

**Report**  
**TO**  
**THE PRESIDENT**  
**BY THE**  
**EMERGENCY BOARD**  
**NO. 173**

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**APPOINTED BY EXECUTIVE ORDER NO. 11442  
DATED DECEMBER 27, 1968, PURSUANT TO  
SECTION 10 OF THE RAILWAY LABOR ACT, AS  
AMENDED**

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**To investigate and report its findings to the President of an  
unadjusted dispute between the Long Island Rail Road Company,  
a carrier, and certain of its employees, represented by the United  
Transportation Union (BRT), AFL-CIO.**

**(National Mediation Board Case No. E-346.)**

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**WASHINGTON, D.C.  
APRIL 21, 1969**

## LETTER OF TRANSMITTAL

WASHINGTON, D.C. *April 21, 1969.*

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

DEAR MR. PRESIDENT:

The Emergency Board created on December 27, 1968, by Executive Order 11442, pursuant to Section 10 of the Railway Labor Act, as amended, has the honor to submit its report.

This Board was appointed to investigate a dispute between the Long Island Rail Road Company, a carrier, and certain of its employees represented by the United Transportation Union (BRT), AFL-CIO. In fulfillment of its obligation the Board has held hearings and considered the evidence and arguments presented by the parties.

The Board acknowledges with deep appreciation the assistance of Beatrice M. Burgoon, Director of the Office of Labor-Management Relations Services of the Department of Labor, and in particular the invaluable assistance of Dana E. Eischen, staff member of that Office, during the hearings and subsequent deliberations.

Respectfully,

FRANK J. DUGAN, *Chairman.*

THOMAS G. S. CHRISTENSEN, *Member.*

GEORGE S. IVES, *Member.*

## **I. HISTORY OF THE EMERGENCY BOARD**

Emergency Board No. 173 was created by Executive Order of the President issued on December 27, 1968, pursuant to Section 10 of the Railway Labor Act, as amended.<sup>1</sup> The President directed the Board to investigate an unadjusted dispute between the Long Island Rail Road and certain of its employees represented by the Brotherhood of Railroad Trainmen, AFL-CIO (since January 1, 1968, the United Transportation Union).

The President appointed the following as members of the Board: Frank J. Dugan, Professor of Law, Georgetown University Law Center, Chairman; Thomas G. S. Christensen, Professor of Law, New York University, Member; and George S. Ives, an attorney and arbitrator from Washington, D.C., Member.

The Board wishes to express its appreciation to Beatrice M. Burgoon, Director of the Office of Labor-Management Relations Services of the U.S. Department of Labor, for valuable services rendered, and particularly for the appointment of Dana E. Eischen as Special Assistant to this Board. Mr. Eischen has rendered indispensable assistance to the Board and the parties throughout the proceedings and in the preparation of this report.

The Board convened in Washington, D.C. on January 3, 1969 for an informal discussion of procedures with the representatives of both parties. Hearings began on January 8, 1969 in Washington, D.C. and continued through January 10, 1969. They were resumed in New York City at the Fordham University Law Center on January 13, 1969 and concluded the same day.

During the hearings, the parties were given ample time and adequate opportunity to present evidence and argument before the Board.<sup>2</sup> The Carrier presented witnesses and evidence through counsel, while the Organization confined its presentation to an opening and a closing statement by its chief representative. The record of the proceedings consists of 247 pages of testimony and 25 numbered exhibits, all of which were introduced by the Carrier.

The Board held private informal meetings with representatives of the parties throughout the hearings and continued these informal discussions intermittently through April 8, 1969. Every conceivable

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<sup>1</sup> The text of the Executive Order appears as Appendix A.

<sup>2</sup> Appearances for the Organization and the Carrier are listed in Appendix B.

approach to a resolution of this dispute was thoroughly explored by this Board, both in Washington and New York. While these many mediatory sessions did not produce a formal agreement, they did contribute to a significant narrowing of the areas of dispute.

Upon successive stipulations of the parties, the President granted four extensions of the time within which the Board was required to file its report. The Board asked for three extensions in the hope that through mediation a tentative settlement could be reached which would provide a framework for this report. The final extension to April 21, 1969, was requested by the United Transportation Union and acceded to by the Carrier and the Board.

## II. PARTIES TO THE DISPUTE

### THE ORGANIZATION

The United Transportation Union, AFL-CIO, a conglomerate labor organization formed by the merger of four national railroad operating unions in January 1969, represents the majority of the operating employees of the Long Island Rail Road.<sup>3</sup> The operating employees involved in the instant dispute, all represented by the Brotherhood of Railroad Trainmen before the merger, are classified as road and yard conductors, ticket collectors, road and yard brakemen, switchtenders, police, and special service attendants in dining and bar cars.

These employees may be classified into those who are engaged in passenger service, freight service and yard service. Conductors and brakemen are used in all three types of service. Switchtenders are used only in yard service. Ticket collectors and special service attendants are found only in passenger service. (The former employees are usually referred to as independent ticket collectors, as distinguished from brakemen in passenger service who are entitled to a collector's rate of pay since they also collect tickets. The passenger service brakemen, however, are commonly called collectors or simply "trainmen.") The police force serves at various points on the Carrier's property and is involved in all classes of service.

There are approximately 205 conductors, 745 collectors and 80 special service attendants employed in Long Island's passenger service. Freight service includes 134 conductors and brakemen while yard service has 228 conductors and brakemen and 58 switchtenders. The police force represented by the UTU numbers 99.

<sup>3</sup> Operating employees are those directly involved in train movement. On January 1, 1969, four of the five railroad operating unions agreed to merge into the United Transportation Union (UTU). The Brotherhood of Locomotive Engineers declined an invitation to join in this merger of the Trainmen, Conductors and Brakemen, Switchmen, and Firemen and Enginemen.

## THE CARRIER

*Physical Characteristics:* The Long Island Rail Road Company operates passenger and freight service by rail from New York City through Jamaica, the major transfer point, to the extreme eastern tip of Long Island at Montauk and Greenport on its Main Line; with branches to the various mid-Island communities. Of the four modes of public transportation available on Long Island (railroad, subway, bus, and air), only the Long Island Rail Road provides through service from the eastern end of Long Island to the western end and into Manhattan.

The various branches of the Long Island Rail Road total 322 miles of main line trackage over which passengers and freight are moved. Multiple-unit electric trains are now operated on the 104 miles of line that are electrified. The remaining system is diesel operated and generally has less dense traffic.

The focal point of the operation is Jamaica, where eight of the nine outlying branches and all three of the New York approaches converge. The main western passenger terminal is Pennsylvania Station, Manhattan, reached by trackage rights through the Penn-Central Railroad's tunnels under the East River from Long Island City. Freight business is interchanged from the several railroads serving New York via car floats operated to Long Island City.

On March 31, 1969, the Metropolitan Transportation Authority, the New York State agency which owns the Long Island Rail Road, acquired Republic Airport on Long Island. As part of a long-range development program, the Metropolitan Transportation Authority plans to link the airport to mid-Manhattan by direct Long Island Rail Road service over existing and proposed tracks, eventually converting the airport into an air-rail-highway transportation center.

