Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD

APPOINTED BY EXECUTIVE ORDER 10965 DATED OCTOBER 5, 1961, PURSUANT TO SECTION 10 OF THE RAILWAY LABOR ACT, AS AMENDED

To Investigate a Dispute Between the Trans World Airlines, Inc. and Certain of Their Employees Represented by the Transport Workers Union of America (AFL-CIO)

(NMB CASE A-6573)

WASHINGTON, D.C.
NOVEMBER 3, 1961

(Emergency Board No. 140)

In the Matter of a Dispute

Between

TRANS WORLD AIRLINES, INC.

and

TRANSPORT WORKERS UNION OF AMERICA, AFL–CIO

Report and Recommendations Emergency Board No. 140

SAUL WALLEN, *Chairman*

ISRAEL BEN SCHEIBER, *Member*

EMANUEL STEIN, *Member*

EXECUTIVE ORDER 10965

Creating an emergency board to investigate a dispute between the Trans World Airlines, Inc., and certain of its employees

Whereas a dispute exists between the Trans World Airlines, Inc., a carrier, and certain of its employees represented by the Transport Workers Union of America, AFL–CIO, a labor organization; and

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

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

Now, therefore, by virture 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 this dispute. No member of the board shall be pecuniarily or otherwise interested in any organization of airline employees or any carrier.

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

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

JOHN F. KENNEDY

THE WHITE HOUSE,
October 5, 1961.

(F.R. Doc. 61-9717; Filed, October 6, 1961; 11:20 a.m.)

NEW YORK CITY,
November 1, 1961.

THE PRESIDENT
The White House

Mr. PRESIDENT: Emergency Board No. 140, established by you pursuant to Executive Order 10965 to investigate and report its findings on a dispute between Trans World Airlines, Inc., and Transport Workers Union of America, has the honor to submit herewith its report and recommendations on this labor dispute.

Respectfully submitted.

SAUL WALLEN, *Chairman.*
ISRAEL BEN SCHEIBER, *Member.*
EMANUEL STEIN, *Member.*

REPORT TO THE PRESIDENT

of

Emergency Board No. 140, established by Executive Order 10965, dated October 5, 1961, to investigate and make findings on a dispute between Trans World Airlines, Inc., and Transport Workers Union of America

NEW YORK CITY,
November 1, 1961.

Emergency Board No. 140 was created by the President of the United States pursuant to Executive Order 10965 on October 5, 1961, to report and make recommendations on a dispute between Trans World Airlines, Incorporated, and Transport Workers Union of America. The Board members received notice of their designation on October 14, 1961, and an organization meeting of the Board was held in New York City on October 18, at which time the parties agreed on the issues to be submitted to the Board for its recommendations.

It was agreed that time would not permit the holding of extended hearings and that each party would instead submit a written memorandum and supporting data to the Board on October 26, 1961, setting forth its allegations of fact and its position on each of the issues in dispute. This was done, and hearings were held in New York City on October 27 and 28, 1961, at which time the parties presented oral argument on the disputed issues.

Counsel for the labor organization were Asher Schwartz, Esq., and John F. O'Donnell, Esq., and counsel for the carrier was Jesse Freidin, Esq., of Poletti and Freidin.

The Parties

Trans World Airlines, Inc., is an air carrier which operates routes not only over the continental United States but also across the North Atlantic to Europe and the Far East. The issues here in dispute affect its operations only on the North Atlantic routes.

The Transport Workers Union, the labor organization involved, is the collective bargaining representative pursuant to the Railway Labor Act, of the airline navigators in the service of Trans World Airlines. The relationship between the parties is governed by a collective bargaining agreement signed September 14, 1959, which

expired on August 31, 1961. Both parties had served notice prior to August 31, 1961, of a desire to amend or change the agreement, and in collective bargaining for the terms of a new agreement, the parties were unable to resolve the issues here in dispute. After the mediation efforts of the National Mediation Board failed to adjust the dispute and a strike appeared imminent, the President, acting pursuant to section 10 of the Railway Labor Act, created this Board on October 5, 1961, by Executive Order 10965, to investigate the dispute and report its findings to the President within 30 days.

The Issues in Dispute

The only issues presenting real obstacles to an agreement between the parties are the following:

(1) The union's demand for revision of the "scope clause," article 2(A);

(2) A demand for the improvement of the severance pay provisions and of the provisions for alternative employment opportunities contained in Supplemental Agreement No. 1;

(3) A demand for supplemental retirement benefits;

(4) A demand for the revision of Section 6 of the agreement relating to the seniority of supervisory navigators;

(5) Demands on two aspects of the wage question:

(a) Modification of section 2(I) to include certain duties performed by navigators before and after the commencement of the flight as flight time rather than as operational duty time;

(b) A demand that navigators who choose to exercise their seniority rights to displace junior men on piston aircraft, in the event the use of navigators is discontinued on jets, receive the same hourly yield as they previously received on jet aircraft.

