for the following year, even though he had performed no compensated service for the carrier since his return from the Armed Forces. Thus, it would be theoretically possible, under the Organizations' proposal, for an employee to claim a week's paid vacation in 1960 and 1961 if he performed compensated service on 1 day in each of 4 separate months, not necessarily consecutive, in 1958, entered the armed services any time in 1958, and reported back to the carrier as available to work on or before September 1, 1960, even

though no work was available to him at that time or subsequently in 1960. (Tr. 2032.)

The Organizations, in their turn, have cited a number of cases in which individual carriers have abandoned more liberal practices with respect to vacation allowances for returning servicemen, which were in effect prior to the 1954 vacation agreement, and have applied the terms of that agreement in a much more restrictive manner than was originally intended by the parties (Tr. 1092, 1095, 1098, 1111–19, 1138–43, 1200–01, 1218–19, 1223, 1235–36). Assuming, without deciding, that the decisions made by individual carriers in certain of these cases have been inequitable, or have violated the spirit, if not the letter, of the present vacation agreement, it is clear that those cases should be resolved on the individual properties, rather than by this Board. Certainly, the changes in the national rules proposed by the Organizations are likely to give rise to at least as many inequities as they would eliminate.

(5) *Survival of Vacation Benefits*

Under the current vacation agreement no vacation is paid to any employee, except those retiring under the provisions of the Railroad Retirement Act, whose employment relation with a carrier has terminated prior to the taking of his vacation. Pay for vacation due an employee who dies prior to taking it is made to his surviving widow or on behalf of his dependent children, if any.

The Organizations have proposed the following 3 changes:

(a) Furloughed employees must be given vacation pay for all vacation earned in the preceding and current years and not yet taken or paid for.

(b) The same will be true of employees whose employment status was terminated for any reason other than noncompliance with a union shop agreement, including but not limited to retirement, discharge, resignation, or failure to return after furlough.

(c) Vacation earned out but not received by the employee because of death must be paid to his designated beneficiary, surviving spouse, children, or estate, in that order of preference.

Substantially these same proposals were presented by the Organizations in the case submitted to Emergency Board No. 106. That Board recommended the provision for payment of accrued vacation to the widow or minor children of a deceased employee which was subsequently incorporated in the 1954 vacation agreement, but it declined to recommend adoption of the proposals summarized in paragraphs (a) and (b) above.

The record contains very little detailed evidence of the practices in outside industries with respect to these matters. BLS Bulletin No. 1233 reported that, in 1957, 1303 or 1,664 agreements with paid vacations contained provisions relating to vacation pay for workers

whose employment was terminated before the vacation period. Generally, where pay was granted, workers were paid for the amount of vacation earned up to the time of termination.

Fundamentally, the issue posed by the Organizations' proposals concerns the theory of a paid vacation: Does it represent a benefit for past services rendered, or for both past and future services? If it is the former, logic dictates that it be paid to an employee at the time of his termination, regardless of the reason therefor; if it is the latter, there is no reason why an employee who quits or is discharged for cause should receive the vacation benefit to which he would otherwise be entitled. Under the theory that vacations represent payment for past services rendered, however, the notion that an employee should be deprived of his accrued vacation benefit if he is discharged for noncompliance with the terms of a union security agreement cannot be defended. Counsel for the Organizations conceded (Tr. 2683) that such a provision might seem "unduly punitive" and that he could not defend it "except historically." Apparently, the idea was originally proposed by the Carriers. The Board feels that in the light of its recommendations on the problem raised in this subsection (5) the exception should be reconsidered.

The parties have previously agreed that the vacation allowance earned by not received by a deceased employee should be given to his surviving spouse or minor children, if any. It is difficult to understand, however, why the employee's rights to designate a beneficiary to receive his vacation allowance should not also be recognized.

(6) *Administration of Vacation Rules*

Under the current vacation agreement, each employee entitled to a vacation must take it at the time assigned; management has the right to defer a designated vacation date, provided it gives the affected employee as much advance notice as possible. Except in cases of emergency, at least 10 days' notice must be given. If a designated vacation date is advanced, at least 30 days' notice must be given. If the carrier fails to release an employee for vacation during the calendar year because of the requirements of the service, it must pay him an allowance in lieu of the vacation.

The Organizations have proposed (a) that vacations be "scheduled" instead of "designated"; (b) that notice of deferred vacations be required to be in writing, at least 10 working days in advance; (c) that if a vacation is deferred or advanced, a new vacation be scheduled immediately by agreement between the carrier, the employee, and his labor organization, and no further cancellations be permitted thereafter; (d) that if the prescribed notice of deferment or advancement of a scheduled vacation is not given to the employee, he shall be permitted to work throughout the scheduled vacation

period at the rate of time and one-half and shall also receive his regular vacation pay; and (e) that if the carrier fails to release an employee for vacation during the calendar year, the employee shall receive, in lieu of such vacation, additional compensation at the rate of time and one-half the number of vacation days to which he was entitled.

The current vacation agreement expresses the intent that vacation periods will be continuous; it states, however, that it may be given in installments at the request of the employee and with the consent of management. The Organizations have proposed to amend this provision by requiring the consent of the employee's labor organization as well as that of management.

Under the current vacation agreement absences from duty of vacationing employees are not considered "vacancies" in their positions; when the position of a vacationing employee is to be filled by other than a regular relief employee, the agreement specifies that "effort will be made to observe the principle of seniority." The Organizations wish to tighten up that provision and have proposed that positions of vacationing employees be filled, as far as possible, by means of "regular relief positions, established, bulletined and filled according to the applicable rules and working conditions agreement." They have further proposed that in filling the positions of vacationing employees in any other manner seniority provisions of the applicable agreement be "strictly observed."

