Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD

APPOINTED BY EXECUTIVE ORDER 11042
DATED AUGUST 10, 1962, PURSUANT TO
SECTION 10 OF THE RAILWAY LABOR ACT,
AS AMENDED

To investigate a dispute between the Southern Pacific Company (Pacific Lines) and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes

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WASHINGTON, D.C.
December 31, 1962

(National Mediation Board Case No. A-6617)

Emergency Board No. 151

LETTER OF TRANSMITTAL

WASHINGTON, D.C., *December 31, 1962.*

THE PRESIDENT,
The White House.

MR. PRESIDENT: The Emergency Board established by you on August 10, 1962, by Executive Order 11042, pursuant to section 10 of the Railway Labor Act, as amended, to investigate a dispute between the Southern Pacific Co. (Pacific Lines) and certain of its employes represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, a labor organization, has the honor to submit herewith its report and recommendations based upon its investigation of the issues in dispute.

Respectfully submitted.

JOHN F. SEMBOWER, *Member.*
ABRAM H. STOCKMAN, *Member.*
J. KEITH MANN, *Chairman.*

EXECUTIVE ORDER 11042

Creating an Emergency Board To Investigate a Dispute Between the Southern Pacific Co. (Pacific Lines) and Certain of Its Employees

WHEREAS a dispute exists between the Southern Pacific Co. (Pacific Lines), a carrier, and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, 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 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 this dispute. 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 this dispute within 30 days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for 30 days after the Board has made its report to the President, no change, except by agreement, shall be made by the Southern Pacific Co. (Pacific Lines), or by its employees, in the conditions out of which this dispute arose.

JOHN F. KENNEDY.

THE WHITE HOUSE,
August 10, 1962.

TABLE OF CONTENTS

REPORT TO THE PRESIDENT BY THE EMERGENCY BOARD

Appointed by Executive Order No. 11042 dated August 10, 1962, pursuant to section 10 of the Railway Labor Act, as amended

This is an Emergency Board report and recommendations in a dispute between the Southern Pacific Co. (Pacific Lines), a common carrier, and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, a labor organization representing certain of its employees, which dispute has been found to threaten substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service.

I. INTRODUCTION

On August 10, 1962, the President of the United States, pursuant to Executive Order No. 11042 and section 10 of the Railway Labor Act, as amended, created Emergency Board No. 151 and appointed as Chairman, J. Keith Mann, Stanford, Calif., and as members, John F. Sembower, Chicago, Ill., and Abram H. Stockman, New York, N.Y., to investigate and report.

Pursuant to notice and agreement, the Board convened hearings on September 10, 1962, in San Francisco, Calif. Hearings were held from September 10, 1962, to September 19, 1962, and from October 15, 1962, to November 3, 1962, which resulted in a record of 2,705 pages of testimony and 39 exhibits. Because of the seriousness of the dispute, the extensive number of witnesses and exhibits, and the complexity of the issues, the parties agreed to an extension of time to October 9, 1962, which was ultimately extended to December 31, 1962, with the approval of the President.

II. HISTORY OF THE DISPUTE

The dispute arose when the Organization served on September 22, 1958, a section 6[1] notice upon the Carrier to amend their rule 64, "Health and Safety," by adding a "welfare" section covering stabilization and security in employment. The notice provides:

[1] Section 6 of the Railway Labor Act, as amended, 45 U.S.C. 156, provides: "Carriers and representatives of the employees shall give at least 30 days' written notice of an intended change in agreements affecting rates of pay, rules, or working conditions * * *. [R]ates of pay, rules, or working conditions shall not be altered by the carrier until the controversy has been finally acted upon as required by section 5 of this act * * *."

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This agreement effective October 22, 1958, will amend the heading of rule 64 of our agreement to read—"Health, Safety and Welfare," and will add to this rule section (e) as follows:

(e)1. This agreement is entered into for the purpose of providing protection by employment and/or compensation, to employees who are deprived of employment with the company as a result of the abolishment of positions, the abandonment of work, the transfer and/or consolidation of positions, offices, or departments, by a change of method of operation, or by any other conditions which bring about the reduction of existing positions and/or work adversely affecting an employee, or employees covered by the current Clerks' agreement.

2. For the purpose of this agreement, abolishments, abandonment of work, transfer and/or consolidations, changes in method of operation, or by any other conditions, shall mean the following:

(*a*) *Abolishments*—When regularly established positions are abolished.

(*b*) *Abandonment of work*—When any type of work or service is discontinued and/or removed and such work or service is performed by any other person or persons.

(*c*) *Transfers and/or consolidations*—When for any reason the work performed by a position, or positions, bureaus, offices or departments is transferred and/or consolidated.

(*d*) *Changes in method of operation, or by any other conditions*—When for any reason a change in method of operation is placed into effect, or change by other conditions is made, which directly or indirectly results in the reduction of employees required to perform the work subsequent to the change made.

(*e*) *Protection period*—The period during which such affected employees are to be protected shall extend from the date on which the affected employees are initially displaced or their positions are abolished to the expiration of five (5) years from said date. During such five- (5) year period, an affected employee shall not be placed in a worse position with respect to wages and working conditions than he occupied at the time he was affected. The occupancy of an equal or higher rated position subsequent to the original abolishment or displacement will extend the protection period by the number of days the employee is occupying equal or higher rated positions.

(*f*) *Rehabilitation period*—A rehabilitation period will constitute a period of five (5) years from the date an employee is offered and accepts other employment with the Southern Pacific Co. (Pacific Lines) or any subsidiary company thereof. When such an employee is offered and accepts such employment, he will be guaranteed that his earnings shall not be less than the amount he received prior to his entry into the protection period and while in the rehabilitation period he shall receive all other benefits which would flow to him from his previous employment during such rehabilitation period.

(*g*) *Severance allowance*—An employee whose position is abolished or who is displaced therefrom, who does not desire to displace a junior employee or to accept a position at another location, may waive, in writing, his rights to return to a position covered by the Clerks' agreement during the protective period provided for in paragraph (*e*) above and accept a lump sum severance, on the following basis:

1. Less than 1 year of service, five (5) days compensation for each month of seniority, and in addition thereto will be allowed an additional five (5) days compensation if qualified for vacation in accordance with the applicable vacation agreement in effect.

2. Over 1 year of service, an additional five (5) days for each month of seniority up to a maximum of eighteen hundred (1,800) days of compensation. In addition thereto, vacation allowance and compensation in the amount provided for in the vacation agreement will be accorded all qualified employees. For example:

Twelve (12) months' seniority sixty (60) days' severance allowance.

Sixty (60) months of seniority three hundred (300) days' severance allowance.

One hundred twenty months (120) of seniority six hundred (600) days' severance allowance.

Two hundred forty months (240) of seniority twelve hundred (1,200) days' severance allowance.

Three hundred sixty (360) months, or more, of seniority eighteen hundred (1,800) days' severance allowance.

During the period for which the severance allowance has been paid, such employee shall be considered as in a furloughed status and all benefits flowing to an employee in the active service of the Company shall continue to flow to such furloughed employee during the period for which he has received severance allowance.

It is agreed and understood that this agreement applies to all employees who have been affected and have actually left company service subsequent to July 22, 1958 and shall continue and remain in effect until change in accordance with the Railway Labor Act as amended.

The Carrier wrote the Organization on October 1, 1958, that the subject was not "bargainable" under the Railway Labor Act or the parties' agreement, but without waiving that position indicated it would confer. There were discussions, but the parties temporized pending the U. S. Supreme Court's decision of April 18, 1960, which held bargainable the notice served by the Order of Railroad Telegraphers upon the Chicago & North Western Railway Co.[2]

Failing to reach agreement with the Carrier, the Organization polled its membership and ultimately scheduled a strike for January 22, 1962. The Carrier thereupon invoked the services of the National Mediation Board.

Mediation efforts proved unsuccessful and the Board requested the parties to submit their controversy to arbitration under section 8 of the Railway Labor Act. The Carrier indicated its willingness to do so provided "the questions * * * can be agreed upon." The Organization, however, declined to arbitrate.

[2] *Order of Railroad Telegraphers* v. *Chicago and North Western Railway Co.*, 362 U.S. 330.

In consequence, on June 6, 1962, the National Mediation Board terminated its services. The Organization thereafter called a strike to begin on August 13, 1962, and creation of this Board followed.

III. FRAMEWORK OF THE DISPUTE

Southern Pacific Co. (Pacific Lines), hereinafter simply "Southern Pacific," owns and operates a rail system of some 8,000 miles—about 3½ percent of class I railroads—in Oregon, California, Arizona, Nevada, Utah, New Mexico, and Texas. Its 10 operating divisions extend from Portland, Oreg. (connecting with the Great Northern and Northern Pacific); through San Francisco; east to Ogden, Utah (connecting with Union Pacific and the Denver & Rio Grande); southward, via the Coast Route and Valley Line, to Los Angeles; eastward, via the Golden State Route through Yuma, Tucson, and Phoenix, to Tucumcari, N. Mex. (connecting with the Rock Island to Chicago), and via the Sunset Route through Yuma and Tucson to El Paso and on to New Orleans over the Texas & Louisiana lines, which in late 1961 was merged with Southern Pacific.

Southern Pacific's far-flung lines and diverse operations include the only suburban service (San Francisco to San Jose) left in the West and penetrate some of the fastest growing metropolitan areas in the country. It provides arteries for the largest flow of perishables in the Nation as well as the myriad of manufactured articles flowing to and from the West. There have been significant changes in the character of its traffic, with products originating on the line decreasing while westbound manufacturing traffic has increased.

Recognized as among the most profitable railroads in the Nation, the Southern Pacific has recorded a net railway operating income of approximately $50 million for each of the past 10 years. Operating revenues and expenses have also remained relatively constant. In the recent past, at least, labor costs have comprised approximately 64 percent of the operating expenses.