While these are not the only issues remaining in dispute between the parties, the Board has been assured that if the parties are able to dispose of these issues, they will be able to resolve the remaining issues through direct collective bargaining. As a consequence, the foregoing issues were the only ones submitted to this Board for recommendation.

I. THE SCOPE CLAUSE

Background of the Dispute

Section 41.80 of the Civil Air Regulations provides that:

"An airman holding a flight navigator's certificate shall be required for flight over any area or route segment where the administrator has determined either that celestial navigation is necessary or that other specialized means of navigation necessary for the safe conduct of flight cannot be adequately accomplished from the pilot's station."

Section 41.80–1(a), entitled "Determination of Need," reads:

"Where the desired precision and reliability in air navigation, i.e., accurate line of position or fixes available, cannot be normally achieved from the pilot's station by visual or nonvisual ground aids for a period of:

"(1) More than one hour, celestial or other specialized means of navigation shall be required;

"(2) One hour or less, determination shall be made by the administrator as to the need for celestial or other specialized means of navigation, taking into consideration such factors having a bearing on safety as weather, air traffic control, traffic congestion, size of land at destination and fuel requirements, whether or not sufficient fuel is carried for return to point of departure, or whether flight is predicated upon operation 'beyond point of no return.' "

Since the date of the regulations and for some time prior thereto, TWA has employed navigators on its North Atlantic routes. Navigators were also employed over continental Europe and elsewhere when no ground aids to navigation were available.

As ground aids became available between land-based points and the use of celestial or other specialized means of navigation became unnecessary, the use of navigators was discontinued between those points, and the navigation function was returned to the pilots. Thus, on the Paris-Rome route segment the use of navigators was discontinued in July, 1953. Similarly, on the Rome-Cairo segment the use of navigators was discontinued in April, 1954. In the same year the use of navigators was discontinued between Lisbon and Rome, between Cairo and Lisbon via North Africa, and between Rome and Tel-Aviv. A similar change was made in 1956 on the Cairo-Dhahran-Bombay segment. The use of navigators was discontinued in 1957 between

Colombo and Bangkok and in 1958 between Bombay and Colombo.

However, between the east coast of the United States and gateways on continental Europe navigators continued to be employed because these routes involved long, overwater flights not completely serviced by ground-based radio aids. On flights from New York or Boston direct to Shannon or Lisbon, for example, the navigator performed his functions for the entire flight. On the other hand, flights routed from New York or Boston *via Gander* to Shannon required the actual services of a navigator only for the Gander-Shannon segment, and while the navigator was on board between New York and Gander or between Shannon and London, he performed no work during those segments.

The present dispute was engendered in part by the development for commercial aviation of a navigation device known as the Doppler, used in conjunction with Edo-Loran. The Doppler was originally developed for use in military aviation but was declassified in 1957. At that time the air transport industry created a joint committee to adapt the Doppler to the navigation of commercial aircraft. The joint committee designated Trans World Airlines to pioneer this development for the benefit of the industry, and since 1957, research and development efforts have been carried on by this airline in conjunction with the manufacturers of the equipment.

By October, 1959, TWA had decided to undertake a testing and evaluation program to determine whether, with FAA approval, a Doppler system could replace celestial navigation. It was the company's aim, if the FAA approved the use of the system, to have the Doppler system operated by the pilots and to dispense with celestial navigation on its jet aircraft.

The union has called the Board's attention to the fact that other airlines now use the Doppler and that professional navigators are assigned to its use. However, the company points out that on the other airlines the Doppler system has so far been used only as a supplement to and as a check on celestial navigation because the use of this device has not yet been approved by the FAA as the sole means of navigation. The company's current objective is to develop the Doppler as a complete replacement of celestial navigation and thus to make superfluous the services of a professional navigator on jet aircraft equipped with the Doppler and Loran navigation aids.

Throughout the hearings a principal contention of the company has been that navigation has traditionally been an integral part of the work of a pilot, so integral that it is indeed impossible to separate the function of navigation from the function of piloting an aircraft. The company points out, for example, that in flights over land where landmarks are available or where there are land-based radio aids,

the pilots do what pilots have historically done: Namely, determine the course of the airplane. The use of navigators on overseas flights and over land areas where no radio aids were available was attributable precisely to the fact that the pilot was unable, because of the absence of such aids, to perform his ordinary function.