The Organizations do not argue that any of these miscellaneous provisions they wish to change in inherently wrong if properly administered; what they object to is the alleged abuses in administration committed by some carriers, such as forcing an employee to "request" a split vacation, failing to give reasonable notice of changes in designated vacations, and the like. The Carriers argue, on the other hand, that the amendments proposed by the Organizations would deprive management of the flexibility it requires in the assignment of it work force.

In this situation the evidence of practice in other industries is largely irrelevant. Moreover, it is at once apparent that the remedy for the practices of which the Organizations complain must be supplied by those possessing an intimate knowledge of the facts. The Board does not believe that the proposals of the Organizations are the most appropriate or suitable ways to handle the problems raised.

HOLIDAYS

The proposals of the Organizations relating to Holidays and the counter-proposals of the Carriers (EE–1; CE–1) read in their entirety as follows:

HOLIDAYS

Article II of the Agreement of August 21, 1954 is hereby amended to read as follows:

ARTICLE II—HOLIDAYS

Section 1. Effective November 1, 1959, each hourly and daily rated employee shall receive eight hours' pay at the pro rata hourly rate of the position on which he last worked before the holiday for each of the following enumerated holidays:

New Year's Day	Labor Day
Washington's Birthday	Veterans Day
Good Friday	Thanksgiving Day
Decoration Day	Christmas
Fourth of July	

NOTE.—This rule does not disturb agreements or practices now in effect under which any other day is substituted or observed in place of any of the above-enumerated holidays.

Section 2. Monthly rates shall be adjusted by adding the equivalent of 16 pro rata hours to the annual compensation (the monthly rate multiplied by 12) and this sum shall be divided by 12 in order to establish a new monthly rate. The sum of presently existing hours per annum plus 16 divided by 12 will establish a new hourly factor and overtime rates will be computed accordingly.

Weekly rates shall receive a corresponding adjustment.

Section 3. An employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid by the carrier is credited to him in the pay period in which the holiday occurs or the next preceding pay period (any of the three next preceding pay periods where pay periods are weekly and any of the two next preceding pay periods where pay periods are ten days) unless (1) the employee has resigned, retired, died or been discharged before the holiday, or (2) the employee was assigned to work on the work day of his work week immediately preceding or following the holiday and he fails to report for work on such day without good cause. Good cause shall include sickness, injury, disability, vacation, leave of absence, excused absence and any other reasonable cause for failure to report for work, not including however, as such reasonable cause unexcused absence in anticipation of or in prolongation of the holiday.

Section 4. Provisions in existing agreements with respect to holidays in excess of the nine holidays referred to in Section 1 hereof, shall continue to be applied without change.

Section 5. Nothing in this rule shall be construed to change existing rules and practices thereunder governing the payment for work performed by an employee on a holiday.

PROPOSALS OF CARRIERS

HOLIDAYS

1. Effective November 1, 1959, all rates of pay in effect on October 31, 1959 shall be decreased 5¢ per hour (the current equivalent cost of holiday pay provided by Article II of the National Agreement of August 21, 1954), this decrease to be applied to all types of rates so as to give effect to the proposed reduction of 5¢ per hour.

2. Employees receiving holiday pay pursuant to Article II of the August 21, 1954 Agreement, who are now paid at the rate of time and one-half for

services performed on holidays shall be paid at pro rata rates for the first eight hours of service on holidays, and at the rate of time and one-half for time worked in excess of eight hours on holidays. (Served on the Hotel & Restaurant Employees & Bartenders International Union)

Effective November 1, 1959, all rates of pay in effect on October 31, 1959 shall be decreased 5¢ per hour, this decrease to be applied to all types of rates so as to give effect to the proposed reduction of 5¢ per hour.

These proposals and counterproposals are discussed below under the following headings:

(1) Number of Paid Holidays
(2) Eligibility and Qualifications for Holiday Pay
(3) Holidays During the Vacation Period
(4) Holidays for Dining Car Employees
(5) Double time for Holiday Work

(1) *Number of Paid Holidays*

Nonoperating employees obtained paid holidays on a national basis following the recommendation of Emergency Board No. 106. These recommendations were submitted May 15, 1954, and were embodied in the agreement of the parties dated August 21, 1954. Provisions were made in the agreement for 7 paid holidays, and a formula was evolved through which monthly rated employees were equalized in compensation with hourly rated employees. The report of the Board and the subsequent agreement embodied the principle that the weekly take-home pay of an hourly rated employee would not be reduced by the occurrence of a holiday on which no work was performed. Although that Board recognized 7 holidays, it assumed that since a number of such days would fall on nonscheduled work days, only 5 days would be paid for each year, at a cost estimated to be 3½ cents per hour. The Board did not offset the holidays in lieu of a wage increase.

Evidence was introduced by both parties (EE–4, 7; CE–12) on general industry practice regarding the number of paid holidays. The evidence fails to show a substantial change since this issue was last considered by an Emergency Board. The trend apparent in 1954 toward 7 paid holidays has not changed appreciably. Those contracts providing for 7 paid holidays are representative of the largest group, and cover the greatest number of workers. Although a minority of contracts in a number of industries provide for more than 7 paid holidays, such instances do not represent the prevailing pattern.

(2) *Eligibility and Qualifications for Holiday Pay*

Many disputes, as evidenced by the number of cases processed through the National Railroad Adjustment Board, have involved eligibility and qualifications for holiday pay. The words "regularly assigned" have limited the employees eligible for holiday pay

to those with "regularly assigned" positions, and have excluded those on temporary assignments. Many of the latter are long-service employees temporarily assigned to higher rated positions, or "temporarily" assigned on a more or less regular basis. The meaning ascribed to the words "regularly" and "assigned" thus results in eligibility and qualifications requirements for holiday pay which are substantially more stringent than those requirements in other industries. Awards of the National Railroad Adjustment Board have denied paid holidays to employees who have fulfilled all other requirements and have worked for extended periods of time, both before and after the holidays in question; simply because they were not "regularly assigned."

