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RAILROAD LABOR DISPUTE

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HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

ON

H. J. Res. 559

TO PROVIDE FOR THE SETTLEMENT OF THE LABOR DISPUTE BETWEEN CERTAIN CARRIERS BY RAILROAD AND CERTAIN OF THEIR EMPLOYEES

MAY 9, 10, 11, 16, 17, 18, 23, 24, 25, 31; JUNE 6, 7, 1967

Serial No. 90–7

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RAILROAD LABOR DISPUTE

TUESDAY, MAY 9, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The committee has met this morning to take up House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

I would like to make a statement before we start, as an explanation of some of the alternatives that might be considered.

A more or less familiar ditty runs like this, I believe:

> As I was going up the stair
> I met a man who wasn't there.
> He wasn't there again today.
> Oh, how I wish he'd go away.

Gentlemen, he has not gone away. He's back again, and in my opinion he will be hanging around until this threatened railroad strike is settled.

The matter has been forced upon the Congress, and initially upon this committee, much as we dislike it. There is no point in closing our eyes to the fact. If we have the moral and political courage which I think Congress has, we will find some practical solution for this problem.

A week ago the House, at the request of this committee, and with some reluctance, agreed to a second extension of the "cooling off" period. The period ends June 19. At the time, we promised, in all sincerity, that we would consider some proposal which would dispose of the dispute in one way or another. I doubt that the House would welcome a request for a further extension of time during which the matter would hang in the balance, and the disputing parties, as well as the general public, might be even less tolerant.

It is inconceivable that the problem should hang like a pall over us all summer, influencing our thinking about other matters which need careful attention.

I feel that there is good reason to believe that this second period of delay has served to divert attention away from the differences between the labor unions and management, and focus it on proposals as to what Congress should or should not do.

As the argument over this gets hotter and hotter, it will be increasingly difficult to do anything. If we fail to make some progress

shortly, the whole country will be taking sides and digging in on positions which they will believe must be held at all costs.

So whatever we do or do not do, I trust that we will keep in mind that our job is to try to settle the dispute between the railroad unions and management. Any action that will accomplish that purpose will be approved by the public, I am confident. Arguments over "face-saving" will get little applause.

We are opening these hearings by considering a definite proposal, sponsored by the administration. I assume, however, that alternatives may evolve from the discussions. In fact, I hope, personally, that they will evolve, and that all possible courses of action will be given due consideration.

We shall begin by hearing witnesses from the administration, and after that from representatives of the unions and of management. Following these, we may want to ask responsible elements of the general public to give us the benefit of their counsel.

It may be well, therefore, to review the suggestions that have been made for congressional action in case the parties to the dispute do not reach an agreement before the deadline. They are:

1. That the Government seize the railroads and operate them until the disputing parties reach an agreement.

It has been taken for granted that this option would leave existing conditions exactly as they are—wages, applications for mergers, and all the rest. Such a situation could be dragged out indefinitely, thereby denying justice to either labor or management in some details.

I might suggest that we need not necessarily confine ourselves to such narrow limits in case we finally adopt this expedient. Existing conditions could be modified where such is deemed right and just. For instance, pay rates for shop labor could be made to conform to local practices.

2. That some third party, a refereeing board, draw up a settlement which would be binding upon both parties. The word "binding" is an attempted euphemism for the word "compulsory." If the thing were binding, it would be compulsory. We might then be faced with writing some legislation that would compel management to run trains and compel workmen to operate them.

A third alternative seems to be emerging from the discussion over the situation. It is, and I want to state it clearly, that the Congress do nothing at all.

In case we adopt this alternative, I feel that we should do it positively, and not by default. It would be possible for us to go before the House and say that, in our opinion, it is not expedient nor justifiable for the Congress to interfere in the dispute in any way. In such a case, the railroads and the workers might be spurred to action on their own; or the strike might occur as threatened.

Objection to a strike is based on the assumption that it would involve disastrous consequences to the Nation, especially, among other things, to the war effort and to public health.

In connection with this assumption, I quote from a telegram sent Defense Secretary McNamara by the heads of two of the disputing unions:

In view of scheduled national strike by railroad shopcraft unions at 12:01 a.m., May 3, we stand ready to meet with you at any time to arrange for con-

tinued rail transport of all shipments necessary to our Nation's military effort and the public health. This offer is made on behalf of shopcraft unions and other railroad unions. Cooperation on part of railroad management would also be needed.

It is not clear as to exactly what items this pledge would apply, but assuming again that the unions could and would redeem the pledge, and that railroad management would, in fact, cooperate, it might be difficult to establish the contention that a national emergency did exist and thereby warrant any Government interference.

These alternatives may not exhaust our resources in this affair. I make this somewhat lengthly explanation partly for the purpose of clarifying my own thinking, and partly to free my mind from any bias regarding proposals which have been made or may be made, and which this committee can accept as a right and reasonable way of solving our problem.

(The text of H.J. Res. 559, and departmental report thereon, follow:)

[H.J. Res. 559, 90th Cong., 1st sess.]

JOINT RESOLUTION

To provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees

Whereas the labor dispute between the carriers represented by the National Railway Labor Conference and certain of their employees represented by the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; International Brotherhood of Firemen and Oilers functioning through the Railway Employees' Department, AFL-CIO, labor organizations, threatens essential transportation services of the Nation; and

Whereas Emergency Board Numbered 169 (created by Executive Order 11324, January 28, 1967, 32 F.R. 1075) has made its report; and

Whereas under procedures for resolving such dispute provided for in the Railway Labor Act as extended and implemented by Public Law 90–10 of April 12, 1967, as amended, the parties have not succeeded completely in resolving all of their differences through the processes of free collective bargaining; and

Whereas related disputes have been settled by private collective bargaining between the carriers and other organizations representing approximately three-quarters of their employees, so that the present dispute represents a barrier to the completion of this round of bargaining in this industry; and

Whereas a Special Mediation Panel appointed by the President upon enactment of Public Law 90–10 proposed settlement terms to assist the parties in implementation of the collective bargaining envisaged in the recommendations of Emergency Board Numbered 169; and

Whereas it is desirable to provide procedures for the orderly culmination of this collective-bargaining process; and

Whereas the national interest, including the national health and defense, requires that transportation services essential to interstate commerce be maintained; and

Whereas the Congress finds that an emergency measure is essential to security and continuity of transportation services by such carriers: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Special Board for the purpose of assisting the parties in the completion of their collective bargaining and the resolution of the remaining issues in dispute. The Special Board shall consist of five members to be named by the President. The National Mediation Board is authorized and directed (1) to compensate the members of the Board at a rate not in excess of $100 for each day together with necessary travel and subsistence expenses, and (2) to provide such services and facilities as may be necessary and appropriate in carrying out the purposes of this resolution. For the purpose of any hearing conducted by the Special Board, it shall have the authority conferred by the provisions of sections 9 and 10 (relating

to the attendance and examination of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 26, 1914, as amended (15 U.S.C. 49, 50).

SEC. 2. The Special Board shall attempt by mediation to bring about a resolution of this dispute and thereby to complete the collective bargaining process.

SEC. 3. If agreement has not been reached within thirty days after the enactment of this resolution, the Special Board shall hold hearings on the proposal made by the Special Mediation Panel, in its report to the President of April 22, 1967, in implementation of the collective bargaining contemplated in the recommendation of Emergency Board Numbered 169, to determine whether the proposal (1) is in the public interest, (2) is a fair and equitable extension of the collective bargaining in this case, (3) protects the collective bargaining process, and (4) fulfills the purposes of the Railway Labor Act. At such hearings the parties shall be accorded a full opportunity to present their positions concerning the proposal of the Special Mediation Panel.

SEC. 4. The Special Board shall make its determination by vote of the majority of the members on or before the sixtieth day after the enactment of this resolution, and shall incorporate the proposal of the Special Mediation Panel with such modifications, if any, as the Board finds to be necessary to (1) be in the public interest, (2) achieve a fair and equitable extension of the collective bargaining in this case, (3) protect the collective bargaining process, and (4) fulfill the purposes of the Railway Labor Act. The determination shall be promptly transmitted by the Board to the President and to the Congress.

SEC. 5. If agreement has not been reached by the parties upon the expiration of the period specified in section 6, the determination of the Special Board shall take effect and shall continue in effect until the parties reach agreement or, if agreement is not reached, until such time, not to exceed two years from January 1, 1967, as the Board shall determine to be appropriate. The Board's determination shall have the same effect (including the preclusion of resort to either strike or lockout) as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

SEC. 6. The provisions of the final paragraph of Section 10 of the Railway Labor Act (45 U.S.C. 160), as heretofore extended by law, shall be hereby extended until 10:01 o'clock antemeridian of the ninety-first day after enactment of this resolution with respect to the dispute referred to in Executive Order 11324, January 28, 1967.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 22, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.J. Res. 559, To provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees. Our views are those which were given in the testimony of Secretary Boyd in hearings before your Committee on this subject on May 10, 1967.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for the consideration of the Committee.

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

The CHAIRMAN. This morning our first witness is the Honorable W. Willard Wirtz, Secretary of the Department of Labor. He has with him some of his associates and some other distinguished public men of the Nation.

Mr. Wirtz, would you identify the gentlemen who are with you so that the committee might know each one of them and their part in this?

STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR; ACCOMPANIED BY JAMES J. REYNOLDS, UNDER SECRETARY OF LABOR; FRANCIS A. O'NEILL, JR., CHAIRMAN, NATIONAL MEDIATION BOARD; JUDGE CHARLES FAHY, CHAIRMAN, SPECIAL MEDIATION PANEL; AND DAVID GINSBURG, CHAIRMAN, EMERGENCY BOARD NO. 169

Secretary WIRTZ. Thank you, Mr. Chairman and members of the committee.

It is not only with a very real pleasure but significance that I introduce the other gentlemen at the table. I am frank to say that under normal circumstances it seems to me that the appearance of the witnesses from the administration before a committee of this kind may have a very routine quality about it. When I appear alone, it is with that feeling.

In contrast, this morning it seems to me a matter of great importance to the committee, to the Congress, and to the Nation that there are here these four men who have worked not only in connection with this case, but for most of their lifetimes in connection with collective bargaining because, Mr. Chairman, the issues before the country, the committee, and the Congress, today, in this case, is the issue of collective bargaining. That, and not any differences between the parties, is the issue we face.

So it is with a feeling of great importance on this occasion that I introduce these gentlemen. You know from previous appearances the Under Secretary of Labor, Mr. James J. Reynolds, who has not only worked long in this case, but long on all the other problems of this kind which have faced the Nation during the last 6 years, and who, before that, includes in his experience his membership on the National Labor Relations Board.

To his left is Chairman Francis A. O'Neill, Jr., who has for 20 years been a member of the National Mediation Board, handling disputes on the railroads and on the airlines, a man senior in this particular service in this country, six times Chairman of that Board, currently Chairman of that Board, and that chairmanship is on a rotating basis.

Then on my right is Judge Charles Fahy, who is the Chairman of the Special Mediation Panel appointed by the President after the 20-day extension, who met and worked with the parties with his associates in an attempt to bring this matter to its conclusion, but who, beyond that, Mr. Chairman and members of the committee, brings this special distinction and this special weight of experience to this proceeding: Judge Fahy was the first General Counsel of the National Labor Relations Board from 1935 to 1940, when the question before the country was the establishment by law of free, collective bargaining, the establishment under the requirement of the Wagner Act and the National Labor Relations Act, and following that, after several other things, including the role as Solicitor General of the United States, a judge for the Court of Appeals for the District of Columbia, from which post he retired in the past few weeks, bringing, therefore, to this matter, all of that wealth of experience.

Again, David Ginsburg, an attorney in the District of Columbia whose service to this Government and to this country goes back and includes experience as General Counsel of the OPA during that difficult war period, his advice to Presidents, to congressional committees, his service to the country and particularly in this case his chairmanship of the Emergency Board No. 169 set up under the National Railway Act.

I don't mean to overmake the point, Mr. Chairman. Here are five men, including myself, who worked very hard with this case and who, beyond that, testify here from the deepest conviction possible in the validity and fundamental importance of the concept of free, collective bargaining.

It is from that standpoint that we speak, and with that conviction that we will respond to the questions of the committee.

I have filed with the committee, Mr. Chairman, a statement of moderate length which, if it meets with your convenience and pleasure, I will simply ask to be made part of the record and which I will summarize very briefly because this is a matter comparatively well known to the country and to the committee. My going into it in detail at this point will probably only burden the record.

I will be guided by your judgment as to whether you would prefer to have it read or briefly summarized.

The CHAIRMAN. I believe the committee would prefer that you do file it for the record and give us the pertinent points so that the committee will know, even if it is a burden to those who think they know. I think it should be brought out for the record.

(The statement referred to follows:)

STATEMENT OF W. WILLARD WIRTZ, SECRETARY OF LABOR

Mr. Chairman, and Members of the Committee: I testify, on behalf of the Administration, in support of H.J. Res. 559.

This testimony will be brief, perhaps even to the point of seeming out of proportion to the significance of the subject.

The members of the Committee have been supplied, however, with a complete record of the events leading up to the introduction of H.J. Res. 559, including all the relevant documents. The President's May 4 Message to the Congress proposing this Joint Resolution, sets out fully the reasons for it.

The remaining function is largely to summarize what is involved here, as a basis for the questions I know the Committee will have.

I

First, as to the nature and history of the dispute which remains unresolved:

The dispute involves virtually all of the Nation's railroad carriers and the railroad shopcraft employees represented by six unions, briefly referred to as the Machinists, the Boilermakers, the Sheet Metal Workers, the Brotherhood of Electrical Workers, the Railway Carmen, and the Firemen and Oilers, bargaining through the Railway Employees Department, AFL–CIO.

The dispute developed as part of the "1967 round" of wage reopenings on the railroads. All railroads and all 20 or so organizations representing railroad employees were involved. The parties first sought settlement of their differences through private collective bargaining, at the local level and later at the national level. This was during the summer and fall of 1966.

Subsequently the National Mediation Board worked with the parties, attempting to arrive at settlements which would be acceptable to all concerned.

The main issue was a general wage increase—with various additional issues in each case.

Agreements were reached between the carriers and eleven labor organizations representing about three-quarters of all railroad employees.

Agreement was not reached, however, with the shopcraft unions. This case went through the same collective bargaining and mediation processes the other cases had, and then to an Emergency Board set up under the Railway Labor Act. When, agreement still failing, the statutory status quo period was about to expire, the Congress extended that period for 20 days.

The President then set up a Special Mediation Panel of distinguished citizens to work with the parties. After a series of bargaining and mediation sessions failed to produce full agreement, the Special Panel made a proposal for settlement drawn from the Panel's assessment of the direction of the bargaining which had taken place and of the course it could be expected to follow given the time which circumstances were denying it. Both parties declined to accept the Mediation Panel's proposal.

On May 1, acting on the President's recommendation, the Congress again extended the statutory status quo period, this time to June 19, 1967.

On May 4, the President transmitted to the Congress the proposal embodied in H.J. Res. 559. I refer again to the Message accompanying this transmittal.

II

Second, in summary of the provisions of H.J. Res. 559:

The Resolution provides for the President's appointment of a 5-member Special Board to "attempt by mediation to bring about a resolution of this dispute and thereby to complete the collective bargaining process."

If there is no agreement after the first 30 days of mediation, the Special Board will set a hearing designed specifically to bring these months of bargaining and mediation to a head.

* The central discussion point at this hearing will be the proposal made to the parties by the Special Mediation Panel on April 21.

* The parties will be asked to express their views as to whether a settlement based on that Panel proposal would "(1) be in the public interest, (2) achieve a fair and equitable extension of the collective bargaining in this case, (3) protect the collective bargaining process, and (4) fulfill the purposes of the Railway Labor Act."

The Special Board's mediation efforts will continue after this hearing is held, and will take account of the parties' representations at the hearing.

If, after another 30 days, there is still no agreement, the Board will issue its "determination" regarding any remaining points of disagreement. This "determination" will be based on the Mediation Panel's proposal, with such modifications as the Board finds appropriate in the light of the hearing and in observance of the four criteria set out in H.J. Res. 559.

Even after that, the Board will continue its efforts at mediation.

If these efforts continue to be unavailing, the Board's determination will go into effect at the end of 90 days. The Board will include a time period—not to exceed two years from January 1, 1967—during which its determination will remain effective.

