

Report
TO
THE PRESIDENT
BY THE
EMERGENCY BOARD

**APPOINTED BY EXECUTIVE ORDER 10969 DATED
OCTOBER 11 1961, PURSUANT TO SECTION 10 OF
THE RAILWAY LABOR ACT, AS AMENDED**

To investigate a dispute between the Reading Company and certain of its employees represented by the International Organization of Masters, Mates and Pilots, Local No. 14.

(NMB Case A-6246)

**WASHINGTON, D.C.
DECEMBER 5, 1961**

(Emergency Board No. 141)

LETTER OF TRANSMITTAL

WASHINGTON, D.C.

December 5, 1961.

THE PRESIDENT,

*The White House,
Washington, D.C.*

Mr. PRESIDENT: The Emergency Board created by you on October 11, 1961, by Executive Order No. 10969, pursuant to section 10 of the Railway Labor Act, as amended, to investigate a dispute between the Reading Company and certain of its employees represented by the International Organization of Masters, Mates and Pilots, Local No. 14, has the honor to submit herewith its report.

Respectfully submitted.

JOSEPH SHISTER, *Chairman.*

LLOYD H. BAILER, *Member.*

EDWARD A. LYNCH, *Member.*

The dispute which led to the creation of Emergency Board No. 141 was between the Reading Company, a class I interstate railroad engaged in both freight and passenger service, and tugboat captains employed by the Carrier in the Philadelphia, Pa. and Wilmington, Delaware Harbors and represented by the International Organization of Masters, Mates and Pilots. The tugboats are used to lighter and float freight across the Delaware River as a part of a through rail service in both Philadelphia and Wilmington.

On March 3, 1960, the Organization served notice on the Carrier, pursuant to the provisions of section 6 of the Railway Labor Act as Amended, for proposed changes in and additions to the effective working agreements. The proposed changes included demands for increases in wages, revisions of the holiday and vacation schedules, a demand for a health and welfare pension plan, and changes in certain rules as applied to physical examinations, payment for travel time, abolition of positions, grievance procedure, procedure at Carrier hearings and certain miscellaneous items involving the operation of the tugboats and equipment.

On March 30, 1960 the Carrier served counter-proposals, pursuant to section 6 of the Railway Labor Act as Amended, including demands for adjustment in wages, vacations and holidays and certain revisions in existing agreements to provide for the elimination of so-called "arbitrariness" and for the establishment of rates of pay on an hourly basis instead of on a monthly or daily basis.

During the course of negotiations little, if any, progress was made, and on May 26, 1960, the services of the National Mediation Board were invoked by both parties and the dispute was assigned Mediation Case No. A-6246. Mediation failed to produce agreement and efforts to secure the mutual consent of the parties to arbitrate were unsuccessful. Pursuant to the recommendation of the National Mediation Board, the President issued Executive Order No. 10969 on October 11, 1961, creating this Emergency Board to investigate and report upon the dispute.

The Board formally convened on October 24, 1961. At formal and informal meetings with the Carrier and the Organization, the Board encouraged the parties to reach a settlement of the dispute; and the Board assisted them in resolving their differences. As a result, on November 6, 1961 the Board was advised that the representatives of

the parties had executed a written agreement on November 2, 1961 resolving all the disputed issues, and subject only to ratification by the membership of the Organization. The Board, therefore, deemed it advisable to await this ratification before making its report to the President. In consequence, with the concurrence of the parties, the President extended to December 10, 1961 the date for the filing of this report. We are now informed that the agreement of November 2, 1961 has been ratified. This dispute is thus resolved.

The test of the consummated agreement follows:

MEMORANDUM OF AGREEMENT

Between

**International Organization Masters, Mates and Pilots, Local No. 14 and
Reading Company**

In full and final settlement of all disputed issues covered by Masters, Mates and Pilots' Section 6 Notice of March 3, 1960, and Carrier's counterproposals dated March 30, 1960, which resulted in Mediation Case No. A-6246, the following is agreed to by the parties signatory hereto:

1. Wages

a. Incorporate cost of living increases accumulated to July 1, 1960 into base rates.

b. Increase base rates 2 percent effective July 1, 1960 less 2 cents per hour cost of living increase received by employees effective November 1, 1960 as recommended by Emergency Board 133.

c. Increase base rate of June 30, 1960 by 2 percent effective March 1, 1961.

d. Eliminate cost of living escalator provision.

e. Provide a moratorium on further wage increases until November 1, 1962.