The long Island Rail Road has 78 diesel locomotives in service, of which 43 are for multiple purposes and 35 are switchers. With the exception of 24 caboose cars, the Company does not own any freight cars but leases them on a *per diem* basis.

At the end of 1965, a total of 1,208 passenger coaches were in service with a seating capacity of 112,000; 828 of the cars were electric. A total of 370 of the coaches were air-conditioned. Within the last year, the Carrier has ordered 270 new high-performance, air-conditioned electric passenger coaches and introduced about 20 of these into service. Long Island proposes to purchase some 350 additional coaches of this type, thereby permitting retirement of most of its older cars.<sup>4</sup> The Rail Road also has 65 pieces of miscellaneous service

<sup>4</sup> Modernization of the Carrier's passenger car fleet will be financed in large measure by Federal grants under the Urban Mass Transportation Act of 1964, 49 U.S.C. 1601 *et seq.* The implications of this funding will be discussed in detail, *infra*, pp. 24-25.

equipment presently in operation, including cranes and snow removal cars.

The Long Island Rail Road is a Class I railroad subject to the jurisdiction of the Interstate Commerce Commission and the procedures of the Railway Labor Act, but it is owned by the Metropolitan Transportation Authority, a creature of the State of New York and is for all practical purposes an integral part of the metropolitan mass transportation system of New York City.<sup>5</sup> Unlike other Class I rail carriers the long Island is essentially a commuter operation; in fact, it has more commuter traffic than any other railroad in the United States.

Passenger use has been consistently high and comprises the bulk of the Carrier's operating function and revenue. In 1967, passenger revenues accounted for 88.5 percent of the Long Island's combined passenger and freight revenues. In the same year, the Long Island accounted for 27.9 percent of the commuter passengers carried on all Class I railroads in this country, 25 percent of all passengers carried and 11.9 percent of the total revenue passenger miles recorded. In 1967 it carried 74,283,385 passengers—nearly twice the number carried by its nearest rival in passenger volume. These data and other information presented to the Board indicate that the character of traffic on the Long Island Rail Road is indeed dissimilar from that of other Class I rail carriers.

The significance of the Long Island Rail Road passenger service is illustrated dramatically by the fact that in spite of expenditures of over \$600,000,000 for highways and additional hundreds of millions of dollars for auto tunnels and bridges on Long Island since the end of World War II, the Long Island Rail Road today still carries two-thirds of the commuters from Nassau and Suffolk who work in Manhattan.

On the average, 220,000 two-way passengers use the railroad each day and most of these riders are commuters who travel from their suburban homes to Manhattan and return each weekday. The Carrier also serves a significant volume of reverse-commuters—people commuting daily from Manhattan and Brooklyn eastward to factories and domestic jobs. Approximately one thousand students also use the railroad, some travelling locally to central district high schools, while many travel to colleges and universities in Brooklyn and Manhattan. Most of these commuters travel during the two daily rush hour periods—the 6:30 to 9:30 a.m. westward movement toward New York City and the 4:00 to 7:00 p.m. eastward movement toward Long Island.

<sup>5</sup> A Class I rail carrier is one which had average gross revenues of at least \$5 million during the previous 3-year period.

In comparison to the operations of other commuter rail service in the New York metropolitan area, passenger volumes on the Long Island have remained relatively stable. But as table 2 illustrates, passenger miles traveled have been increasing, reflecting the longer commuting distances to Manhattan from the outlying suburban development under way.

TABLE 1.—*Comparison of Service Characteristics of LIRR and All Class I Railroads, 1967*  
[In thousands]

	LIRR	Class I Railroads
Passenger Revenue.....	\$68, 749	\$485, 224
Freight Revenue.....	\$8, 948	\$9, 130, 300
Combined Passenger and Freight Revenue.....	\$77, 697	\$9, 615, 524
Passenger Revenue as a Percent of Combined Pass. and Freight Revenue.....	88. 5	5. 04
Passenger Volume.....	74, 283	296, 995
Percentage of Passengers on All Class I Railroads Carried by LIRR.....	25	
Commuter Volume.....	55, 694	198, 916
Percentage of Commuters on All Class I Railroads Carried by LIRR.....	27. 9	
Revenue Passenger Miles.....	1, 821, 203	15, 201, 143
LIRR Revenue Passenger Miles as a Percentage of Revenue Passenger Miles of All Class I Railroads.....	11. 9	

Source: I.C.C., Statement No. Q-220: Revenue Traffic Statistics of Class I Line Haul Railroads in the United States.

TABLE 2.—*Long Island Railroad Passenger Traffic—Selected Years*

Year	Total passengers carried	Passenger miles
1950.....	83, 585, 949	1, 666, 109, 145
1955.....	76, 427, 144	1, 609, 100, 881
1960 (strike year).....	64, 378, 591	1, 476, 538, 546
1961.....	69, 102, 133	1, 612, 392, 103
1962.....	71, 282, 813	1, 688, 113, 516
1963.....	71, 512, 826	1, 713, 957, 236
1964 (World's Fair year).....	77, 549, 039	1, 810, 000, 044
1965.....	73, 994, 982	1, 764, 898, 680
1966.....	73, 654, 536	1, 776, 623, 806
1967.....	74, 283, 385	1, 821, 203, 000

Source: I.C.C., *Transport Statistics in the United States, Part I*, various years.

Although the Long Island has direct interchange with all trunk line railroads serving the New York metropolitan region, freight service amounts to a relatively small proportion of the Long Island's total operation. In sharp contrast to other railroads, freight accounts for only a minor portion of gross revenue. In 1967, freight revenue was less than one-ninth of the total operating revenue of the Carrier. Of the freight which is handled by the railroad, almost 75 percent is inbound for consignees on Long Island.

All of these operating and traffic data point to the same conclusion; namely that the Long Island Rail Road is an a typical Class I rail carrier. It is an integral part of the New York metropolitan transit system and forms a vital commuter link essential to that system.

*Financial Characteristics.* Commuter business is generally operated at a loss; the Long Island Rail Road's history of unprofitability is a matter of public record.<sup>6</sup> As a wholly owned subsidiary of the Pennsylvania Railroad Company, the Long Island was in bankruptcy during the years 1949 to 1954. Following this, its certificate of incorporation was amended, with the cooperation of the Pennsylvania Railroad, to give the Long Island the status of a "redevelopment corporation" pursuant to special legislation authorizing the Long Island Transit Authority (a state agency) to develop a plan to rehabilitate the railroad.

For the twelve years ending in 1966, the Long Island operated under this unique corporate status. Despite state action in the form of subsidies, tax relief, and fare privileges, the physical and financial deterioration of the railroad continued. Finally, in order to preserve the vital commuter service provided by the Long Island, the New York State legislature established a public corporation, the Metropolitan Commuter Transportation Authority (since March 1, 1968 the Metropolitan Transportation Authority) with power to acquire and operate the Long Island Rail Road and other commuter systems within the transportation district comprised of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Pursuant to an agreement made in December 1965, the Metropolitan Transportation Authority, on January 20, 1966, purchased all of the outstanding capital stock of the Long Island from the Pennsylvania Railroad at a cost of sixty-five million dollars. In concurrent transactions the Long Island Rail Road conveyed to subsidiaries of the Pennsylvania a portion of railroad in Brooklyn known as the "Bay Ridge branch" and air rights over its Long Island City yards.