There is a wide variation in outside industry with respect to the requirements of seniority and necessary attachment to the industry to qualify for paid holidays. Information from BLS Bulletin No. 1248 and from studies by the National Industrial Conference Board, as well as data supplied to the Organizations by the Amalgamated Association of Street, Electric Railway and Motor Coach Employes, all dealing with requirements of attachment to the industry, were presented in evidence. A preponderance of the plans studied had requirements for a minimum of 30 days' attachment to the industry or the establishment of seniority. Many plans included no service requirements, or if such requirements were included, they were similar to the "regularly assigned" test in the nonoperating employee agreement.

In addition, the Organizations presented specific instances in which positions were abolished before a holiday and reestablished after the holiday, apparently for the sole purpose of avoiding payment for the holiday. These cases have been a source of friction and ill will. Such practices, to the extent that they exist, should be eliminated. This Board does not propose to write rules, a task for which the parties, rather than the Board, have the principal responsibility.

The evidence presented on interindustry comparison regarding requirements for work on the day before and the day following a holiday shows that a majority of the contracts require work on either both or at least one of these days. The most common provision requires work on both the scheduled workday before, and the scheduled workday following the holiday. The same provision is contained in the agreements with the Organizations. The purpose of the provision is to prevent an employee from extending the holiday by an unauthorized absence. The same purpose would be served, however, if the employee were deprived of holiday pay if he failed to report for work on the day before a holiday, or the day following a holiday, having been scheduled to work either one or both of such

days. This practice would prevent an otherwise eligible employee from being deprived of holiday pay because he was either deliberately or inadvertently not scheduled to work the day before or the day following the holiday.

As previously stated, the Board does not propose to write rules, but leaves this task to the parties. Any such rules should provide that an employee must be ready, willing, and able to work on the day before and the day following a holiday in order to qualify for holiday pay. Thus, employees scheduled to work who have quit, been discharged, are on sick leave, or are absent for any other reason, should not qualify.

(3) *Holidays in the Vacation Period*

Under the present agreement employees on vacation do not receive extra pay for holidays. The Organizations propose that if, during an employee's vacation, a holiday falls on a workday of the position, and the position is worked that day, he be paid for the day at double time and one-half; and that if the holiday falls on the rest day of the position, or if the position is not worked that day, it will not be counted as a day of his vacation and he will also be paid for that day at straight time.

A review of the material submitted in BLS Bulletin No. 1233 indicates that prevailing practice in other industries is to grant an additional day's pay or an additional day of vacation when a holiday falls in a vacation period. The rules presently applicable in the railroad industry, however, are based on the doctrine of maintenance of take-home pay. A change in the rules regarding holidays in the vacation period would therefore have much broader implications than a consideration of this particular issue would at first seem to suggest.

(4) *Holidays for Dining Car Employees*

The current agreement of the Hotel & Restaurant Employees & Bartenders International Union does not provide for holiday pay. The reason for the absence of such paid holidays is historical. The proposal of this organization is as follows:

> I am attaching hereto as "Appendix A" a copy of proposed revisions of vacation and holiday agreements which are being served today by ten non-operating railway labor organizations parties to the Vacation Agreement of December 17, 1941 and the Agreement of August 21, 1954, on the Carriers in the United States on which they represent employes.
>
> Please consider this letter as the usual and customary notice under the Railway Labor Act, as amended, and as a seven-months' notice under our vacation agreement, of our desire to revise and supplement all existing agreements so as to provide to the employes we represent the same vacation and holiday privileges, benefits, rules and payments that will be provided upon the adoption of "Appendix A" for employes covered by the

proposed revisions of agreements set forth therein effective as of the dates specified therein.

In order to accomplish the result described above, this notice shall be understood to include, in addition to the agreement revisions apparent from the text of "Appendix A," the following:

(1) In computing days for the purpose of qualifying for and determining the length of vacations each aggregate of eight hours of compensated service shall be counted as one day, but if compensated service of less than eight hours is rendered in one tour of duty such tour of duty shall be considered as one day;

(2) Vacation pay shall be paid at the same hourly rate payable to the employe while working;

(3) As holiday pay for monthly rated employes, the monthly rates shall first be adjusted in accordance with Section 2 of Article II of the Agreement of August 21, 1954, and thereupon the adjustment provided for in Article II, Section 2 of "Appendix A" shall be added. (Tr. 178–79)

No evidence was introduced by either the Carriers or the Organizations in regard to the merits of this proposal. Dining car employees ride trains and have working conditions which are similar in some respects to those of operating crafts. However, the Board received no evidence of previous agreements of dining car employes. It is therefore not in a position to determine if there is currently included in the applicable wage rate a factor for paid holidays as has been the practice in other crafts.

(5) ***Double Time for Holiday Work***

The Carriers propose a reduction in holiday pay for holidays worked. Under the present agreement an employee performing work on a holiday receives pay at time and one-half for the holiday worked, in addition to the holiday pay for which he qualifies. The effect of this proposal would be to reduce the pay of employees working on a holiday from double time and one-half to double time for the first 8 hours.

Prior to 1954, nonoperating employees were paid time and one-half for holiday work. When paid-holiday provisions were incorporated into the agreement, they were added to the older pattern of time and one-half for holiday work, which resulted in the present double time and one-half rate. This arrangement was inconsistent with the doctrine of maintenance of take-home pay. The rate of double time and one-half was not arrived at through interindustry comparisons. BLS Bulletin No. 1248 shows that the prevailing rate of pay for holiday work is double time, although 17.8 percent of all workers receive double time and one-half, and 21 percent receive triple time for work on paid holidays. (CE–12)

Respectfully submitted.