But the terms of the Board determination, including the time period, will be subject to any subsequent agreement reached by the parties.

During the period of the Board's handling of this matter, and during the period after that specified in the Board's determination or by the parties' agreement, there may be no strike or lockout.

III

Finally, a few general comments about this situation and about H.J. Res. 559.

Everybody—including the parties—recognizes that there can't be a nation-wide railroad shutdown, at least under today's circumstances. It would cripple the country before either party even felt a scratch. The strike and the lockout don't play their normal function in collective bargaining under these circumstances; such action would not be against the other party but against the public.

The necessity of some alternative method of settlement is therefore accepted. The only issue is what it should be.

There is a clear consciousness, at the same time, that this is the third time in four years that an individual labor dispute has required the attention of the Congress.

Nor does the fact that these three cases are only that many out of almost 100,000 a year that are settled satisfactorily by collective bargaining lessen the

concern that if the essential element of freedom in bargaining is compromised here, it will be that much easier to compromise it again.

The issue in this case is therefore now collective bargaining itself—much more than it is any issues of dollars and cents which separate the carriers and the employee organizations. The issue, more directly, is how to achieve a settlement of this dispute without a railroad shutdown and at the same time not weaken the collective bargaining process.

H.J. Res. 559 is designed to achieve this purpose.

It has three essential characteristics, all developed to assure the fullest play, even in these circumstances, of the forces of collective bargaining.

First, it affords every conceivable opportunity, with every conceivable form of assistance, for the parties to complete their settlement by their own agreement.

It will become effective only after the Congress has twice before gone to the unprecedented length of acting formally to extend the time period for the parties to reach agreement.

H.J. Res. 559 is itself a *last clear chance* procedure—providing three more steps, and a further time period, for the parties to *use* collective bargaining.

Second, H.J. Res. 559 provides that if a determination must eventually be made here by someone other than the parties, that determination will have to be drawn *from the record of the parties' own bargaining in this case*, and that it will have to be shaped to take meaningful account of the Congress' stated purpose of preserving the collective bargaining process itself.

H.J. Res. 559 limits sharply and strictly the exercise of judgment by the Board it establishes, in case a "determination" becomes necessary. The Board's consideration must proceed from the settlement proposal made by the Special Mediation Panel, which was itself drawn directly from the Emergency Board recommendation and, like that recommendation, *from the record of the parties' own collective bargaining*—bargaining that had drawn them within what was, in practical fact, near reach of each other.

The Resolution *specifies* that such determination be an *extension of the bargaining* which has taken place here; and it weaves the determination process—if resort to it becomes necessary—so closely in with the mediation process that the two will have a clear and significant inter-relationship.

Third, H.J. Res. 559 provides that even if the Board has to make a "determination" it will be subject to the parties' own subsequent agreement. If they *do* agree, that agreement is substituted for the Board's determination—which is, at least in form, only an interim determination, pending agreement. This may or may not mean very much in practical terms (depending on the relationship of the "determination" to the position of one party or the other), but retaining the principle is important.

The settlement which is eventually arrived at in this case will, in every real sense, be made by the parties.

Hopefully, and with reasonable expectation that this will happen, there will be agreement during the 90-day period. If there isn't, the Board's determination will necessarily—and by statutory instruction—include every possible element of the parties' almost, but not quite, complete reconciliation of their differences.

There is *no* "right" answer to how to provide finality of settlement if bargaining parties can't reach agreement and the public can't pay the price of a strike or lockout.

The case for H.J. Res. 559 is only—and no more—that it comes closer to being "right"—in using the collective bargaining in this case, and not weakening it as an essential process, than any other answer would.

It serves the two-fold purpose:

"To preserve the institution of free collective bargaining in providing the maximum possible latitude to the parties to reach their own agreement with a minimum of outside interference.

"To assure to the Nation that at this critical period in our history we are not faced with the spectre of a shutdown of the entire railroad industry."

These purposes are laudable and merit favorable consideration by the Congress.

I respectfully urge, in conclusion, the consideration of this proposal on the basis of whether it makes sense—not what label or epithet is tied to it.

It involves, unquestionably, the element of final and effective determination by persons other than the parties if they are unable to complete their own agreement.

So does "compulsory arbitration."

So does "seizure."

H.J. Res. 559 is neither of those, and is designed to *prevent* such infinitely broader and more extreme intrusions on free collective bargaining. Its relation to "compulsory arbitration" is the relation that a vaccination for smallpox, which contains a minute element of the virus, has to the disease itself; and that a tetanus shot has to lockjaw.

The War Labor Disputes Act, during World War II, was "compulsory arbitration" and "seizure." It covered every part of every labor dispute in the country; gave the War Labor Board the unfettered right to impose on the parties whatever settlement the Board members might devise; was a substitute for bargaining instead of a process for completing it; and provided for Government seizure as an ultimate sanction.

Australia has compulsory arbitration—established by a law which provides in advance of any dispute arising that all "industrial disputes" as to all "industrial matters" shall be arbitrated; and then goes on to define industrial matters as "all matters pertaining to the relations of employers and employees and, without limiting the generalities of the foregoing, to include—

(*a*) all matters or things affecting or relating to work done or to be done;

(*b*) the privileges, rights and duties of employers and employees;

(*c*) the wages, allowances and remuneration of persons employed or to be employed;

(*d*) the piece-work, contract or other reward paid or to be paid in respect of employment;

(*e*) the question whether piece-work or contract work or any other system of payment by results shall be allowed, forbidden or exclusively prescribed;

(*f*) the question whether monetary allowances shall be made by employers in respect of any time when an employee is not actually working;

(*g*) the hours of employment, sex, age, qualifications and status of employees;

(*h*) the mode, terms and conditions of employment;

(*i*) the employment of children or young persons, or of any persons or class of persons;

(*j*) the preferential employment or the non-employment of any particular person or class of persons or of persons being or not being members of an organization;

(*k*) the right to dismiss or to refuse to employ, or the duty to reinstate in employment, a particular person or class of persons;

(*l*) any custom or usage in an industry, whether general or in a particular locality;

(*m*) any shop, factory or industry dispute, including any matter which may be a contributory cause of such a dispute;

(*n*) any question arising between two or more organizations or within an organization as to the rights, status or functions of the members of those organizations or of that organization or otherwise, in relation to the employment of those members;

(*o*) any claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return or profit or value to their employer;

(*p*) any question as to the demarcation of durations of employees, whether as between employers and employees or between members of different organizations; and

(*q*) the provision of first-aid equipment, medical attendance, ambulance facilities, rest rooms, sanitary and washing facilities, canteens, cafeteria, dining rooms and other amenities for employees;

and includes all questions of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and of society as a whole . . ."

That is compulsory arbitration.

It is exactly what H.J. Res. 559 is designed to *prevent* happening in this country.

Public Law 88–108, adopted to meet the railroad crisis in 1963, turned out in operation to be "compulsory arbitration." The Congress tried, there, to limit the "arbitration board" by providing that—

"It shall incorporate in (its) decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement . . . (and) to the narrowing

of the areas of disagreement which has been accomplished in bargaining and mediation."

But it developed that the issues before that "arbitration board" were of such a nature—involving basic manning principles—that the Board found it necessary to establish its own framework of decision.

H.J. Res. 559 has been designed specifically to counteract the effects of P.L. 88–108 and to require that the answers in the present dispute be taken from the settlement course the *parties* have laid out—and come so near to completing.

Any sense of the practicalities of the kind of debate H.J. Res. 559 will be properly subject to means full realization of the inevitability of its being identified in whatever manner best serves the argument being made. I make only the point that it has been drawn from a conviction that "compulsory arbitration" and "seizure" are *wrong*; that it is not either of these; and that it represents the fullest possible degree of preserving the force of collective bargaining in this situation and the smallest possible degree of interference with that force. If there are means of serving that purpose more fully, provision for them in this Resolution would be clearly within its intention.

There are present with me here: Under Secretary of Labor, James J. Reynolds; Francis A. O'Neill, Jr., Chairman of the National Mediation Board; David Ginsburg, Chairman of the Emergency Board which acted in this case under the Railway Labor Act; Judge Charles Fahy, Chairman of the Special Mediation Panel.

These men, with their associates, have labored long and diligently and with the strength of lifetimes of experience, to make collective bargaining work in this case. They are in a position to tell you how far collective bargaining has already made its force felt here so that it will, under H.J. Res. 559, be the architect of the final settlement.

All five of us, Mr. Chairman and Members of the Committee, believe deeply in the value to democracy of free collective bargaining. It is in that belief that we support this Resolution, and will answer your questions about it.

Secretary WIRTZ. I wish to also call the committee's attention to a notebook which has been placed before each member in which we have set out the full record of this case, including all of the relevant documents, so that you will have all of that before you.

Proceeding on that basis of understanding, Mr. Chairman, I will mention only these things:

We know, all of us, that the dispute involves all of the railroads, and they are the class I railroads in the country and the six shopcraft unions which represent organizations which represent about 137,000 of the railroad employees.

We know the history of their dispute, which stretches over a good part of a year, which includes active private, collective bargaining, very active mediation on the part of the National Mediation Board, the services then—under the National Railway Act—of Emergency Board No. 169, which made recommendations to the parties, and then, after the first extension by the Congress of the status quo period, the services of the special mediation panel.

We know, and it is very pertinent to the history of House Joint Resolution 559, that on April 21 the mediation panel under Judge Fahy's chairmanship and with the other members being Dr. George W. Taylor and Dr. John T. Dunlop, made a recommendation to the parties which is referred to hereafter as the recommendation of April 21.

Against that too brief background or brief summary of the background, I say only this about House Joint Resolution 559: It has been suggested that it is a complicated procedure. Gentlemen, it is, because it reflects every effort to exhaust every possibility of settlement along the lines that you, Mr. Chairman, have referred to in your opening statement, because we share the conviction that there

should be no necessity of formal action in this case, and that we must exhaust every possibility of bargaining which there is.

So this recommendation in House Joint Resolution 559 is built around the central proposition that there must be every opportunity given the free and full play of collective bargaining.

This resolution would set up a five-man board. That Board would meet with the parties, attempt to settle this matter by mediation, and it would, in the first 30 days, if not successful, as far as mediation is concerned, hold at that point a hearing.

The central point of that hearing would be that panel recommendation which was made by Judge Fahy's panel. The parties would express their views with respect to the recommendations of that panel.

After that hearing, the mediation would proceed, hopefully helped by the statements of the parties at that hearing.

If, at the end of 60 days from the start of the resolution, the resolution period, there was still no agreement, this Board set up by House Joint Resolution 559 would then issue its determinations, called "determinations" in the resolution. It is provided, and significantly, in House Joint Resolution 559, that those determinations must follow very closely the criteria established there.

They would take the panel proposal as their starting point. The Board would then determine what, if any, modifications needed to be made which, in the language of the resolution, first would be in the public interest; second, would achieve a fair and equitable extension of the collective bargaining in this case; third, would protect the collective bargaining process; fourth, would fulfill the purposes of the Railway Labor Act.

That determination being made on the 60th day, there would then be the continuing effort by this five-man Board to settle this case still by mediation and by agreement. If at the end of the 90th day there was still no agreement, the Board's determinations would go into effect for such period as the Board might fix, but not more than 2 years from January 1, 1967, or until the parties themselves made their own agreement.

During this period, the Board's handling of this matter, the status quo period under the Railway Labor Act would be extended so there would be no strike or lockout permitted during that period, and upon the issuance of the determination or upon the making of the parties' agreement there would be a continuation of that no-strike and no-lockout status by virtue of the provisions in the Railway Labor Act for the continuation of the status quo. In short, there would not be a strike or a lockout during the period covered either by the determination or the parties' agreement.

Now, these few comments about the matter: I thought, Mr. Chairman, until your statement, that it would be fair to say that everybody, including the parties, recognized that there cannot be a nationwide railroad shutdown, at least under today's circumstances. That would still be my personal view, but I would modify it out of respect to the possibility which you have suggested.

I would feel, for myself, that no combination of considerations would justify exposing this country at this point to a railroad shutdown. It would cripple the country before it even scratched either party.

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When that is true, a strike or a lockout does not play its normal function in collective bargaining. It would not be against the other party. It would be against the country.

So I have thought of this as a situation in which there is no question about the necessity of our doing something if they don't, but, rather, a question of what to do. It has seemed to me that the one thing that we must do in this case is find a basis for reconciling two essential, basic, public interests.

One is maintaining our rail transport and the other is maintaining the institution of free, collective bargaining.

House Joint Resolution 559 is an attempt, and I think a successful and constructive attempt, to achieve this dual purpose. It has three characteristics and they all have the common denominator of assuring the fullest possible play even in these extreme circumstances of the forces of collective bargaining. This dual purpose is served in three ways:

First, this resolution affords every conceivable opportunity to the parties to settle this matter by agreement. I point out that the resolution comes at the end of a period in which all of the normal processes of law have been brought to bear to assure these parties free, collective bargaining, and the Congress has then gone twice to the unprecedented length of extending the status quo period for the purpose of letting collective bargaining work.

I am glad to live in a country which is willing to go to that length to let two parties settle an agreement involving all that is involved here in their own way. I am glad to live in a country that is willing to move into the short shadow of disaster to let two parties come to agreement on a matter involving the public interest. That is where we are today.

So we proceed from a situation in which the country has already gone that far. And then this resolution, itself, is another "last-clear-chance" procedure designed to give collective bargaining and mediation every conceivable opportunity to work.

This point, Mr. Chairman and members of the committee, is essential to an understanding of this resolution.

And then the second point: If a determination proves necessary, House Joint Resolution 559 dictates in terms impossible of misunderstanding that the determination must be drawn not from any free discretionary judgment of the Board which is set up, but, rather, from the history of collective bargaining in this case. This answer, regardless of how it comes, will be made by the parties, and the dictate of this resolution is that to whatever extent this Board plays any part, it must find its answer not in the predilections of its own members, but in what the parties have already done in this case. This is terribly important. It is a provision for the extension of collective bargaining. Its answer will come out of the architecture which the parties themselves have already developed.

And then third—although this is a point more of principle than of practice—even if there is a determination at the end of the 90 days, that determination will be subject to a subsequent agreement of the parties which will be controlling with respect to it. I don't mean to overmake this point. It will not be a significant practical point unless perhaps both parties still don't like that determination.

If one of them likes it and the other one doesn't, I don't mean to deduct the implications of its affect on the bargaining posture of one party or the other. But principle is important here, and the principle of this resolution is that even if there is a determination, it is of an interim quality and subject to the subsequent resolution by the parties.

I have only two other things about it. One is this: I think that there is every reasonable prospect of this case being settled under the mediation provisions of House Joint Resolution 559. That is the reasonable expectation and that gives this proposed resolution its principal characteristic and its mark. I don't mean by that to, in any way, disregard the fact that it includes the possibility of a determination by this Board, if that agreement isn't reached. But I want to make it quite clear that this is constructed on the expectation that settlements will be reached by bargaining and mediation during this period.

That would be perhaps the place to stop, Mr. Chairman, but I want to anticipate what I know will be an important part of the discussion of this case. I would like very respectfully to urge that the consideration of this proposal be on the basis of whether it makes sense instead of what somebody calls it. It is that important.

There is no question, and there will be no blinking or blushing of the fact, as far as I am concerned, that if there is not settlement by agreement and mediation there will be here a determination by persons other than the parties, if they are unable to complete their own agreement. It will be a small determination because the parties have already constructed virtually the complete arch of agreement in this case. They have not been able to put in the keystone. They have shaped that keystone, and it will be shaped further in the course of these proceedings. But they have completed the arch except for that.

I don't mean to diminish in any degree the fact that if they can't fit in that final keystone at the top of the arch this resolution provides it will be fitted in.

It does, as you indicated in your opening statement, Mr. Chairman, have in it an element of final determination. So does compulsory arbitration. So does seizure. But House Joint Resolution 559 is neither of those, and it is designed to prevent such infinitely broader and more extreme intrusions on free collective bargaining as those other terms suggest.

The relationship of 559 to compulsory arbitration is exactly the relation that a vaccination for smallpox which contains a minute element of the virus as to the disease itself; the relationship of 559 to compulsory arbitration being the same as the relationship of a tetanus shot to lockjaw.