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<sup>6</sup> The financial difficulties of the Long Island have previously been documented by Presidential Emergency Boards No. 129 and 170.



Since this purchase in 1966, the members of the Metropolitan Transportation Authority have served as the Board of Directors of the Long Island Rail Road. Yet despite a substantial infusion of new capital and a series of fare increases (the most recent increase was initiated on March 22, 1968), the financial position of the Long Island has continued to deteriorate. In 1967 the cash operating loss before depreciation was \$7 million, and the total net operating loss was \$10.4 million. The Carrier estimates that 1968 losses will approximate those of 1967.

TABLE 3.—*Long Island Rail Road Operations, 1967*

Revenue Passenger Miles.....	1, 821, 203, 129
Total Passengers Carried.....	74, 283, 385
Commuters Carried.....	55, 694, 104
Freight Revenue.....	\$8, 947, 897
Passenger Revenue.....	\$68, 636, 553
Total Freight and Passenger Revenue.....	\$77, 584, 450
Total Operating Revenues.....	\$80, 766, 193
Total Operating Expenses.....	\$82, 798, 646
Ratio of Operating Expenses to Revenues (percent).....	102. 52
Net Revenue from Railway Operations (Deficit).....	\$2, 032, 453
Railway Tax Accruals.....	\$5, 165, 935
Equipment Rentals and Other Rents.....	\$3, 734, 730
New Railway Operating Income (Deficit).....	\$10, 879, 007
Miles per Revenue Passenger.....	24. 5
Revenue per Passenger Mile.....	\$. 0377
Revenue per Passenger.....	\$. 9255

Source: I.C.C., *81st Annual Report on Transport Statistics in the United States, 1967*.

As heretofore mentioned and documented, the Long Island Rail Road is experiencing a continuing physical and economic decline. Consequently there is little doubt that the Carrier is in a precarious financial position.

*Public Subsidization of Commuter Operations.* Commuter operations are increasingly assuming the aspects of a public service conducted by the railroads with the assistance of Government. Many public transportation officials have long recognized the necessity of subsidies to maintain vital commuter systems. And on February 14, 1969, the board of directors of the Association of American Railroads unanimously endorsed the concept of public subsidies as a logical solution to passenger train deficits—thereby reversing an historical industry position. In this connection it is important to note that the Long Island Rail Road has operated as a substantial annual loss for many years. Furthermore, federal, state and local governments have directly or indirectly subsidized the operations of the Long Island Rail Road since 1954.

Labor related expenses aside, the largest single cost item among the Carrier's operating expenses is expenditures for maintenance of equipment. In 1967, according to Interstate Commerce Commission data the Long Island had an outlay of over nineteen million dollars for the care and repair of its outdated equipment and over ninety percent of that expense was related to passenger equipment. In an effort to update and improve this passenger equipment, the Metropolitan Transportation Authority has embarked on a modernization program which calls for replacement of most of its present car fleet, electrification of trackage and, eventually, mechanized passenger handling. These improvements on the Long Island are part of a larger metropolitan and regional transportation improvement program being carried out by the Metropolitan Transportation Authority and the Tri-State Transportation Commission with state and federal funds.

In furtherance of its modernization goal, the Long Island has already received over \$30,000,000 from the Federal Department of Housing and Urban Development for various projects, including electrification of 16 miles of track, testing of a turbine-powered rail car, and a year-long demonstration of an automated fare collection system of the type already in use on the Illinois Central Railroad in Chicago.

The Long Island Rail Road, through the Metropolitan Transportation Authority, currently has two additional grant applications being processed by the U.S. Department of Transportation.<sup>7</sup> One of these grant requests is for two million dollars to repair and refurbish 70 older passenger cars and the other is for fifty-six million dollars for the purchase of 350 new passenger coaches to match the 270 already ordered.

### III. HISTORY OF THE DISPUTE

Prior to 1960, the Long Island Rail Road participated in the national bargaining between the various Class I railroads and the Brotherhood of Railroad Trainmen. Since that year the Organization and the LIRR have bargained locally except with regard to pensions.

The present dispute began on July 2, 1968 when the Organization served a notice under Section 6 of the Railway Labor Act, as amended, requesting *inter alia* a general wage increase of ten percent; a job protection program calling for a guaranteed number of positions; an improved supplemental pension program; improved personal leave and holiday benefits; 15 weeks' sabbatical leave after every five years

<sup>7</sup> Most urban mass transportation functions under the Urban Mass Transportation Act were transferred from the Department of Housing and Urban Development to the Department of Transportation by Reorganization Plan No. 2 of 1968 (33 Fed. Reg. 6965).

of service; and a 4-day, 32-hour workweek. In addition to these general demands, the Organization submitted detailed demands pertaining to each class of service represented (passenger, yard and freight) as well as for police and special service attendants. In total, some 48 requests for changes in the current negotiated agreement were presented by the Organization.<sup>8</sup> These changes were to be made effective October 1, 1968 with a 1-year moratorium on further changes.

Subsequently, on August 1, 1968, Section 6 proposals were served by the Carrier on the United Transportation Union.<sup>9</sup> The various counterproposals of the Carrier essentially amount to requests for: elimination of the dual basis of pay in train service (miles in addition to time) with establishment of a pay structure based on continuous elapsed time on assignment; elimination of all arbitrary and special allowance payments (except as provided by the June 1964 National Agreement) in road and yard service; and a comprehensive elimination of existing rules which the Carrier considers restrictive of interservice movement or assignment of train crews in light of its modernization program.

Negotiations were held by the parties intermittently through September 30, 1968, the eve of a proposed strike by the Organization, when the Long Island requested National Mediation Board assistance in the dispute. The National Mediation Board docketed the case as E-346 and assigned a staff mediator to assist in the bargaining. Mediation commenced on October 22, 1968 and continued through November 20, 1968, when the National Mediation Board advised the parties that its mediation efforts had been unsuccessful and proffered arbitration. The Organization declined the National Mediation Board's inducement to arbitrate and on November 27, 1968, the National Mediation Board notified the parties that it was formally terminating its services. A legal and peaceful withdrawal from service was therefore set for December 28, 1968 by the Organization.

The National Mediation Board then notified the President that in its judgment this dispute threatened substantially to interrupt interstate commerce so as to deprive a section of the country of essential transportation service. The President thereupon created this Emergency Board on December 27, 1968. It should be noted that both parties had requested the appointment of a Presidential Emergency Board as a means toward settling their dispute.

<sup>8</sup> See Appendix C for the Organization's Section 6 notice.

<sup>9</sup> See Appendix D for the Carrier's Section 6 notice.

#### IV. BACKGROUND OF THE DISPUTE

It is clear that one of the major obstacles in this collective bargaining relationship is the historical and continuing financial decline of the Long Island Rail Road. Further elaboration on this point would be belaboring the obvious.

A problem not unrelated to the financial one, but in some ways distinct, is the ongoing deterioration of labor relations between the parties to this dispute. An acceleration of this deterioration in recent years is evidenced by the fact that this is the third Presidential Emergency Board appointed since 1960 in the last four bargaining rounds between this Carrier and this Organization.