Now, the company says, the Doppler and Loran have made it possible completely to return the navigation function to the pilots. The only navigation instruments at the navigator's station are the sextant and the radioaltimeter.

The union, by contrast, contends that the introduction of the Doppler and Edo-Loran at the pilots' stations has not resulted in the elimination of the navigator's function but merely in its transfer from him to the pilots.

The possibility that the navigator's skills may become obsolete has been a matter of discussion between the parties for some time. Thus, in 1953 (before the Doppler system was made available for commercial aviation) when the company discontinued the use of navigators over the Paris-Rome segment when land-based radio aids became available, a strike of navigators in protest over this discontinuance broke out. The strike was settled by an agreement adopted under the auspices of the National Mediation Board on July 21, 1953. In this agreement the parties recognized "* * * the inherent rights of the company to operate flights without navigators over any route or segment thereof or to discontinue the use of navigators on flights over any route or segment thereof." Subsequently navigators were removed from other land-based route segments with the development of further land-based radio aids and with the approval of the FAA.

Section 2(A)

The union seeks a major alteration in the present section 2(A). The thrust of its demand is to require the use of a navigator on all aircraft including those equipped with Doppler and Loran. The company proposes that section 2(A) continue unchanged.

Prior to the September 14, 1959, agreement section 2(A) provided:

"Navigator means an employee of the company covered by this agreement who is listed on the seniority list as herein determined who has qualified as such and who has been checked out and designated by the company as a navigator, and possesses such flight navigator's certificate(s) as required by federal law, and who is capable of navigating a flight by means and systems, including celestial, in standard use in the air transport industry, without supervision or assistance."

The advent of jet aircraft created certain difficulties in navigation inherent in the nature of jet operations. On piston planes, the normal

scheduling pattern is such that much of the flight across the ocean is accomplished at night. As a consequence, celestial bodies can be used to establish fixes during most of the flight. The jets, however, often depart during hours which involve mostly daylight flying. On westbound flights jets travel in the same direction and at about the same speed as does the sun across the sky. As a result, celestial navigation on jets must depend largely on the sun, and it is recognized that this provides less information than is required to determine aircraft position.

Eastbound jet flights may experience as little as an hour and a half of darkness for celestial observation and during a half hour of twilight, no celestial reference is available. The navigational errors in jet flights caused by these drawbacks of celestial navigation resulted in an FAA requirement that the carrier adopt special operating restrictions on certain North Atlantic flights. They also increased the pressures on the company to develop other means for navigation of jet aircraft.

The situation was further complicated when in 1958 TWA, along with the other major carriers agreed with the Airline Pilots Association to carry a second officer aboard jet aircraft. The second officer, who was a pilot, was given duties which the navigators regarded as falling within the scope of their jobs and which therefore represented a threat to their job security. Thus, the agreement between the A.L.P.A. and the carrier provided for the assignment to the second officer of other "assignments in navigational communications and air traffic control functions as required or assigned."

When the 1959 agreement was under negotiation, there had as yet not been an introduction of jets on the North Atlantic flights. Nevertheless, there was concern by the navigators that the second officers presented a major threat to their job security. After extended discussions and exchanges of offers and after the intervention of the National Mediation Board, the parties adopted the language now found in section 2(A). They retained the prior clause and added to it the following sentences:

"If traditional navigator duties which are required on the operation are to be performed by a pilot of the company, when the navigation of a flight is not accomplished from the pilots' stations, Navigators hereunder shall perform such duties. Nothing herein shall prevent the company from establishing procedures which require another employee or employees of the company to duplicate certain navigator duties, except that this shall not apply to duties which are essential only to the operation of a specialized means of navigation that cannot be adequately accomplished from the pilots' stations. Pilots stations

for this purpose are defined as the captain's and first officer's positions."

The parties are in sharp disagreement as to the import of this additional language. The company regards it as constituting a recognition of its right to replace the navigator when it is possible to do the navigation from the pilot's station. And it maintains that Doppler and Loran can be operated by the pilot so that he is able to do the navigating from his station. The union, on the other hand, contends that this language permits the company to discontinue the use of navigators only when their function is entirely eliminated but that Doppler and Loran involves not an elimination of the navigator's function but rather its transfer to the pilot.