The Carrier, Pacific Lines, the party to this dispute, is the major component of an expansive transportation system controlled by the Southern Pacific Co. Substantial nonrail subsidiaries include Pacific Motor Transport (PMT), one of the major trucking lines in the Nation, which in many respects functions as the "trucking department" of the railroad. PMT, though independent, is correlated to the rail operations because of its role in pick-up-and-delivery, the line haul of less than truckload freight (LTL), and the substantial truck on freight car (TOFC) or "piggyback" operation.

The general nature of the work performed by members of the Clerks' craft is revealed in part by the scope rule of the parties' pres-

ent agreement. This rule, which defines coverage under that agreement, provides, with certain exceptions not here relevant:

Rule 1. * * *

(1) Clerks—

(a) Clerical workers.

(b) Machine operators.

(2) Other office, station and store employees—such as office boys, messengers, chore boys, train announcers, gatemen, baggage and parcel room employees, train and engine crew callers, operators of certain office or station appliances and devices, telephone switchboard operators, elevator operators, office, station, and warehouse watchmen and janitors.

(3) Laborers employed in and around stations, storehouses and warehouses.

The widest possible range of skills, from programers on electronic computers to janitors, is represented in the more than 500 job titles and descriptions. Members of the craft are organized into 27 departments and divisions, 53 seniority districts, and 79 seniority rosters ranging from a single employee to more than 1,400. Basic pay ranges from $17 to $26 a day.

The working population of the Clerks' craft on this Carrier is not coextensive with that indicated by the seniority roster alone. Although 11,294 names appear thereon as of January 1, 1962, the number actually working and drawing pay is considerably less. There were only 7,025 employees holding regular and regular relief assignments, while 2,099 were in nonavailable categories including sick leave, leaves of absence, exempt positions, etc., and 2,170 were unassigned. The unassigned employees hold no regular assignment due to their displacement or choice.

Seniority continues to be accrued by an employee so long as he is "in an employment relationship," although he may not be in active service. Unless he refuses the Carrier's direct offer of a job of at least 15 days' duration, he may continue in that status indefinitely. He is not, moreover, subject to any mandatory retirement requirement.

The protection provided by seniority permits an employee to bid and exercise displacement rights not only on his own seniority roster but on another roster in his district, provided that all employees on the latter roster have exercised or have "passed" by failing to exercise their rights. However, if he seeks a job advertised in another seniority district, he cannot carry his seniority with him but must go to the bottom of the seniority list. In that event he retains his seniority on his old roster for 10 years with the right to elect ultimately to which roster he desires to belong.

Of course there are also certain existing statutory provisions which deal with the problem of unemployment. These include benefits provided under Railroad Unemployment Insurance and the Railroad Retirement Act for those so eligible.

The Carrier and the Organization are also parties to the Washington Job Protection Agreement of 1936, covering railroad "coordinations." Finally, in instances in which the Organization's concurrence was required prior to a reorganization, the parties have entered into various special agreements, to be discussed in more detail below, for employees adversely affected by the change.

IV. POSITIONS OF THE PARTIES

(A) Contentions of the Organization

The Organization here seeks a solution to the now too familiar problems arising from the rapid decline of railroad employment. The number of positions under the Organization's jurisdiction has declined significantly since 1955, and especially since 1957, although Southern Pacific's volume of traffic has increased during the same period. This decline is said to be drastic and excessive relative to declines in clerical employment on other class I railroads and also in any normal comparison to total employment on the Southern Pacific. To the individual employee this decline has meant not only insecurity of employment and loss of employment opportunity, but also, very frequently, displacement to lower-rated jobs or complete loss of employment.

Job abolition on the Southern Pacific, it is claimed, may be traced primarily to broad scale innovations in technology and organization. However, the Organization also argues that work formerly performed on the property has been needlessly diverted to subsidiaries or unsoundly abandoned to independent contractors.

The protections sought in the Organization's notice of September 22, 1958, may be summarized briefly for present purposes. Essentially, the Organization sought to insure each of its members against "any * * * conditions which bring about the reduction of existing positions and/or work." Any employee so adversely affected was to be given the option of 5 years' income protection regardless of his length of service with the Carrier or of a "severance allowance"—up to 1,800 days of pay—dependent upon his seniority with the Carrier.

While the notice is the formal basis for the organization's demands, it did not fully represent the Organization's position at the hearings. During this proceeding the Organization has treated the notice as only one of the ways in which the problem of declining employment may be approached rather than as the exact road on which it is dedicated to travel. While the Organization continued to press for protection from the adverse effects of "any condition," the nature of the protection desired, but apparently not the purpose, shifted. Primary em-

phasis is now placed, in terms, upon maximizing employment, although other protective provisions are also sought.

The Organization's position, as so modified and loosely linked to its 1958 notice, is a two-pronged offensive to achieve "employment stabilization and protection" in order to alleviate the distress experienced by its members. Broadly, the Organization seeks "employment stabilization" directly, through a restraint on the rate of position abolition, and indirectly, through monetary compensation for any employee adversely affected by any position elimination. "Protection" is to be accomplished by various types of compensation and benefits for employees who nevertheless may be adversely affected when "disemployment" occurs.

More precisely, the Organization seeks to establish a controlled rate of attrition limiting to a fixed percentage the number of the positions which the carrier could abolish per year. The Organization claims that unless there is such a limitation, insecurity of employment and opportunity develops among the employees resulting in an unnatural rate of attrition through resignations.

The Organization further proposes that this limitation on job attrition be combined with economic protection for employees adversely affected by the Carrier's elimination of a position. There are two noteworthy aspects to the organization's objectives for financial protection. One is that protective conditions be made applicable to employees immediately affected by the abolishment of jobs for any and all causes and not confined to specified causes such as technological or organizational change. Another is that the Organization seeks a level of protection of earnings of employees at the full amount during the period of time specified for the changes to take place. Thus, within the time periods selected the coverage and level of protection would be full and complete.

Another category of demand concerns "mobility benefits." Although not part of the formal notice, the Organization desires deadheading pay and away-from-home expenses where travel is required to protect extra work, while moving expenses and reimbursement for property losses are sought for employees required to relocate. In addition, some guarantee concerning the duration of the new job, or possibly expenses for returning to the site of original employment, would be desired if employees are required to transfer to new locations as a condition to continued employment or protection.

In short, the Organization seeks the most favorable features of the 1961 agreement between the Carrier and the Order of Railroad Telegraphers; the 1962 agreement, accomplished in part by means of an arbitration award, between the Telegraphers and the Chicago &

North Western Railway Co.; and the 1961 agreement between itself and the Southern Pacific covering the consolidation of rosters in the accounting department.

The Organization sought in these proceedings full retroactivity of its demands. The Organization concedes, however, that in instances in which protective benefits have been negotiated in particular situations, an offset may be taken from any conditions agreed upon here.

The Organization justifies its demands upon a variety of grounds. Primarily, it argues that position abolition has stemmed principally from money-saving innovations and that the employees should share in the blessings as well as the burdens of changes in technology and methods. The expense of cushioning the impact on employees must be counted as part of the cost of contemplated labor-saving changes and "the full realization of those savings [must] be deferred over a sufficient period of time to permit the minimization of adverse impact on the employees." In short, the Organization proposes a standard of efficiency and economy in social as well as economic terms.

The Organization also argues that the protection which it seeks is necessary to correct an inequitable and anomalous distinction arising from the fact that certain employees already receive protection; namely, those affected by a coordination of facilities or services between carriers party to the Washington Agreement as well as employees affected by transfers of work across seniority rosters or district lines who have been protected by the negotiation of ad hoc agreements. But no protection has been extended to employees adversely affected by changes of the same nature confined to a single roster on the Southern Pacific.

The Organization further contends that it is in the national interest for the private sector of the economy, acting through the collective bargaining process, to assume a responsibility for the adverse consequences of change.

Lastly, the Organization argues that its demands are justified by the evolving pattern, both within and without the railroad industry, of agreements providing employment stabilization and protection.

(B) Contentions of the Carrier

The Carrier contends that the Organization has not sustained the burden of proof necessary to establish a need for protection. For those employees who have been, or will be, deprived of employment, Railroad Unemployment Insurance is available on the most advantageous basis of any industry in the Nation. And the record is said to demonstrate that displaced employees have found satisfactory employment opportunities either with the Carrier or in outside employ-

ment. Moreover, while conceding that there has been a diminution in employment in the Clerk's craft, the Carrier contends that the decline in clerks' employment on the Southern Pacific has not been disproportionate. Thus the Organization has failed to establish either hardship or circumstances warranting special treatment for members of its craft.

Certain principles which the Carrier evidently regards as essential can be abstracted from its many specific objections to the Organization's proposals.

First among these principles, the level of protection must not be such as to make technological and organizational change unprofitable, for the effect of such protection would be to stifle progress. Such paralysis is not in the long-run interest of either the employees or the public and has been unanimously condemned by previous Presidential boards.

The Carrier contends that the section 6 notice which the Organization served in this case is a veiled request for a "job freeze" which would prove, and was deliberately designed, to be so expensive that further labor-saving innovation would be inhibited. Neither this Carrier nor the railroad industry has the ability to undertake to provide protection on such a scale, which is alleged to be confiscatory in light of the declining position of the industry, the cost of a recent wage settlement covering the Clerks, and the cumulative effect of a pending demand filed in April 1962, by the Organization.

Second, objecting to the coverage as well as the level of the protection requested, the Carrier regards as cardinal the precept that savings should be shared with employees only when there are savings. It emphasizes that transportation services are subject to competitive and cyclical factors. It cannot undertake to be responsible for normal changes in business life. Layoffs occasioned by a decline in traffic should not support benefits. Similarly, the layoff of seasonal employees at the end of the season or of a vacation relief when the principal returns should not trigger benefits. On the other hand, coordinations or consolidations do produce savings and in these instances protective benefits have been agreed upon.