Technological changes, both present and proposed, which may result in a substantial loss of jobs are a source of great concern to many of the employees and employee organizations. Another important factor is the personal friction existing between certain officials of the Metropolitan Transportation Authority and the United Transportation Union.

Both parties to the dispute have indicated reception of a rising volume of commuter complaints. This irate chorus has been seconded by the media and verified by the deluge of angry letters received by this Board from passengers blaming both labor and management for the "abominable service and overall decline" of the Long Island Rail Road. In a word, the public has said, "A plague on both your houses."

These then are the realities of the bargaining context in this dispute: the Carrier is in precarious financial straits; the Organization is fearful of the impact of technological change; there is personal as well as institutional friction between the parties; and the Public is becoming increasingly militant but cannot be said to be allied to either party to the dispute.

#### V. THE ISSUES

The Organization originally raised some fifteen general issues as well as thirty-three demands related to special classes of service; subsequent proposals from the Carrier raised an additional five issues.<sup>10</sup> None of these issues was resolved by negotiation or mediation. The Organization, however, withdrew several proposals during the hearing, thus leaving some forty-six issues on which material was received for the record.

During the hearings and the subsequent mediation sessions the areas of dispute were substantially narrowed. It soon became apparent that the fundamental issues before the Board were few but they were

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<sup>10</sup> See Appendices C and D.

basic and to a large degree interlocking. These respective issues are:

For the Organization:

1. A general wage increase.
2. Employment security in the face of technological change.
3. Improved pensions, a 32-hour workweek or sabbatical leave.

For the Carrier:

1. Restructuring of the wage system.
2. Elimination of work rules which allegedly restrict operating efficiency and cost savings.

## VI. CONCLUSIONS

1. The Long Island Rail Road is an extension of the publicly owned New York City rapid transit system.

2. Even though some freight traffic is handled by the railroads, it is *de minimus* and a highly unprofitable operation which may well die out in the foreseeable future.

3. The Metropolitan Transportation Authority, a creature of the State of New York, is the owner of the Long Island Rail Road and is engaged in sweeping modernization programs which are designed to eventually integrate the Long Island Rail Road into a unified New York City mass transportation system.

4. During this period of rapid transition and technological change, employees are properly and duly concerned with such issues as wages, job security, health and welfare, and additional retirement benefits. Conversely, the Carrier properly seeks relief from many archaic work rules which are no longer appropriate to the present commuter operations of the railroad and much greater flexibility under present authority to utilize its work forces efficiently.

5. It is undisputed that commuter railroad operations are essential to modern metropolitan life. In this connection it should be noted that the Long Island Rail Road relies solely on commuter traffic, an unprofitable phase of railroad operations. Hence, the Board must conclude that direct and indirect public subsidies are required to insure this necessary commuter operation and that such subsidies cannot be confined to capital expenditures.

## WAGES

The Organization originally sought a general wage increase of ten percent for all covered employees in a one-year contract effective October 1, 1968. The Carrier initially opposed any wage increase because of the continuing financial losses incurred in its operations and the fact that the employees involved are currently among the highest paid in the railroad industry. Numerous mediation sessions with the

parties disclosed that the Carrier was not unalterably opposed to a general wage increase if certain work rules contained in the existing collective bargaining agreement were eliminated or substantially modified.

Among the proposed changes in the present agreement sought by the Carrier are: the abolition of arbitraries and other special allowances paid to various classifications of employees; elimination of the dual system of computing compensation, presently based on mileage in addition to hours, for affected operating employees; greater flexibility as to the Carrier's right to transfer employees from position to position, including the authority to interchange employees irrespective of present job classification; and finally, continued authority to eliminate present positions through attrition, as hereinafter more fully discussed.

Although the parties did not reach final agreement concerning a reasonable increase in wages in return for proposed changes in existing work rules, the subject matter was thoroughly explored throughout innumerable mediation sessions with this Board and various proposals were discussed.

*Cost of Living.* Despite the advantageous wage position which the Long Island Rail Road trainmen presently enjoy in the railroad industry, the fact remains that rising inflationary pressures in the economy and particularly the high cost of living in the metropolitan New York area have substantially compromised this apparent wage advantage. As evidence of this fact, U.S. Department of Labor statistics released in March 1969 indicate that the consumer price index has risen by 5.6 percent in the metropolitan New York City area since February 1968.<sup>11</sup> Thus, it is apparent that specific economic relief to offset this rising cost of living should be included in any way agreement reached by the parties.

*Work Rules.* In summary, the Carrier's Section 6 notice requests the elimination or substantial modification of some sixty work rules contained in the current collective bargaining agreement between the parties. Mediation sessions reveal that the Carrier is willing to share with its employees any savings which may be derived from the elimination or modification of existing work rules which are considered by the Carrier to be archaic, costly and serious impediments to efficient operation and technological change.

The Board is impressed by the expressed desire of the Organization to fully cooperate with the Carrier in its efforts to modernize service on the Long Island Rail Road. Although the Organization opposes a

<sup>11</sup> U.S. Department of Labor, Bureau of Labor Statistics, *Prices in February and Preliminary March Trends*, page 7, March 25, 1969.

blanket abolition of disputed work rules in the present collective bargaining agreement, it indicated willingness to consider changes in specific rules which have been in existence for many years. It is evident to the Board that the Organization expects to receive adequate compensatory relief in return for agreement to eliminate or change any specific rules which are contained in the present collective bargaining agreement between the parties.

The current work rules agreement between the parties is the product of many years of collective bargaining. It is unrefuted that many rules contained therein are outmoded and, in fact, irrelevant insofar as current operations are concerned. Although the Board finds much merit in the Carrier's desire to update the rules agreement, the comprehensive nature of its demands requires extensive study and discussion between the parties. For example, the record before us reveals that the Carrier is presently unable to furnish the Board with specific financial data as to the savings which may be realized through the elimination of various work rules, the concomitant managerial efficiencies that will result therefrom, or the economic impact upon affected employees.

It was apparent to the Board that time would not permit such a comprehensive study prior to the date upon which the Board is required to file its report. Accordingly, in the absence of such relevant data, the Board suggests to the parties that a Joint Committee be established composed of an equal number of representatives from each side to review the current work rules agreement, particularly those rules encompassed in the Carrier's Section 6 notice. The Board further suggests that the proposed committee be required to recommend rules changes to the parties based upon its study within a period of six months from the date of its establishment. Moreover, an additional wage adjustment should be negotiated by the parties during the term of any new collective bargaining agreement to reflect an equitable distribution of all savings that can be anticipated from the abolition or change of existing work rules made pursuant to the recommendations of this Joint Committee.