BENJAMIN AARON, *Member.*
ARTHUR W. SEMPLINER, *Member.*
JOHN T. DUNLOP, *Chairman.*

APPENDIX

EXECUTIVE ORDER 10875

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE AKRON & BARBERTON RAILROAD AND OTHER CARRIERS, AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the Akron & Barberton Belt Railroad and other carriers represented by the Eastern, Western, and Southeastern Carriers' Conference Committees, designated in List A attached hereto and made a part hereof, and certain of their employees represented by eleven cooperating (nonoperating) railway labor organizations, designated in List B attached hereto and made a part hereof, on the subject of improvements in vacation and holidays rules, and the carriers' counter proposals; and

WHEREAS disputes exist between the Akron & Barberton Belt Railroad and other carriers represented by the Eastern, Western, and Southeastern Carriers' Conference Committees, designated in List C attached hereto and made a part hereof, and certain of their employees represented by eleven cooperating (nonoperating) railway labor organizations, designated in List D attached hereto and made a part hereof, on the subject of improvements in health and welfare plan, group life insurance, inclusion of cost-of-living adjustments in basic wage rates, and a general wage rate increase of twenty-five cents per hour, and the carriers' counter proposals; 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 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 these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

The board shall report its findings to the President with respect to the disputes 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 Akron & Barberton Belton Railroad or any other carrier represented by the Eastern, Western, and Southeastern Carriers' Conference Committees, or by their employees, in the conditions out of which these disputes arose.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
April 22, 1960.

LIST A

EASTERN REGION

Akron & Barberton Belt Railroad
Akron, Canton & Youngstown Railroad
Ann Arbor Lake Michigan Car Ferries
Ann Arbor Railroad Co.
Baltimore & Ohio Railroad Co.
- B&O Chicago Terminal
- B&O R.R. Co. N.Y. Term. Region
- B&O Warehouse (Cincinnati)
- Blue Line Transfer
- Camden Warehouses, Inc.
- Curtis Bay Railroad
- Dayton & Union Railroad
- Locust Point Grain Elevators
- Staten Island Rapid Transit
- Strouds Creek & Muddlety Railroad
- Terminal Storage Co., Washington

Bessemer & Lake Erie Railroad Co.
Boston & Maine Railroad Co.
Boston Terminal Co.
Brooklyn Eastern District Terminal
Buffalo Creek Railroad
Bush Terminal Co.
Canadian National Railways:
- Canadian National Railway—State of New York
- Canadian National Railway—Lines in New England
- C.N.R. Elevator, Portland, Maine
- Frt. Office & Facilities (Blk Rk & Buffalo)
- Champlain & St. Lawrence Railroad
- St. Clair Tunnel Company
- United States & Canada Railroad Co.

Canadian Pacific Railways in the U.S.
Central Railroad Co. of New Jersey
- New York & Long Branch Railroad
- Wharton & Northern Railroad

Central Vermont Railway
Chicago Union Station Co.
Cincinnati Union Terminal Co.
Dayton Union Railway Co.
Delaware & Hudson Railroad

Delaware, Lackawanna & Western R.R.
Detroit & Toledo Shore Line Railroad
Detroit Terminal Railroad Co.
Detroit, Toledo & Ironton Railroad
Erie Railroad Co.
Grand Trunk Western Railroad Co.
Hoboken Shore Railroad Co.
Indianapolis Union Railway Co.
Lake Terminal Railroad Co.
Lehigh & New England Railroad Co.
Lehigh Valley Railroad Co.
Long Island Railroad Co.
Maine Central Railroad Co.
    Portland Terminal Co.
Monon Railroad
Monongahela Railway Co.
Montour Railroad
Newburgh & South Shore Railway Co.
New Jersey & New York Railroad
New York Central System:
    N.Y. & Eastern Dist. (Excl. B&A Div.)
        Boston & Albany Division
        Grand Central Terminal
        Buffalo Stock Yards
        Melrose Central Building
        NYC Grain Elevator, Weehawken, N.J.
    Western District
        Ohio Central Division
    Northern District
    Southern District
        Peoria & Eastern
        L. & J.B. & R.R.
    Indiana Harbor Belt
    Chicago River & Indiana Railroad
        Chicago Junction Railway
    Pittsburgh & Lake Erie Railroad
        Lake Erie & Eastern Railroad
    Cleveland Union Terminals
    Troy Union Railroad
New York Connection Railroad Co.
New York, Chicago & St. Louis R.R. Co.
    Wheeling & Lake Erie
New York Dock Railway
New York, New Haven & Hartford R.R.
New York, Susquehanna & Western R.R. Co.
Pennsylvania Railroad Co.
    Baltimore & Eastern Railway Co.
Pennsylvania-Reading Seashore Lines
Pittsburgh & West Virginia Railway
Pittsburgh, Chartiers & Youghiogheney
Railroad Perishable Inspection Agency
Reading Company
    Philadelphia, Reading & Pottsville Telg. Co.
River Terminal Railway Co.

Toledo Terminal Railroad
Union Depot Co. (Columbus, Ohio)
Union Freight Railroad (Boston)
Union Railroad Co.
Washington Terminal Co.
Western Maryland Railway
Western Warehouse Co. (Maryland)
Youngstown & Northern Railroad Co.