Third, the Carrier insists that benefits given to employees should be productive of correlative benefits. The Carrier stressed that it should obtain the unqualified right to introduce technological and organizational changes in exchange for the protective conditions.

Specifically, the Carrier sees no justification in its being asked to provide benefits for those adversely affected by consolidations or transfers without receiving in return the right to make such consolidations or transfers. The notice does not explicitly afford the Carrier the

right to move work across roster lines or to remove seniority restrictions without further negotiations with the Organization. Any "agreement to agree" is illusory and only provides for a further opportunity to make any proposed change more expensive.

The Carrier points out that the lack of a *quid pro quo* is aggravated by loss as well as absence of gain. Under the current agreement it has the right to consolidate or abolish positions within seniority rosters. The Organization's demand would cause the Carrier to provide compensation for employees affected by job elimination even within a seniority roster. The carrier finds a lack of consideration in the failure to provide for interroster changes while at the same time removing from management the right to make "free" changes on an intraroster basis.

Fourth, the Carrier urges that any benefits must be structured in a way which will encourage the employees to seek employment rather than protection. The Carrier pointed out that under the notice an employee may elect to take severance pay instead of being required to exercise his seniority or follow available work.

Fifth, no system of benefits should permit duplicative or cumulative payments. For example, railroad and outside earnings should be deducted from any protective conditions. Persons eligible to retire should be excluded from any protective features.

Related to the Carrier's contention that the notice violates this principle is its objection to the failure of the proposal to treat various agreements providing pay protection in coordination, work transfer or roster consolidation situations for employees or groups in the craft as a final disposition of this subject matter for the employees involved.

Sixth, the Carrier insists that no unwarranted hurdles be placed in the path of its efforts to modernize its road and to improve its service. Thus the Carrier opposes the adoption of an attrition concept. Such a restrictive device is said to be essentially uneconomic, as well as having undesirable social and moral effects.

Seventh, the scheme of protection must be one which would be tolerable if extended to other crafts, which have filed notices on the Carrier with parallel objectives, as well as to the industry generally. The Board is reminded that other situations may be riding "piggyback" on this dispute.

In addition to these general principles, the Carrier specifically rejected any retroactivity. Moreover, the Carrier contends that any delay in the negotiation of these demands was occasioned by the Organization's decision to await the outcome of the Chicago & North Western litigation and its failure to progress its notice with interest and vigor. The Carrier does not believe that it should be charged with the Organization's caution.

V. DISCUSSION

Charged with the responsibility "to investigate and report" concerning the issues in dispute, we wish at the outset to express our belief that a collectively bargained solution would have been preferred to one resulting from any form of Government intervention. This dispute must be solved, sooner or later, by the consensus of all concerned. To that end we encouraged the parties to reach their own settlement through private discussions animated by a recognition of the overriding public interest. But lacking a consensus at this stage of the dispute, this Board has the responsibility of proposing a solution.

Consequently we have sought to fashion a report providing a history and an analysis of the problems and a series of basic principles and recommendations which will enable the parties, through their own efforts, to shape the methods by which the indicated solutions may be accomplished. In our considered judgment the Board's recommendations represent a fair balance of all the interests involved—the interest of the public in economical and efficient rail transportation; the interest of the individual employees who have been or may be adversely affected by abolition of jobs; the interest of the Organization in effective representation of the Clerks' craft; the interest of the Carrier in achieving necessary economies; and the interest of all, the travelling and shipping public, the Government, the employees, and the Carrier, in eliminating this dispute as a threat to the essentiality of uninterrupted transportation service by the Southern Pacific.

(A) Loss of Employment and Employment Opportunities

The keystone of the Carrier's efforts to remain competitive as a profitable transportation system has been technological improvement and organizational change. Necessarily this has been accomplished by a continued, although varied, decline in the number of regular assigned positions that have remained available for employees in the craft represented by the Organization. From 1957 to 1962, such positions have been reduced from 11,578 to 7,025, a decline of 4,553, or slightly under 40 percent. Although averaging about 9.5 percent annually, the decline has varied widely from a high of over 13 percent in 1957 to the more recent low of 4.7 percent in 1961. It has inevitably resulted in a correlative increase in the number of unassigned employees, a category that rose from 1,106 in 1957 to 2,170 in 1961.

Strikingly, this downward trend in regular jobs has occurred notwithstanding an increase in the Carrier's volume of traffic, as measured in revenue ton-miles, of 11.6 percent above 1957 while class I

railroads as a whole have experienced a decrease of 8.8 percent. Hence, we find that when employment is related to traffic for the period 1957 through 1961, not only did total employment per revenue ton-mile on Southern Pacific decline relatively more than class I railroads as a whole, 33.6 percent to 20.5 percent, but clerical employment on Southern Pacific declined more sharply than on all class I railroads, 38.7 percent to 16.5 percent. Although the percentage of clerical employees to total employees on the Southern Pacific has remained relatively constant because comparable reductions have also taken place in other crafts, the abolition of clerks' positions has nonetheless been significant and severe.

In its broadest terms, these reductions in positions have resulted from a combination of factors that reflect not only extensive technological improvements, but broad organizational changes and pervasive methods simplification. Changed traffic patterns, such as a decline in less-than-carload freight and in passengers, have undoubtedly contributed to overall employment reduction. Thus, a net loss of 56 jobs on the passenger department rosters since 1955 was directly attributed to the decline in passenger traffic. To the extent such declines have occurred, they have tended to stimulate the very improvements and changes which have been accomplished. But it is evident that the Carrier has been prompted by broader concerns to maintain its efficiency than any particular change in traffic patterns may have dictated.

1. Technological, organizational and methods changes

To describe in detail the multitude of changes that have been cited would serve no useful purpose. Suffice to say they have been extensive and all pervading. They encompass plant, facilities, right-of-way, rolling stock, and motive power, on the one hand, and systems, procedures, reorganizations, and realignment of personnel, on the other.

Outstanding among technological improvements are full dieselization completed in 1957, improved types of freight cars responsive to consumer shipping requirements such as Hydra-Cushion and Tri-Level Auto Pack, microwave communications and an automatic telephone system described as the most extensive for any single company in the Nation, mechanized maintenance-of-way equipment, welded rails, centralized traffic control, modernized one-spot freight car repair facilities, automatic freight yards with electronic classification of freight cars, IBM processing and computer equipment of various sizes and types, automatic elevators and automated mail sorting and processing. Some, such as dieselization, have had an indirect effect upon the craft represented by the Organization. Others, such as

automated mail processing, have had a direct impact. All have contributed to the decline in employment.

Organizational and methods changes, including the realignment of personnel, have produced similar effects. Those which have directly affected the clerks are: consolidation and centralization of various accounting functions in the accounting department, regionalization of agencies and closing of local agencies, perpetual inventory and car location reporting procedure (PICL), elimination of certain clerical work handled for the Carrier's trucking affiliate, the Pacific Motor Trucking Co. (PMT), mechanization of yard office clerical procedures, consolidation of regional agency and yard office clericals, work simplification techniques through specialized office equipment (including photocopy machines, precarbon forms, electric typewriters, tape producing listing machine, high speed calculators, electric adding machines), consolidation of purchases and stores departments resulting in the closing of foundry and scrap sorting facilities, elimination of supply trains and reduction of inventory. In short, the Carrier has been quite frank in indicating that in the improvements and adjustments made, it has sought to accomplish every job simplification and to eliminate any and every activity which it considered unnecessary, inefficient or unproductive in its efforts to remain competitive as a profitable transportation system.

2. Diversion of work

The Organization claims that several of these organizational changes have resulted in a diversion of work from the Carrier and the Clerks' craft to other enterprises and employees. It cites the transfer of work to PMT in 1958; the discontinuance of scrap and reclamation operations at Sacramento in favor of contracting out such work to outside contractors; and the diversion of work to other crafts.

The PMT situation was particularly stressed by the Organization because of its severe impact upon the employees. It essentially deals with an agreement between PMT and Southern Pacific to have PMT's own personnel undertake work previously performed by Southern Pacific's clerical employees. The removal of that work from Southern Pacific resulted in the abolition of 517 positions. PMT hired 232 Southern Pacific employees, of whom 176 were office clericals who were thereafter covered under a separate collective bargaining agreement which PMT had with BRC as the certified representative of a clerical unit. Fifty-six platform employees were also hired, and they then became subject to a collective bargaining agreement which PMT had with a union other than BRC.

It is apparent that this arrangement disemployed about 285 employees, most of whom, it appears, were platform employees engaged

in the physical handling of freight at various of the Carrier's freight facilities. Without regard to the needs which impelled that arrangement, or the manner in which it was accomplished, it cannot be doubted that the Carrier effected an organizational change indistinguishable from others it has instituted. The impact upon employment has been no different than if the Carrier had sought to achieve certain efficiencies and economies through a consolidation of rosters, or more compelling, through a coordination of facilities with another carrier.

The merits of the claim of a diversion of work, however, whether in the form of a transfer of work, "contracting out," or assignments to other crafts, is not a matter which this Board can properly consider. If there has been an improper diversion of work from the bargaining unit to some other unit or enterprise in violation of the scope rule or other provisions of its agreement, the Organization has a remedy under the law; it can file a claim under the Railway Labor Act and have the merits of that claim adjudicated. The record, in fact, reveals that a number of such claims have been filed and are currently pending. But it is no part of this Board's function to pass on questions of that nature.

Nor is it our province to review the propriety of management's decisions relating to the organizational and methods changes it has instituted. We are solely concerned with the question of the impact upon the employees in this craft of the changes which have occurred and will continue to take place as they may affect the need for the protection which the Organization is seeking. Whatever other consequences may flow from the changes which have been cited in this context, it cannot be gainsaid that the result has been a net overall loss in regular assigned positions.