#### **JOB PROTECTION**

Of equal importance to present employees of the Long Island Rail Road represented by the United Transportation Union is the subject of job security, particularly in light of present and future technological changes already programmed by the Carrier with financial assistance from the State of New York and from federal government under the Urban Mass Transportation Act of 1964, 49 U.S.C. 1601, *et seq.*

The Carrier is cognizant of the federal requirements with respect to job protection under the Urban Mass Transportation Act. Section 13(c) of that statute requires the Carrier to provide minimum protective conditions, including job security for all affected employees, before the Carrier is eligible to obtain federal subsidies under the Act.<sup>12</sup>

The Carrier agrees to extend to all present employees a guarantee of a job, but insists upon the right to transfer employees from one class of service to another whenever the exigencies of day-to-day operations require. The Organization seeks a minimum guarantee of passenger service positions to be maintained during the term of any new collective bargaining agreement.<sup>13</sup> This demand for additional protection arises out the mechanization, automation, and electrification plans already in various stages of development by the Carrier. In fact, neither party at the present time can accurately predict the ultimate impact upon the present work force. The Carrier is now reducing its work force through the natural forces of attrition. It is anticipated that further reductions in the work force will necessarily result from the above-mentioned modernization programs.

During our mediation sessions it became apparent that the Carrier was considering the merits of the Organization's position-guarantee proposal. Such a requirement would offer security during this period of rapid technological transition and thus alleviate understandable anxiety on the part of present employees. Moreover, this protective device should not unduly inhibit the Carrier in its continuing effort to modernize the operations of the railroad. We are hopeful that the parties will continue negotiations towards the establishment of a minimum number of positions to be maintained during the term of a new collective bargaining agreement.

#### PENSION PLAN

Throughout this proceeding the Organization has urged the adoption of an additional supplemental pension program which would provide retirement at half pay, at age 55, after twenty years of service. The Carrier has properly objected to the inclusion of pension demands by the Organization in current negotiations because of an existing moratorium rising out of a National Agreement dated August 24, 1966, which provides that the parties thereto would sup-

<sup>12</sup> The Carrier through the Metropolitan Transportation Authority is currently signatory to an agreement pursuant to Section 13(c) of the Urban Mass Transportation Act, dated February 28, 1967, with this Organization and others guaranteeing to its employees, as a minimum, the protective provisions first enumerated in the *New Orleans Union Passenger Terminal Case*, 282 I.C.C. 271 (January 16, 1952).

<sup>13</sup> The guarantee of positions sought by the Organization must be distinguished from a guarantee of the job held by any particular employee. Such a minimum guarantee of positions would be unaffected by the processes of attrition as the Carrier would be required to fill any vacated position during the term of the agreement.



port federal legislation establishing a system of annuities supplemental to those provided by the Railroad Retirement Act and providing that no further demand with respect to pensions would be made by either party thereto for the ensuing five years. Thereafter, in November 1966, such legislation was enacted by the Congress, and the Carrier is presently making payments for supplemental annuities of two cents per hour per employee (in addition to the 8.95 percent of an employee's first \$7,800 of wages pursuant to the Railroad Retirement Act).

Nevertheless, the parties have continued to discuss the broad questions of supplemental pensions. The outcome of such discussions was general agreement between the parties herein that all Organizations representing employees of the Long Island Rail Road should join with the Carrier in a feasibility study to determine if existing New York State pension plans covering transit employees can be extended to all employees of the Carrier. The purpose of such a pension program would be to achieve parity between the total benefits received by other transit employees of the Metropolitan Transportation Authority and the employees of the Long Island Rail Road.<sup>14</sup> The Board is of the opinion that the proposed feasibility study merits further consideration by the parties.

#### **SICK LEAVE AND HEALTH AND WELFARE**

This Carrier contributes \$43.27 per month for each UTU-represented employee to a health and welfare plan which provides sick leave benefits in addition to benefits similar to those provided in the national plan.<sup>15</sup> The Organization urges amendments and improvements in the current sick leave benefits provided for in the health and welfare plan, which is administered solely by the UTU, as well as a five dollar increase in the Carrier's monthly contribution for each employee eligible to participate in the UTU Health and Welfare Plan.

Under the present sick leave provisions, for UTU-represented employees, an individual receives eighty dollars per week for all weeks during his absence, with the exception of the first seven days, up to a maximum of one year. The Organization has urged the adoption of a plan similar to one in effect for certain non-operating employees of the Long Island Rail Road, providing for continuation of full pay for the first day of absence due to illness up to a maximum of sixty days. It is the Carrier's position that experience has shown that the lack of a

<sup>14</sup> Employees of the New York City Transit Authority, another of the properties under the jurisdiction of the Metropolitan Transportation Authority, currently enjoy a pension plan providing for retirement at half pay at age 50 with twenty years of service.

<sup>15</sup> The national health and welfare agreement covering other Class I railroads does not provide for sick leave benefits.

waiting period during which an employee does not receive benefits is conducive to costly abuse under the non-operating employee plan. The parties are currently negotiating the feasibility of adopting the benefit provisions of the non-operating employees' health and welfare plan with a mandatory waiting period.

The Organization relies on continually increasing hospital and medical costs in support of a demand for a five dollar increase in the Carrier's monthly health and welfare contribution for each UTU-represented employee. The Organization asserts that such an increased contribution is essential to merely keep the program financially sound at current benefit levels. Such a contention appears reasonable in view of the 8.7 percent increase in medical costs in the New York City metropolitan region in 1968, with an additional 2.4 percent increase in January of 1969.<sup>16</sup> Although this demand was not specifically included in the Organization's Section 6 notice, the parties fully discussed it during many negotiating sessions. Accordingly, the Board sees merit in this demand to keep the present plan financially viable.

#### **SPECIAL SERVICE ATTENDANTS AND PATROLMEN**

Various demands were introduced by the Organization on behalf of Special Service Attendants and Patrolmen; separate work classifications which are also represented by the United Transportation Union for purposes of collective bargaining.

As to the Special Service Attendants, we would recommend that further consideration be given to the merger of their seniority roster with that of trainmen.

As to Patrolmen, a primary demand is for comparable basic rates of pay with those of patrolmen employed by the New York City Transit Authority. The Carrier does not reject this proposal out of hand, but insists that such an increase in the Long Island Rail Road patrolmen rates be coupled with greater flexibility in the utilization of its patrolmen. It is suggested that the parties negotiate an agreement reflecting both of these principles.

#### **DURATION OF THE CONTRACT**

The Carrier urges that any new agreement be for a period of at least three years from the date consummation, whereas the Organization originally urged that the contract be confined to a period of one year to commence from the lifting of the moratorium on changes in the present contract on October 1, 1968. In view of the comprehensive nature of the proposed contractual changes as well as the need for

<sup>16</sup> U.S. Department of Labor, Bureau of Labor Statistics, *Consumer Price Index—New York*, February 25, 1969.

greater stability in labor-management relations, a new contract to run for a period of at least two years dating from January 1, 1969 appears reasonable to the Board.

### **OTHER DEMANDS**

The Board has reviewed only those major issues involved in the dispute as revealed by the numerous mediation sessions conducted subsequent to the public hearings. Many other items included by both parties in their respective Section 6 notices do not warrant separate discussion herein. We recommend that all such proposals and counter-proposals be withdrawn by the parties unless they can agree to the inclusion of any such items in the ultimate settlement of this dispute.

### **VII. CLOSING STATEMENT**

Throughout these proceedings it has been apparent to the Board that the Carrier is seeking to modernize and improve commuter traffic by drastic technological changes on the Long Island Rail Road. While the Organization is ready and willing to assist the Carrier in such efforts toward improved service, it is evident that the Organization is properly concerned with the present and future economic welfare of its membership. Moreover, it is readily understandable that the Organization is apprehensive concerning any radical technological changes without accompanying protective provisions in the collective bargaining agreement.