I know compulsory arbitration and seizure from 4 years' service on the War Labor Board during the middle 1940's. I know it as a law which provided during that period that every dispute in the country could come to the War Labor Board and 625 of them a week did. They covered every issue that might conceivably be brought up. And the principal sanction, if there was not acceptance of the Board's directives or orders, was seizure. I know it and I don't like it.

I know compulsory arbitration from afar and the form it takes in Australia and New Zealand. In Australia, it is established by law, a law that provides in advance of any disputes arising that all indus-

trial disputes as to all industrial matters shall be arbitrated, and then it goes on in the law to define industrial matters as all matters pertaining to the relations of employers and employees, reading from the statute, "Without limiting the generalities of the foregoing, it includes," as I set out in my statement, the lists of inclusions, "all matters or things affecting or relating to work done or to be done; the privileges, rights and duties of employees and employers." And then every single thing the mind could devise as possibly coming up in the course of collective bargaining, all brought within the jurisdiction and responsibility of the arbitrators.

And then completing a long list, including finally, even, the provision of first aid equipment, medical attendance, ambulance facilities, restroom, sanitary, washing facilities, canteens, cafeterias, dining rooms, and other amenities for employees. And as though that wasn't enough, the law in Australia goes on to provide that it also includes all matters of what is right and fair in relation to an industrial matter having regard to the interests of the persons immediately concerned and the society as a whole.

That, Mr. Chairman and members of the committee, is compulsory arbitration. It is exactly what this resolution is designed to prevent happening in this country.

Then one other comparison. Public Law 88–108 was adopted to meet the railroad strike or crisis in 1963. That turned out to be compulsory arbitration. There was an effort, and an honest effort made, to prevent that happening, because the Congress wrote into that law that the decision of the arbitration board shall incorporate in its decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement, and to the narrowing of the areas of disagreement which had been accomplished in bargaining and mediation.

But we all know that it developed that the issues before that arbitration board, as it was called in that statute, were of such a nature—involving basic principles—that that board found it necessary to establish its own framework of decision.

House Joint Resolution 559 has been designed specifically to counteract the effects of Public Law 88–108 and to require that the answers in the present dispute be taken from the settlement course the parties have laid out and have come so near to getting.

I don't mean to press the point of terminology too far. In any sense, the practicalities in a situation of this kind, or any experience with the debate which properly accompanies a consideration of something like House Joint Resolution 559, makes you know that the argument about it will be cast in whatever terms best support the argument.

I just make this point: This resolution has been drawn from the deep conviction of a President and his advisers, the deep conviction that compulsory arbitration and seizure are wrong. It is neither of these two things. It represents simply the fullest possible degree of preserving the force of collective bargaining in this situation and the smallest possible degree of interference with that force.

If there are any means of serving that purpose more fully, any provision for them, a change in this resolution would be clearly within its intention.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Secretary.

At this time I would like to ask one question and then I will reserve the rest of my time until later.

Is there any collective bargaining going on now?

Secretary WIRTZ. There is none at the moment.

The CHAIRMAN. No attempts are being made, then, at mediation?

Secretary WIRTZ. There should be no unpleasantness about this. We have, of course, kept in constant contact with the parties and we expect to keep in constant contact with the parties, to take advantage of any opportunity that should open up during this period. I don't mean to sit back and wait. We expect to keep probing.

We have, within the last 10 days, gone through one period of hope and exchange of inquiries by the mediators with the parties. We are continuing to do that right straight on through, and in no lackadaisical manner.

But in answer to your question, there is nothing at the moment which permits me to give any promise or even expression of expectation of a settlement.

The CHAIRMAN. I might ask you one further question: When the mediation broke off, were the disputing parties very far apart?

Secretary WIRTZ. I never know how to answer that kind of question, Mr. Chairman. Anyone approaching the matter as a stranger would reach very easily the conclusion that they were very close together. It is not a matter of principle here. It is a matter of dollars and cents. It is a matter specifically of what the percentage of the general wage increase shall be, what special adjustments shall be made for the mechanics and the skilled journeymen. It is recognized there must be some. The question is how much they should be given to make up for a differential which is recognized. And there is a disagreement as to the lengths of the contract term. They are not matters of principle, but matters of dollars and cents.

So the easy, layman's answer to that would be they are quite close. We all know that there are involved here two strongly held views as to how much give there should be and one thing or another.

I think the answer to your question probably lies in the fact that the parties feel strongly enough about it that they have gone on for 10 months and have driven the Congress to two extensions of this, and have been unable to agree. They are responsible people, and they feel very strongly about it. So anybody looking at it from any distance would say they are very close together. Anybody looking at it from the inside would know that the positions are still strongly and intransigently held.

The CHAIRMAN. Mr. Friedel.

Mr. FRIEDEL. Mr. Secretary, if the committee were to adopt or if Congress were to adopt 559, what would happen at the end of 2 years?

Secretary WIRTZ. The situation would at that point be open to the established processes under the Railway Labor Act. Either party

would be in a position to serve notices, section 6 notices, for change in the agreement. If a dispute developed, there would be a period then, like the one we went through in this case. One side or the other, depending on who wanted to change the situation, would serve a notice indicating that change. It would go through the processes of the Railway Labor Act. It would involve mediation, the proffer of arbitration. If that were declined, then the establishment of an emergency board. Then we could conceivably come back to this point again. I don't think we will.

But my short answer would be, Mr. Friedel, that the normal processes of the Railway Labor Act would obtain at that point.

Mr. FRIEDEL. Would they be able to go to the courts to try to settle the dispute?

Secretary WIRTZ. No. You are talking about at the end of the 2-year period?

Mr. FRIEDEL. Yes.

Secretary WIRTZ. No, sir.

Mr. FRIEDEL. The bill that we passed in 1963 did give them that right.

Secretary WIRTZ. There was a lot of litigation on that case, some of which, to my understanding, is still pending, so my answer should appropriately be limited to that. There was a history of litigation both with respect to the extent and proper application of that act and with respect to the question of what the situation should be afterward.

I will take just a moment to explain that. The result of Public Law 88–108 was, in hard, practical terms a reduction of about 15,000 to 17,000 firemen on the railroads. The legal question which arose and to which you refer is whether at the end of that period there should be continued operation at the reduced manning basis or whether that period over it should revert back to earlier numbers. That is the litigation to which you refer, I think. There is no comparable possibility here.

Mr. FRIEDEL. The thing that disturbs me is if they can't go to court it is OK, but I remember in 1963 a bill where they were in agreement on quite a few areas, and on the other hand when they went to the courts they went back to the very beginning and couldn't even take into consideration what they agreed upon. It makes it much worse. I wouldn't want the same thing to happen here.

Secretary WIRTZ. That is my point in saying I know with confidence, Mr. Friedel, that this resolution has been drafted with that, I think, unfortunate experience clearly in mind and has been so drafted as to prevent that possibility.

Mr. FRIEDEL. Just to summarize, at the end of 2 years, after the agreement is handed down by the Mediation Board and they do not accept it, they go on strike then?

Secretary WIRTZ. Yes, sir, subject only to those delaying provisions in the Railway Labor Act which require them to go first to the mediation. But mine is a lawyer's qualification and answer. The practical answer to your question is, "Yes."

Mr. FRIEDEL. Thank you.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Secretary, I want to be sure of just what ground we are on this morning. I am not going to give away anything that

was said or divulge on any private basis, but there was a meeting at the White House the other day, and you and I were there, and everybody else concerned was there with the President.

I want to be sure that this resolution has the support of everybody in this administration who was there.

Secretary WIRTZ. Yes, sir, without any qualification.

The CHAIRMAN. Might I interrupt the gentleman to clarify that? I don't believe the group was polled to say they would give their assent in any way.

Mr. SPRINGER. I am not including anybody except in the administration.

Secretary WIRTZ. That was my understanding.

Mr. SPRINGER. Just those who were there. That includes the Attorney General, the President, yourself, Mr. Katzenbach, and I think Ambassador Goldberg was there, and he believed this was a just way to go about it.

Secretary WIRTZ. Yes. I think there were present that day Secretary McNamara and Secretary Boyd. I am not sure what others. And with the clarification the chairman referred to, your question was to the position of the executive branch. The recommendation comes with the unanimous approval of the executive branch.

Mr. SPRINGER. Has there been a legal opinion with reference to whether or not this is enforcible and constitutional?

Secretary WIRTZ. Yes, sir, there has been.

Mr. SPRINGER. And there is no doubt about that?

Secretary WIRTZ. That is the advice of the Attorney General, and there is no doubt about it.

Mr. SPRINGER. I would like to ask Judge Fahy as the Chairman of the last Board: Is this your recommendation?

Judge FAHY. Yes, indeed.

Mr. SPRINGER. Is it the unanimous recommendation of the Board?

Judge FAHY. Of the Board; yes. The Board was composed of, in addition to myself, Dr. Dunlop, of Harvard University, Dr. Taylor, of the University of Pennsylvania, and those two gentlemen were quite experienced and knowledgeable in this field; more so, I think, than myself. They have approved this proposal of the President, as well as I have.

Mr. SPRINGER. One thing further from you, Judge: It is my understanding that if, at the end of 30 days of negotiation, no agreement has been reached, the basis then for a decision by the Board to be appointed by the President under the language of this act, the basis of that would be the already findings of your Commission, your Board; is that correct?

Judge FAHY. The basis for the hearing would be the mediation proposal which my panel made. But the Board to be appointed under this resolution would have the right to modify our proposal under the standards set forth in this resolution.

Mr. SPRINGER. Thank you.

One further question, Mr. Secretary: I have been trying to rationalize your thinking on this matter as to why it is not compulsory arbitration. I am taking the most favorable view, not that I necessarily agree with it, but I am trying to see if I can rationalize how you are coming to this conclusion. That is, that at the end of the 60-day period,

whatever is put into effect by the Board, whatever findings, conclusions, they come to, if no action were further taken, and 90 days went by, that must be accepted; is that correct?

Secretary WIRTZ. That is not the heart of it. That is one element, the interim nature of the determination, but it is much more basic than that. The difference between a law like the Australian law or a law like the War Labor Disputes Act, which provided for a third party settlement, unguided, of all kinds of disputes, all of which does seem to me properly called compulsory arbitration, and then, on the other hand, in a case like this, which has only a single relationship and that is that there is an element of final determination in it. But the characteristics of it beyond that, in this case, are that it draws completely upon the collective bargaining which the parties have almost finished, and by law is tied to that.

Mr. SPRINGER. Mr. Secretary, I don't want to be technical but it is my understanding that this is not a full and final determining because no contract has been entered into between the respective parties.

Secretary WIRTZ. That is true.

Mr. SPRINGER. But you are not relying upon that as a basis of not being——

Secretary WIRTZ. I relied upon that as the third point in my statement, and it is a perfectly valid and sound point of principle. But I don't mean to mislead either myself or anybody else, because I realize the possibility is there of that determination so nearly coinciding with the view of one party or the other that they would hold to it rather than doing anything else.

So as a practical matter there is that point. But I am really leaning over backward. The point of principle is exceedingly important. It would have, technically, the effect of only an interim determination and would continue to be subject to the parties' agreement.

Mr. SPRINGER. I take it, Mr. Secretary, that in coming here to testify, or at least this is what I gather from the White House, not from what anybody said but as a general tenor, what you were concerned with was really the public at large and not either one of the parties. Is that your thinking?

Secretary WIRTZ. Yes. I would add only a refinement of that.

Mr. SPRINGER. I believe the President dealt on that at quite some length.

Secretary WIRTZ. That is right. We would both agree that the public's interest does include maximizing the parties' opportunity to make their own agreement. But at this point I think it is necessary to assert a public interest which rises above or which includes the possibility of settlement if they disagree.

Mr. SPRINGER. There is one thing further. Under this any right to strike would be removed for whatever period the Board designates?

Secretary WIRTZ. The right to strike over these issues would be removed for either the period of the parties' agreement, which is the law under the Railway Labor Act, or for such period as this Board would set in its determination, whichever came first.

Mr. SPRINGER. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Jarman.

Mr. JARMAN. Mr. Secretary, the particular question that is in my mind and the concern that I have in this matter is brought out in

one sentence of your statement in which you referred to the fact that this is the third time in 4 years that an individual labor dispute has required the attention of the Congress. The concern that I have in an emergency situation of this sort is the justification that we have in a single-shot procedure of this sort.

If this legislation is justified now in view of the emergency, to put the leverage on collective bargaining to achieve a result, a settlement, within a reasonable period of time, why aren't we considering general legislation that would apply to such emergency situations? The language of the bill says, "Whereas the Congress finds that an emergency measure is essential to the security and continuity of transportation services by such carriers."

The concern I have is in the danger of this becoming a set pattern of single shooting this problem in terms of legislation dealing with each such emergency. Why shouldn't we be considering general legislation that would meet the emergency situations of this sort when they do arise?

Secretary WIRTZ. If it happens often, I will be here testifying on a different basis. I don't think it should happen often. This is an issue which has a seriously devisive effect on any form in which it is taken up and isn't worth its salt if it happens very often. If it doesn't happen very often, Mr. Jarman, then I will have the feeling that that is a comparatively small price to pay for the avoidance of procedures which they resorted to in the other countries. But it can't happen very often without forcing us to that other point.

I have, in connection with this matter, recently made an inquiry that has to be qualitative about how much the parliaments of other countries are bothered by labor disputes. It is an interesting thing that with the exception of the Scandinavian countries labor problems come to this Congress in individual cases less, if my inquiry is complete enough, than in any other major parliament in the world. But I don't think they ever ought to come up here on an individual case. I think every time they do come up we have taken another step toward the permanent kind of legislation.

A much shorter answer to your question is it becomes a judgment matter. I don't think that the situation which has brought three cases out of 300,000 or 400,000 to this Congress in 4 years is enough to warrant passing legislation which does intrude permanently on the freedom to bargain. I don't know whether five cases would do it or six or whatever it is. It is a very small number.

The country shouldn't be put to this. My short answer—and it should have been shorter—is that I am still hoping very much, and expecting, that it will be possible to keep this number down. I hope it will be the last one. I don't know whether it will be or not.

What I am saying, too, is if it happens very often then you will find me shifting my position.

Mr. JARMAN. Thank you.

The CHAIRMAN. Mr. Devine.

Mr. DEVINE. Thank you, Mr. Chairman.

Mr. Secretary, would you then look upon this as a temporary solution to a singular problem rather than something that people would use as a pattern in the future?

Secretary WIRTZ. We are talking about the broad problem of labor disputes?

Mr. DEVINE. Yes.

Let me put it this way: Are we creating another board—well, as you know, at the President's request we granted a 20-day extension and then a 47-day extension and now at the President's request this will be a 90-day type of situation with a 2-year expansion to it. What I am trying to say is this: I think the Congress is getting sick and tired of these bandaid types of remedies to situations, where perhaps the parties are not collectively bargaining in good faith.

It seems to me that some of the parties are using the recommendations of the President's Emergency Board and other boards as a floor from which to commence negotiations. I don't know whether this is going to solve the situation we will be in in the future. In the last 3 years there have been three or four. But when does it become too often?

Secretary WIRTZ. I sympathize completely with your reference to the bandaid. I don't think it is a matter in which anyone takes any pride. All of the resources of the Department of Labor, the three members of the National Mediation Board, three members of an emergency board, three members of a special mediation panel, their services have been brought to bear on this situation. Now we come along with a proposal for another. I think the bandaid suggestion is a good one. I think you would agree, too, that we don't want to amputate until we have to.

Mr. DEVINE. I would agree we don't want to amputate, but when the parties, and I would refer to both of them in this sense, turn to Congress every time a recommendation of a Presidential Board is made to which both of them don't agree, for us to answer the solutions, the Congress is going to be driven to a point that perhaps they will pass what might be considered as restrictive legislation.

I don't think we should preoccupy ourselves with words like "don't use compulsory arbitration," they don't like it.

I think we are probably going to have to face up to it one way or another. I am not sure that this is the way to do it.

Secretary WIRTZ. I guess the President in his message anticipated this question and answered it better than I have. He said at the end of his message:

> We must take this action now as we continue and renew our search for a just and general solution to emergency strike or lockout problems in our country.

Mr. DEVINE. Did he say that when sending up this bill, or the 20-day bill, or the 47-day bill?

Secretary WIRTZ. When he sent up this bill.

Mr. DEVINE. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Moss.