3. Protective agreements

Any description of these employment changes would be incomplete if it did not take into account the fact that some reductions were unilaterally made by the Carrier while others were accomplished only after agreement with the Organization. This situation reflects, in part, the provisions of the parties' current agreement, which leaves the Carrier free to effect any reduction in force it desires to make, for whatever reason, so long as it does not transfer work, positions or employees across roster lines. Where the Carrier seeks such transfers, or wishes to effect a change requiring a consolidation of rosters, it has been the practice for the parties to negotiate a special agreement, although there is some disagreement as to the precise circumstances under which the Carrier is so obligated. When job abolitions were contemplated, these agreements have provided for certain employee protection beyond that afforded by seniority. Hence, whether or not

an employee receives some additional protection when a job is abolished is dependent upon happenstance.

Agreements which have been negotiated, at least those since 1959, have been concerned with two general situations: one, coordinations involving the transfer of positions or work between Southern Pacific and other carriers; and two, interroster adjustments involving a consolidation of rosters and transfer of positions or work across seniority roster lines. The coordination agreements, of which there were five, invariably granted to those adversely affected the protections afforded by the Washington Agreement. In not every instance, however, did the coordination adversely affect Southern Pacific clerks; in some they were the beneficiaries of the jobs established under the changes which were made.

The interroster agreements provided a protected displacement job rate for 3 years (except for one instance of 2 years) for those retained in employment. Those unable to displace on a regular assigned position after the exercise of seniority were given the following options: 3 months' separation allowance on the basis of 21¾ working days per month, or a furlough allowance as an unassigned employee at full compensation for a period of up to 12 months depending upon length of service, subject, however, to a reduction for other earnings received from the carrier or in regular employment elsewhere and to the acceptance of proffered employment with the Carrier on positions covered by the Clerks' agreement not requiring a change in residence. Where applicable, certain payments were provided for moving and personal expenses and for time spent in moving.

The most recent of these agreements, that of August 11, 1961, known as the accounting agreement, represented a significant departure from preceding types in the nature and extent of protective conditions provided. Designed to cover the substitution of electronic or electrically operated data processing machines for other types of mechanical procedures and mechanical clerical work, it provided for the consolidation of eight seniority rosters into a single roster in the accounting department in San Francisco and permitted the Carrier to transfer certain stated positions and work from other seniority districts. Employees affected directly, or in the chain of displacement, were given the following options: a job guarantee to those who have seniority on the effective date and follow their positions or work into the department; a protected displacement rate for 4 years for those who did not follow their positions or work but preferred to exercise their seniority rights in their seniority districts; or a separation allowance of up to 360 days in accord with the length of service schedule specified in the Washington Agreement. There were, in addition, provisions for moving allowances and real estate protection.

When ultimately consolidated, the accounting department roster totaled 1,474 names, constituting about 20 percent of those holding regular assigned positions at the time. From among 44 positions which were abolished on the operating divisions, 41 employees in the chain of displacement elected, rather than follow the work, to take severance pay averaging between $7,000 and $8,000.

While these agreements have, in varying but increasing degree, provided job and economic protection to employees adversely affected by the abolition of their jobs, they left unprotected the great preponderance of employees whose loss of employment resulted from job reductions unrelated to the transfer of work across roster lines or the consolidation of rosters.

4. Status of unassigned employees

The signficance of the unassigned employee, particularly during this period of declining employment, was the subject of a good deal of controversy. As regular assigned positions were reduced from 11,578 to 7,025, there was a corresponding increase from 1,106 to 2,170 in the number of unassigned employees. The parties joined issue essentially upon the extent to which the status of those employees reflected a condition of unemployment and individual hardship.

Displacement of an employee from a regular assigned position by the normal operation of the seniority system ultimately results in the least-service employee becoming unassigned on his roster, but continuing, nevertheless, to accumulate seniority whether or not he works. While unassigned, he is presumed to be subject to call for "extra work." He can, of course, exercise his seniority for permanent positions that are newly created or arise out of a vacancy.

But in a period of a continued decline of regular assigned positions because of job abolition, the opportunities for new positions or permanent vacancies necessarily become more limited. And as the number of unassigneds grows, extra work opportunities become more remote and intermittent. This assumption is not without support since it appears that more than 50 percent of the unassigned employees had no earnings from Carrier employment during 1961 and the first 6 months of 1962.

The complex nature of the unassigned list, the diversity of reasons for which individuals may remain on the list or seek active employment in permanent positions or extra work, present too much variety to suggest that there is uniformity in impairment of employment or employment opportunities. The opportunities for extra work are largely dependent upon the coincidence of work location and residence, qualifications, and seniority.

However, even where these factors coincide, some unassigneds may limit their availability for extra work to certain times and places. This is often true of women, but there are others who may have obtained outside employment and are reluctant to sacrifice that opportunity for the casual nature of extra work where it is unlikely that their seniority will enable them to obtain a permanent position. A certain tolerance by the Carrier, not wishing to prejudice such employees in their outside work opportunities, permits them to remain on the unassigned list. Some may be unqualified for the type of work, especially where rosters include a diversity of jobs calling for significantly different skills. Women may be legally precluded or physically unqualified to do the kind of work which may become available.

Hence, the Carrier may at times be unable to obtain personnel for extra work from its unassigned lists. And the record suggests that in many instances the Carrier is compelled to hire from the outside even while it is abolishing positions in other instances. Such additions to the work force may ultimately represent additions to the unassigned list and tend to accentuate the very conditions which have been indicated.

Yet the entire unassigned list cannot be dismissed as a haven for those uninterested in Carrier employment merely because some few may pick and choose their jobs. Isolated instances do not detract from the general significance of the evidence indicating lack of Carrier earnings. The record clearly reflects, for example, the genuine unemployment of many of those qualified only for manual labor.

That a canvass of the unassigned list has revealed substantial numbers currently having outside employment cannot be denied. But there is obviously no way to judge the significance of that observation in the absence of evidence revealing the proportion of full to part time and of permanent to temporary employment. And, of course, current employment does not suggest that these individuals have been continually so employed since they last worked for the Carrier.

Hence it is our conclusion that the list of unassigned employees, while not the equivalent of an unemployment roll at any one time or in any one instance, nevertheless reflects unemployment at various times and in many instances.

5. Conclusion

We believe that the record amply demonstrates that despite an improved trend in Southern Pacific's traffic, a condition more fortunate than that of the industry generally, there has been a downward trend in its clerical employment. Technological, organizational, and methods changes, upon which the Carrier has relied to achieve the efficiencies so vital to its continued existence as a profitable transportation

system under prevailing competitive conditions, have inescapably resulted in disemployment among its clerical force.

The reductions thus occasioned have resulted in a substantial impairment in the employment opportunities of the craft represented by the Organization. While a measure of job and economic protection transcending seniority rights has in recent years been afforded to a minority who were faced with the loss of employment through job abolition, it is clear that the majority of those affected could anticipate little more than intermittent Carrier employment while on the unassigned list.

(B) Is Protection Warranted

1. Brief history

It has long been recognized in the railroad industry that progress may leave in its wake employee hardship which should not be borne by the employee alone. As long ago as 1929, an Emergency Board, faced with a dispute involving real estate losses which were incurred by employees transferred to a new location, concluded that "a loss due to a change, made in the interest of economy, should not fall on the employees alone. * * * [I]n the circumstances here presented the loss should be borne equally by the carrier and the employees."

Contemporaneously, a related idea was attracting attention. In 1925, the Baltimore & Ohio Railroad concluded an agreement with the BRC which provided for a joint committee to make a study of the force by departments with a view to making refinements in service and improvements in efficiency by eliminating unnecessary positions. The elimination of all unnecessary service was to be compensated by a division between the railroad and the employees of the amount saved.

The concepts that savings from increased efficiency should be shared to some extent by the employees affected and that the burdens of change should not fall upon the employees alone joined and reinforced each other to produce the historic Washington Job Protection Agreement of 1936. This agreement, negotiated between the major carriers and the major railway labor organizations at a time of serious national unemployment, provides a comprehensive program of protection for employees adversely affected by rail "coordinations." The important protective provisions of the Washington Agreement may be summarized as follows: An employee reduced to a lower paying job as a result of a coordination receives a "displacement allowance" to protect his former rate of pay for 5 years; an employee who loses his job may draw a monthly allowance of 60 percent of previous earnings for a period, dependent upon his length of service, up to 5 years, or he may resign and receive a lump sum "separation allowance," also dependent upon his length of service, of up to 360 days'

pay; and an employee required to change residences is reimbursed for moving expenses and indemnified against real estate losses.

The Washington Agreement became an instrument of national policy as the Interstate Commerce Commission, first without and later with explicit statutory authorization, imposed its terms or a variant of them upon carriers seeking rail unifications requiring Commission approval.

Private agreement and public policy have continued to extend the protective provisions and principles of the Washington Agreement to situations other than "coordinations." Emergency Board No. 138 (Southern Pacific-Order of Railroad Telegraphers dispute) succinctly stated the primary reason for this trend:

"[W]e think the [recommended] extension is justified. There is little difference between displacement caused by technological and organizational change and that caused by consolidation and line abandonment. For they produce the same conditions of personal hardship, dislocation and income insecurity."

But it is not syllogistic logic alone which led Emergency Board No. 138, and which leads this Board, to conclude that protection should be extended to employees adversely affected by position abolitions from causes other than coordinations and abandonments. National policy requires that railroad employment furnish a measure of security, for only if there is a stable and satisfactory employment relationship can this country be provided with essential rail service. Congress' cognizance of these considerations is reflected in the Supreme Court's opinion in *United States* v. *Lowden:*

"[J]ust and reasonable treatment of railroad employees is not only an essential aid to the maintenance of a service uninterrupted by labor disputes, but * * * it promotes efficiency, which suffers through loss of employee morale when the demands of justice are ignored." 308 U.S. 225, 235–36.