This issue was involved peripherally in a case before the System Board of Adjustment of which Harry H. Platt was neutral referee. The issue in that dispute arose over the claim of the Transport Workers Union that the company, in using supervisory navigators on test flights across the North Atlantic routes during the course of which the Doppler and Loran system was being developed and evaluated, was in violation of several provisions of the parties' agreement.

The System Board of Adjustment found that the test program to determine the capabilities of Doppler and Loran as a system of pilot navigation on flights across the North Atlantic was not in violation of the collective bargaining agreement. It held, however, that the use of supervisory navigators to perform the navigation function on the scheduled flights then operating as test flights did violate the agreement.

The continuation of the testing of the Doppler and Loran system accentuated the union's fears that the elimination of navigators on the North Atlantic routes was imminent. As a consequence, when the agreement dated September 14, 1959 neared its expiration, the union demanded a revision of the scope clause. It proposed to delete the second and third sentences of section 2(A) as contained in the 1959 agreement and to substitute for them the following:

"A navigator hereunder shall be assigned to all scheduled, extra-section and charter flights in international operations on all routes or route segments on which navigation fixes, compass deviations, drift or ground speed must be made or determined by a member of the flight crew to accomplish the navigation of the flight. No employee other than a navigator hereunder shall perform any such function on any of such flights."

This demand, if granted, would assure the continued employment of navigators on the aircraft, despite the company's contention that Doppler and Loran could be operated by the pilots from the pilots' stations and that the continued employment of navigators would

therefore be superfluous. This demand was rejected by the company and subsequently became an issue before this Emergency Board.

The union's proposal contemplates the freezing for the indefinite future of an assignment of work. The technology of air navigation has changed considerably over the last half dozen years. Future developments in this field cannot now be even remotely foreseen. As a result we have no way of knowing how much, if any, of the navigation function described by the union in its proposed section 2(A) would remain to be done by a member of the flight crew.

It is conceivable that when the Doppler and Loran is finally perfected, sufficient traditional navigator duties will remain to require the continued employment of this craft. On the other hand, it may well be that the use of Doppler and Loran will be perfected to the point that these traditional duties will be so far eliminated that the continued employment of navigators will no longer be justified.

In a situation so fraught with uncertainty, this Board would be ill advised to recommend the adoption of a clause which would freeze a crew complement by more restrictive language than that contained in the present provision.

We therefore recommend that the union's request for an amendment to section 2(A) be denied. In so doing, we do not undertake to interpret the meaning of the present scope clause. Our denial is based solely on our conviction that in the present fluid situation it would be unwise to prevent a possible reorganization of cockpit duties which may be justified by future developments.

II. SEVERANCE PAY AND ALTERNATIVE EMPLOYMENT

Provision for the payment of severance compensation to navigators whose employment is temporarily or permanently terminated was first apparently made in 1950. Under the 1957 agreement, terminated employees had the right to choose between remaining on furlough status with the right to recall in the event work became available and accepting severance payment with a surrender of recall rights. In 1959, this arrangement was modified so that navigators on furlough would be entitled to severance pay in the event navigators were completely discontinued over all the company's routes. At the same time, the amount of the benefits was increased. Under the previous arrangement, maximum severance benefits amounted to 7 months pay; under the 1959 agreement, the maximum benefit was raised to 10 months of pay for employees with 10 or more years of service.

The union is now asking for a severance pay formula calling for 2 months of pay for each year of service with no limitation either as to number of years of service or dollar amount. The company is proposing to increase severance benefits so that employees with 11 years of service would receive 11 months of pay, those with 12 years of service would receive 12 months pay, and those with 13 or more years of service would receive 14 months pay.

In support of its position, the company asserts that of the 57 navigators, 3 would receive 11 months pay, 4 would receive 12 months pay, and the remaining 50 would receive the proposed maximum 14 months pay. The benefits would average $13,254, $14,322, and $18,075, respectively, on the basis of present length of service and would increase, so far as the first two groups are concerned, if the discontinuance of the navigators should be postponed. The union's formula, says the company, would produce average severance benefits of $39,000 with a maximum of $57,680 for the navigator with maximum seniority.

The company asks that the union's plan be rejected for a number of reasons: (1) The present scale of benefits was adopted only 2 years ago; (2) the present scale is very substantially in excess of comparable provisions for other groups of TWA employees; (3) the company's proposal increases the present superiority of the navigators' severance benefits over the benefits provided for by agreements between the union and other carriers by air; (4) only a few carriers

have provisions for severance benefits for pilots and such benefits as are provided are substantially below the company's proposal for navigators; (5) comparison with other industries indicates a great superiority for the present and the company's proposed plans; (6) in similar circumstances (e.g., the TWA flight radio officers, the Pan American navigators, TWA ground radio operators), the severance benefits were much less generous.