Mr. Moss. Mr. Secretary, there seems to be emphasis given to the fact that we have twice previously in this current dispute granted extensions.

Don't you think the record should reflect those extensions, the circumstances?

The first one was at the request of the President of the United States, in order to avoid embarrassment to the Government of the United States, that we grant 20 days. This would be equated with the 80-day period provided under Taft-Hartley. He had long been scheduled to attend an International Conference of the American States in Punta

del Este, and the Congress responded to that request. It seemed a reasonable request. We did it without any kind of hearings in this committee from either party. We heard from the administration in attendance at the White House, but in sessions before this committee no testimony was elicited from any source.

The 20 days expired and then we were urged to extend for 47 days. What was the objective of the 47 days? We have only been into it just a few days and we now have for the third time a request for an additional extension.

Secretary WIRTZ. The basic reason underlying the suggestion for the 47 days is to permit the Congress due time to consider a measure of this sort. It is an important matter.

Mr. MOSS. You feel, then, that in this instance we should attempt to develop this as fully as possible for the record, in view of the fact that we are, in effect, playing an important role in the mediation of this dispute. We should develop all of the economic factors involved?

Secretary WIRTZ. No, sir; I would not feel that.

Mr. MOSS. Why would you not feel that?

Secretary WIRTZ. I do not understand the process before the Congress to be the process of mediation. I would agree completely with the first part of your statement that the circumstances, the elements, involved in the legislative side of it are so important that there should be a full exploration of that.

I do not mean by my other answer to suggest any objection at all to the undertaking of any mediatory efforts on the part of the Congress.

But in terms of your question as to the reason for the period, I think it relates to the legislative process rather than the mediation process.

Mr. MOSS. In this proposed legislation, lurking in the background at all times is the assurance that if settlement is not reached an award will be made. You have stated that great care has been taken to draft the language of this proposal to avoid what is now confessed to have been compulsory arbitration.

Yet as I read the second step the Board has the authority to modify its recommendations to reflect factors other than those arrived at in its mediation efforts.

Am I correct in my interpretation of that?

Secretary WIRTZ. Yes, sir.

Mr. MOSS. Then how does it differ?

Secretary WIRTZ. Differ from what?

Mr. MOSS. From Public Law 88–108.

Secretary WIRTZ. In that in this bill, the proposed resolution, there is the specific instruction by the Congress that the deliberations and determinations of the Board are to be based on an identified proposition referred to specifically, and with modifications limited to those which were permissible under four named criteria. There is that difference.

Mr. DINGELL. Would the gentleman yield?

Mr. MOSS. I will be happy to yield.

Mr. DINGELL. Mr. Secretary, isn't it a fact that we are legislating into the hands of the Board authority to make findings upon the parties which will be binding for a period of 2 years?

Secretary WIRTZ. You are legislating the authority——

Mr. DINGELL. To make findings regarding wages and working conditions which would be binding for a period of 2 years.

Secretary WIRTZ. I think the answer to your question is yes.

Mr. DINGELL. Absolutely.

Secretary WIRTZ. No, not absolutely. I will be glad to develop that in its context, but when you add absolutely, I am not talking absolutely.

Mr. DINGELL. Just a moment, sir. We have the most limited amount of time.

Secretary WIRTZ. Enough for the full truth, Mr. Dingell, and when you say absolutely, my answer does not include that word.

Mr. DINGELL. All right. I will put the word in, Mr. Secretary. You and I are good friends, but we are entitled to differ on this matter and to differ in short because we have a very brief amount of time.

But compulsory arbitration is simply the legislating into the hands of an arbitration board the power to make a finding which will be binding upon the parties to a labor dispute for any period, whether it be permanent or temporary in nature.

Am I correct?

Secretary WIRTZ. No, sir. The logic, Mr. Dingell, respectfully and under the terms that you put it, the logic of that proposition is that that you and I grew up on, the false logic, that a man has two legs, an ostrich has two legs, therefore, a man is an ostrich. That is not right.

Mr. DINGELL. I am not making the statement that a man is an ostrich. I am just saying that we are legislating into the hands of a body, a labor body, the power to make a finding which will be binding on the parties for a period of 2 years.

Secretary WIRTZ. That is one element, a 1 percent element in this case.

Mr. DINGELL. That is also, Mr. Secretary, a definition of compulsory arbitration, is it not?

Secretary WIRTZ. Yes, sir.

Mr. DINGELL. I thank the gentleman for yielding.

Secretary WIRTZ. My apologies, Mr. Dingell. You will realize the importance of the point to me.

Mr. Moss. You mentioned there have only been three out of 300,000 cases that have been brought to the Congress.

Secretary WIRTZ. We estimate 100,000 collective bargaining agreements a year, so it would be three cases out of 400,000 in these 4 years.

Mr. Moss. Aren't you now applying the logic of the ostrich and the man because you are looking at quantity and not quality, you are not looking at the cases as they are defined, the nature of them, the scope of the involvement of the Nation's interest.

So the comparison becomes meaningless excepting as an exercise in statistical gymnastics.

How many railroad disputes have been settled in that period of time without being brought to the Congress?

Secretary WIRTZ. Would you like it in terms of the number of cases or the number of parties? This is national. There have been a large number of them during this period.

Mr. Moss. The one which properly defines——

Secretary WIRTZ. I should be glad to give you a statement, and I can either give it to you now or supply it later, in which we have taken those cases which on a qualitative basis are important cases.

That, you are right, is a much fairer basis. A good percentage of those are railroad and airline cases.

Well, I can give it to you in general terms. I think the fairest estimate, the fairest qualitative statement of that, Mr. Moss, is this: There are what the National Mediation Board Chairman Mr. O'Neill and I would consider probably 100 to 500 important cases a year, bellwether cases, which includes at least the possibility of broadspread, crisis conditions of one kind or another.

So a 100 to 500 figure would be a fairer figure than the one to which you referred.

Mr. Moss. Then we want to narrow it down to a better definition. How many of them have in the background a precedent of congressionally mandated settlements?

Secretary WIRTZ. That background, if I understand your question, is limited almost completely in the last 20 years to transportation cases and specifically to the railroad and the airline cases. Those are the only two.

(The following information was subsequently submitted:)

Department of Labor Statistics on disposition of railroad and airline cases, fiscal years 1963–67

Fiscal year	Railroad	Airlines
Mediation:		
1963	133	66
1964	198	54
1965	188	48
1966	200	36
1967 through April	[1] 207	
Subtotal	926	204
Total cases	1,130	
Representation:		
1963	42	26
1964	27	27
1965	43	23
1966	68	42
1967 through April	[1] 74	
Subtotal	254	118
Total cases	372	
Total mediation and representation cases	1,502	

[1] Includes airlines.

Source: National Mediation Board.

Mr. Moss. Thank you.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

Mr. Secretary, with the Congress intervening in the airline strike and the rail strike, do you feel there has been a bit of a disposition to refrain from a settlement, depending on the fact that the Congress will finally step in and do something so the cat is off the back of both parties involved?

Secretary WIRTZ. Yes. There have been some signs along that line.

Mr. NELSEN. I have a further question. The President is to appoint a five-man special board. Are there any criteria upon which the selection of the five men will be made, or is that left entirely to the judgment of the President?

Secretary WIRTZ. There is no identification in the bill except that they are referred to as five members to be named by the President. In his accompanying statement he has indicated that he would expect to make three of these members—well, first he has said that they will all be public members. That is a significant point. It is a mark of the maturity of this relationship, that the lines between the sides are getting finer.

Where we talked in the War Labor Board about the public, labor, and industry members, these would all be public members. But he has gone on to say that one would be selected because of his particular identification with labor, and another because of his particular identification with management.

Mr. NELSEN. That 2-year period would begin on January 1, 1967; is that correct?

Secretary WIRTZ. Yes.

Mr. NELSEN. Thank you.

I have no more questions, Mr. Chairman.

The CHAIRMAN. Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Secretary, you made a very fine statement this morning to the committee, but I think that, before we can enact such sweeping legislation as we have before us, we must consider a great deal that is presently lacking in the record before the committee.

I would point out that your statement is entirely deficient of any economic data upon which this committee can make a finding.

It is also very deficient, Mr. Secretary, with regard to the effect of a nationwide railroad strike upon the economy of this country.

I believe you will agree that a wise Congress, legislating in an area as important as this, would insist upon having a record on both points, neither of which happens to be before us today.

Would you submit to this committee the appropriate economic data as to the effect of a nationwide railroad strike upon the country and also, if you please, information as to the economic issues in question of the matter before us?

I would like to have a statement; I am not asking you to give it to us at this particular moment, but I think it would be more appropriate to submit it.

Secretary WIRTZ. It is right here.

Mr. DINGELL. I would also like to have information from you, if you please, Mr. Secretary, as to wage scales in this industry, the rail-

road industry, compared to wage scales in other industries for comparable crafts, professions, skills, and seniority.

(The following information was received by the committee:)

Straight-time hourly earnings of selected classes of shop employees, class I railroads, and selected maintenance and powerplant occupations in private industries [1] in metropolitan areas, February 1966 [2]

Occupation and industry	Mean straight-time hourly earnings of railroad employees	Hourly earnings [3] in maintenance and powerplant occupations			
		Number of workers	Mean	Median	Middle range
Electricians, maintenance:					
All industries studied		56,034	$3.47	$3.51	$3.21-$3.75
Manufacturing		49,129	3.45	3.50	3.22- 3.73
Electrical workers A (ICC Reporting Division 58)	$3.09				
Electrical workers B (ICC Reporting Division 59)	3.05				
Electrical workers C (ICC Reporting Division 60)	3.25				
Engineers, stationary:					
All industries studied		22,031	3.31	3.39	2.95- 3.71
Manufacturing		13,649	3.39	3.43	3.06- 3.72
Stationary engineers, steam (ICC Reporting Division 73)	3.11				
Firemen, stationary boiler:					
All industries studied		14,884	2.75	2.81	2.40- 3.18
Manufacturing		12,405	2.77	2.81	2.43- 3.18
Oilers:					
All industries studied		14,055	2.76	2.83	2.56- 3.04
Manufacturing		13,386	2.75	2.82	2.55- 3.03
Stationary firemen, oilers, coal passers, and water tenders (ICC Reporting Division 74)	2.77				
Helpers, maintenance trades:					
All industries studied		29,343	2.67	2.71	2.46-2.98
Manufacturing		23,599	2.70	2.72	2.50-3.00
Skilled trades helpers (ICC Reporting Division 64)	2.73				
Machine-tool operators, toolroom:					
All industries studies		25,208	3.45	3.54	3.21-3.77
Manuacturing		25,054	3.54	3.54	3.21-3.77
Machinists, maintenance:					
All industries studied		44,576	3.45	3.49	3.19-3.72
Manufacturing		42,175	3.45	3.49	3.19-3.71
Mechanics, maintenance:					
All industries studied		72,827	3.24	3.13	2.96-3.59
Manufacturing		67,246	3.24	3.30	2.96-3.57
Machinists (ICC Reporting Division 61)	3.07				
Sheet-metal workers, maintenance:					
All industries studied		6,147	3.44	3.49	3.26-3.66
Manufacturing		5,812	3.45	3.49	3.29-3.66
Sheet-metal workers (ICC Reporting Division 63)	3.07				

[1] Includes the following industry divisions: Manufacturing; transportation, communication, and other public utilities; wholesale trade; retail trade; finance, insurance, and real estate; and selected services. Excludes extractive industries, construction, and government.

[2] Average month of reference for maintenance and powerplant occupations. Data were collected during the period July 1965 through June 1966.

[3] Excludes premium pay for overtime and for work on weekends, holidays, and late shifts. The mean is computed for each job by totaling the earnings of all workers and dividing by the number of workers. The median designates position—half of the employees surveyed received more than the rate shown; half received less than the rate shown. The middle range is defined by 2 rates of pay: a fourth of the workers earned less than the lower of these rates and a fourth earned more than the higher rate.

NOTE.—The lack of job descriptions for the railroad jobs precludes close comparison of duties. See attached description of maintenance and powerplant occupations (attachment A).

Source: Railroad occupations: ICC statement M-300; maintenance and powerplant occupations, BLS area wage surveys.

Attachment A

Descriptions for Selected Jobs Studied on a Cross-Industry Basis[1]

MAINTENANCE AND POWERPLANT JOBS

Carpenter, maintenance

Performs the carpentry duties necessary to construct and maintain in good repair building woodwork and equipment such as bins, cribs, counters, benches, partitions, doors, floors, stairs, casings, and trim made of wood in an establishment. Work involves *most of the following:* Planning and laying out of work from blueprints, drawings, models, or verbal instructions; using a variety of carpenter's handtools, portable power tools, and standard measuring instruments; making standard shop computations relating to dimensions of work; selecting materials necessary for the work. In general, the work of the maintenance carpenter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Electrician, maintenance

Performs a variety of electrical trade functions such as the installation, maintenance, or repair of equipment for the generating, distribution, or utilization of electric energy in an establishment. Work involves *most of the following:* Installing or repairing any of a variety of electrical equipment such as generators, transformers, switchboards, controllers, circuit breakers, motors, heating units, conduit systems, or other transmission equipment; working from blueprints, drawings, layout, or other specifications; locating and diagnosing trouble in the electrical system or equipment; working standard computations relating to load requirements of wiring or electrical equipment; using a variety of electrician's handtools and measuring and testing instruments. In general, the work of the maintenance electrician requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Engineer, stationary

Operates and maintains and may also supervise the operation of stationary engines and equipment (mechanicals or electrical) to supply the establishment in which employed with power, heat, refrigeration, or air-conditioning. Work involves: Operating and maintaining equipment such as steam engines, air compressors, generators, motors, turbines, ventilating and refrigerating equipment, steam boilers and boiler-fed water pumps; making equipment repairs; keeping a record of operation of machinery, temperature, and fuel consumption. May *also* supervise these operations. *Head or chief engineers in establishments employing more than one engineer are excluded.*

Fireman, stationary boiler

Fires stationary boilers to furnish the establishment in which employed with heat, power, or steam. Feeds fuels to fire by hand or operates a mechanical stoker, gas, or oil burner; checks water and safety valves. May clean, oil, or assist in repairing boilerroom equipment.

Helper, maintenance trades

Assists one or more workers in the skilled maintenance trades, by performing specific or general duties of lesser skill, such as keeping a worker supplied with materials and tools; cleaning working area, machine, and equipment; assisting worker by holding materials or tools; performing other unskilled tasks as directed by journeyman. The kind of work the helper is permitted to perform varies from trade to trade: In some trades the helper is confined to supplying, lifting, and holding materials and tools and cleaning working areas; and in others he is permitted to perform specialized machine operations, or parts of a trade that are also performed by workers on a full-time basis.

Machine-tool operator, toolroom

Specializes in the operation of one or more types of machine tools, such as jig borers, cylindrical or surface grinders, engine lathes, or milling machines in the construction of machine-shop tools, gauges, jigs, fixtures, or dies. Work involves *most of the following:* Planning and performing difficult machining operations; processing items requiring complicated setups or a high degree of accuracy; using a variety of precision measuring instruments; selecting feeds,

[1] Prepared by U.S. Department of Labor, Bureau of Labor Statistics, Division of Wages and Industrial Relations, revised June 1961.

speeds, tooling and operation sequence; making necessary adjustments during operation to achieve requisite tolerances or dimensions. May be required to recognize when tools need dressing, to dress tools, and to select proper coolants and cutting and lubricating oils. For cross-industry wage study purposes, machine-tool operators, toolroom, in tool and die jobbing shops are excluded from this classification.

Machinist, maintenance

Produces replacement parts and new parts in making repairs of metal parts of mechanical equipment operated in an establishment. Work involves *most of the following:* Interpreting written instructions and specifications; planning and laying out of work; using a variety of machinist's handtools and precision measuring instruments; setting up and operating standard machine tools; shaping of metal parts to close tolerances; making standard shop computations relating to dimensions of work, tooling, feeds and speeds of machining; knowledge of the working properties of the common metals; selecting standard materials, parts, and equipment required for his work; fitting and assembling parts into mechanical equipment. In general, the machinist's work normally requires a rounded training in machine-shop practice usually acquired through a formal apprenticeship or equivalent training and experience.