Both parties are mindful of the public interest in a satisfactory resolution of this dispute without interruption to vital transportation services. The desire of both parties to resolve their basic differences is best demonstrated by the four extensions of time granted this Board before the filing of its report. During this four month period exhaustive efforts have been made to resolve basic issues involved in this dispute. The Board has endeavored to outline in this report a framework within which a final resolution of the dispute may be reached by the parties.

Management of the Long Island Rail Road has undergone complete reorganization since the last collective bargaining agreement was negotiated, whereas the Organization's leadership remains unchanged. Implicit in the present situation is the need for greater understanding by each party of the problems confronting the other. The Board believes that the many mediation sessions it has conducted have offered an opportunity to the parties for an expression of their objectives as well as their apprehensions concerning the implementation of necessary operational and technological changes.

We strongly urge the parties to continue their discussions of the fundamental issues involved in this dispute during the next thirty days and to negotiate a viable agreement.

Respectfully submitted,

FRANK J. DUGAN, *Chairman.*

THOMAS G. S. CHRISTENSEN, *Member.*

GEORGE S. IVES, *Member.*

WASHINGTON, D.C., *April 21, 1969.*

## **APPENDIX A**

### **EXECUTIVE ORDER 11442**

#### **CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE LONG ISLAND RAILROAD AND CERTAIN OF ITS EMPLOYEES,**

WHEREAS, a dispute exists between the Long Island Railroad and certain of its employees represented by the Brotherhood of Railroad Trainmen, 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 the dispute within thirty days from the date of this order.

As provided by Section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the Board has made its report to the President, no change, except by agreement, shall be made by the Long Island Railroad, or by its employees, in the conditions out of which the dispute arose.

/s/ LYNDON JOHNSON.

THE WHITE HOUSE,  
*December 27, 1968.*

## **APPENDIX B**

### **APPEARANCES**

#### **FOR THE UNITED TRANSPORTATION UNION**

HAROLD J. PRYOR, *General Chairman*

H. T. BURKE, *Vice Chairman*

CHARLES J. QUINN, *Local Chairman, Yard Service*

MICHAEL MOLINI, *Local Chairman, Police Department*

#### **FOR THE LONG ISLAND RAIL ROAD COMPANY**

ARTHUR T. VAN WART, *Director of Personnel Relations*

JAMES T. GALLAGHER, *Counsel*

THOMAS P. MOORE, *Comptroller*

GEORGE M. ONKEN, *General Counsel*

## **APPENDIX C**

### **THE ORGANIZATION'S PROPOSALS**

#### **I. General Demands**

1. Ten percent increase in all classes of service, to be effective October 1, 1968.
2. Pension Program : Retirement at half pay at age fifty-five after twenty years of service, to be effective October 1, 1968.
3. Four Day—Thirty-two Hour Work Week, to be effective October 1, 1968.
4. Double time and one-half in all classes of services for overtime work and work on holidays, to be effective October 1, 1968.
5. Fifteen weeks sabbatical leave with pay after every five years of service in all classes of service. This sabbatical leave to be cumulative.
6. Sick Leave Agreement comparable to agreements previously negotiated on the Long Island Rail Road.
7. Three additional holidays including a man's birthday in all classes of service.
8. Personal leave of absence of three days for death in immediate family.
9. Dental Program paid for entirely by the Long Island Rail Road Management.
10. Job Protection Program.
11. Free Uniforms.
12. Negotiate three hours in place of two for claim agent, as Company is now using outside insurance companies at the men's homes at night.
13. Make men whole for examination before jury duty.
14. Night pay differential.
15. Guaranteed extra list in all classes of service.

#### **II. Passenger Service**

1. Elimination of Rule 20(c).

#### **III. Yard Service**

1. Increase the 95¢ air hose arbitrary allowance from 95¢ per tour of duty for all yard brakemen and conductors to \$1.79 per tour of duty for all yard brakemen and conductors. This is to be done in accordance with Arbitrator R. O. Boyd's statement that the 95¢ rate should have been increased by each wage increase since the inception of the Cheney Award.
2. Arbitrary of \$1.05 for switchtenders (in lieu of yard brakeman's rate of pay) paid for each tour of duty be increased to \$1.79 per tour of duty.
3. Negotiate a make whole rule for yard brakemen and switchtenders when used as conductors.
4. A basic day paid to a regular or extra employee for a holiday on which no service is performed will be considered a day of service in the application of the five day week rules for the purpose of accumulating straight time days.
5. A yardman's relief days following a vacation period will be paid for at the punitive rate of pay.

6. A tour or tours of duty performed by yardmen in road service will be considered a day or days of yard service under the present yard rules.
7. Yardmen's vacation agreement to be changed (to be consistent with the road freight and passenger agreement) to read as follows:

"Yardmen qualifying for a vacation of one, two, three, four or five weeks' vacation shall be paid 1/52 of the previous year's earnings for each week of vacation but not less than six (6) days of pay at the rate of the last service rendered for each week of vacation."

#### **IV. Freight Service**

1. Annulment of assignment—one day's pay.
2. All assignments on mark-up except for emergency (wreck, derailments, engine failure).
3. Time and one half for the sixth and seventh day.
4. Increase the 80 to 100 car rate from the present amount to \$1.00.

#### **V. Special Service Attendants**

1. Job security: Merger agreement with trainmen.
2. Vacations: Three weeks after five years, four weeks after ten years.
3. Consider mileage rate in light of increased schedule reductions.
4. Change Section 2B-1 Line Two to read "Consulted" instead of "Advised."

#### **VI. Patrolmen**

1. Same rate of pay as the New York City Transit Police Department.
2. Court time changed from three hour minimum to eight hours at pro rata for every appearance in court and claim department and law department on relief days.
3. Outlaw Pay: When an officer works more than 16 hours and is cut off by a supervisor and cannot cover his regular job the officer is to be paid for his regular job—eight hours pay at pro rata pay.
4. All tests for sergeant to lieutenant to be changed from having seniority as a sergeant to—each sergeant must have worked thirty days as a sergeant to be eligible to take a test for lieutenant.
5. If a patrolman passes a test for sergeant examination the carrier will be given 90 days to appoint him to a sergeant's class and if not appointed in 90 days the carrier will pay a day's pay at sergeant's rate for every day worked as a patrolman. This to include sergeants who take a lieutenant's test.
6. Insurance to be taken out by the carrier on all radio cars to cover all officers of the police department for medical and hospital bills for injuries sustained by driver or any passengers.
7. Insurance to be taken out by the carrier to cover all officers injured while making arrests and also while performing their normal duties.
8. All positions put up for bid and said position or positions are awarded these positions cannot be abolished before 30 days from the date awarded to the officer.
9. When a vacancy arises said position to be covered and will not be blanked. If an officer on said post cannot double and relief day officers cannot be contacted to cover said position then this position will be covered by any officer according to seniority from any other post.