The company recognizes that the recent severance pay arrangements for flight engineers made by various airlines (United, Continental, Slick), and those recommended by the President's Commission on the Airline Controversy are more generous than those which it is hear proposing. It argues, however, that these are not relevant for the following reasons:

1. There has been no obsolescence of the job or professional skill of the flight engineer.

2. The flight engineer's job still remains to be done but will be assigned to another member of the crew unless the engineer acquires "new and additional qualifications *not* required by the FAA but imposed by the carrier (and recommended by the Presidential Commission) as a means of resolving an interunion dispute" (Company Brief, 132).

3. Flight engineers had had no warning and no reason to expect that technological or other developments would place them in a vulnerable position so far as employment was concerned.

4. The discontinuance of the flight engineers was not "the result of the necessity for improved techniques occasioned by the introduction of new types of aircraft" (Ibid., 133).

The company also insists that the Washington agreement is not relevant, partly because it was made 25 years ago but principally because it was in an altogether different industry faced with altogether different problems.

The company's contention that the flight engineers' situation is not relevant does not impress us. We fail to see why the fact that the flight engineer's job or professional skill has not been rendered obsolete should warrant preferred treatment for the flight engineers as against navigators. It would seem to us that precisely the opposite conclusion would be more appropriate. If an employee loses his job but retains his skill and his skill is marketable (that is, it has not become obsolete), his chances of securing employment at his customary job are certainly not nearly so slim as those of the employee for whose skill there is no longer any market. The purpose of severance pay is primarily to tide a displaced employee over a period of initial joblessness, and to provide income the need for which is clearly related inversely

with the prospects of quick placement. The less likely quick placement is, the greater the need for severance compensation.

Moreover, the flight engineer need not be displaced. He may be able to establish himself firmly by acquiring the additional skill to serve as a member of three-man crews; indeed, the Feinsinger Commission recommends that the flight engineers should have priority in bidding for membership in such crews. As compared with the flight engineers, the navigators have no real prospect of employment as members of a flight crew or otherwise. They may or may not be able to secure alternative employment in the industry itself, but assuredly they do not have as good opportunities for alternative employment as the engineers.

The company, speaking of the flight engineers, says that the new qualifications are not those required by the FAA but rather are those imposed by the carrier. We do not see the relevance of this observation. The FAA has not required that the navigators be dispensed with by the airlines. It has not been suggested that any action by the FAA would go further than *authorizing* the airlines to operate without the navigators. If the navigators are displaced, it will be because the airlines insist upon it. Further, in the case of the navigators, the employer receives a substantial *quid pro quo* through the use of new techniques.

Nor do we see the relevance of the company's argument that the navigators, unlike the flight engineers, had been put on notice, as it were, that they were likely to become expendable. Assuming that this is so, what bearing does it have on the treatment due the employee when the blow descends and he loses his job? It may be that the company is suggesting tacitly the applicability of a sort of assumption-of-risk doctrine: namely, that the navigator, aware of the danger of his being technologically displaced, should have done something about it (perhaps sought other employment or retrained himself for other work or simply saved money against the lean years), failing which he should not now be heard to demand substantial severance benefits. Actually, of course, the loss of employment is no less significant or its impact less pronounced merely because an employee has had reason to believe that it might or would occur. After all, we are not dealing here with casual employees who have been with the company for only a short period of time, or with employees who have been hired with a specific understanding that their employment would be temporary. None of the employees with whom we are presently concerned has had less than 11 years of service with the company and 50 of them have had 13 or more years of service. To speak of the awareness of imminent unemployment among such employees is to ignore the realities of our industrial life.

In brief, we are of the opinion that the arrangements in respect to the flight engineers' severance pay are very relevant to the problem before us, particularly because of the recency of these arrangements. We see no reason why the navigators as a group should be treated less favorably than the flight engineers as a group.

Severance pay plans are but one type of arrangements which have been suggested from time to time as cushions for the impact of technological unemployment. Other types have been proposed, have been adopted and have gained support, either alone or in combination with a severance pay plan. One such involves the gradual downward adjustment of the working force to the new size requirements which may be dictated by technological changes.

There are innumerable variations of this type, ranging from that which guarantees continuity of employment for all present employees until death, resignation, or retirement, to that which provides for a stated annual percentage reduction in the labor force. In the present case, it does not appear that the parties have jointly given serious consideration to the possibility of adopting an arrangement of this sort. No evidence on, and no argument for or against, a plan of this kind has been presented to this Board.