2. Hardship

The Carrier contends, however, that its job abolishments took place without the usually attendant hardship, or at least that the Organization has failed to prove the existence of any such hardship, and that any protective provisions are therefore unwarranted. Indeed, the record is not wholly satisfactory on the issue of hardship. But perhaps this lies in the nature of the issue; hardship cannot be proven absolutely, nor is hardship itself an absolute.

Once an employee ceases to receive the major portion of his income from railroad employment, the parties have only limited means of securing information about him. Employees die or move away and contact is lost. Railroad Retirement Board statistics reveal only the number of months during which employees have had service without

revealing the more relevant statistic of the number of days of service within the month. No figures were submitted, if indeed they were obtainable, to show remuneration earned outside the railroad industry.

Yet the record is not barren. It shows that from 1957 through 1961 there was a reduction of 4,553 or 39.3 percent in the regular and relief positions filled by members of the Clerks' craft. The rate of job abolition per revenue ton-mile during this period was more than twice as great for clerks on the Southern Pacific than for clerks on class I railroads as a whole. We know that the disemployment occasioned by these position abolitions took place in a time of excessive national unemployment, when jobs were few and jobhunters numerous. We doubt the members of the Clerks' craft, spread over seven States, escaped entirely this national current.

Perhaps there were few who were totally deprived of employment for a considerable length of time, as the Carrier's presentation was designed to suggest. But underemployment poses hardship just as eloquently, although not so severely, as total unemployment. Sometime work on an irregular basis cannot sustain a man who has incurred family and financial obligations based on the expectation of steady employment. Nor is it a full answer that Railroad Unemployment Insurance is among the most generous unemployment insurance programs in the country and that the weekly income from RUI (generally $51 for members of this craft) is greater than that from a 40-hour week at the minimum wage. A sudden disruption of employment which cuts income in half cannot fail to produce severe dislocation and hardship.

Analysis of the problem in statistical terms, however, unfortunately blurs the issue. We are dealing with a human problem and the Organization attempted to present the human aspects in the only way readily open to it—by the presentation of solicited letters describing the experiences of their members. These letters, inflated and inaccurate as some may be, do nevertheless provide some indication of the experiences which their authors underwent. They reveal the plight of the employee who had tied his future to that of the railroad and who, though he had considerable seniority, was displaced from one job to another until finally he was forced onto the unassigned list where work was irregular and unpredictable. They reveal the difficulty that some workers, particularly the older ones, had in finding other jobs. They indicate the forced reductions in standards of living; the inability to meet mortgage or rent expenses; the depletion of savings; the embarrassment of repossession; the reluctant reliance on family; the necessity to move and to sell real estate, often at a loss; and the impairment of credit which so often accompanies the loss of steady work. No less real, because of their intangible qualities, were the

anxiety and insecurity, the disruption of family life and community interest, experienced by individual employees.

Of course, hardship did not affect each employee equally. The Clerks are a diverse craft, possessed of varying skills and spread throughout a wide geographic area. Manual workers were affected more than clerical ones; urban employees were affected less than others. But hardship need not be universal to be cognizable; relief need not be general to be justified. There exist means of protection with sufficient discrimination and selectivity to aid those in need of aid without conferring windfall benefits upon those who can step quickly into full-time employment and concomitantly, without requiring the Carrier to undertake expenditures to benefit those without need. These considerations convince us that a program of protection is warranted.

(C) Employment Stabilization and Income Protection

The problem thus becomes one of determining the most fitting form or combination of employment stabilization and protection. Before discussing the various possibilities, however, it will be well to reflect a moment upon whom the solution is to fit. Throughout its presentation, the carrier indicated that the measures sought were ones which the industry could not afford. And the organization has not been wholly disinterested in the pattern possibilities of each new favorable feature or agreement.

These attitudes are understandable. Nevertheless, the fact remains that this is not an industrywide dispute. A solution proposed need only meet the needs of this Carrier and this Organization. It is difficult enough to tailor a solution to specific facts; it is not our task on the record before us to recommend a pattern for the entire industry. We wish to emphasize, therefore, that our discussion and our recommendations have as their backdrop a specific dispute involving a specific set of facts.

To aid the Board's search for an appropriate solution, the parties placed in evidence studies on the general problem of technological change and job instability indicating practices in other industries as well as a great number of agreements between themselves, between the Brotherhood and other carriers, and between other carriers and other organizations. No one of these agreements was offered as a pattern; rather they were offered to show the evolving protections afforded to railroad employees.

In analyzing these agreements several important factors should be stressed. Every agreement was negotiated to cover circumstances more or less peculiar to the carrier, the craft, and the time involved. Except as some general trend may be discernible from these exhibits, they should be cited as examples and not precedents. It is surely

improper to extrapolate from agreements which admittedly have not become a pattern in the industry general provisions which are to be applied in all situations.

With these general considerations in mind, we turn to the problem at hand.

1. The notice of September 22, 1958

Although it became apparent at the hearings that the Organization is not pressing strictly for its original notice which constitutes the formal basis of this proceeding, we believe that the discharge of our responsibility will be more complete if we devote some specific analysis to the desirability of its terms. Such an examination should also serve to set the compass for any appropriate solution.

According to its statement of purpose, the object of the notice is to provide protection by "employment and/or compensation" to employees when designated actions of the Carrier result in the discontinuance of positions or a reduction in work adversely affecting an employee.

The protection sought would insure an employee during a 5-year "protection period" against "be[ing] placed in a worse position with respect to wages and working conditions than he occupied at the time he was affected." While this demand is substantially a paraphrase of certain language in the Washington Agreement, it does depart considerably from that Agreement by guaranteeing to a totally displaced employee in the direct chain of displacement 100 percent pay protection for a 5-year period. Under the Washington Agreement such an employee would receive for a period depending upon his length of service 60 percent of his former pay.

In the event that an employee is offered employment with Southern Pacific on a job not covered by the Clerks' agreement or with a subsidiary of Southern Pacific Co., a "rehabilitation period" attaches. During this 5-year rehabilitation period an employee would be guaranteed that his earnings would not be less than those he received prior to his entry into the protection period. An employee in the rehabilitation period would further be entitled to all of the fringe benefits that he would have received had he stayed in his previous employment.

The third category of protection set forth in the notice relates to severance allowances. An employee directly affected by the displacement or discontinuance of a position by the Carrier would have the option to take a lump sum severance allowance. During the period spanned by the severance allowance, the employee would be deemed to be on furlough status and certain fringe benefits would continue. The amount of the severance pay would be determined by the length of an employee's seniority with a maximum of 1,800 days' pay for an employee with 360 months or more of seniority.

The basic goal of the rule proposed by the Organization is protection from the adverse effects of any position abolition. One hundred percent income protection for a period of 5 years is sought through a furlough allowance for every such disemployed individual regardless of any standards which would furnish some indication of his need or of his contribution or commitment to the Carrier. This Board cannot recommend such benefits because of the absence of such criteria and because the level urged deprives the employee of any incentive to return to the active labor force. Nor can we recommend severance allowances tied to seniority, which at least on this Carrier bears only a tenuous relationship to length of service since seniority can accumulate for years during which the "employee," whether from necessity or choice, does no work for the Carrier. And because it is the abolishment of a "regularly established position" which triggers both protections under the notice, in terms at least the rule also seeks this same protection for seasonal and temporary employees who knowingly take jobs of limited duration and who do not intend to link their future to the Carrier's.

Moreover, although asking much, the notice specifically gives nothing in return. Protection against the adverse effects of the transfer of work from one seniority roster or district to another is sought, but the specific authorization required under present practice to make such transfers is withheld. Protection against income diminution is sought, but no deduction of outside earnings from the payments required of the Carrier is specifically provided. Protection against position abolition is sought, but mitigation of the loss by displacing a junior employee or by accepting a position at another location is not required. A severance allowance is sought, but resignation and the surrender of seniority is not explicitly demanded.

The notice of September 22, 1958, by its very nature, constitutes a collective bargaining demand, and, as such, was intended to stimulate negotiations. But its posture for purposes of this proceeding is solely as a section 6 notice and therefore must be viewed without regard to whatever concessions the Organization may have stated on the record or is prepared to make in the future. Given its twin features outlined above-protection unrelated to needs or service and demand without concession—we have no alternative but to recommend that it be withdrawn in favor of the more apt program discussed below.

2. Employment stabilization

The many fundamental issues left unresolved by the discussion of the notice may be analyzed in light of the Organization's argument advanced in the course of the proceedings that the elements of a solution to this dispute are to be found in a combination of the "best"

features of the SP–ORT agreement and the C & N W–ORT agreement. The SP-Telegraphers agreement combined controlled attrition (2 percent, excepting centralized traffic control) with a guaranteed extra board for employees with seniority dates on or before September 15, 1961. Washington agreement-type protection was given to employees with subsequent seniority dates who, after that date, were adversely affected by position abolition as a result of organizational or technological change. The C & N W-Telegraphers agreement, on the other hand, did not follow an attrition approach but provided Washington agreement-type protection for employees adversely affected by any position abolition regardless of cause. The organization contends that the controlled attrition approach of the SP–ORT agreement is essential if employee insecurity and excessive resignations are to be avoided and that the broad scope of the C & N W–ORT agreement is necessary if all employees are to be treated adequately.

a. Controlled attrition. It may prove helpful to make clear at the outset the two different senses in which the word "attrition" is used. A "normal" or "natural" attrition approach to employment stabilization restricts the rate of job elimination to the rate of labor force turnover resulting from death, retirement, resignation, discharge for cause, and possibly promotion outside the bargaining unit. A "controlled" attrition approach, on the other hand, limits the rate of job abolition to the lesser of natural attrition or a fixed percentage of the working force.