10. Twenty minute meal period to be changed to sixty minute meal period and to be paid by the carrier for each eight hour tour of duty.
11. An officer called for extra work on his relief days will be given his choice of positions that are open.
12. All radio patrol cars to have two men in each car on all tours and two men at all terminals on all tours.
13. At all terminals a headquarters room will be established and a desk and typewriter, telephone, lockers for all patrolmen and a suitable sanitary facility furnished. (Wash rooms and good drinking water.)
14. All officers covered by its agreement to be paid portal to portal pay for all appearances in all courts.
15. Detective Division to be included in all rules covered in this agreement.
16. Detective grades to be established: First, Second, Third Grades. Detective Third Grade to be paid in excess of a First Grade Patrolman.  
Detective Second Grade to be paid comparable to Sergeant.  
Detective First Grade to be paid comparable to Lieutenant.
17. The carrier shall establish and maintain a suitable firing range for the use of all members of the Police Department and all revolvers which are issued by the carrier to be inspected and must be in first class operating condition. Any revolver found to be faulty must be replaced with a new revolver.

## APPENDIX D

### THE CARRIER'S COUNTERPROPOSALS

#### I. Basis of Pay

- A. Eliminate any agreement, rule, regulation or interpretation however established applicable to any class or grade of train or yard service employees, which:
1. Provide for rates or basis of pay, daily earnings or daily, weekly or monthly guarantees,
  2. Provide for arbitrary payments, or special or constructive allowance, which conflict with the payment of single time in miles or hours from the time called to report (reporting on) for duty until released from duty, or
  3. Impose restrictions on daily, weekly, monthly or annual earnings through the limitation of miles run or paid for, hours worked or paid for, or compensation received.
- B. Establish a rule that provides that:
1. Train service employees used in road service, including all miscellaneous and unclassified services, shall only be paid single time in hours from the time called to report (reporting on) until released from duty at the end of the trip or tour of duty, as follows:
    - a. All time on duty shall be paid on a minute basis at the straight time hourly rates currently provided for in Rules 5, 1, 36, 33 and 34.
    - b. Overtime shall not commence or accrue until the expiration of eight consecutive hours from time of first reporting for duty except in passenger service the present eight within nine shall be still in effect and paid straight time (pro rata) on a minute basis for all time in excess of nine hours until released.

All time in excess of eight hours in all service other than passenger shall be paid at the rate of  $1\frac{1}{2}$  times the current hourly rate.
  2. Train service employees used in yard service shall be paid only single time from the time called to report (reporting on) for duty until released from duty, at the straight time hourly rates currently provided for in Rule 75. Overtime shall be paid after the expiration of eight consecutive hours at the rate of  $1\frac{1}{2}$  times the hourly rate.

The intent of the foregoing rule is to assure that no employee paid pursuant thereto shall receive any other or additional compensation for any service performed during his tour of duty. Eight consecutive hours shall constitute a day's work and payment therefor shall be for all services rendered therein.

The foregoing new rule abrogates, if not modifies, at least but not limited to, the following rules: Rules 1, 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, 15, 23 and its interpretation, 33, 34, 35, 36, 37, 39, 40, 41, 42, 43, 51, 64, 75, 76, 96, 101, 107, 112, 114 and 135.

## II. Road Train Service Assignments

- A. Eliminate any agreements, rules, regulations or interpretations, however established, applicable to any class or grade of road train service employees which prohibit or impose restrictions on the right of the Carrier to establish, move, consolidate or abolish crew terminals.
- B. Establish a rule to provide that:  
The Carrier shall have unqualified right to establish, move, consolidate, and abolish crew terminals. The foregoing new rule abrogates, if not modifies, at least but not limited to, Rule 67.

## III. Combination of Road and Yard Service

- A. Eliminate all agreements, rules, regulations, or interpretations, however established, applicable to any class or grade of train or yard service employees, except as may otherwise be provided by the June 25, 1964, National agreement which rights thereunder Carrier herewith preserves, which:
  - 1. Prohibit or impose restrictions on the use of road crews to perform any and all switching or station work whether or not such switching or station work is in connection with their own trains.
  - 2. Prohibit or impose restrictions upon the use of yard crews to perform road work, or to perform service outside of switching limits.
  - 3. Provide for arbitrary payments, special or constructive allowances or penalty payments to any employee, or class or grade of employees, when road or yard crews perform any of the above described work.
  - 4. Prohibit or impose restrictions on the right of management to designate or change switching limits or to establish or abolish yard assignments.
- B. Establish a rule to provide that:
  - 1. Road service crews will perform any and all switching and/or station work as required of them at any point and at any time during their tour of duty. When so required and so performed, such work as performed by road crews shall be paid for only as part of the road day or trip and no additional compensation for such work shall be paid or claimed whether or not yard crews are on duty when and where the work is performed.
  - 2. Yard crews, where employed, may be required to perform both road and yard service; and where switching limits are established may be required to perform service outside such switching limits. When service is performed by a yard crew as provided herein, such work shall be paid for as part of the yard day or tour of duty and no additional compensation shall be paid for such work under either road or yard rules. The provisions of Paragraph 2 shall apply whether or not road crews are available when and where the work is performed.
  - 3. When road crews perform switching or station work as provided in Paragraph 1 of this rule, no yard crews shall be entitled to any penalty pay or other compensation; nor shall road crews be entitled to any penalty pay or other compensation when yard crews perform road work or perform service beyond switching limits as provided in Paragraph 2.
  - 4. Management shall have the exclusive right to designate and change switching limits and to establish and abolish yard service assignments. The foregoing new rule abrogates, if not modifies, at least but not limited to, the following rules: Rules 13, 32, and 39.

#### IV. Manning Motor Cars and Self-Propelled Machines

- A. Eliminate all agreements, rules, regulations, interpretations and practices, however established, except as may otherwise be provided by the June 25, 1964, National Agreement which rights thereunder Carrier herewith preserves, which require the use of train or yard service employees in any capacity on or in connection with the operation or use of any motor car or self-propelled roadway or shop equipment or machine used in maintenance, repair, construction or inspection work, whether operated on tracks or otherwise.
- B. Establish a rule to provide that:
  1. Train and yard service employees shall have no claim to man or be called to work in any capacity or in connection with the use or operation of self-propelled roadway or shop equipment or machines used in repair, construction or maintenance work, such as (this enumeration being by way of illustration, not by way of limitation) locomotive cranes, ditchers, clamshells, pile drivers, scarifiers, wrecking derricks, weed burners, rail detector cars and all other self-propelled roadway and shop equipment and machines whether operated on tracks or otherwise.
  2. Management shall have the unrestricted right to determine when and if train and yard service employees shall be used on self-propelled roadway and shop equipment and machines as described in Paragraph 1 of this rule; and to determine the number of such employees when so used. If a train service employee is so used he will be paid the rates and under the rules applicable to work train service; and in such case, each day such service is performed, the time of the employee used shall be computed from the time he is required to report for duty until he is released from duty at the point where he is so relieved.

The foregoing new rule abrogates, if not modifies, at least but not limited to, the following rules: Rules 48, 89, and 103.