2. Grievance Procedure and Board of Adjustment

(a) All disputes between the Company and its employees covered by this Agreement growing out of a grievance or out of interpretation or application of this contract establishing the rates of pay, rules and working conditions of such employees shall be determined by the procedure set forth in this Article.

(b) Any differences that shall arise between an employee or employees and the Company may be handled between the employee or employees personally and his or their immediate superior, or through the duly designated Representative. If not adjusted satis-

factorily to the employee or employees involved it shall be disposed of in the following manner:

The grievance shall be presented in writing by the individual employee or representatives of the Union and submitted to the official of the Company designated to handle the grievance. If a grievance is not so presented within thirty (30) calendar days of its occurrence it will be regarded as no longer existing and cannot thereafter be validly presented. After he has received the grievance, the official designated by the Company shall arrange a meeting for the consideration of such matter at the earliest mutually agreeable time after the matter is submitted to him.

Within thirty (30) days of said meeting, the representative of the Company shall notify the employee or his accredited representative in writing the decision on such grievance. Delay by Management to so notify the employee or his duly accredited representative will result in the particular claim being sustained but will not constitute an interpretation of the rule upon which the claim was based.

If a grievance is not settled by the previous procedure, the employee or his designated representative may within thirty (30) days (exclusive of Saturdays, Sundays and holidays) after the meeting referred to in the preceding paragraph submit the matter in writing to the officers of the Company designated in their line of succession to handle such grievances, who shall within ten (10) days (exclusive of Saturdays, Sundays and holidays) unless otherwise mutually agreed upon, after the matter is submitted to them, meet with the employee, employees, or his or their duly designated representatives to settle the grievance.

Within thirty (30) days of said meeting, the representative of the Company shall notify the employee or his accredited representative in writing the decision on such grievance. Delay by Management to so notify the employee or his duly accredited representative will result in the particular claim being sustained but will not constitute an interpretation of the rule upon which the claim was based.

(c) Either of the parties may have present at the meetings provided for in the foregoing any person or persons it may consider necessary to the proper consideration and settlement of the grievance.

(d) In the event of failure to adjust satisfactorily and settling any grievance that may arise under this Agreement under the foregoing procedure then such grievance may be submitted to the Board of Adjustment established hereby as a part of this Agreement, if done within thirty (30) days of decision of the highest designated Company official.

(e) (1) There is hereby created a Board of Adjustment to be known as the "Reading Company Marine Board of Adjustment", hereinafter referred to as the "Board," to consist of two (2) members, one (1) to be selected by the Company and one (1) to be selected by the Union and alternates for each. In case of a vacancy in the membership of such Board, such vacancy shall be filled for the unexpired term by the selection of a successor in the same manner.

(2) The Board shall meet within ten (10) days after the selection of its members and organize and adopt such rules as it deems necessary to its procedure. Each member shall have one (1) vote on the adoption of all decisions of the Board.

(3) The Board shall elect a Chairman, who will preside at meetings of the Board and shall have a vote upon the adoption of all decisions of the Board.

The office of the Chairman shall be filled, alternately each year, from the representatives of the Company and the representatives of the Union.

(4) The Board will make an award or decision with respect to any dispute properly submitted to it, and such award or decision shall be final and binding upon the parties hereto.

(5) Each member of the Board shall be compensated by the party or parties by whom selected.

(6) Except as otherwise mutually agreed, meetings of the Board shall be held in the City of Philadelphia within fifteen (15) days from the date of request for such meetings made by either party, provided there has been filed with the Board one or more disputes requiring consideration.

(7) All disputes between a carrier and its employes, covered by this Agreement growing out of grievances, or out of the interpretation or application of the schedule concerning rates of pay, rules and working conditions, shall be handled in the usual manner up to and including the highest designated officer of the Company to whom appeals may be made, when if an agreement is not reached, it shall be referred to the Board, which shall hear and decide the case, giving due notice to the Company and the Representative of the Union, of the time and place set for hearing.

(8) All disputes concerning changes in rates of pay, rules or working conditions are specifically excluded from the jurisdiction of the Board.