Both are alike in some respects. If the base on which the attrition is computed and the seniority unit are coextensive, both assure that the number of position abolitions cannot exceed the number of protected employees departing from the work force. Neither guarantees an employee that he can remain in any particular job. And because a "credit" accrued may be used either to abolish the position vacated by an employee or another job deemed unnecessary, seniority restrictions or a lack of interchangeability of skills may result in particular employees being deprived of employment.

But in other respects they are different. A natural attrition formula impedes job abolition, if at all, only to the extent necessary to assure that the number of positions will equal the number of protected employees. Controlled attrition, however, if the fixed percentage is less than the rate of natural attrition, impedes job abolition to an extent greater than that required to assure a position for every protected employee, requiring the maintenance of positions which management may regard as unnecessary and perhaps even resulting in the introduction into the enterprise of strangers to it.

It is this arbitrary barrier to job abolition which has caused us to reject controlled attrition. That approach protects something more than people; it protects the job itself. In arriving at this view, we have not been unmindful of the Organization's argument that absent a percentage limitation control on job abolishments, employee insecurity will remain and excessive resignations will occur. We doubt, however, that such insecurity, if it exists, is to be overcome by erecting artificial hurdles to technological and organizational change. We believe that the recommendations proposed by this Board provide as much certainty as an uncertain real world will allow.

Nor are we unaware that Southern Pacific negotiated a controlled attrition agreement with the Order of Railroad Telegraphers. Two Emergency Boards, Nos. 147 and 148, which have been called upon to examine the SP–ORT agreement in disputes involving the same craft but different Carriers, have scrutinized and rejected its controlled attrition aspect as a precedent, emphasizing the differences between the situations with which they were faced and the SP–ORT situation. Our study of this dispute, involving the same carrier but another craft, has led us to conclude that the application of that feature of the SP–ORT agreement is likewise unwarranted here. We agree with Emergency Board No. 147's observation:

"In our view, a controlled attrition formula of [the Southern Pacific-Order of Railroad Telegraphers] type cannot be diffused on a wholesale basis throughout an industry in the same fashion as a wage pattern, a vacation plan, etc. Such a formula may be helpful in some instances but must be carefully geared to the circumstances of the particular case. * * * Controlled attrition certainly cannot be considered prevailing practice."

The factual setting of the present dispute is essentially dissimilar from the one which produced the SP–ORT agreement. The Telegraphers' agreement was not negotiated until the Carrier had virtually completed its modernization program affecting that craft except for the completion of its centralized traffic control (CTC) program. And job eliminations as a result of the introduction of CTC were exempted from the limitation. The agreement settling this dispute, on the other hand, will occur in the midst of change affecting this craft. The Carrier has estimated, for example, that 1962 will witness the abolition of approximately 571 positions or about 8 percent of the craft's permanent regular and relief positions.

The purpose of an employment stabilization program is to provide job security to the employees of an enterprise. Certainly a public board would not be justified in recommending the incorporation into such a program of any feature which does not contribute to that goal. This Board cannot sanction an approach which would inhibit the

Carrier's efforts to remain competitive. Only if railroad management is free to introduce cost saving innovations will this Nation continue to enjoy an adequate and efficient transportation system. A controlled attrition percentage appreciably less than the level of force reduction necessary to modernize the road does not increase job security; it reduces it. Because we find no circumstances which either compel the adoption of such a program or dispel our apprehensions concerning it, we reject it as a feasible approach to suggest to the parties for resolving this dispute.

b. Natural attrition. Although natural attrition is not subject to the same troubling artificiality discussed above, it cannot be offered as a general solution to the problem of employment stabilization. Both Emergency Board No. 147 and Board No. 148 emphasized that only by examining the facts of each case in light of relevant standards can it be determined if a natural attrition program is a technique of employment stabilization which can be utilized without imperiling necessary innovation. Those Boards found that natural attrition was not an effective instrument to solve the problems presented to them because it was impossible to reach any confident conclusion about the anticipated rate of attrition and because the necessary adjustments on which the approach must be conditioned were not practicable in the relationships between the parties to those disputes.

Before examining the applicability to this dispute of a natural attrition approach, it seems advisable at the outset to discuss the criteria which this Board believes relevant in determining the feasibility of a natural attrition program.

First, the projected rate of natural departures from the work force must be approximately equal to or above the projected rate of job abolition which the circumstances require, for if this condition is not met an attrition program would act as a brake upon management's efforts to secure the competitive position and profitability of the enterprise. The only appropriate objective of natural attrition consonant with public policy is the leveling of peaks and valleys of employment, not the impeding of necessary innovation. Meaningful employment security cannot be achieved at the expense of change. The goal of a natural attrition program should be to assure that technological and organizational change will be introduced on a planned, orderly basis, and its result should be an average level of employment no higher than would be the case in its absence.[3] It must

[3] It follows that if a rate of attrition sufficient to meet the criterion will not be achieved and a natural attrition course is desired, it may be necessary to consider means of accelerating that rate. While it is neither this Board's province nor intention to tamper with retirement provisions, one such technique would be to deem employees eligible to retire, for purposes of computing the permissible rate of job abolishment only, to have attritted. That device would in no way impair the job status of employees who have reached retirement.

be viewed as an actuarial principle both with respect to the attrition of the employees and the implementation of managerial decisions. In short, it should be sanctioned only as a means of giving security against wholesale cuts or sudden changes in any necessary rate of job abolishment.

Second, the environment must permit, or be made to permit, sufficient flexibility in the assignment of work and of the work force to encourage efficient utilization of available resources. Absent such an environment, an employee displaced as the result of a job abolition might be unable to fill a position vacated as the result of an attrition. A seniority system which produces such a result not only deprives some employees of stable employment, but also deprives the carrier of the benefits of employees trained in the work and of the ability more efficiently to order its business. Moreover, the costs of any income protection are reduced when purposeful jobs are substituted for such protection.

Third, the protections of an attrition system should be extended only to permanent regular employees.[4] Occasional or short term employment should be excluded. An attrition program is designed to provide employment security only to permanent employees who have committed their future to that of the railroad. It would not be feasible, for example, to extend this type protection to seasonal or temporary employees, for to do so would convert seasonal or temporary positions into permanent ones, although there is work to be done in such positions during only a fraction of the year.

Fourth, there should be sufficient diversity in job functions that the introduction of a particular technological development which threatens one function will not be required to await the attrition of those occupying the threatened job. If the attrition "universe" is large and diverse enough, not only will the rate of attrition and job abolition be more predictable, but also the "credits" derived from attritions throughout the unit will more likely be sufficient to enable the abolition of positions made unnecessary by innovation. If the unit were relatively small and the jobs uniform, a job-threatening innovation would be frustrated by the need to await the attrition of those occupying the jobs.

At the same time, there should be sufficient interchangeability of skills and uniformity of aptitudes that employees can shift from one job to another without, or with a minimum of, retraining, thus pre-

[4] Generally the protected employees would be those holding permanent regular (including relief) positions as of a given date. Presumably some employees such as those on sick leave or leave of absence would be allowed to infiltrate into the protected category in place of some incumbents. The size of the protected category of employees would not exceed the number of permanent regular positions in existence on the date of the agreement or other proximate date chosen.

serving the maximum number of employees as active, useful members of the work force.

Fifth, adjustments in the number of permanent positions made necessary by causes beyond the Carrier's control which have a substantial impact upon traffic and revenue should be exempted from any natural attrition limitation. Neither the Carrier nor the employees should be expected to bear alone the full brunt of such conditions; rather, the misfortune should be shared. The Carrier should be allowed to gird itself against the decline while the adversely affected employees should be provided the monetary protections hereafter discussed.

Sixth, the financial and competitive position of the Carrier should be such that the risks attendant upon the adoption of such a program do not present undue hazards to its capital or profit situation.

Seventh, a natural attrition approach should be neither recommended nor embraced unless it is sufficiently supported by actions, attitudes, and the environment to be practicable and acceptable to those immediately involved.

In considering whether these criteria are met by the circumstances and employment pattern with which we are here concerned, we should analyze at the outset the evidence which bears upon the first criterion: the necessity that the anticipated rate of attrition match or exceed the projected rate of job abolition.

The application of a working hypothesis that the rate of job abolishments and the rate of attrition which have occurred in the past bear some relation to the future would not be inappropriate if data upon which such a projection could be made reflected, with equal reliability, both the number of permanent regular assigned positions which were abolished and the number of employees who separated from such positions. But we do not find this to be the case. To the extent that the statistical evidence reflects a composite of both permanent and temporary positions, including those of a seasonal nature, it must be considered less than satisfactory for our purpose. This would necessarily follow from our view that the inclusion of seasonal jobs in a natural attrition formula is inappropriate.

There is, however, basis in the record for concluding that the difference in the number of regular (including relief) positions as of January 1 of each year reflects reductions in the type of permanent positions with which we are concerned. This is confirmed by the Carrier's estimates which exclude seasonal positions. These estimates, when considered with the statistical data in the record, indicate that while the annual rate of abolishment of permanent positions has been irregular, the average annual rate has declined from 10.6 percent during the period 1957 through 1960, to 8.4 percent from 1958 through 1961,

with a further decline to about 8 percent projected for 1962.[5] While the only constant is change, the expectation that after a period of time there will occur a deceleration in the rate of job abolition finds support not only in the statistical data but also in the Carrier's predictions.