Mechanic, automotive (maintenance)

Repairs automobiles, buses, motortrucks, and tractors of an establishment. Work involves *most of the following:* Examining automotive equipment to diagnose source of trouble; disassembling equipment and performing repairs that involve the use of such handtools as wrenches, gauges, drills, or specialized equipment in disassembling or fitting parts; replacing broken or defective parts from stock; grinding and adjusting valves; reassembling and installing the various assemblies in the vehicle and making necessary adjustments; alining wheels, adjusting brakes and lights, or tightening body bolts. In general, the work of the automotive mechanic requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Mechanic, maintenance

Repairs machinery or mechanical equipment of an establishment. Work involves *most of the following:* Examining machines and mechanical equipment to diagnose source of trouble; dismantling or partly dismantling machines and performing repairs that mainly involve the use of handtools in scraping and fitting parts; replacing broken or defective parts with items obtained from stock; ordering the production of a replacement part by a machine shop or sending of the machine to a machine shop for major repairs; preparing written specifications for major repairs or for the production of parts ordered from machine shop; reassembling machines; and making all necessary adjustments for operation. In general, the work of a maintenance mechanic requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience. Excluded from this classification are workers whose *primary duties* involve setting up or adjusting machines.

Millwright

Installs new machines or heavy equipment and dismantles and installs machines or heavy equipment when changes in the plant layout are required. Work involves *most of the following:* Planning and laying out of the work; interpreting blueprints or other specifications; using a variety of handtools and rigging; making standard shop computations relating to stresses, strength of materials, and centers of gravity; alining and balancing of equipment; selecting standard tools, equipment, and parts to be used; installing and maintaining in good order power transmission equipment such as drives and speed reducers. In general, the millwright's work normally requires a rounded training and experience in the trade acquired through a formal apprenticeship or equivalent training and experience.

Oiler

Lubricates, with oil or grease, the moving parts of wearing surfaces of mechanical equipment of an establishment.

Painter, maintenance

Paints and redecorates walls, woodwork, and fixtures of an establishment. Work *involves the following:* Knowledge of surface pecularities and types of paint required for different applications; preparing surface for painting by re-

moving old finish or by placing putty or filler in nail holes and interstices; applying paint with spray gun or brush. May mix colors, oils, white lead, and other paint ingredients to obtain proper color or consistency. In general, the work of the maintenance painter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Pipefitter, maintenance

Installs or repairs water, steam, gas, or other types of pipe and pipe fittings in an establishment. Work involves *most of the following:* Laying out of work and measuring to locate position of pipe from drawings or other written specifications; cutting various sizes of pipe to correct lengths with chisel and hammer or oxyacetylene torch or pipe-cutting machine; threading pipe with stocks and dies; bending pipe by hand-driven or power-driven machines; assembling pipe with couplings and fastening pipe to hangers; making standard shop computations relating to pressures, flow, and size of pipe required; making standard tests to determine whether finished pipes meet specifications. In general, the work of the maintenance pipefitter requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience. *Workers primarily engaged in installing and repairing biulding sanitation or heating systems are excluded.*

Plumber, maintenance

Keeps the plumbing system of an establishment in good order. Work involves: Knowledge of sanitary codes regarding installation of vents and traps in plumbing system; installing or repairing pipes and fixtures; opening clogged drains with a plunger or plumber's snake. In general, the work of the maintenance plumber requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Sheet-metal worker, maintenance

Fabricates, installs, and maintains in good repair the sheet-metal equipment and fixtures (such as machine guards, grease pans, shelves, lockers, tanks, ventilators, chutes, ducts, metal roofing) of an establishment. Work involves *most of the following:* Planning and laying out all types of sheet-metal maintenance work from blueprints, models, or other specifications; setting up and operating all available types of sheet-metal-working machines; using a variety of handtools in cutting, bending, forming, shaping, fitting, and assembling; installing sheet-metal articles as required. In general, the work of the maintenance sheet-metal worker requires rounded training and experience usually acquired through a formal apprenticeship or equivalent training and experience.

Tool and die maker

(Die maker; jig maker; tool maker; fixture maker; gauge maker)

Constructs and repairs machine-shop tools, gauges, jigs, fixtures or dies for forgings, punching and other metal-forming work. Work involves *most of the following:* Planning and laying out of work from models, blueprints, drawings, or other oral and written specifications; using a variety of tool and die maker's handtools and precision measuring instruments, understanding of the working properties of common metals and alloys; setting up and operating of machine tools and related equipment; making necessary shop computations relating to dimensions of work, speeds, feeds, and tooling of machines; heattreating of metal parts during fabrication as well as of finished tools and dies to achieve required qualities; working to close tolerances; fitting and assembling of parts to prescribed tolerances and allowances; selecting appropriate materials, tools, and processes. In general, the tool and die maker's work requires a rounded training in machine-shop and toolroom practice usually acquired through a formal apprenticeship or equivalent training and experience.

For cross-industry wage study purposes, tool and die makers in tool and die jobbing shops are excluded from this classification.

Average straight-time hourly earnings,[1] selected maintenance and powerplant occupations in private industries[2] in 6 metropolitan areas, 1965–67

Occupation and industry division	Baltimore, Md.		Kansas City, Mo.-Kans.		Minneapolis-St. Paul, Minn.		St. Louis, Mo.-Ill.		San Francisco-Oakland, Calif.		Seattle-Everett, Wash.	
	November 1965	November 1966	November 1965	November 1966	January 1966	January 1967	October 1965	October 1966	January 1966	January 1967	October 1965	October 1966
Electricians, maintenance:												
All industries studied	$3.23	$3.41	$3.63	$3.78	$3.69	$3.87	$3.63	$3.78	$3.84	$3.93	[3]	$3.69
Manufacturing	3.25	3.47	3.61	3.77	3.68	3.85	3.60	3.74	3.88	3.93	[3]	3.67
Engineers, stationary:												
All industries studied	3.13	3.23	3.35	3.53	3.53	3.51	3.50	3.68	3.78	3.98	$3.45	3.62
Manufacturing	3.16	3.31	3.54	3.69	3.36	3.69	3.61	3.78	3.95	4.06	3.46	3.63
Firemen, stationary boiler:												
All industries studied	2.82	2.88	2.66	2.68	3.20	3.22	3.37	3.52	3.09	3.12	2.80	3.00
Manufacturing	2.88	2.96	2.65	2.64	3.27	3.25	3.30	3.43	3.09	3.10	2.80	3.00
Oilers:												
All industries studied:	2.89	2.96	2.85	2.97	2.90	2.99	3.17	3.25	3.09	3.20	2.86	3.03
Manufacturing	2.90	2.96	2.85	2.97	2.90	2.99	3.17	3.25	3.05	3.15	2.86	3.03
Helpers, maintenance trades:												
All industries studied	2.66	2.73	2.78	2.89	2.88	3.17	2.85	3.00	2.97	3.08	2.71	2.81
Manufacturing	2.68	2.63	2.77	2.89	2.78	3.21	2.87	3.03	3.05	3.15	2.70	2.80
Machine-tool operators, toolroom:												
All industries studied	3.29	3.29	3.37	3.52	3.11	3.28	3.42	3.59	3.76	3.80	[3]	[3]
Manufacturing	3.29	3.29	3.37	3.52	3.11	3.28	3.42	3.59	3.77	3.81	[3]	[3]
Machinists, maintenance:												
All industries studied	3.43	3.66	3.61	3.79	3.59	3.72	3.61	3.64	3.86	3.96	3.43	3.61
Manufacturing	3.44	3.70	3.61	3.80	3.60	3.71	3.59	3.62	3.86	3.94	3.42	3.60
Mechanics, maintenance:												
All industries studied	3.29	3.58	3.37	3.46	3.24	3.29	3.17	3.40	3.58	3.73	3.39	3.56
Manufacturing	3.29	3.59	3.31	3.42	3.14	3.28	3.16	3.40	3.58	3.73	3.39	3.56
Sheet-metal workers, maintenance:												
All industries studied	3.31	3.38	3.62	3.73	3.32	3.87	3.58	3.66	3.63	3.77	[3]	[3]
Manufacturing	3.32	3.42	3.62	3.73	3.32	3.87	3.60	3.68	3.65	3.71	[3]	[3]

[1] Excludes premium pay for overtime and for work on weekends, holidays, and late shifts.

[2] Includes the following industry divisions: manufacturing; transportation, communication, and other public utilities; wholesale trade; retail trade; finance, insurance, and real estate; and selected services. Excludes extractive industries, construction, and government.

[3] Not available.

Source: BLS area wage survey.

Mr. DINGELL. I think it is also important, Mr. Secretary, that this committee have before it information as to the cost of the different proposals to the carriers, a matter which has not been before the committee as yet.

Secretary WIRTZ. If I may take these one at a time so I won't get them confused, first you want a statement on the impact data. It is not technically in the record. It is in the documents which have been given to you.

I will ask that they be made part of the record, and also the President's statement accompanying the first proposal for the extension which does set out the impact data.

Second, you have asked for economic data. The record does include—the emergency board report does include—the complete economic data.

I will suggest, Mr. Chairman, that that be made part of the record.

(The documents referred to follow:)

[H. Doc. 104, 90th Cong., 1st sess.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING A REPORT ON NEGOTIATIONS TO WARD OFF THE THREATENED RAILROAD STRIKE AND A RECOMMENDED JOINT RESOLUTION

To the Congress of the United States:

The threat of a crippling and paralyzing nation-wide railroad strike now faces America.

At 12:01 a.m. on Thursday, April 13th, 137,000 shopworkers—mechanics, powerhouse employees and shop laborers—without whose services the trains cannot operate are scheduled to begin a walkout against virtually every major railroad in this country. Over 95 percent of the Nation's railroad mileage will be affected.

For almost a year the parties have engaged in extensive collective bargaining to reach a settlement. These negotiations have proceeded with a seriousness of purpose. The parties have bargained hard and with skill.

The major issues on the bargaining table are traditional but vital. They include higher wage rates, larger wage differentials between skilled and unskilled workers, and the length of the contract.

Since October, 1966, the negotiations have taken place under the Railway Labor Act—the machinery established by the Congress to handle disputes involving the Nation's railroads.

Through mediation and through the recommendations of an Emergency Board that I established last January, some progress has been made. Recently, at my direction, Secretary of Labor Wirtz and Under Secretary of Labor Reynolds have worked, with National Mediation Board Chairman O'Neill, to achieve a fair settlement. Out of this process many of the issues have been narrowed. Others have been eliminated.

Now, however, the procedures under the Railway Labor Act have run their full course—but the parties have still not been able to resolve their differences.

Under the law, the unions are free to strike on 12:01 a.m. April 13th unless:

—A settlement is immediately reached.

—The unions agree to a voluntary extension of the "no strike" period. The government's request for such an agreement has already been rejected.

—Congress takes special action to keep the trains running while the parties can continue to work toward a settlement through collective bargaining without a nation-wide strike.

In this Message I call upon the Congress to take that special action.

THE PROPOSAL

I have carefully weighed the type of action Congress might usefully consider to meet the needs of the immediate situation.

I have consulted with the wisest advisors available to a President.

The legislation I am proposing takes full account of two central considerations. The first is the significance of uninterrupted rail service to the national welfare and safety, and particularly to defense production. The second is that even in these extreme circumstances, collective bargaining must be given every opportunity to work—with the bargainers fully aware of the national significance of their responsibility.

With these considerations in mind, I recommend that Congress approve a joint resolution to extend the 60-day "no strike" period in this case for an additional 20 days.

The resolution would have the effect of extending the "no strike" period under the Railway Labor Act for this case to a full 80 days—the same period allowed under the Taft-Hartley Act. The normal period of restraint under the Railway Labor Act has already expired.

The proposed joint resolution follows the finding made by the Emergency Board of three distinguished Americans to whom this case was referred under the Railway Labor Act. The Board was of the conviction that:

"There should be established a longer period of statutory restraint subsequent to the submission of an Emergency Board's report in order to give the parties additional time to negotiate a settlement. The Board notes that under the Taft-Hartley Act the parties have a period of 80 days after the Board Report is submitted to the President."

The proposed resolution gives the process of collective bargaining a last clear chance in this case while giving the Nation the uninterrupted railroad service it must have. I have always believed that solutions arrived at through hard and honest negotiations are preferable to those imposed by decree.

I will appoint a panel of special mediators to assist the parties in reaching a settlement during this 20-day period. I have also asked Secretary of Labor Willard Wirtz, Secretary of Transportation Alan Boyd, and representatives of the other interested government agencies to work with the parties.

THE IMPACT OF A STRIKE

The differences which remain in this dispute are important. But they are slight when compared with the price to the country and to these parties from a suspension of rail service.

The purpose of this Message and of this proposal is to impress upon the parties and to make clear to the Nation what is at stake here.

The cost of a nation-wide railroad strike would be incalculable. I urge you to consider these facts:

—On the first morning of the strike three-quarters of a million rail commuters in New York, Chicago, and Philadelphia alone would be unable to take their trains to work.

—Shipments of perishable foodstuffs to many major cities would be halted at once.

—Actual food shortages could soon occur in several cities.

—Some health hazards would develop. For example, supplies of chlorine used to purify community water supplies would grow short.

—The coal mining industry, with 140,000 workers, would cease operations almost at once.

—Many other industries which rely heavily on the railroads—such as metal mining, steel, chemicals—would be badly crippled and soon begin to close down.

—For a week or more most factories could operate from their inventories. Soon, shortages and bottlenecks would begin to curtail production drasti-

cally. A spreading epidemic of lost production and lost jobs would sweep through the Nation.

—A one-month strike would reduce the gross national product by 13 percent. That would be nearly four times as great as the total decline that occurred in the Nation's worst post-war recession. It would drive the unemployment rate up to 15%—for the first time since 1940—putting millions of workers out of jobs.

In short, a railroad strike would affect every man, woman and child in this Nation. It would increase the cost of living. Each day the strike continued would bring pyramiding losses in goods, services and income—losses which can never be fully regained. A prolonged strike could well break the back of the Nation's stable prosperity for some period to come.

Beyond this, there remains the impact of a rail strike on defense production, and particularly on our 500,000 brave servicemen in South East Asia.

For example:

—Forty percent of the total freight shipped by the Defense Department is moved by the Nation's railroads. A strike would materially disrupt these vital operations.

—Shipments of ammunition will be critically affected. During April, 210,000 tons of ammunition are scheduled to move to ports for overseas shipment. About 175,000 tons are going by rail.

—Production of ammunition will be hindered. Sulphuric acid, a key ingredient for ammunition, moves only by rail car.

—The movement of gasoline and jet fuel for our combat and transport aircraft heavily depends on railroads.

—The M–48 tank and other heavy military equipment used in Viet-Nam, can be shipped only by rail.

—Strategic missiles such as Polaris and Minuteman are moved by specially equipped rail cars.

Conclusion

The costs are so heavy and the consequences so dire that there have been only two brief national rail strikes in this century. This is a clear example of the responsibility—and restraint—which can be displayed by railroad labor and management.

Almost three years ago to the day the Nation was faced with an equally grave railroad strike. Then, both the carriers and the unions placed the national interest first. The strike was postponed and a fair and just settlement reached.

On that occasion I said:

"This agreement is American business and American labor operating at its very best, at the highest levels of public responsibility. This is the face of American industrial democracy that we can proudly show to the entire world, that free enterprise, free collective bargaining, really works in this country, and that the needs and the demands of the people's interest are understood and those needs and those demands come first."

It is my fervent hope—and I believe that I speak for all Americans—that the parties to the railway dispute which now threatens the Nation arrive at a just settlement, for "He that keepeth understanding shall find good."

More drastic measures could have been proposed. But I believe that the parties should be given one more opportunity—a last clear chance—to resolve their differences, in their own way, in the spirit of free collective bargaining.

As President I have the firm responsibility to represent this Nation at the meeting of the heads of Latin American States at Punta del Este. The commitment to go to Punta del Este was made many months ago—and it must be honored.

But as President, I also have the clear responsibility to take action that will assure uninterrupted rail service for our Nation. I am taking that action in submitting this Joint Resolution today and requesting prompt action by the Congress.

Lyndon B. Johnson.