WESTERN REGION

Alton & Southern Railroad
Atchison, Topeka & Santa Fe Railway
    Dining Car Department
    Gulf, Colorado & Santa Fe
    National Carloading
    Newton, Kansas Laundry Workers
    Panhandle & Santa Fe Railway
    San Bernardino, Cal Laundry Workers
    Tie & Timber Treating Plant, Somerville, Texas
    Tie & Timber Treating Plant, Albuquerque, N. Mex.
Bauxite & Northern
Belt Railway of Chicago
Camas Prairie Railroad Co.
Chicago & Eastern Illinois Railroad
    Chicago Heights Terminal & Transfer Co.
Chicago & Illinois Midland
Chicago & North Western Railway
Chicago & Western Indiana
Chicago, Burlington & Quincy Railroad
Chicago Great Western Railway Co.
Chicago, Milwaukee, St. Paul & Pacific
Chicago Produce Terminal Co.
Chicago, Rock Island & Pacific Ry.
Colorado & Southern Railway
Colorado & Wyoming Railway
Denver & Rio Grande Western Railroad
Denver Union Terminal Railway
Des Moines Union Railway
Duluth, Missabe & Iron Range Railway
Duluth, South Shore & Atlantic
Duluth Union Depot & Transfer Co.
Duluth, Winnipeg & Pacific Railway
East St. Louis Junction Railroad
Elgin, Joliet & Eastern Railway
El Paso Union Passenger Depot
Fort Worth & Denver Railway Co.
Galveston, Houston & Henderson Railroad
Great Northern Railway
Green Bay & Western
    Kewaunee, Green Bay & Western R.R.
Houston Belt & Terminal Railway
Illinois Central Railroad
    Chicago & Illinois Western Railroad
Illinois Northern Railway

Illinois Terminal Railroad
Joliet, Tex. Division of CRL&P & FW&D
Kansas City Southern Railway
    Arkansas Western Railway
    Fort Smith & Van Buren
    Joplin Union Depot Co.
Kansas City Terminal Railway
King Street Passenger Station (Seattle)
Lake Superior & Ishpeming
Los Angeles Juncion Railway
Louisiana & Arkansas Railway Co.
Manufacturer's Railway
Midland Valley Railroad
    Kansas, Oklahoma & Gulf Railway
    Oklahoma City, Ada, Atoka Railway
Milwaukee-Kansas City Southern Jt. Agency
Minneapolis & St. Louis Railway
    Railway Transfer Co., City of Minneapoils
Minneapolis, Northfield & Southern Ry.
Minneapolis, St. Paul & Sault Ste. Marie
Minnesota & Manitoba
Minnesota Transfer Railway
Minneapolis Industrial Ry. (Minn. Western)
Missouri-Kansas-Texas Railroad Co.
    Beaver, Meade & Englewood Railroad
    Missouri-Kansas-Texas R.R. Co. of Texas
Missouri Pacific Railroad:
    Southern & Western Districts
    Gulf District
    Missouri-Illinois Railroad
    Sedalia Reclamation Plant
Northern Pacific
Northern Pacific Term. Co. of Oregon
Northwestern Pacific Railroad
Ogden Union Railway & Depot Co.
Oklahoma City Stock Yards Agency
Paducah & Illinois Railroad Co.
Peoria & Pekin Union Railway
Port Terminal R.R. Assn. (Houston)
Pueblo Joint Interchange Bureau
St. Joseph Terminal Railroad Co.
St. Louis-San Francisco Railway
    St. Louis, San Francisco of Texas
St. Louis Southwestern Railway
St. Paul Union Depot Co.
San Diego & Arizona Eastern
Sioux City Terminal Railway
Southern Pacific Co. (Pacific Lines)
Spokane, Portland & Seattle Railway
    Oregon Electric Railway
    Oregon Trunk Railway
Terminal Railroad Assn. of St. Louis
Texarkana Union Station Trust
Texas & New Orleans Railroad

Texas & Pacific Railway
Abilene & Southern Railway
Ft. Worth Belt Railway
Texas-New Mexico Railway
Texas Short Line Railway
Weatherford, Mineral Wells & No. Western
Texas Mexican Railway Co.
Texas-Pacific-Missouri Pacific Term. RR of New Orleans
Toledo, Peoria & Western Railroad
Union Pacific Railroad
Union Railway Co. (Memphis)
Union Terminal Co. (Dallas)
Wabash Railroad Co.
Walla Walla Valley Railway Co.
Western Pacific Railroad
Western Weighing & Inspection Bureau
Wichita Terminal Association
Wichita Union Terminal Railway

SOUTHEASTERN REGION

Albany Passenger Terminal Company
Atlanta & West Point
Western Railway of Alabama
Atlanta Joint Terminals
Atlanta Terminal Company
Atlantic Coast Line Railroad
Birmingham Southern Railroad Company
Central of Georgia Railway Company
Charleston & Western Carolina Railway Company
Chesapeake & Ohio Railway (Chesapeake Dist.)
Chesapeake & Ohio Railway (Pere Marquette.)
Clinchfield Railroad
Florida East Coast Railway
Georgia Railroad Company
Augusta Union Station Company
Augusta & Summerville Railroad
Gulf, Mobile & Ohio
Jacksonville Terminal Company
Kentucky & Indiana Terminal Railroad
Louisville & Nashville Railroad
Nashville Chattanooga & St. L. Dist.
Macon Terminal
Norfolk & Portsmouth Belt Line
Norfolk & Western Railway
Richmond, Fredericksburg & Potomac
Potomac Yard
Richmond Terminal Railway Company
Seaboard Air Line Railway Company
Southern Railway
Alabama Great Southern Railway
Cincinnati, New Orleans & Texas Pacific
Georgia Southern & Florida
Harriman & Northeastern R.R. Company
New Orleans & Northeastern R.R.