We are therefore unable to make confident judgements as to the implications, and the feasibility, of such a plan, either standing alone or in conjunction with a plan of severance pay. However, we believe this matter to be sufficiently important to be well worth the serious attention of the parties. We think they might fruitfully explore the possibilities of an adjustment plan which would permit the liquidation of the problem within a period of 3 years.

So far as severance pay plans alone are concerned, we are of the opinion that the Feinsinger Commission's recommendations as to the flight engineers present a formula which can properly be the basis of our recommendation. We are of the opinion that the navigators who may be displaced should receive severance compensation according to the following formula:

One month for each year of service for those employees with up to and including 12 years of service; 14 months benefit for employees with 13 years of service, and one additional month of severance pay for each additional year of service, provided, however, that no employee shall be entitled to severance compensation in excess of $25,000.

Alternative Employment

Both of the parties have made recommendations for the amendment of the provisions of the collective bargaining agreement in respect to alternative employment. The union has asked for a comprehensive revision of the provisions in Supplemental Agreement 1, which relates

to alternative company employment. It has asked for the deletion from paragraph 3(b) of the clause "Less $100 for each month of such other employment." It has asked also that each displaced navigator shall be offered alternative employment with the company "in the highest rated classification for which he is or shall become qualified within six months of his furlough." It has asked that during this period, the displaced navigator shall receive his then monthly earnings or the rate of the alternative position, whichever is greater, and that the company shall provide training to the navigator "at company expense and on company time for such period of time as may be necessary to qualify the navigator for the position."

The company's proposed amendments include the deletion from section 3(b) "less $100 for each month of such other employment." It has proposed that the company consider the request of each navigator who "at any time prior to electing to receive severance pay notifies the company of his desire for other TWA employment." It is willing, says the company, to offer employment to such navigator "if his interests and qualifications indicate to the company that he can be trained within six months for a position where a vacancy exists."

The company is prepared to provide training to a navigator accepting such employment and to pay him at a rate equal to the going rate for the job, or three-fourths of his then monthly earnings as a navigator, whichever is greater. The training under the company plan is to continue until the company believes that the navigator has had a "reasonable opportunity to qualify in the new job, but not longer than six months from the date such other employment commenced."

If the retrained navigator makes good on the new job by the end of 6 months, he will receive the going rate for the new job; he may also receive the difference between this rate and his former rate as a navigator, which difference is to be deducted from the severance pay otherwise due him.

The differences between the opposing positions do not, in our judgement, present any major difficulties. Either set of proposals might well serve as the point of departure. So far as the company's proposals are concerned, there are various amendments which seem to us to be appropriate;

1. We do not feel that the judgment as to whether a navigator "can be trained within six months for a position where a vacancy exists" should be left to the unilateral determination of the company. We believe it highly desirable that machinery be provided wherein differences of opinion as to the adaptability or suitability of a navigator for a given position might be resolved with fairness to both parties.

2. We believe, further that the effectiveness of any training plan would be considerably improved if provisions were made for the posting of notices of job vacancies and of jobs occupied by probationers and if such vacancies and such jobs were made known by appropriate notice to the union.

3. We believe, further, that the determination "that such employee is qualified and trained for the new job" should not be left to the sole discretion of the company. As in the case of the training of navigators, so in the determination of whether they have learned the new job, provision should be made for joint consideration of the employee's qualifications, subject finally to arbitration.

4. While we are of the opinion that the company's proposed pay scale for the training period, which as a minimum is three-fourths of the employee's pay as a navigator, is fair, we do not believe that any excess pay which the employee receives during the training period over and above the going rate for the job for which he is being trained should be charged against his severance compensation as the company proposes to do.

Apart from the possibilities of alternative employment with the company, it is our firm conviction that no effort should be spared to maximize the opportunities for the displaced navigators to find suitable employment for themselves elsewhere. This might well require the training of the employees in new skills. The exploration of job possibilities and the determination of whether retraining is possible and is likely to prove effective ought not to be left to the resources of the individual employee and such casual guidance as he may get by chance. We believe it is highly desirable that provisions be made for professional counseling service, freely available to all of the navigators who may be displaced from their jobs. We recommend that to this end the parties jointly undertake to secure the services of such professional counsellors and make them freely available to the navigators who may be displaced from their jobs.

We believe that since retraining may involve costs which may be a burden to the individuals involved, the cost of training the navigators in new skills be borne by the company. We therefore recommend that the company establish a fund for the sole and specific purpose of meeting the cost of retraining navigators in skills which may be applicable in other employments.