But this measure of certainty for the projected rate of abolishments of permanent regular assigned positions is absent when we come to consider the data on attrition. The available figures consist of a composite not only of those separated from employment who held seasonal and temporary positions, but also of those who may have obtained little or no employment with the Carrier while in an unassigned status. Since over 50 percent of the latter group had no earnings from the Carrier either during 1961 or during the first 6 months of 1962, it is not unreasonable to assume that their proportion among the attritions is probably larger than those occupying permanent regular assigned positions. Inability to factor out these elements makes it impossible to determine the rate of attrition among employees holding permanent regular assigned positions. It is precisely for that reason that we cannot accept, without serious reservations, the interpretation which the Organization places on the evidence that in each of the years since 1958 there were more attritions than job abolitions. And we can only conclude that the record is not sufficiently assuring to determine, in any definitive way, a relationship of the rates of job abolishments and attrition when confined to permanent regular assigned positions.[6]

There are, on the other hand, clear indications from the empirical data that no program of natural attrition, in the terms formulated, can be superimposed upon a pattern of 53 seniority districts and 79 seniority rosters. The need to hire employees for work encompassed by one roster while job reductions are being made in another attests to that conclusion. The attrition unit or units must therefore be measurably broader than existing seniority arrangements. But precisely where the line should be drawn, or how the attrition credit can be utilized, or what compelling circumstances may need to be excepted, are questions about which neither the statistical nor empirical data contained in the record do, or can, provide an answer.

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[5] The latter percentage reflects an adjustment of the carrier's percentage of 7 percent to exclude any effect of exempt positions. Identical adjustments were made for the prior periods.

[6] Projection of the effect on the rate of attrition of employees eligible to retire is somewhat more easily discerned from the available data because their relative seniority is undoubtedly greater. Therefore, persons in the eligible retirement category can be assumed more likely to be occupying permanent regular assigned positions. As of Jan. 1, 1962, 588, or 5 percent of the employees on the rosters had reached retirement age, of whom 360 were men and 220 were women. On that date the age distribution of the rosters ranged from 18 to 82; the median age being 47 years and the greatest concentration (1,694) in the age bracket 55 to 59. It is anticipated that within the next 5 years, 287 employees, consisting of 223 men and 64 women, will reach retirement age. This total is exclusive of women age 60 with 30 years of service, or retirements due to physical disability.

Because the attrition unit or units must be broader than the present seniority rosters or districts, the primary goal of an attrition formula will be jeopardized unless the present seniority arrangements and related restrictions are relaxed to allow greater mobility of employment. We have previously alluded to the difficulty of interroster transfers and the nontransferability, except for special cases, of seniority across district lines, although the same Carrier and the identical craft are involved. These arrangements should be modified to permit an employee to move throughout the attrition universe. Otherwise, an employee about to be furloughed in one part of the unit might not be able to take a job vacated elsewhere within the unit. Failure to make these adjustments would perpetuate the simultaneous hires onto one roster and layoffs from another which have been an unfortunate consequence of the existing system and would frustrate the flexible matching of work to employees and people to work which is essential if a program of natural attrition is to be feasible.

While we assume that the Organization is prepared to assist in the reorganization of the craft in order to achieve greater mobility of the work force, which is one of the imperatives of a natural attrition approach, we doubt that we possess the intimate factual knowledge necessary to fashion, with the requisite degree of confidence, recommendations for any detailed revision of the existing seniority lines.

Finally, except for the single instance of the consolidation of the Tucson and El Paso operating divisions, we are not apprised specifically of other changes, technological or organizational, which the Carrier at this date contemplates, although it no doubt has made tentative projections of its requirements, presumably contingent on a number of business factors, including the element of labor costs. These, too, are entitled to be counted in the balance when any natural attrition universe and related seniority structure are selected.

We believe that this discussion sufficiently indicates, without addressing ourselves further to the other criteria indicated, that our knowledge of the facts and circumstances of this Carrier and its plans for the future, the art of the possible for the Organization, and the composition and characteristics of the employees, are not sufficiently complete and extensive, despite the invaluable aids furnished, to permit us to conclude with certainty that the criteria can, or cannot, be met. Regrettable as it may be that a more definitive result is not available, it must be recognized that such a recommendation cannot be made in a situation which rests so heavily upon a detailed factual knowledge of the present and an informed and reliable prognostication of the future.

Nevertheless, we feel that we will have fulfilled our task if we have succeeded in furnishing sufficient guidelines to have moved the employ-

ment stabilization issue from the tactical to the technical. We do believe that the parties themselves possess the necessary experience and knowledge, and that by bargaining in good faith on the basis of the principles set forth above, they will be able to determine whether a natural attrition approach, or some modification thereof, is an appropriate solution for the employment stabilization aspect of the dispute.

3. Income protection

Recent years have witnessed the extension of private, negotiated income protection in the railroad industry, beyond job abolitions resulting from coordinations. Indeed, the record contains more than a half dozen agreements negotiated within the past 3 years between the Southern Pacific and the Brotherhood which provide a form of income protection to employees adversely affected by position abolitions occasioned by various organizational changes. The need and the desirability of this type protection would not disappear should the parties negotiate an employment stabilization agreement. "Unprotected" employees as well as employees laid off as a result of traffic fluctuations or unable to fill existing vacancies because of skill or seniority limitations would remain in need of protection. Of course, should the parties, after negotiating, determine that a natural attrition approach is not feasible, the only protection readily suitable would be income protection. Thus we believe it important to discuss this form of protection either as a supplement to a natural attrition program or as a substitute for it.

a. Scope of protection. The primary issue is whether protection should cover employees adversely affected by job abolition from any cause, as the Organization contends, or whether protection should be limited to employees affected by abolitions from organizational and technological change only, as the Carrier urges.

It seems clear that the protection needed by the individual employee is the same regardless of the possible cause of displacement. It makes no difference to the employee deprived of employment that his loss resulted from a "coordination" or a consolidation of two seniority rosters, for which protection has generally been provided by ad hoc agreement, or the reorganization of the work within a roster, for which it has not. Yet we agree with the Carrier that a job abolition resulting from a decline in traffic is not productive of savings in the same sense as one brought about by the introduction of machine processing.

However, just as we can see no justification for the full brunt of technological or organizational change falling upon the shoulders of the employees, so we see no reason why the full weight of a decline in traffic volume should be borne by particular employees. Acceptance of the Carrier's principle that savings should be spread only *when* they

occur, does not require that savings should be spread only *where* they occur. The fortuities of placement need not be so severe. There is no reason why a portion of the total savings accruing from technological and organizational change cannot be spread among all employees adversely affected by position abolition; it is only a matter of adjusting the level of benefits. Thus the level of benefits of those laid off as a result of changes productive of savings would be commensurately reduced in order to make possible the payment of benefits to those adversely affected by traffic declines or other similar causes.

This approach seems particularly suited to application on the Southern Pacific, for the record shows that the major innovations on this road have not been the result of a decrease in traffic, but can be traced to the resourcefulness with which management has attacked the problems of its line.

In sum, the fate of the company must, to a considerable extent, be the fate of the employees. But recognition of this principle does not require the recognition and perpetuation of intracompany inequities. The benefits of efficiency, whatever the source, redound to the benefit of all employees; equally should they be protected from these sources.

These considerations convince us that all adversely affected permanent employees should be protected upon the abolition of any permanent position.[7]

b. Type and level of benefits. A position abolition may ignite a chain reaction which ultimately results in the disemployment, or furloughing, of some junior employee and the displacement, to a lower paying job of one or more senior employees. Each situation generates a need for income protection.

i. Displacement Allowance. A displacement allowance is designed to protect the level of income of an employee who is retained in the Carrier's employ. Precedent, on this property and in the railroad industry generally, supports the adoption of such allowances. The objective of such an allowance should be to maintain an employee's income for a period of time sufficient to permit him to bid and secure a position comparable to his original one. The most prominent negotiated protective agreement in the railroad industry, the Washington Job Protection Agreement of 1936, provided in section 6 for a 5-year displacement allowance. We therefore recommend that the parties negotiate a displacement allowance providing income protection for

[7] Nor is this recommendation novel. While, as previously noted, the mere study of an agreement cannot furnish the answer to its applicability to the present situation, we do observe that the recent C & NW–ORT and NYC–ORT agreements adopt a similarly broad scope. And, unlike the controlled attrition feature of the SP–ORT agreement, the broad applicability of the protective provisions of these agreements was the product of the recommendations of public boards, Emergency Boards No. 147 and 148. We join those Boards in recommending that protection be extended to all employees adversely affected by permanent job eliminations.

a period of 5 years for an employee adversely affected, but retained in employment, as the result of the abolition of a permanent position.

ii. Furlough Allowance. Employees furloughed by the Carrier as a result of the abolition of a job have been aided to the extent they have been eligible for unemployment benefits financed by Railroad Unemployment Insurance. However, as discussed above, severe dislocation can and has occurred when weekly income plummets from over $100 to $51, the maximum RUI benefit, and there is little time to adjust to the harsh realities of the situation.

Of the alternatives available to alleviate such hardship, there are persuasive reasons for choosing to augment RUI, the existing system for dealing with unemployment in this industry, rather than to seek a substitute for it. The RUI structure affords an opportunity to provide several desirable conditions which will be beneficial to the disemployed individual, to the Carrier, and to the community at large, and which can best be provided by governmental rather than private means. Particularly important are the requirements of registration with a free employment office, of willingness and readiness to work, and of making reasonable efforts to obtain work. Its orientation toward employment is basic to the type of program favored by this Board.

The level of augmentation should be carefully tailored. Because the initial period of unemployment is likely to cause the most severe dislocation, the initial level of benefits should provide more ample protection for this period of adjustment. This period will be longer for the longer service employee, for, being older, his obligations are likely to be greater and his employability diminished. After such a period it is to be anticipated that most of those laid off will either have been recalled by the Carrier or have found new positions.