New Orleans Terminal Company
St. Johns River Terminal Company
Tennessee Central Railway
Virginian Railway Company

LIST B

1960 VACATION AND HOLIDAY MOVEMENT—COOPERATING RAILWAY LABOR ORGANIZATION

International Association of Machinists
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers
Brotherhood of Railway Carmen of America
International Brotherhood of Firemen and Oilers
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees
Brotherhood of Maintenance and Way Employes
The Order of Railroad Telegraphers
Brotherhood of Railroad Signalmen
Hotel and Restaurant Employees and Bartenders International Union

LIST C

Eastern Region

Akron & Barberton Belt Railroad
Akron, Canton & Youngstown Railroad
Akron Union Passenger Depot Company
Ann Arbor Lake Michigan Car Ferries
Ann Arbor Railroad Company
Baltimore & Ohio Railroad Company
B&O Chicago Terminal
B&O R.R. Co. N.Y. Terminal Region
B&O Warehouse (Cincinnati)
Blue Line Transfer
Camden Warehouses, Inc.
Curtis Bay aRilroat
Dayton & Union Railroad
Locust Point Grain Elevators
Staten Island Rapid Transit
Strouds Creek & Muddlety Railroad
Terminal Storage Co., Washington
Bessemer & Lake Erie Railroad Company
Boston & Maine Railroad Company
Boston Terminal Company
Brooklyn Eastern District Terminal
Bush Terminal Company
Canadian National Railways:
Can. Natl. Ry.—State of New York
Can. Natl. Ry.—Lines in New England
C.N.R. Elevator, Portland, Me.
Frt. Ofc & Facilities (BlkRk&Buffalo)
Champlain & St. Lawrence Railroad

St. Clair Tunnel Company
United States & Canada Railroad Company
Canadian Pacific Railways in the U.S.
Central Railroad Company of New Jersey
New York & Long Branch Railroad
Wharton & Northern Railroad
Central Vermont Railway
Chicago Union Station Company
Cincinnati Union Terminal Company
Dayton Union Railway Company
Delaware & Hudson Railroad
Delaware, Lackawanna & Western Railroad
Detroit & Toledo Shore Line Railroad
Detroit Terminal Railroad Company
Detroit, Toledo & Ironton Railroad
Erie Railroad Company
Grand Trunk Western Railroad Company
Hoboken Shore Railroad Company
Indianapolis Union Railway Company
Lake Terminal Railroad Company
Lehigh & New England Railroad Company
Lehigh Valley Railroad Company
Long Island Railroad Company
Maine Central Railroad Company
Portland Terminal Company
Monon Railroad
Monongahela Railway Company
Montour Railroad
Newburgh & South Shore Railway Company
New York Central Systems:
N.Y. & Eastern Dist. (Excl. B&A Div.)
Boston & Albany Division
Grand Central Terminal
Buffalo Stock Yards
Melrose Central Building
NYC Grain Elevator, Weehawken, N.J.
Western District
Ohio Central Division
Northern District
Southern District
Peoria & Eastern
L. & J.B. & R.R.
Indiana Harbor Belt
Chicago River & Indiana Railroad
Chicago Junction Railway
Pittsburgh & Lake Erie Railroad
Lake Erie & Eastern Railroad
Cleveland Union Terminals
Troy Union Railroad
New York Connecting Railroad Company
New York, Chicago & St. Louis Railroad Company
Wheeling & Lake Erie
New York Dock Railway
New York, New Haven & Hartford

New York, Susquehanna & Western R.R. Co.
Pennsylvania Railroad Company
    Baltimore & Eastern Railway Company
Pennsylvania-Reading Seashore Line
Pittsburgh & West Virginia
Pittsburgh, Chartiers & Youghiogheney
Railroad Perishable Inspection Agency
Reading Company
    Philadelphia, Reading & Pottsville Telegraph Co.
River Terminal Railway Company
Toledo Terminal Railroad
Union Depot Company (Columbus, Ohio)
Union Freight Railroad (Boston)
Union Inland Freight Station (New York)
Union Railroad
Upper Merion & Plymouth
Washington Terminal Company
Western Maryland Railway
Youngstown & Northern Railroad Company

WESTERN REGION

Alton & Southern Railroad
Atchison, Topeka & Santa Fe Railway
    Dining Car Department
    Gulf, Colorado & Santa Fe
    National Carloading
    Newton, Kansas Laundry Workers
    Panhandle & Santa Fe Railway
    San Bernardino, Cal. Laundry Workers
    Tie & Tmbr. Trtg. Plnt., Somerville, Tex.
    Tie & Tmbr. Trtg. Plnt., Albuqerque, N. Mex.
Bauxite & Northern
Belt Railway of Chicago
Camas Prairie Railroad Company
Chicago & Eastern Illinois Railroad
    Chicago Heights Terminal & Trafr. Co.
Chicago & Illinois Midland
Chicago & North Western Railway
Chicago & Western Indiana
Chicago, Burlington & Quincy Railroad
Chicago Great Western Railway Company
Chicago Milwaukee, St. Paul & Pacific
Chicago Produce Terminal Company
Chicago, Rock Island & Pacific Railway
Colorado & Southern Railway
Colorado & Wyoming Railway
Davenport, Rock Island & North Western
Denver & Rio Grande Western Railroad
Denver Union Terminal Railway
Des Moines Union Railway
Duluth, Missabe & Iron Range Railway
Duluth, South Shore & Atlantic
Duluth Union Depot & Transfer Company
Duluth, Winnipeg & Pacific Railway