Provision should be made by the parties for the resolution of differences between them as to the suitability of a particular program of retraining, for it is our recommendation that no money should be disbursed except where there is a reasonable expectation that the employee may profit by the program of retraining in a manner which will enable him to find other employment.

III. SUPPLEMENTARY RETIREMENT BENEFITS

The union has proposed that, as to employees who have reached age 55 or have had 20 years of service, the company make provision for a supplementary retirement annuity of $350 per month for life, which shall be in addition to such retirement pay as the employee may be entitled to under the TWA retirement plan. In the alternative the union proposes that employees, upon reaching age 55 or having 20 years of service, may elect to remain in the employ of the company until age 60 and thereupon receive the retirement pay provided in the collective bargaining agreement.

Supplementary retirement or accelerated retirement plans may properly be considered in conjunction with severance compensation and other plans as a means of cushioning the impact of technological adjustment. We do not believe, however, that standing alone the proposal for supplementary retirement benefits is economically feasible and we recommend that this demand of the union be denied.

IV. SENIORITY

Section 6(A)(5) of the parties' current contract reads:

"If a navigator is assigned to a position in a supervisory or administrative capacity, he shall retain and accrue seniority for the period as long as no navigator senior to him is on furlough status as a result of a reduction in force. Return to active status may be accomplished by bidding on any existing vacancy or displacing the least senior navigator at his last still existing domicile: Provided he is senior to the man he displaces. If he cannot return as indicated above, he will be permitted to displace the least senior navigator on the system, provided he is senior to such navigator."

The following section (B) of Section 6(A)(6) reads:

"If a navigator is assigned to a ground position outside the navigation department in other than a supervisory or administrative capacity, he shall retain but cease to accrue seniority on the date of such assignment. Return to active navigator status must be accomplished by bidding on any existing vacancy. If no vacancy exists, he shall be placed on furlough status."

The union's last proposal, directed to change in section 6(A)(5), reads as follows:

"Revise the first sentence to read:

"Supervisory positions in the navigation department shall be assigned only to navigators hereunder. A navigator who is assigned to a supervisory position in the navigation department shall retain and accrue seniority for the period of such assignment so long as no navigator senior to him is on furlough status as a result of a reduction of force. In the event that a navigator senior to a supervisory navigator is furloughed as a reduction in forces, the supervisory navigator shall automatically assume furlough status as a navigator. He shall thereupon have such rights and privileges and be subject to such terms and conditions of employment as are employed for a navigator hereunder including severance pay rights and the retention of seniority."

The company has heretofore succeeded in resisting all union demands that supervisory navigators join the union because of its fear of a possibility that under such circumstances the union might control and influence a supervisory function. The company, however, has in fact heretofore chosen its supervisors from its navigator

department and there is some likelihood that this practice will be continued.

The union's proposals are extreme in that they would infringe on a basic right of the management to select as supervisors such individuals as it considers best suited for such positions and to retain them in such positions as long as its need requires such retention.

It has also been pointed out that these supervisory navigators do enjoy, amongst other rights, some of the conditions of the navigator's contract by agreement with the employer. Since, however, these supervisory navigators were neither present nor represented in these hearings and the nature and extent of their contractual rights and obligations are not known to this Board, it is the conclusion of the Board that these rights and obligations should not be tampered with by it.

So too, it is contrary to the long established practice of the parties to limit the selection of supervisors to the bargaining unit or to remove a supervisor when a navigator senior to him is furloughed or that a supervisor should cease accruing seniority when he is transferred outside of the navigating department and particularly, since those parts of their contract which the union now seeks to amend in these respects have been in substantially the same form since 1949, the Board is of the opinion that the changes requested by the union are of such drastic nature that they cannot be recommended by it.

The Board is fully cognizant of the importance so far as it can properly be done, of limiting the work here involved, to the members of the bargaining unit. In denying the union's request on this issue, it is not our intention to sanction the use of supervisory navigators as a supply of reserve navigators in the performance of bargaining unit work. Rather, it is our intention to limit their use in accordance with the previous practices of the parties.

V. PAY PROPOSALS

The two items submitted to us under this heading are the following:

(1) The union proposes to modify section 2(I) by treating one hour before and one-half hour after each flight as flight time and not as operational duty time;

(2) The union proposes that navigators who choose to exercise their seniority rights in order to displace junior navigators on piston aircraft in the event that the use of navigators is discontinued on jets, shall receive the same hourly yield as they formerly received as navigators on jet aircraft.