The White House, *April 10, 1967.*

JOINT RESOLUTION To extend the period for making no change of conditions under Section 10 of the Railway Labor Act applicable in the current dispute between the railroad carriers represented by the National Railway Labor Conference and certain of their employees

Whereas disputes exist between the carriers represented by the National Railway Labor Conference and certain of their employees represented by the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; International Brotherhood of Firemen and Oilers functioning through the Railway Employees' Department, AFL–CIO, labor organizations; and

Whereas the President of the United States, pursuant to the provisions of section 10 of the Railway Labor Act, by Executive Order No. 11324 of January 28, 1967, created an Emergency Board to investigate these disputes and report its findings; and

Whereas the Emergency Board has reported and the stautory period for making no change of conditions, as extended by agreement of the parties, is about to expire, without the parties having resolved the issues in dispute, thereby continuing to threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation services; and

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained; and

Whereas the Congress finds that an emergency measure is essential to security and continuity of transportation services by such carriers; and

Whereas it is desirable to achieve the above objectives in a manner conducive to resolution of the disputes through collective bargaining: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the provisions of the final paragraph of Section 10 of the Railway Labor Act (45 U.S.C. 160) shall be extended for an additional period with respect to the disputes referred to in Executive Order No. 11324 of January 28, 1967, so that no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which such disputes arose prior to 12:01 a.m. of May 3, 1967.

Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD No. 169

APPOINTED BY EXECUTIVE ORDER NO. 11324 DATED JANUARY 28, 1967, PURSUANT TO SECTION 10 OF THE RAILWAY LABOR ACT, AS AMENDED

To investigate and report its findings to the President of unadjusted disputes between the carriers represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees, functioning through the Railway Employees' Department, AFL–CIO.

(National Mediation Board Case No. A–7949)

WASHINGTON, D.C.
MARCH 10, 1967

LETTER OF TRANSMITTAL

WASHINGTON, D.C., *March 10, 1967.*

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

DEAR MR. PRESIDENT: The Emergency Board which you created on January 28, 1967, by Executive Order 11324, pursuant to Section 10 of the Railway Labor Act, as amended, has the honor to submit its report and recommendations.

This Board was appointed to investigate disputes between the carriers represented by the National Railway Labor Conference and the Eastern, Western and Southeastern Carriers' Conference Committees and certain of their employees, functioning through the Railway Employees' Department, AFL–CIO, and represented by the following unions:

International Association of Machinists and Aerospace Workers;
International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers;
Sheet Metal Workers' International Association;
International Brotherhood of Electrical Workers;
Brotherhood of Railway Carmen of America;
International Brotherhood of Firemen and Oilers.

Hearings have been held, and the evidence and argument of the parties considered.

Our recommendations for an equitable settlement of this dispute are submitted herewith.

The Board acknowledges with deep appreciation the able assistance during the hearings and in its subsequent deliberations of Beatrice Burgoon, Lily Mary David and Lary Yud, staff members of the Department of Labor.

Respectfully,

(S) DAVID GINSBURG, *Chairman.*
(S) FRANK J. DUGAN, *Member.*
(S) JOHN. W. MCCONNELL, *Member.*

I. HISTORY OF THE EMERGENCY BOARD

Emergency Board No. 169 was created by Executive Order 11324, issued January 28, 1967, pursuant to Section 10 of the Railway Labor Act, as amended, to investigate and report its findings of unadjusted disputes between the railroad carriers represented by the National Railway Labor Conference (comprised of the Eastern, Western, and Southeastern Carriers' Conference Committees), and certain of their employees represented by six shopcraft unions operating through the Railway Employes' Department, AFL–CIO.[1]

The President appointed the following as members of the Board: David Ginsburg, an attorney from Washington, D.C., Chairman; Frank J. Dugan, Professor of Law, Georgetown University Law Center, Member; John W. McConnell, President of the University of New Hampshire, Member.

The Board convened in Washington, D.C., on February 1, 1967, to hear the opening statements of the parties and to discuss procedures. Public hearings were held for seven days between February 1 and February 9 at Washington, D.C. During the hearings the parties were given full and adequate opportunity to present evidence and argument before the Board. To assist the Board in identifying and clarifying issues, the parties willingly made themselves available to the Board for numerous informal discussions.

The record of the proceedings consists of 1,073 pages of testimony and 36 numbered exhibits. The Board has made clear that its report to the President would be based upon that record.

Subsequent to the creation of the Board, the parties by stipulation, approved by the President, agreed to extend the time within which the Board must report its findings to the President until March 13, 1967, and to extend the period of statutory restraint until April 12, 1967.

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[1] The text of the Executive Order is contained in Appendix A. The six labor organizations are the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; and International Brotherhood of Firemen, Oilers, Helpers, Round House and Railway Shop Laborers.

II. BACKGROUND OF THE DISPUTE

The carriers before the Board comprise almost the entire Class I railroad industry and account for well over 95 percent of the total railroad mileage in the United States.[2]

The six organizations represent approximately 137,000 shopworkers employed by the Class I railroads. These employees consist of journeymen mechanics, their helpers and apprentices, powerhouse employees and railway shop laborers. It is the primary responsibility of these employees to inspect, maintain, and repair all types of locomotives, freight and passenger cars, all work equipment such as cranes, hoists, work cars, wreck equipment, and the shop machinery and equipment. They also operate and maintain the stationary power plants and power stations where electricity is generated to furnish power and heat to the shops and buildings.

On May 17, 1966, the organizations served notices under Section 6 of the Railway Labor Act, as amended, requesting a general increase of 20 percent in all wage rates and differentials, the establishment of procedures for periodic cost of living adjustments, shift differentials, additional overtime pay, vacation and paid holiday improvements, jury duty pay and the establishment of a 30-minute paid lunch period on each shift.[3]

The request was that all changes be made effective January 1, 1967. On the first day of the hearings, the organizations officially withdrew their paid lunch period proposal.

Subsequently, in June 1966, various proposals were served by the individual carriers on the organizations. Among the changes requested were a revision of the vacation agreement, elimination of certain craft jurisdictional barriers, a revision of the rules governing the work of car inspectors, greater freedom to institute technological, operational and organizational changes, establishment of entrance rates, compulsory retirement age limits, revision of the 40-hour workweek rules, establishment of a rule to prohibit duplicate punitive holiday payments, elimination of the advance notice requirement for emergency force reductions and the establishment of a rule that would require adherence to the common law rule of damages for breach of collective bargaining contracts.[4] The carriers subsequently withdrew their car inspector proposal.

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[2] The carriers who are parties to this dispute consist of 138 line-haul railroads and terminal and switching companies. They function for national collective bargaining purposes through the National Railway Labor Conference and the three regional Carriers' Conference Committees.

[3] The organizations' proposals are contained in Appendix B.

[4] The carriers' proposals are contained in Appendix C.

Conferences were held between the individual carriers and the organizations; no agreements were reached; both the carriers and the organizations thereupon authorized national handling of the dispute.

Negotiations on a national level began on September 28, 1966, in Washington, D.C. Following a two-day meeting in Chicago beginning October 11, 1966, the parties agreed to seek the assistance of the National Mediation Board. The NMB docketed the case as A–7949. Mediation commenced October 19, 1966, and continued intermittently through January 6, 1967, when the NMB advised the parties that its mediation efforts had been unsuccessful and proffered arbitration. The carriers accepted the NMB's request; the organizations declined. On January 13, 1967, the National Mediation Board notified the parties that it was formally terminating its services.

On October 25, 1966, the organizations had polled their members and received strike authorization in the event a satisfactory settlement was not negotiated. A legal and peaceful withdrawal from service was set for February 13, 1967.

The NMB then notified the President that in its judgment this dispute threatened to substantially interrupt interstate commerce so as to deprive the country of essential transportation service. The President thereupon created this Emergency Board. Hearings began in Washington, D.C., on February 1, 1967.

III. PROCEDURES

The Board warmly commends the parties and counsel for their full cooperation in providing the facts of the case and the arguments of the parties in record time. The Board has given considerable attention in these proceedings to the matters of procedure, and has carefully reviewed the observations and suggestions of prior Emergency Boards. As a possible aid to future boards, we list the following procedural steps taken to expedite the hearing:

Improving the Hearing Procedures

(1) A prehearing conference was held during which the Chairman suggested several ways to reduce the time spent in hearing and to sharpen the issues and argument for the Board.

(2) Opening statements of the parties were relatively brief; main proposals and lines of argument were clearly outlined.

(3) Facts were presented through a limited number of carefully prepared exhibits.

(4) The parties were expressly requested not to read prepared exhibits but, where necessary, to summarize them.

(5) The volume of historical information was reduced and should be kept to a minimum.

(6) The examination of witnesses was confined to major issues and matters directly pertinent to the more important specific proposals and evidence.

(7) Throughout the hearing, the parties made themselves available to the Board for numerous informal discussions; this cooperation markedly assisted the Board in identifying and clarifying the issues and the positions of the parties.

(8) At the conclusion of the hearing, the Chairman asked the parties to prepare a summation and brief in the form of proposed findings and recommendations by the Board. In getting at the essence of each proposal and narrowing the areas of difference between the parties, this device proved invaluable.

(9) During the hearings and throughout the Board's deliberations, a representative of the Department of Labor was in constant attendance as liaison between the Board, the parties, and others, and among the members of the Board. This service was invaluable.

Furthering Negotiation by the Parties

As the case developed it became apparent that no real bargaining had actually taken place between the parties before their appearance before the Board. We believe this is generally the case in proceedings before Emergency Boards. In this regard, Boards appointed under the Railway Labor Act face a different situation from those appointed under the Taft-Hartley Act; under the latter, bargaining has taken place and the parties come to the public tribunal only with the hard core of their dispute. In transportation cases, experience shows that the parties begin to negotiate only after an Emergency Board has been appointed, and often only after a report has been submitted to the President. We believe that continuation of this practice will defeat other attempts to improve labor relations in the railroad industry. The Board, therefore, recommends for consideration by appropriate authorities the following proposals designed to expedite the settlement of disputes under the Railway Labor Act.

(1) There should be established a longer period of statutory restraint subsequent to the submission of an Emergency Board's report in order to give the parties additional time to negotiate a settlement. The Board notes that under the Taft-Hartley Act, the parties have a period of 80 days after the Board report is submitted to the President.

(2) The President should have the power to extend the initial period of statutory restraint for an additional 30 days if, in his judgment (a) the parties are making substantial progress toward a settlement, or (b) important developments are likely to occur within the additional 30-day period that would materially influence a settlement.

(3) Recognizing that agreement by the parties is preferable to recommended settlements, Emergency Boards should, whenever possible, refrain from specific substantive recommendations and instead suggest procedures which would lead the parties themselves to resolve the issues.

The Board further recommends that carriers and unions, in cooperation with the National Mediation Board and the Department of Labor, give greater attention to the methods for achieving speedier and more effective settlement of disputes submitted to Emergency Boards.

IV. THE ISSUES

The organizations originally raised nine issues; subsequent proposals from the carriers raised an additional ten issues.[5] None of these 19 issues was resolved by negotiation or mediation. Each party withdrew one proposal, thus leaving 17 outstanding issues on which material was supplied for the record.

During the hearings it became apparent that there were two aspects to the general wage issue, namely, the amount of any across-the-board increase and the establishment of greater differentials between the skilled and unskilled in the several crafts within the industry and, at the same time, the establishment of comparability between wages of the shop crafts and wages for similar work outside the railroad industry.

This Board has carefully considered each unresolved issue.

V. THE GENERAL WAGE INCREASE

The organizations seek a general wage increase of at least 6 percent for all employees for the year beginning January 1, 1967. The carriers, having settled on a 5 percent basis with nearly 65 percent of railroad employees, urge that the 5 percent pattern be retained.

Area of Agreement

On the general wage rate issue the broad area of agreement between the parties is heartening and impressive. The formal demand of the organizations for a 20 percent general increase was reduced to 7 percent during the hearings and further adjusted in the Brief for the Employees submitted to the Board. Both parties cited and relied on the 1967 Annual Report and earlier reports of the President's Council of Economic Advisers. Both parties agreed that wage increases should be geared not to productivity gains in particular industries but to the trend productivity of the national economy. Most

[5] See Appendices B and C.

important, both parties explicitly acknowledged their own and the public interest in arriving at noninflationary wage settlements.

Primary Importance of Wage Compression Issue

Although we deal first with the general wage question, we regard it as subordinate to the issue of wage compression. The Board believes that at the core of the differences between the organizations and the carriers is an industry practice, terminated in 1964, of negotiating flat cents per hour across-the-board wage adjustments for all employees. One consequence was that wage differentials between the more and the less skilled within the industry were unduly narrowed; another was that wage rates of the higher skilled shopcraft employees lagged behind the gains of employees of comparable skills in other industries. At this stage the Board merely concludes that an increase in general wage rates would be neither an effective nor an appropriate response to these two aspects of wage compression. Specific recommendations covering existing inequities and disparities are set forth in the following section of this report.

The 5 Percent Level

Whether a 5 percent general wage increase is economically justifiable is not in issue before the Board; the carriers have already made a 5 percent offer and it would be unrealistic for the Board to attempt to reexamine it.

On the general wage rate issue we recommend that the shopcraft employees accept a 5 percent increase for 1967 partly because most of the railroad employees have already settled on this basis but primarily because a general wage increase of more than 5 percent is not justified by the record before us. Although we do not question the right of the federated shopcrafts to seek a higher rate, we believe that a settlement above the 5 percent level would probably nurture employee dissatisfaction and catch-up demands, and hamper collective bargaining and the negotiation of future conrtacts.

Comparative Wage Rate and Earnings Data

The Board has carefully reviewed the more recent data made available to it comparing the earnings of railroad nonoperating employees with the earnings of production workers in manufacturing industries. These data show that in recent years the earnings of both groups have moved in the same direction and at about the same pace. We believe that for 1967 a 5 percent adjustment in wage rates will keep the earnings of the shopcraft employees well abreast of the general increases of workers outside the railroad industry.

If we examine the estimated annual rates of increase in hourly costs of wage and benefit changes negotiated in the key 1966 collective

bargaining settlements, we find that 58 percent will receive increases at an annual rate of less than 5 percent.

If we consider wage rates only—the issue before us—we find that the median annual rate of increases to go into effect during the life of major collective bargaining agreements negotiated during 1966 is 3.7 percent. Recently published data (Department of Labor release, February 3, 1967, "Major Collective Bargaining Agreements Negotiated During 1966") make clear *that about 85 percent of the 2.75 million workers covered by these settlements will receive annual increases of less than 5 percent.*

Even in the last quarter of 1966 important agreements were reached that provided annual wage adjustments considerably below the 5 percent level. The three-year contracts negotiated in the electrical equipment industry provide 4 percent first-year wage increases.

For 1966 the most common deferred increases were 3, but less than 3½ percent or 10 but less than 11 cents (for approximately 700,000 workers in the automobile, farm and construction equipment industries).

For 1967 the Bureau of Labor Statistics reports that deferred increases will most commonly average 2 to 2½ percent or 7 to 9 cents per hour. Increases of 2 percent but less than 2½ percent will be effective in 1967,

- for approximately 150,000 aerospace workers;
- for 450,000 workers in basic steel, where increases will range from 6 to 12 cents and average about 7.4 cents.
- For 50,000 aluminum workers, whose increases will range from 8½ to 9 cents; and
- for 50,000 Atlantic and Gulf Coast longshore employees who will receive increases of about 2.2 percent (8 cents an hour).

Increases of about 3 percent will go to approximately 200,000 union employees of General Electric Co. and Westinghouse Electric Corp. and to 50,000 shipbuilding workers whose increases will be from 7 through 10 cents.

For the shopcraft employees of the railroads, however, the 5 percent proposed adjustment will average 15 cents per hour.

Although some increases in agreements entered into or effective in 1967 will exceed 5 percent, particularly for employees in the air line and construction industries, the data in the record make clear that the annual rate of increase in 1967 for all industries and for manufacturing industries will be less than 5 percent.

Real Earnings, Duration and the Cost of Living Clause

During the three-year period from December 1963 through December 1966 the average straight-time hourly earnings of the shopcraft

employees increased from $2.62 per hour to $2.90 per hour with an average annual increase of 3.4 percent. During that period the average straight-time hourly earnings of production workers in durable goods industries increased from $2.59 to $2.81 an hour with an average annual increase of 2.8 percent.

During the same December to December three-year period the Consumer Price Index increased at an average annual rate of 2.1 percent (1.1 percent in 1963–64; 2.0 percent in 1964–65; 3.3 percent in 1965–66).