East St. Louis Junction Railroad
Elgin, Joliet & Eastern Railway
El Paso Union Passenger Depot
Fort Worth & Denver Railway Company
Galveston, Houston & Henderson Railroad
Great Northern Railway
Green Bay & Western
    Kewaunee, Green Bay & Western R.R.
Houston Belt & Terminal Railway
Illinois Central Railroad
    Chicago & Illinois Western Railroad
Illinois Northern Railway
Illinois Terminal Railroad
Joint Texas Division of CRI&P & FW&D
Joliet Union Depot Company
Kansas City Southern Railway
    Arkansas Western Railway
    Fort Smith & Van Buren
    Joplin Union Depot Company
Kansas City Terminal Railway
Keokuk Union Depot Company
King St. Psgr. Station (Seattle)
Lake Superior & Ishpeming
Los Angeles Junction Railway
Louisiana & Arkansas Railway Company
Manufacturer's Railway
Midland Valley Railroad
    Kansas, Oklahoma & Gulf Railway
    Oklahoma City, Ada. Atoka Railway
Milwaukee-Kansas City Southern Jt. Agcy.
Minneapolis & St. Louis Railway
    Railway Trasfer Co., City of Mpls.
Minneapolis, Northfield & Southern Railway
Mpls., St. Paul & Sault Ste. Marie
Minnesota & Manitoba
Minnesota Transfer Railway
Minneapolis Industrial Railway
Missouri & Ill. Bridge & Belt R.R. Company
Missouri-Kansas Texas Railroad Company
    Beaver, Meade & Englewood Railroad
    Missouri-Kansas-Texas RR Company of Texas
Missouri Pacific Railroad
    Southern & Western Districts
    Gulf District
    Missouri-Illinois Railroad
    Sedalia Reclamation Plant
Northern Pacific
    Timber Trtg. Plant—Brainerd, Minn.
    Timber Trtg. Plant—Paradise, Mont.
Northern Pacific Terminal Company of Oregon
Northwestern Pacific Railroad
Ogden Union Railway & Depot Company
Oklahoma City Stock Yards Agency

Paducah & Illinois Railroad Company
Peoria & Pekin Union Railway
Peoria Terminal Company
Port Terminal R.R. Assn. (Houston)
Pueblo Joint Interchange Bureau
St. Joseph Terminal Railroad Company
St. Louis-San Francisco Railway
    St. Louis San Francisco of Texas
St. Louis Southwestern Railway
St. Paul Union Depot Company
San Diego & Arizona Eastern
Sioux City Terminal Railway
Southern Pacific Co. (Pacific Lines)
Spokane, Portland & Seattle Railway
    Oregon Electric Railway
    Oregon Trunk Railway
Terminal Railroad Assn. of St. Louis
Texarkana Union Station Trust
Texas & New Oreans Railroad
Texas & Pacific Railway
    Abilene & Southern Railway
    Ft. Worth Belt Railway
    Texas-New Mexico Railway
    Texas Short Line Railway
    Weatherford, Mineral Wells & No. Western
Texas Mexican Railway Company
Tex-Pac-Mo.-Pac Term. RR of N'Orleans
Toledo, Peoria & Western Railroad
Trans-Continental Frt. Bureau—South
Union Pacific Railroad
Union Railway Company (Memphis)
Union Railway Terminal Company (Dallas)
Wabash Railroad Company
Walla Walla Valley Railway Company
Western Pacific Railroad
Western Weighing & Inspection Bureau
Wichita Terminal Association
Wichita Union Terminal Railway

SOUTHEASTERN REGION

Albany Passenger Terminal Company
Atlanta & West Point
    Western Railway of Alabama
Atlanta Joint Terminals
Atlanta Terminal Company
Atlantic Coast Line Railroad
Birmingham Southern Railroad Company
Central of Georgia Railway Company
Charleston & Western Carolina Railway Company
Chesapeake & Ohio Railway (Chesapeake Dist.)
Chesapeake & Ohio Railway (Perre Marquette)
Clinchfield Railroad
Florida East Coast Railway

Georgia Railroad Company
Augusta Union Station Company
Augusta & Summerville Railroad
Gulf, Mobile & Ohio
Jacksonville Terminal Company
Kentucky & Indiana Terminal Railroad
Louisville & Nashville Railroad
Nashville Chattanooga & St. L. Dist.
Macon Terminal
Norfolk & Portsmouth Belt Line
Norfolk & Western Railway
Richmond, Fredericksburg & Potomac
Potomac Yard
Richmond Terminal Railway Company
Seaboard Air Line Railway Company
Southern Railway
Alabama Great Southern Railway
Cincinnati, New Orleans & Tex. Pac.
Georgia Southern & Florida
Harriman & Northeastern R.R. Co.
New Orleans & Northeastern R.R.
New Orleans Terminal Company
St. Johns River Terminal Company
Tennessee Central Railway
Virginia Railway Company

LIST D

1960 HEALTH AND WELFARE AND WAGE MOVEMENT— COOPERATING RAILWAY LABOR ORGANIZATIONS

International Association of Machinists
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmith, Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers
Brotherhood of Railway Carmen of America
International Brotherhood of Firemen and Oilers
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes
Brotherhood of Maintenance of Way Employes
The Order of Railroad Telegraphers
Brotherhood of Railway Signalmen
Hotel and Restaurant Employees and Bartenders International Union

NATIONAL MEDIATION BOARD

WASHINGTON (25), *May 18, 1960.*
EMERGENCY BOARD No. 130.

THE PRESIDENT
THE WHITE HOUSE

DEAR MR. PRESIDENT: Reference is made to your executive order No. 10875, dated April 22, 1960, creating an Emergency Board under provisions of Section 10 of the Railway Labor Act, as amended, to investigate the disputes between the Akron & Barberton Belt Railroad Company and other carriers represented by the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees represented by the Eleven Cooperating (Non-Operating) Railway Labor Organizations.

Under the terms of this executive order, the thirty-day period provided in Section 10 of the Railway Labor Act, as amended, for the Emergency Board to render its report, expires on May 22, 1960. The member of the Emergency Board have advised that due to the protracted hearings, it does not appear possible for them to submit their report by that date. The parties have stipulated into the record of the hearings that request for an extension of time is granted to permit the Emergency Board to report not later than June 8, 1960, inclusive.