For those who have not been so fortunate, the emphasis must shift from interim to longer range protection. Although such lengthening of the benefit period can be achieved only at the expense of the subsequent level of benefits, these employees will at least have had the advantage of a period of adjustment to cushion the impact.

Consonant with these views, we recommend that the parties negotiate a system of benefits to augment the existing Railroad Unemployment Insurance so that the total benefits will provide an employee having 1 or more years of service with:

(*a*) An initial allowance equivalent to 70 percent of his average monthly compensation for a period of 6 months (26 weeks) for an employee with 1 year or more but less than 10 years of service; for a period of 9 months (39 weeks) for an employee with 10 years or more but less than 15 years of service; and for a period of 12 months (52 weeks) for an employee with more than 15 years of service; and

(*b*) A subsequent allowance equivalent to 60 percent of his average monthly compensation for a period of time, also dependent upon length of service, necessary to bring the total benefit period into equality with that provided by section 7 of the Washington Agreement.

These benefits should be reduced in a manner similar to that of section 7(i) of the Washington Agreement whenever the employee receives compensation from any employment or obtains benefits under State unemployment insurance laws.

In order to maximize employment and utilization of the work force, an employee who fails to exercise his seniority to displace a junior employee or who refuses to accept a position of reasonable duration at another location which will not require an unduly burdensome move should not be considered for the purposes of any of the recommendations of this report to have been disemployed as the result of a position abolition.

iii. Separation allowance. In some situations no job may be available through the exercise of seniority and a change in place of employment might be an unreasonable burden on employees who have job equities which should be recognized. In those circumstances employees eligible to receive the furlough allowance because laid off as a result of a position abolition should be given the option of receiving that allowance or, in lieu thereof, resigning and receiving a lump sum allowance equivalent to that provided by section 9 of the Washington Agreement.

iv. Maintenance of fringe benefits. Protections such as those afforded by section 8 of the Washington Agreement should be extended to employees adversely affected by the abolition of any permanent job. The parties should negotiate concerning the continuation, during the period of augmentation, of hospital, surgical, and medical benefits for employees and their dependents and of group life insurance for employees.

v. Moving expenses and protection against real estate losses. Provisions comparable to sections 10 and 11 of the Washington Agreement should be negotiated for the benefit of those required to change residences as a result of a position abolishment.

c. Extra boards. The objectives sought by both parties in the assignment of extra work are consistent. The Organization seeks a system which will provide employees maximum security and opportunity to work while the Carrier desires one which will provide it with a ready source of skilled manpower to perform extra work and to fill new or vacated positions. The parties apparently hoped to achieve these objectives by permitting the indefinite retention of unassigneds on the seniority rosters. The actual operation of the unassigned lists, however, in a time of declining employment opportunity for members

of this craft, has failed to fulfill fully the goals of either party. The interests both of the Carrier and of those without regular assignment who, nevertheless, desire to commit themselves to the railroad would be best served by establishing extra boards with a guarantee of 40 hours of work per week to employees assigned to these boards. This will be feasible, however, only if the Carrier is authorized to determine the appropriate size and location of the extra boards.

d. Notice. We are persuaded, as have been previous Emergency Boards, that a reasonable period of advance notice to the Organization followed by conferences should precede impending position abolishments affecting members of its craft. Both sides may profit by the exchange of views and understanding facilitated by such a provision. The Organization and its members gain by having time to prepare for the adjustments which will be occasioned by the abolishments and by having an opportunity to discuss their views with management. The Carrier gains by achieving greater acceptance of its plans and by having the opportunity to avoid and adjust grievances and other problems before they arise. Reasonable requirements of advance notice do not impose an undue burden on the Carrier nor impinge upon its proper prerogatives. Particularly is this true when, as would appear to be the case with the Southern Pacific, planning and scheduling are on a careful rather than on a merely empirical basis.

For these reasons the Board recommends that the parties negotiate a provision which requires that a reasonable period of advance notice to the General Chairman and opportunity to confer precede the abolishment of permanent regular (including relief) positions. We suggest that in their negotiations concerning this issue, the parties give consideration to drawing some distinction between the time of notice for "major" and "minor" contemplated changes.[8]

e. Preference of employment. Although the present agreement seems to provide preferential employment for employees over non-employees, it does not appear to be the practice to advertise vacant positions beyond the narrow confines of the seniority units even though other such units are within the same locality. It is not surprising, therefore, that employees furloughed from one roster or district are infrequently among those hired on other rosters or districts. The present occasion may offer an opportunity to the parties to develop an approach which by providing more adequate communication techniques and greater flexibility in seniority arrangements would permit interested employees to transfer across seniority lines with greater

[8] The parties already have modified their agreement to provide an adequate notice of 5 days for the job incumbent in accordance with a recommendation of Emergency Board No. 145.

ease. This would substantially contribute to employee security while at the same time benefiting the Carrier by providing it with an employee already familiar with its operations.

f. Training and retraining. We have already had occasion to point out that an employee can become disemployed because he lacks the skills needed to secure the only vacant position. To ameliorate this condition, and to facilitate the bidding opportunities of employees who are at present on the unassigned list, the parties should cooperate in the development of suitable training programs. Their recent experience has demonstrated that such a program will prove mutually advantageous, for like our preceding recommendation it will provide additional employment security to the employees and additional trained personnel to the Carrier.

g. Retroactivity. The issue of retroactivity is interdependent with the more precise resolution of pending questions which will now be resubmitted to the bargaining process. Intelligent and practicable decisions on retroactivity must await the implementation of the guidance sought to be afforded. With these contingencies in view, the Board should not attempt to articulate distinctions which can best be perceived by the parties.

The Board therefore recommends that in their negotiations the parties consider the possible retroactive application of the displacement and furlough allowances, maintenance of fringe benefits, moving expenses, and protection against real estate losses recommended above for permanent employees who have been adversely affected by permanent position abolishments made since the notice. In these negotiations we believe the following factors should receive inquiry: the causes of delay, if any; the extent to which such benefits would be duplicative or cumulative of governmental or consensual protection which already has been afforded to some employees; the classes of employees entitled to retroactive benefits; and an evaluation of the potential burdens and benefits of the overall settlement.

(D) Further Considerations

The foregoing program of protection will, as we have indicated throughout our discussion, be feasible and practicable only if it is accompanied by a correlative program which, on the one hand, enables the Carrier to utilize its clerical forces in the most efficient manner, and on the other, provides increased opportunities for continued employment.

First, there is the need to permit the Carrier to coordinate facilities and transfer work from one seniority roster or district to another.

Secondly, there is the need for a broadening and expansion of seniority rosters so as to permit a wider horizon of employment opportunities when job abolitions necessitate the exercise of seniority displacement rights. Thirdly, there is, by the same token, the need for the employee to assume the reciprocal obligation of exercising his seniority or accepting available employment to an extent that is reasonable and consistent with an objective of job orientation. Fourthly, an employee compelled to relocate should be entitled to a position of reasonable duration, moving allowances, and real estate protection.

In a situation as complex as that presented by the seniority roster structure and related rules which govern the working conditions of the craft on this property, prudence demands that the manner of their revision must and should be left to the parties. Yet the record does suggest some direction.

There are compelling considerations, obvious it would appear, for correcting multirosters where incumbents are working in the same or adjacent offices, or in the same building or, in fact, within the same geographical urban or suburban areas. Multiroster extra boards may be a suitable intermediate measure. There are, moreover, indications that the consolidation of rosters on the basis of existing operating divisions does not present insuperable difficulties. Other experience on the property may be apposite. There may, in fact, be elements present which can be responsive to present formulated transfer of work plans.

It is evident that much can be done along these lines to simplify the present seniority structure. At the same time we are mindful that the employees' interest in seniority patterns can hardly be overemphasized. The Organization, however, recognizing that a proliferation of seniority districts and rosters does not necessarily enhance employee security, has made manifest its willingness to contribute toward necessary simplification.

No doubt a more difficult problem is posed by the need for future revisions after a significant measure of simplification and stability is achieved at this time. Conditions obviously cannot be established in perpetuity. Here, the emphasis should be on establishing a procedure in which differences, if unresolved, can be made subject to resolution. The Board suggests that the parties seriously consider use of the arbitration process for that purpose.

If the protections which we have recommended are truly to be part of a reciprocal undertaking, the Board believes that some agreement along the foregoing lines must be an integral part of the negotiated settlement.

VI. RECOMMENDATIONS

In summary, the Board recommends that the dispute committed to its investigation should be resolved in the following manner:

A. The Organization's notice of September 22, 1958, should be withdrawn.

B. The parties should, through negotiations guided by the criteria developed in this report, explore the feasibility of a program of employment stabilization and the applicability of such a program to the circumstances of the parties.

C. The parties should negotiate a comprehensive program of income protection for permanent employees who are adversely affected as the result of the abolition of a permanent position. Such a program should include adequate advance notice to the Organization, displacement protection, furlough protection with a separation allowance option, maintenance of fringe benefits, moving expenses, and protection against real estate losses for the duration, at the levels, and under the conditions recommended above. The parties should also implement through negotiations the foregoing recommendations concerning extra boards, preference of employment, and training.

D. The parties should negotiate a correlative program relating to seniority arrangements and work transfers to make feasible and practicable the adoption of the protections recommended above.

E. The parties should agree to submit to a special arbitration board any dispute arising out of the agreement implementing the recommendations of this Board.

Lastly, the Board requests the parties, with such assistance by the National Mediation Board as may be appropriate under the Railway Labor Act and the NMB's usual practices, to arrange for a prompt meeting for the purpose of implementing this Emergency Board's recommendations and completing agreement on all open issues.

Respectfully submitted,

JOHN F. SEMBOWER, *Member.*
ABRAM H. STOCKMAN, *Member.*
J. KEITH MANN, *Chairman.*

WASHINGTON, D.C., *December 31, 1962.*

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