To us this record means that the real earnings of the shopcraft employees have increased during this period at a rate greater than that for workers generally in the economy. Even if the Consumer Price Idex goes up as much as another 2.5 percent during 1967, the shopcraft employees—given a 5 percent general wage increase—will nevertheless still achieve substantial gains in real earnings.

It is unnecessary to deal further with the problem of real wages since the Board limits its recommendation to a two-year contract with a reopener for general wages at the end of the first year. The organizations would prefer a longer term; the carriers would prefer to continue the one-year 1967 pattern, stressing the existence of economic uncertainties.

We refrain from recommending a fixed agreement of longer duration not because of uncertainties in the current economic indicators, but because it may be wise to reexamine the issue of general wage rates as steps are being taken to remedy the larger problem of wage compression.

The general wage increases would be effective as of January 1, 1967.

Since the organizations and the carriers will be free to reassess their respective interests as and when the actual results for 1967 become available, we need not now consider the troublesome request for an arrangement which would automatically tie wage rates to changes in the Consumer Price Index.

VI. THE WAGE COMPRESSION OF SKILLED SHOPCRAFT EMPLOYEES

For thirty years the unions have insisted on uniform cents-per-hour wage increases for all shopcraft employees. The result has been to compress severely the wage differentials between skilled and unskilled shopcraft employees and to widen the wage disparity between skilled workers in railroad shops and skilled workers in other indus-

tries. Both parties agree that there is a serious wage compression and that it cannot be corrected in a single step.[6]

Prior Emergency Boards have already recognized that the wage scale is compressed.[7] They have concluded that the only fundamental way to deal with interclass and intercraft inequities and with wage rate compression is through a comprehensive job evaluation study. Indeed, it has been almost a half century since a systematic evaluation and classification was made of the various skilled crafts in the railroad industry. Attempts to adjust the wage structure in a piecemeal fashion merely tend to make more of a patchwork of pay relationships. As the unions acknowledge, "the precise extent of the gap is admittedly in dispute because of the differences between the parties over skill comparisons and cannot be determined with confidence by this or any other Emergency Board." [8] An equitable adjustment beyond the pattern settlement would not violate existing Administration policy against inflationary wage increases because the type of adjustment here sought is compatible with the principles of wage equity stated by the Council of Economic Advisers.[9]

An inequity thus exists, but no data are available to this Board which would permit it to establish precisely the proper wage differentials between the skilled and the unskilled in the railroad shops, and proper wage relationships between journeymen shopcraft employees and similarly skilled workers in outside industry. We recommend a comprehensive job evaluation study along the following lines:

1. *Escrow Fund*

We recommend that the parties forthwith begin negotiations to determine the amount of money to be placed in escrow by the carriers as a "down payment" to correct existing wage inequities between the skilled and unskilled shopcraft employees. These negotiations should be concluded within 60 days from the date of this report or within such other period as the parties may mutually agree. If the parties are unable to agree on the amount to be placed in escrow the Secretary of Labor should be authorized to designate a Board for final and binding arbitration or establish an alternate procedure to set the amount.

2. *Procedures To Establish a Job Evaluation Study*

To expedite the job evaluation study the Board recommends that the parties promptly consult with the Secretary of Labor and arrive

[6] "We admit that full correction of what thirty years created cannot be accomplished at one time and that completion would necessarily have to be phased out over a reasonable period of years." See Brief for Employees, p. 16.

[7] Emergency Board 145, pp. 6–8; Emergency Board 159, pp. 10–11, 13–15.

[8] See Brief for Employees, p. 35.

[9] See Brief for Employees, p. 16.

at an agreement on procedures within 60 days from the date of this report. If the parties fail to agree on procedures the Secretary of Labor should be authorized to designate a Board to determine them through final and binding arbitration.

The scope of the study should be broad and have as its purpose rationalization of the wage structure within the railroad shops including a study of intercraft and interclass wage inequities as well as a meaningful comparison with similar jobs in outside industry. The study should be completed within 120 days from the date the study begins, or such longer period as the parties may mutually agree.

If the job evaluation study fails to establish acceptable wage differentials, the parties should agree to final and binding arbitration through a Board appointed by the Secretary of Labor, and the terms of the job evaluation agreement should so provide.

3. *Adoption of the Incumbent Rule*

Industries which have revised their wage structures have customarily adopted a "red circle" or "incumbent" rule under which no employee suffers loss as a result of the job evaluation study. We recommend that the parties adopt this rule.

4. *Crossing Craftlines*

The Board believes that job evaluation should not at this time include study of crossing craft lines. The Board has not sought to determine the merits of this proposal by the carrier; it merely indicates its opinion that a study of this sort is presently not feasible.

5. *Retroactivity*

To deal equitably with employees who will receive higher wages as a result of the job evaluation study the distribution from the "escrow" fund, as a first step to correct wage inequities, should be made retroactive to July 1, 1967.

6. *Cost*

The cost of the job evaluation study should be borne by the parties.

7. *Speed*

The Board believes that speed is essential in this process of rationalizing the wage structure of shopcraft employees, and it strongly urges all parties, in the public interest, to proceed as expeditiously as possible.

VII. OTHER ISSUES

Numerous other proposals of a fringe benefit nature were presented by the parties.[10]

[10] See Appendices B and C.

Negotiations between the carriers and the nonoperating unions (other than those before this Board) had resulted in a modification of the period of service required for 3 weeks vacation, and the withdrawal of all other issues by both carriers and unions. Since this agreement by the parties established a pattern for the nonoperating employees of the industry, the Board recommends that the present rule be modified to grant three weeks vacation after 10 years of service, rather than after 15 years of service. The Board recommends that all other proposals by both parties be withdrawn. This recommendation does not constitute a judgment on the merits of these proposals, but in the absence of a clear showing of an existing inequity, the Board adheres to the pattern arrived at by the carriers and other nonoperating unions.

VIII. DURATION

The duration of the agreement has already been considered by the Board in its recommendations on the general wage issue.

To summarize, the Board recommends that the agreement should be on two-year duration running from January 1, 1967, to December 31, 1968, with the understanding that the general wage issue may be reopened on December 31, 1967.

IX. CONCLUSION

It is the Board's considered judgment that the findings and recommendations set forth in this report provide a fair and equitable basis upon which the parties should be able to reach agreement in the settlement of this dispute.

Respectfully submitted,

(S) David Ginsberg,
DAVID GINSBERG, *Chairman.*

(S) Frank J. Dugan,
FRANK J. DUGAN, *Member.*

(S) John W. McConnell,
JOHN W. MCCONNELL, *Member.*

APPENDIX A

EXECUTIVE ORDER NO. 11324

CREATING AN EMERGENCY BOARD TO INVESTIGATE DISPUTES BETWEEN THE CARRIERS REPRESENTED BY THE NATIONAL RAILWAY LABOR CONFERENCE AND CERTAIN OF THEIR EMPLOYEES

WHEREAS disputes exist between the carriers represented by the National Railway Labor Conference, designated in List A attached hereto and made a part hereof, and certain of their employees represented by the International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood of Railway Carmen of America; International Brotherhood of Firemen and Oilers functioning through the Railway Employes' Department, AFL–CIO, labor organizations; and

WHEREAS these disputes have not heretofore been adjusted under the provisions of the Railway Labor Act, as amended, and

WHEREAS these disputes, in the judgment of the National Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U.S.C. 160), I hereby create a board of three members, to be appointed by me, to investigate these disputes. No member of the board shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier.

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

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the carriers represented by the National Railway Labor Conference, or by their employees, in the conditions out of which the disputes arose.

Signed LYNDON B. JOHNSON.

THE WHITE HOUSE,
January 28, 1967.

APPENDIX B

ORGANIZATIONS' PROPOSALS

ARTICLE I—WAGES

A. ADJUSTMENT OF STRAIGHT TIME WAGE RATES AND DIFFERENTIALS

1. *Initial Wage Increase.* Increase all existing straight time rates of pay and differentials for employees covered by the agreement by an amount equal to twenty percent (20%) effective January 1, 1967, applied so as to give effect to this increase in pay irrespective of the method of payment.

2. *Cost-of-Living Adjustment.* Wage rates established in accordance with paragraph 1 of this Part A shall be subject to a cost-of-living adjustment, effective April 1, 1967, July 1, 1967, October 1, 1967, January 1, 1968, and each quarter thereafter. Such cost-of-living adjustment shall be in the amount of one cent (1¢) per hour for each three-tenths (.3) of a point change in the Bureau of Labor Statistics Consumer Price Index for the months of March, June, September and December respectively, above the base index figure for December 1966 (1957–59=100), except that it shall not operate to reduce wage rates below those established under paragraph 1 of this Part A.

B. INCREASE IN OVERTIME RATES

Effective January 1, 1967, all overtime rules in existing agreements, including but not limited to those requiring payment for time in excess of eight hours in a calendar day or in any other twenty-four hour period, or in excess of forty hours or on more than five days in a work week, or on rest days, holidays or vacation days, or for calls and change of shifts, shall be revised to provide for payment at twice the straight-time rate, except that where rules now in effect require payment at twice the straight-time rate, the rate shall be increased to three times the stright-time rate.

C. SHIFT DIFFERENTIALS

In addition to all other wage payments required effective January 1, 1967, all employees shall be paid shift differentials of eighteen cents (18¢) per hour for work on any shift beginning at or after 12:00 noon and before 5:00 p.m., and twenty-five cents (25¢) per hour for work on any shift beginning at or after 5:00 p.m. and before 6:00 a.m.

ARTICLE II—VACATIONS

SECTION 1. Article 1 of the Vacation Agreement of December 17, 1941, as amended by the Agreement of August 21, 1954, the Agreement of August 19, 1960, and the Agreements of November 20 and 21, 1964, and February 4, 1965, is hereby further amended to read as follows:

(a) Effective with the calendar year 1967, an annual vacation of ten (10) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred twenty (120) days during the preceding calendar year.

(b) Effective with the calendar year 1967, an annual vacation of fifteen (15) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred ten (110) days during the preceding calendar year and who has five (5) or more years of continuous service, not necessarily consecutive.

(c) Effective with the calendar year 1967, an annual vacation of twenty (20) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has ten (10) or more years of continuous service, not necessarily consecutive.

(d) Effective with the calendar year 1967, an annual vacation of twenty-five (25) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has fifteen (15) or more years of continuous service, not necessarily consecutive.

(For the purpose of computing the length of vacation due under paragraphs (a), (b), (c) and (d) of this Section, it is understood that any calendar year in which an employee qualifies for a vacation in the succeeding year, shall be counted as a year of service.)

(e) Paragraphs (a), (b), (c) and (d) hereof shall be construed to grant to weekly and monthly rated employees, whose rates contemplate more than five (5) days of service each week, vacations of two, three, four or five work weeks.

(f) Service rendered under agreements between a carrier and one or more of the Non-operating Organizations parties to the General Agreement of August 21, 1954, the General Agreement of August 19, 1960, or to the General Agreements of November 20 and 21, 1964 and February 4, 1965, or to this Agreement shall be counted in computing days of compensated service and years of continuous service for vacation qualifying purposes under this Agreement.

(g) Calendar days in each current qualifying year on which an employe renders no service because of his sickness, injury or disability shall be included in computing days of compensated service and years of continuous service for vacation qualifying purposes on the basis of a maximum of ten (10) such days for an employe with less than three (3) years of service; a maximum of twenty (20) such days for an employee with three (3) but less than fifteen (15) years of service; and a maximum of thirty (30) such days for an employee with fifteen (15) or more years of service with the employing carrier.

(h) In instances where employees have performed service in five (5) months with the employing carrier, or have performed, in a calendar year, service sufficient to qualify them for a vacation in the following calendar year, and subsequently become members of the Armed Forces of the United States, the time spent by such employes in the Armed Forces will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the employing carrier.

(i) An employe who leaves carrier's service and has no seniority date and no rights to accumulate seniority, who renders compensated service on not less than one hundred twenty (120) days in a calendar year and who returns to service in the following year for the same carrier will be granted the vacation in the year of his return. In the event such an employe does not return to service in the following year for the same carrier he will be compensated in lieu of the vacation he has qualified for provided he files written request

therefor to his employing officer, a copy of such request to be furnished to his local or general chairman.

SECTION 2. Section 3 of Article 1 of the Agreement of August 21, 1954, is hereby further amended effective January 1, 1967, to read as follows:

When any of the recognized holidays, as defined in Article III of this notice, occurs during an employe's vacation period, the following shall apply:

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

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

(2) If such employe is assigned in any manner to work on the holiday, the holiday shall be considered as a vacation day of the period for which the employe is entitled to vacation and the employe shall be entitled to a straight time day's pay plus pay at the applicable overtime rate for the job assignment to work on such holiday.

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

SECTION 3. Article 15 of the Vacation Agreement of December 17, 1941, as amended by the Agreements of November 20 and 21, 1964, and February 4, 1965, is hereby amended to read as follows:

Except as otherwise provided herein, this Agreement shall be effective as of January 1, 1967, and shall be incorporated in existing agreements as a supplement thereto, and shall be in full force and effect thereafter, subject to change upon written notice by any carrier or organization party hereto, of desire to change this Agreement, in accordance with the provisions of the Railway Labor Act, Amended.

ARTICLE III—HOLIDAYS

Article II of the Agreement of August 21, 1954, as amended by the Agreement of August 19, 1960, and the Agreements of November 20 and 21, 1964, and February 4, 1965, is hereby amended to read as follows:

SECTION 1. (a) Effective January 1, 1967, each hourly, daily or weekly rated employe shall be guaranteed 8 hours' pay at the pro rata hourly rate of the position on which he last worked before the holiday in addition to any other payments required for each of the following nine enumerated holidays:

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

(b) This Article does not disturb agreements now in effect under which another holiday has been substituted for one of the above-enumerated holi-

days. This Article shall be applicable to any day which by agreement or practice has been designated as a holiday in addition to those enumerated above; it shall be applicable to any day which by agreement or practice is observed by the employe instead of the day on which the holiday occurs (holidays enumerated above or holidays in addition thereto designated by agreement or practice or holidays substituted for one of the holidays enumerated above.)

SECTION 2. Monthly rates shall be adjusted by adding the equivalent of 8 pro rata hours to the annual compensation (the monthly rate multiplied by 12) and this sum shall be divided by 12 in order to establish a new monthly rate. The sum of presently existing hours per annum plus 8 divided by 12 will establish a new hourly factor for wage adjustments; overtime rates will be computed on the basis of such hours minus the number of holiday pay hours included in such computation. Each monthly rated employee shall receive a day off without reduction in his monthly compensation on the above enumerated holidays (or on the next succeeding work day if the holiday falls on a rest day of his work week) or, if required to work on such day, shall be compensated therefor at the applicable overtime rate of compensation for a minimum of eight hours in addition to his monthly compensation.

SECTION 3. Each hourly, daily and weekly rated employe shall qualify for the holiday pay provided in Section 1 hereof if compensation paid by the carrier is credited to him at any time during the sixty calendar days preceding the holiday or holidays, unless the employee was assigned to work on the work day of his work week immediately preceding or following the holiday and he fails to report for work on such day without good cause. Good cause shall include sickness, injury, disability, vacation, leave of absence, and any other reasonable cause for failure to report for work.

SECTION 4. Nothing in this Article shall be construed to reduce the number of holidays in any case where by agreement or practice holiday have been designated in addition to those enumerated in Section 1 hereof.

SECTION 5. Whenever any hourly, daily or weekly rated employe is required to work on a holiday to which Section 1 of this Article applies, he shall be compensated at the applicable overtime rate for the position worked for a minimum of eight (8) hours, in addition to the compensation provided for in Section 1.

SECTION 6. An employe working at a location away from his residence may, by giving reasonable notice to his supervisor, have the day immediately preceding the first day during which he is not scheduled to work following his birthday considered as his birthday for the purposes of this Article. An employe whose birthday falls on February 29, may, on other than leap years, by giving reasonable notice to his supervisor, have February 28 or the day immediately preceding the first day during which he is not scheduled to work following February 28 considered as his birthday for the purposes of this Article. If an employe's birthday falls on one of the other holidays named in Section 1 of this Article, he may, by giving reasonable notice to his supervisor, have the following day or the day immediately preceding the first day during which he is not scheduled to work such holiday considered as his birthday for the purposes of this Article.

ARTICLE IV—PAY FOR JURY DUTY LEAVE

Effective January 1, 1967, revise and supplement existing agreements to provide that an employe who is called for jury duty and reports shall do so without loss of compensation or any other benefits provided under the existing agree-

ments for each day he reports for jury duty as though he had rendered compensated service for the company.