We can see no merit in the union's proposal to modify section 2(I) in a manner that would treat one hour before and one-half hour after each flight as flight time, rather than operational duty time. The union's justification for this request is that the navigators are compensated for this work only in the operational duty rig. The fact is, however, that the monthly base pay of the navigator compensates him for this type of duty which is not covered by flight pay which accrues on a block-to-block basis.

The union's proposal in this regard overlooks the impact or the nature of base pay compensation as compensatory for duties performed outside the period of actual flight. Furthermore, it has no precedent in the industry, either for navigators or for other flight crew members.

Therefore, our recommendation is that this request be denied.

Turning next to the union's proposal that navigators removed from jet flights because of the elimination of their craft on such equipment and who exercise their seniority rights to displace junior men on piston aircraft receive the same hourly yield as they were formerly receiving on jet aircraft, we find that the navigators should not be in a preferred position over displaced navigators who are obliged to take less remunerative employment with the company and who under the company's proposal would be permitted to supplement their pay from the severance pay allowance due them. Accordingly, we recommend that this request be denied.

RECOMMENDATIONS

The Board makes the following recommendations:

1. That the present section 2(A) be incorporated into a new collective bargaining agreement.

2. That the severance pay provisions of Supplemental Agreement No. 1 be amended to provide severance pay in the amount of one month's pay for each year of employment for navigators with up to and including 12 years of service; 14 months pay for employees with 13 years of service; and one additional month of severance pay for each additional year of service provided, however, that no employee shall be entitled to severance compensation in excess of $25,000.

3. That the provisions of Supplemental Agreement No. 1 dealing with alternative employment be amended in the following respects:

a. Delete from section (3)(b) the phrase "less $100 for each month of such other employment."

b. Further amend section (3)(b) of Supplemental Agreement No. 1 to obligate the company to consider the request of each navigator who, at any time prior to receiving severance pay, notifies the company of his desire for other TWA employment and offer employment to such navigator if his interest and qualifications indicate that he can be trained for a position where a vacancy exists or can be created by the dismissal of a probationary employee. In the event a difference of opinion arises about the adaptability or suitability of a navigator for a given position, the matter shall be handled as a grievance at the last step of the grievance procedure and may be appealed to the System Board of Adjustment.

c. Further amend section (3)(b) of Supplemental Agreement No. 1 to provide for the posting of notices of job vacanies and of jobs occupied by probationers and for the giving of such notice to the union.

d. Amend Supplemental Agreement No. 1 to obligate the company to provide training to a navigator accepting such employment. During the training period, the salary will be the rate established for the job for which he is training or three-fourths of his then monthly earnings as a navigator, whichever is greater. Such training shall continue until the navigator has had a reasonable opportunity to qualify for the new job but not longer than six months from the date such other employment commences. If the employee is then

qualified and trained for the new job, he will continue in the job but revert to his regular rate of pay for the job he then holds unless he at that time elects to receive supplemental pay which brings his total monthly pay in the new job up to his previous monthly earnings as a navigator determined in accordance with paragraph (4) of the Supplemental Agreement. At such time as the amount of excess pay he has received over and above his regular rate for the new job from supplemental pay equals the amount of severance pay to which he would otherwise be entitled, he shall revert to his previously established rate for the new job. A dispute over whether the employee is qualified and trained for the new job may be handled as a grievance at the last step of the grievance procedure and may be appealed to the System Board of Adjustment.

e. Amend Supplemental Agreement No. 1 to provide for professional vocational counselors to be made available to displaced navigators at company expense.

f. Amend Supplemental Agreement No. 1 to provide for a fund to be established by the company for the specific purpose of paying for the cost of training navigators in skills which may be used in other employments. To this end we recommend the establishment of a committee to consist of a company representative, a union representative, and a neutral person skilled in the field of vocational guidance and training, to (1) determine the suitability of a particular course of training for a particular employee; (2) establish rules and procedures for the judicious expenditure of the fund solely for the purposes for which it is created.

4. That the union's request for supplementary retirement benefits be denied.

5. That the union's request for amendment of the seniority provisions of the agreement be denied. Such denial is not intended to sanction the use of supervisory navigators as a supply of reserve navigators to be used for the performance of bargaining unit work.

6. That the union's request to modify Section 2(I) and to grant jet pay to navigators on piston aircraft who had previously flown jets be denied.

Respectfully submitted.

SAUL WALLEN, *Chairman.*
ISRAEL BEN SCHEIBER, *Member.*
EMANUEL STEIN, *Member.*

NEW YORK CITY,
November 1, 1961.

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