#### V. Rule Changes

It is also desired that effective October 1, 1968, the following rules will, unless otherwise indicated, be abrogated:

- A. Rule 15
- B. Rule 17(c)
- C. Rules 20 and 45
- D. Rule 22—Modified to provide that extra passenger service employees work on a first in first out basis.
- E. Rule 26—Revise to provide for a first in first out extra list.
- F. Rule 38
- G. Rule 44
- H. Letter Agreement of August 3, 1965—so called "shelf" agreement.
- I. Agreement which prohibits turning extra freight crews short of designated turning point.
- J. Rule 49—Revise to provide for only one extra crew board, thus eliminating the present day and night boards, working on a first in first out basis.
- K. "Blue Agreement" dated November 19, 1958.
- L. Rule 81.
- M. Rule 83—Modified to be granted at Carrier's discretion consistent with service requirements.
- N. Rule 86(f)—Revise to provide that the junior, qualified yardman who is assigned to a position due to no bids having been received, must remain on

on the assigned position for the life of the general pick, unless the assignment is abolished, revised or he is displaced by a senior yardman, in which event he will return to the status he had prior to his assignment to such position.

- O. Payments for road and yardmen deadheading with the Metropolitan Area will not exceed one hour.
- P. Rule 104—Revise by substituting the word “informed” for “consulted.”
- Q. Rule 136—Eliminate all references providing that vacation payments will be based on the service last performed.

## **VI. New Rules—All Classes of Service**

- A. When a new assignment or a vacancy on an existing assignment is created, the employee assigned thereto or catching same shall remain thereon for seven (7) calendar days and thereafter unless displaced therefrom by a senior employee, the regular incumbent returning thereto or the person awarded the new assignment.
- B. Monetary claims based on the failure of the Carrier to use an employee to perform work shall be invalid unless the claimant was the employee contractually entitled to perform the work and was available and qualified to do so. A monetary award based on such a claim shall not exceed the equivalent of the time actually required to perform the claimed work on a minute basis at the straight time rate, less amounts earned in any capacity in other railroad employment or outside employment.
- C. Employees hired on or after October 1, 1968, will be paid 70 percent of the earnings accruing to them each week for the first year of service, 80 percent for the second year, 90 percent for the third year and full compensation thereafter.

## **PATROLMEN**

### **I. Basis of Pay**

- A. Eliminate any agreement, rule, regulation or interpretation however established, which:
  - 1. Provide for rates or basis of pay.
  - 2. Provide for arbitrary payments, or special or constructive allowance, which conflict with the payment of single time from the time called to report (reporting on) for duty until released from duty.
- B. Establish a rule that provides that:
  - 1. All time on duty shall be paid for on a minute basis at the straight time hourly rates currently provided for in Rule 4-B-1.
  - 2. Overtime shall not commence or accrue until the expiration of eight consecutive hours from time of first reporting for duty.

All time in excess of eight hours shall be paid at the rate of  $1\frac{1}{2}$  times the current hourly rate.

The intent of the foregoing rule is to assure that no employee paid pursuant thereto shall receive any other or additional compensation for any service performed during his tour of duty. Eight consecutive hours shall constitute a day's work and payment therefor shall be for all services rendered therein.

The foregoing new rule abrogates, if not modifies, at least but not limited to, the following rules: Rules 4-A-1, 4-A-2, 4-B-1 and 4-I-1.

## II. Assignments

- A. Eliminate any agreements, rules, regulations or interpretations, however established, which prohibit or impose restrictions on the right of the Carrier to establish, move, consolidate or abolish headquarters.
- B. Establish a rule to provide that:
 

The Carrier shall have unqualified right to establish, move, consolidate and abolish headquarters. The foregoing new rule abrogates, if not modifies, at least but not limited to, Rule 2-B-1(g).

## III. Rule Changes

It is also desired that effective October 1, 1968, the following rules will, unless otherwise indicated, be abrogated:

- A. Scope Rule—Revise to read "below the rank of Sergeant."
- B. Definitions—Revise first paragraph to read as follows:
 

"The term 'Police Officers below the rank of Sergeant' as used in this Agreement shall include Patrolmen, employees working as relief Patrolmen and extra Patrolmen."
- C. Rule 1-A-1(b) and (c).
- D. Rule 2-B-1(d) and (e).
- E. Rule 3-A-1(a) and (b).
- F. Rule 3-C-1(a) and (b).
- G. Rule 4-A-2(c).
- H. Rule 4-B-1(a) and (b).
- I. Rule 4-D-1(c).
- J. Rule 4-F-1(b) and (c).
- K. Rule 4-G-1(a), (b) and (c).
- L. Rule 4-I-1(a), (b) and (c).
- M. Rule 8-A-1(a).
- N. Rule 2-A-1(b)—Revise to extent that positions of Desk Man, Office Man and Squad Car Man will be appointed by the Superintendent of Police.
- O. Rule 2-A-1(c)—Revise to provide that the Superintendent of Police shall make appointments to the Detective class.
- P. Rule 3-K-1—Revise to the extent that when the rule is invoked by the Carrier, no penalty claims will be entertained or allowed.

## IV. New Rules

- A. Monetary claims based on the failure of the Carrier to use an employee to perform work shall be invalid unless the claimant was the employee contractually entitled to perform the work and was available and qualified to do so. A monetary award based on such a claim shall not exceed the equivalent of the time actually required to perform the claimed work on a minute basis at the straight time rate, less amounts earned in any capacity in other railroad employment or outside employment.
- B. Employees hired on or after October 1, 1968, will be paid 70 percent of the earnings accruing to them each week for the first year of service, 80 percent for the second year, 90 percent for the third year and full compensation thereafter.
- C. Employees required to attend court will not be paid therefor but will be granted an equal amount of time off.

## SPECIAL SERVICE ATTENDANTS

### I. Rule Changes

The following rules will, unless otherwise indicated, be abrogated:

- A. Rule 2-A-3(a)—Revise to the extent that Special Service Attendant or Club Car Porter desiring to return to service after leave of absence, sickness, disability or suspension must notify the office of the Manager—Special Services 24 hours in advance of the reporting time of his assignment, and he will be subject to the provisions of the Return to Duty Agreement.
- B. Rule 4-A-1—Amend to include the following paragraphs:
  - “(c) A Special Service Attendant or Club Car Porter who reports for his assignment 15 or more minutes later than his scheduled reporting time will be considered as missing his assignment for that day. The assignment will, if possible, then be covered by the first available employee.”
  - “(f) Whenever exigencies require or whenever bar cars, private cars, parlor cars are chopped, a regularly assigned employee may be used on any assignment without any additional expense to the Carrier.”

### II. New Rules

- A. Monetary claims based on the failure of the Carrier to use an employee to perform work shall be invalid unless the claimant was the employee contractually entitled to perform the work and was available and qualified to do so. A monetary award based on such a claim shall not exceed the equivalent of the time actually required to perform the claimed work on a minute basis at the straight time rate, less amounts earned in any capacity in other railroad employment or outside employment.
  - B. Employees hired on or after October 1, 1968, will be paid 70 percent of the earnings accruing to them each week for the first year of service, 80 percent for the second year, 90 percent for the third year and full compensation thereafter.
  - C. Negotiate rule for compulsory retirement at age 65.
- In addition to the foregoing, the following new rule will be inserted in all contracts:
- “In the event of a strike or emergency affecting the operation or business of Carrier, no advance notice shall be necessary to abolish positions or make force reductions.”