(9) In each case an effort shall be made to present a joint, concrete statement of facts as to the dispute, from the Company and Employes parties thereto. In the event that either party to a dispute declines to become a party to a joint submission of such dispute

to the Board, then either party may individually refer the dispute under such regulations as the Board may prescribe. No matter shall be considered by the Board unless referred to it in the manner herein prescribed. In hearings before the Board, the Company may be represented by such person or persons as may be designated by it, and the employees may be represented by such person or persons as may be designated by them. In hearings before the Board evidence may be presented either orally, in writing, or both.

(10) If a dispute has been considered by the Board and the Board is unable to arrive at a decision or award, then upon request of either party the Board shall forthwith agree upon and select a neutral person to be known as "Referee" to act with the Board as a member thereof and make an award. If the Board fails to agree upon and select a "Referee" within ten (10) days of the declaration of inability to arrive at a decision or an award, then the Board shall agree to request the office of the Secretary of Labor to propose five (5) neutrals located in the immediate area of Philadelphia. From such list, each party shall have the right to eliminate two (2) of the proposed neutrals. The neutral thus selected shall sit with the Board as a member thereof and make an award. The total salary and expenses of the referee shall be borne equally by the parties.

(11) The Board shall keep a complete and accurate record of all matters submitted for its consideration and of all awards and decisions made. A copy of each decision of the Board shall be furnished to the Company and Union parties to this Agreement.

(12) Any adjustment growing out of claims or grievances covered by this Rule shall not exceed the amount of the difference between the amount actually earned by the claimant, either in employment with the Company or otherwise, and the amount he would have earned from the Company if he had been properly dealt with under this Agreement.

3. Working Conditions

A. Definitions:

- a. Extra captain—an employee on the captain's roster who has no regularly awarded position as captain.
- b. Regular captain—an employee on the captain's roster who does hold a regularly awarded position.
- c. Extra work:
 1. A tour of duty that is not part of a regular assignment.
 2. A tour of duty called in replacement of a regular captain who is off duty due to vacation, illness, or time off.

- d. Regular assignment or position—5 consecutive days per week position awarded according to the provisions of the basic contract, effective September 1, 1949.
- B. a. Captains shall be called for extra work in the following sequence:
 - First: Extra captains in the order of seniority who have not had 5 days work as captain during the past 7 days.
 - Second: Regular captains who are on rest days of regular assignment, in the order of seniority.
 - Third: Extra captains who have worked 5 days out of the past 7 days, in the order of seniority.
 - Fourth: Regular captain between tours of regular duty on assigned day of his position, in order of seniority.
- b. The Company agrees in principle that captains should be used in accordance with the preceding paragraphs of this Article. Captains who are not used as outlined above will be entitled to restitution under the grievance procedure.
- c. An extra captain cannot be called for extra work who has not had 6 hours off duty in any class under pay by the Reading Company prior to going on duty as captain. Such employee must be passed over and the call for extra work given to the next employee qualified to be called by these rules.

4. Physical Examinations

Should employees coming within the scope of this Agreement be required to take physical examinations, such examinations will not be more frequent than once each year unless it is apparent that the employees' health or physical condition is such that an examination should be made for the purpose of informing him of the disability so that proper treatment can be obtained.

If an employe should be disqualified upon examination by the Railroad's physician and feel that such disqualification is not warranted, the matter may be handled in the same manner prescribed in these rules for the handling of grievances. If the matter is not disposed of by such handling, the following rules will apply:

- a. The employe involved, or his representative and the Management will each select a physician to represent them in conducting a further physical examination. If the two physicians thus selected shall agree, the conclusions reached by them will be final.

b. If the two physicians selected in accordance with paragraph (a) should disagree as to the physical condition of such employe, they will select a third physician to be agreed upon by them, who shall be a practitioner of recognized standing in the medical profession, and a specialist in the disease or diseases from which the employe is alleged to be suffering. The specialist thus selected will examine the employe and render a report within a reasonable time not exceeding fifteen calendar days after completion of examination, setting forth his physical condition and their opinion as to his fitness to continue service in his regular employment, which will be accepted as final. Should the decision be adverse to the employe and it later definitely appears that his physical condition has improved, a re-examination will be arranged after a reasonable interval upon request of the employe.

c. Any and all expense involved in the application of this rule with respect to the third party (Neutral Doctor) will be paid for by the Company.

d. Where a captain is taken out of service pending examination, and where examination shows the captain has been fit for duty, such captain shall be paid for time held out of service just as though he had worked, on application and processing through the grievance procedures of article 4.