The National Mediation Board accordingly recommends that the extension of time be approved, permitting this Emergency Board to file its report and recommendations not later than June 8, 1960, inclusive.

Respectfully,

s/ Robert O. Boyd
t/ ROBERT O. BOYD, *Chairman,*
National Mediation Board.

APPROVED:
s/ DWIGHT D. EISENHOWER

CHRONOLOGY OF EMERGENCY BOARD NO. 130

Emergency Board No. 130, pursuant to the Railway Labor Act, was created by Executive Order 10875 on April 22, 1960. The Board first met at 2 p.m. on April 26, 1960 at 32 West Randolph Street in the City of Chicago, State of Illinois. Subsequent meetings were held during the period April 26, 1960, to May 28, 1960. The Board met on 20 separate days in public session. All testimony presented by the parties in addition to testimony requested by the Board was received in evidence. In all, 45 exhibits and 2,800 pages of testimony comprise the record.

The members of the Board were John T. Dunlop of Belmont, Massachusetts, chairman; Benjamin Aaron, of Los Angeles, California, member, and Arthur W. Sempliner of Detroit, Michigan, member. The members of the Board were appointed by the President on April 22, 1960. On May 18, 1960, pursuant to a stipulation of the parties on the record, the parties requested that the time for filing the Board's report and recommendations be extended to June 8, 1960. The requested extension was approved by the President on May 20, 1960.

The Board closed its record on May 28, 1960, and went into executive session to study the evidence and to prepare its report. The parties submitted final briefs as of May 31, 1960, and on June 8, 1960, the Board had the honor to submit its report to the President.

APPEARANCES FOR THE EMPLOYEES

EMPLOYES' NATIONAL CONFERENCE COMMITTEE
COOPERATING RAILWAY LABOR ORGANIZATIONS

RAILWAY EMPLOYES' DEPARTMENT, A.F. OF L.:
MICHAEL FOX, PRESIDENT
GEORGE CUCICH, RESEARCH DIRECTOR

International Association of Machinists:
Joseph W. Ramsey, General Vice President
Joseph Besch, Grand Lodge Representative

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers:
W. A. Clavin, International President
Charles E. Goodline, International Representative (Boilermakers)
Edward H. Wolfe, International Vice President, Blacksmiths-Railroad Division

Sheet Metal Workers' International Association:
C. D. Bruns, General Vice President
Leo C. Dunmeyer, International Representative

International Brotherhood of Electrical Workers:
J. J. Duffy, International Vice President
Thomas Ramsey, International Representative

Brotherhood Railway Carmen of America:
A. J. Bernhardt, General President
George O'Brien, Assistant General President
Anthony L. Krause, Vice President
International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers:
Anthony Matz, President
John Casselman, Vice President
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes:
George M. Harrison, Grand President
Earl Kinley, Vice President
Brotherhood f Maintenance of Way Employes:
H. C. Crotty, President
Hubert Padgett, Assistant to President
D. W. Hertel, Director of Research
The Order of Railroad Telegraphers:
G. E. Leighty, President
Ray J. Westfall, Director of Research
Brotherhood of Railroad Signalmen:
Jesse Clark, President
E. J. Burman, Vice President
Hotel and Restaurant Employes and Bartenders International Union:
Edward Miller, General President
R. W. Smith, General Vice President
Counsel For the Eleven Cooperating Railway Labor Organizations:
Lester P. Schoene and Milton Kramer

APPEARANCES FOR THE CARRIERS

For the Eastern Carriers' Conference Committee, L. B. Fee, chairman, vice president—employee relations, New York Central System.

E. P. Gangewere, vice president—operation and maintenance, Reading Company.

F. J. Goebel, vice president—personnel, Baltimore and Ohio Railroad.

G. W. Knight, director, labor relations, Pennsylvania Railroad.

W. S. Maggill, chairman, Executive Committee, Bureau of Information of the Eastern Railways.

R. W. Pickard, vice president—personnel, Boston and Maine Railroad.

G. C. White, vice president—operation, Erie Railroad.

For the Western Carriers' Conference Committee, T. Short, chairman, chairman, committee on Labor Relations, the Association of Western Railways.

L. D. Comer, assistant vice president—personnel, the Atchison, Topeka and Santa Fe Railway.

E. H. Hallmann, director of Personel, Illinois Central Railroad.

E. B. Herdman, director of personnel, Denver & Rio Grande Western Railroad.

G. E. Mallery, vice president—personnel, Chicago, Rock, Rock Island & Pacific Railroad.

K. K. Schomp, manager of personnel, Southern Pacific Company.

A. J. VanDercreek, vice president—personnel, Union Pacific Railroad.

J. E. Wolfe, vice president—personnel, Chicago, Burlington & Quincy Railroad.

For the Southeastern Carriers' Conference Committee, C. A. McRee, chairman, assistant vice president, Seaboard Air Line Railroad.

W. S. Baker, assistant vice president, Atlantic Coast Line Railroad.

B. B. Bryant, assistant vice president—labor relations, Chesapeake & Ohio Railroad.

W. L. Burner, Jr., manager, Bureau of Information of the Southern Railways.

F. K. Day, Jr., assistant vice president, Norfolk & Western Railway.

W. S. Scholl, director of personnel, Louisville & Nashville Railroad.

L. G. Tolleson, director of labor relations, Southern Railway System.

Counsel for the Carriers' Conference Committees: Robert Diller, Robert L. Jones, Martin M. Lucente, Howard Neitzert, James R. Wolfe, Sidley, Austin, Burgess & Smith, of counsel.

U.S. GOVERNMENT PRINTING OFFICE: 1960