5. Company Hearings and Investigations

When summoned to attend Company's investigations in which they are not directly involved or not found guilty and actual time is not lost, they will be paid for the actual time consumed at the investigation with a minimum of one hour and a maximum of eight hours in any calendar day at the rate of the last service performed or the rate of their regular assignment, whichever is applicable. Time to be computed from time designated to appear for investigation until released by investigating Officer. Overnight recesses will not be paid for.

6. Responsibility for Equipment

The captains shall be responsible for all supplies and equipment (exclusive of engine room) aboard the tugboat, including, but not limited to, cleaning gear, megaphones, charts, tables, binoculars, proper operation of fans, refrigerators, compasses, etc. Captains shall also be responsible for reporting to the Company any instances where potable water becomes contaminated. Upon notification from the captain, the Company will then take necessary action to rectify the

conditions reported and to maintain the potable water tanks in accordance with the United States Coast Guard and Public Health Service standards.

The captain shall be required to fill out and sign appropriate Company forms furnished for each tour of duty and file such forms

with designated authority. In consideration for assuming above responsibilities, the captains shall be given one-half (1/2) hour at the straighttime rate for each tour of duty in addition to all other allowances. This allowance shall be used in the computation of overtime and shall be effective January 1, 1961.

7. Tugboat Operations

a. The practice of using Company owned vessels so long as they are serviceable and available shall continue as in the past. Any tugs chartered bareboat and operated by the Company, will engage captains from the existing captains' roster of the respective district where such vessel may be operated.

b. Where Company boats from districts other than Philadelphia and Wilmington operate in these districts, captains on the Philadelphia and Wilmington rosters respectively will be employed.

c. Where Company boats, or boats operated by the Company under bareboat charter are used in a new operation in the Delaware River, Bay, or its tributaries, captains on the Philadelphia or Wilmington rosters, whichever port might be the closest to the operation, will be employed.

8. Health and Welfare

The issues presented by the Organization's demands dated March 3, 1960 under the caption "*III Health and Welfare and Pension Plan*" will be held in abeyance pending resolution of the same issues presently pending between the Organization and the New York Harbor Carriers' Conference Committee with respect to employees working in the New York Harbor.

Upon agreement between the Organization and the New York Harbor Carriers' Conference Committee and upon notification that Reading Company employees in Philadelphia and Wilmington Harbors have been accepted for membership in the jointly administered off-shore plan, the Reading Company will enter into agreement similar to the agreement now contemplated between the Organization and the New York Harbor Carriers' Conference Committee whereby Reading Company employees in Philadelphia and Wilmington Har-

bors represented by the Organization will execute a wage reduction agreement and the Company will transmit to the Trustees of the "off-shore" plan the amounts of wages so reduced without any additional cost to the Company.

This Agreement shall remain in effect until changed or modified in accordance with the provisions of the Railway Labor Act, as amended, subject to the moratorium provision, Article 1(e) of this agreement.

Signed at Philadelphia, Pa., this 2d day of November 1961.

For the employes represented
by THE INTERNATIONAL OR-
GANIZATION MASTERS, MATES
AND PILOTS, LOCAL No. 14.

(S) JOHN F. UNDERHILL.

(S) MORRIS WEINSTEIN.

(S) JOHN J. HANDLEY.

FOR READING COMPANY.
(S) H. F. WYATT,
Director of Personnel.

For the NATIONAL MEDIATION BOARD.
LEVERETT EDWARDS.

Witnesseth:

JOSEPH SHISTER,
Chairman.

EDWARD A. LYNCH,

LLOYD H. BAILER,

Members of Emergency Board No. 141.

In view of agreement reached by the parties on all matters in dispute, it becomes unnecessary for this Board to make any recommendations.

Respectfully submitted.

(S) JOSEPH SHISTER, *Chairman.*

(S) LLOYD H. BAILER, *Member.*

(S) EDWARD A. LYNCH, *Member.*