ARTICLE V—PAID LUNCH PERIOD

Effective January 1, 1967, revise and supplement existing agreements to provide a paid thirty-minute lunch period for all employes regardless of where employed within an eight hour tour of duty.

ARTICLE VI—SAVINGS CLAUSE

The organizations reserve the option to preserve existing rules or practices on any individual carrier or carriers which they consider more favorable than any rule resulting from negotiations on the foregoing proposals.

APPENDIX C

CARRIERS' PROPOSALS

Classification of Work

All agreements, rules, regulations, interpretations and practices, however established, governing the classification of work of mechanics, helpers and apprentices of employees represented by the following organizations:

International Association of Machinists and Aerospace Workers
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
Sheet Metal Workers' International Association
International Brotherhood of Electrical Workers

shall be merged into three classification of work rules. The first rule shall govern the work of all mechanics, the second the work of all helpers and the third the work of all apprentices. Thereafter, any work covered by such a consolidated rule may be assigned to and performed by any employee of the class to which the rule is applicable, irrespective of craft.

The number of mechanics, helpers and apprentices in the craft of machinist, sheet metal worker, blacksmith, boilermaker and electrician to be employed shall be determined by the carrier.

Car Inspectors

All agreements, rules, regulations, interpretations and practices, however established, which restrict the character of service of car inspectors are hereby eliminated. Car Inspectors may hereafter be required to perform any work which may be assigned to them provided such work is included in the classification of work rules applicable to carmen.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

Modernization of Agreements to Meet Changing Conditions

(a) Eliminate all agreements, rules, regulations, interpretations and practices, however established, which in any way handicap or interfere with the carrier's right to:

(1) Transfer work from one facility or location to another facility or location;

(2) Partially or entirely abandon any operation or to consolidate facilities or services heretofore operated independently;

(3) Merge or coordinate in whole or in part two or more carriers;

(4) Contract out work;

(5) Lease or purchase equipment or component parts thereof, the installation, operation, maintenance or repairing of which is to be performed by other than employees of the carrier;

(6) Voluntarily or involuntarily discontinue contracts whereunder a carrier perfroms service for another carrier or for any other party;

(7) Effect technological changes;

(8) Install labor saving equipment and machinery;

(9) Trade in and repurchase equipment or exchange units;

(10) Make effective any other changes in work assignments or operation;

(11) Consolidate, merge or eliminate one or more seniority rosters or districts required to accomplish or fully realize the benefits of the introduction of a technological, operational or organizational change such as those set forth in items (1) through (10) above.

(b) Eliminate all agreements, rules, regulations, interpretations and practices, however established, which provide for any payments to employees adversely affected as a result of the technological, operational or organizational changes set forth in paragraph (a) hereof.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

ENTERING RATES

Establish a rule, or amend existing rules, to provide that entering rates of pay for all basic hourly rated employees, except journeymen mechanics represented by the organizations signatory to this agreement, shall be 80% of the established rates, with increases of four percent (4%) of the established rate effective on completion of the first and each succeeding year of compensated service until the established rate is reached.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

COMPULSORY RETIREMENT

All employees subject to the provisions of this agreement who are seventy years of age or over must retire from active service no later than ninety days subsequent to the effective date of this agreement. Thereafter, the mandatory retirement age shall be progressively lowered until it is 65 in accordance with the following schedule:

	Years of age
July 1, 1967	69
January 1, 1968	68
July 1, 1968	67
January 1, 1969	66
July 1, 1969	65

Existing agreements which provide for retirement at an earlier age than herein set forth remain in full force and effect.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

FORTY-HOUR WORK WEEK RULES

A. Eliminate all agreements, rules, regulations, interpretations and practices, however established, applicable to the forty-hour work week for regularly assigned employees which are in conflict with the rule set forth in Paragraph B.

B. Establish a rule to provide that:

1. The normal work week of regularly assigned employees shall be forty hours consisting of five days of eight hours each, with any two consecutive on nonconsecutive days off in each seven. Such work weeks may be staggered in accordance with the carrier's operational requirements.

2. Regular relief assignments may include different starting times, duties and work locations.

3. Nothing in this rule shall constitute a guarantee of any number of hours or days of work or pay.

4. Work performed by a regularly assigned employee on either or both of his assigned rest days shall be paid for at the straight time rates, unless the work performed on either of the assigned rest days would require him to work more than 40 straight time hours in the work week, in which event the work performed on either of his rest days in excess of 40 straight time hours in the work week shall be paid for at the rate of time and one-half.

5. Any overtime worked by the employee will be computed into straight time hours and be used for purposes of determining when he has completed his forty-hour work week but not for the purpose of determining when the time and one-half rate is applicable.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

PROHIBITION AGAINST MULTIPLE TIME AND ONE-HALF PAYMENTS ON HOLIDAYS

Under no circumstances will an employee be allowed more than one time and one-half payment for service performed by him on any day which is a holiday.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

EMERGENCY FORCE REDUCTIONS

Establish a rule or amend existing rules to provide that in the event of a strike or emergency affecting the operations or business of the carrier, no advance notice shall be necessary to abolish positions or make force reductions.

All agreements, rules, regulations, interpretations and practices, however established, which conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

MONETARY CLAIMS

Establish a rule to provide that no monetary claim based on the failure of the carrier to use an employee to perform work shall be valid unless the claimant was the employee contractually entitled to perform the work and was available and qualified to do so, and no monetary award based on such a claim shall 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, and less any amounts received as unemployment compensation.

Existing rules, regulations, interpretations or practices, however established, which provide for penalty payments for failure to use an employee contractually entitled to perform work shall be modified to conform with the foregoing, and where there is no rule, agreement, interpretation or practice providing for penalty pay, none shall be established by this rule.

All agreements, rules, regulations, interpretations and practices, however established, with conflict with the above shall be eliminated, except that any existing rules, regulations, interpretations or practices considered by the carrier to be more favorable may be retained.

CARRIERS' VACATION PROPOSAL

1. Effective January 1, 1967, Article 6 of the December 17, 1941 Vacation Agreement, shall be amended to read as follows:

"6. The Carrier may at its discretion blank the position of a vacationing employee or provide a vacation relief worker. If the Carrier decides to blank the position of a vacationing employee, those employees remaining on the job will perform the duties of the vacationing employee without additional expense to the Carrier and such arrangements shall not constitute an infringement of rights of any employees."

Effective January 1, 1967, Article 10(b) of the December 17, 1941 Vacation Agreement, and all interpretations thereof, shall be abrogated.

All existing rules, regulations, interpretations or practices however established, in conflict with the foregoing rule shall likewise be abrogated.

Secretary WIRTZ. The third suggestion is that there be an identification of the cost of the various proposals, as I understand it, before the parties in mediation.

I would be reluctant at this point, without some identification from the committee and the Congressmen as to what proposals you are talking about that to provide that because I don't want to compromise the bargaining.

I will be glad to give you cost figures on whatever proposals you specify.

Mr. DINGELL. We would be pleased to accept your judgment. I believe you would be fully competent to identify these according to their roles.

Secretary WIRTZ. Not a matter of competence. I would hope discretion, Mr. Dingell. I would suggest that we give you for that purpose apprising of the emergency board recommendations so far as that is possible, the mediation panels proposal so far as that is possible, and those are the only ones which I think mediation discretion would permit at this point.

Mr. DINGELL. Mr. Secretary, this legislation imposes what upon the two parties? In the case of the brotherhoods, it compels them to go back to work; am I correct?

Secretary WIRTZ. Yes, sir.

Mr. DINGELL. And it compels them to work at wages with which they do not agree; am I correct?

Secretary WIRTZ. Yes; I think you are. I simply point out that the assumption is that whatever agreement or determination is made in this case would be retroactive.

Mr. DINGELL. What equally burdensome requirement does this legislation impose upon the carriers?

Secretary WIRTZ. As far as the present prospect is concerned?

Mr. DINGELL. As far as the men going back to work. The carriers continue to operate, they continue to be regulated, they continue to receive rates which are fixed by the Interstate Commerce Commission which are compensatory to them; is that correct?

Secretary WIRTZ. I should make clear that the case originates with the serving of a number of notices by both sides so that the effect of the action is to require them both to operate on the basis which both of them object to.

The effect of the legislation is that, absent agreement, in the end they will both be bound by the determination which is entered into as a result of the collective-bargaining process. I think it cuts exactly the same both ways.

Mr. DINGELL. Mr. Secretary, it is, however, provable that the railroads, if they find that they are operating on the basis of the recommendations of the panel at a noncompensatory rate, can then proceed to the ICC and receive rate increases to make the impact of the findings much more satisfactory from their point of view. Isn't that a fact?

Secretary WIRTZ. Yes. I answer that subject, of course, to a——

Mr. DINGELL. Now, will you——

Secretary WIRTZ. I do not answer it without qualification which would compromise the ICC. I only want to include in my answer a

recognition of the authority of the ICC. But the practical answer is "Yes."

Mr. DINGELL. The practical answer is "Yes."

Now, with regard to this matter, Mr. Secretary, it is also a fact, is it not, that the railroads would have no income, were there to be a strike, during this period? Am I correct?

Secretary WIRTZ. During the period of the strike they would have no income?

Mr. DINGELL. That is correct.

Secretary WIRTZ. Certainly not from the operation of the railroads.

Mr. DINGELL. Were there to be a strike, the employees would have the option of entering other industries and continuing their employment; am I correct, Mr. Secretary?

Secretary WIRTZ. That a striking employee would have the option to take another job?

Mr. DINGELL. That is correct.

Secretary WIRTZ. That is correct.

Mr. DINGELL. It is also demonstrable, I believe, Mr. Secretary, that the railroads support compulsory arbitration; is it not?

Secretary WIRTZ. There will be other witnesses before the committee who can better answer that than I can.

Mr. DINGELL. But it is a matter of common knowledge that this fact is so, is it not?

Secretary WIRTZ. I defer.

Is it expected that there will be representatives of the railroads?

The CHAIRMAN. There will be.

Secretary WIRTZ. I would not care to testify about their feeling on that point.

Mr. DINGELL. Has the administration discussed House Joint Resolution 559 with the railroad industry?

Secretary WIRTZ. I am trying to think. It is always dangerous to state a negative. I think the answer is a flat and unqualified negative, so far as I know.

Mr. DINGELL. Would I be able to assume that the industry does support House Joint Resolution 559?

Secretary WIRTZ. I don't know what their position will be. The indication, as I have seen it in the newspapers, is that they will not oppose it.

Mr. DINGELL. Which would mean that we would be passing legislation violently opposed by one side and supported by the other, assuming that statement is correct?

I am not trying to coerce you on this subject.

Secretary WIRTZ. If you are not, I would have to point out the difficulty that I have with the logic. The fact that somebody may support something that may be good and somebody else may support something that may be bad doesn't make it an inequitable rule without going to the qualitative judgment.

Mr. DINGELL. Mr. Secretary, I know my time is most limited but I have one more question to ask at this time, and then I would ask the Chair to grant a further 5 minutes.

Do you make the flat statement that the previous legislation passed by this Congress, Public Law 88–108, was not compulsory legislation?

Secretary WIRTZ. Do I make the statement that it is not?

Mr. DINGELL. Did you make the flat statement that it was compulsory arbitration?

Secretary WIRTZ. My statement is that it turned out in practice to be what I would think was fairly called compulsory arbitration.

Mr. DINGELL. I would like to return to a discussion of the differences between that legislation and the legislation presently before this committee, but I would like first to read from the President's message which was included in the record of that proceeding—

> Unlike compulsory arbitration, this method would preserve and prefer collective bargaining and give precedence to its solutions, but any strike or lockout designed to impose a finding not approved by the parties or the Commission or to oppose one which has been approved would be subject to the remedies of Section 5(8) of the Interstate Commerce Commission Act.

I then would like to read further to you, Mr. Secretary, if I may, in response to a question from Mr. Hall, who previously was our good friend and colleague on the committee:

> Mr. HALL. Thank you, Mr. Chairman.
> Mr. Secretary, I, too, would like to compliment you on the excellence of your presentation today. I believe you stated this morning this bill would not provide for arbitrary or compulsory arbitration.
> Secretary WIRTZ. Yes, sir.

Secretary WIRTZ. Could the record show that the legislation to which Mr. Dingell refers, and I think that is President Kennedy's statement to which he referred, and my testimony——

Mr. DINGELL. I am reading from the message.

Secretary WIRTZ. Mr. Dingell, I must straighten the record out to this extent: You will remember the legislation sent up by the administration and which I testified in support of was rejected by the Congress and it is a different statute that was passed.

Mr. DINGELL. I am aware of this, Mr. Secretary. I want to be perfectly fair with you, and I fully intend to treat the differences at the appropriate time.

Secretary WIRTZ. But what was finally adopted by the Congress I thought at the time could be worked out so it would not be compulsory arbitration and I would say here it turned out to be compulsory arbitration. But President Kennedy's statement was about a different bill.

Mr. DINGELL. Thank you.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. Mr. Secretary, the President has from time to time indicated that he is going to recommend to the Congress a permanent legislative remedy to this kind of problem.

I believe if he was going to do this, you would have a significant role in its drafting. Can you tell us whether or not such legislation is going to come to the Hill, and, if so, when?

Secretary WIRTZ. I guess the only thing to which you refer is the President's statement in his state of the Union message in 1966.

Mr. KEITH. Yes.

Secretary WIRTZ. In that he said that he urged consideration by the Congress of measures to meet this kind of problem. That statement has grown in the retelling of it. It is the only statement I know by the President in the area to which you refer.

Your question is whether I am in a position to say to you whether there will come to the Congress proposals for permanent handling of this matter?

Mr. KEITH. Yes.

Secretary WIRTZ. No, I am not. There have been no bones made about it. The President has several times referred to the fact that we have been considering that problem very actively. He has referred pointedly to the fact that not all of us agree within the administration on that. Paralleling that, I would think, the views of this committee and the country.

But I would deal with this important point, that we have it very much under consideration. Whether the President will address formal proposals to Congress or not, I don't know. I can only say to you that there is active consideration of that question.

Mr. KEITH. Certainly in an era such as we now live in, with our military commitments as extensive as they are, there should be some end in sight to the seemingly endless prolongation of labor management disputes in essential industries.

What alternative approaches are there to the one that you have before us today? I understand that a professor from the Yale Law School has suggested that there be some way to penalize or to reward, or to perhaps effect some magnifying of the benefits and payments, to the participants during the waiting period.

Is this a matter on which you are informed?

Secretary WIRTZ. The reference, I think, is to Prof. Neal Chamberlin's suggestion some time ago, not in connection with this case but more generally, that he would favor arrangements which, in effect, have an amount of money set aside covering the mediation period and if they don't reach agreement within the period, they both lose it.

This traces back to a suggestion made by Professor Gobles of Illinois University in 1949. It has had a good deal of discussion. It has always been rejected as being gimmicky. Professor Chamberlin has in his most recent public statement expressed his feeling that it just doesn't work out.

I think one of the principal problems is that it sets up in escrow an amount of money which has a pressure on both parties beyond just the pressure to settle.

It is intriguing, however. I think professional opinion has been to reject it. I don't mean to reject it out of hand.

Mr. KEITH. Can you perhaps suggest to this committee and its members some other imaginative approaches, gimmicks or otherwise, that might shed some light on this?

Secretary WIRTZ. There is a group of suggestions, Mr. Keith, with quite a variety about them. The other one in the same category which has attracted most attention, I think, is a proposal that at some point both parties should state their final position, and that the third party should be required to take one of those positions or the other, whichever the third party thinks is the best.

That, too, has been developed with various refinements. I think, again, without attracting any substantial support.

I have come in my own thinking to the conclusion that there just is not a patentable answer, and that the plain facts are that there is an assumption in the country as a whole that there is something which permits the intrusion—no, that there is something which does not require the intrusion of any element of third-party determination which would at the same time assure against an interruption of production. I don't believe that there is.

Mr. KEITH. How about a labor court?

Secretary WIRTZ. I think that is a matter of name. There is a suggestion that in Sweden there are labor courts. That is a term used in Sweden to cover a jurisdiction of courts very close to our grievance procedure and NLRB.

There are other countries which have experimented with it. I don't believe that calling it a court and setting it up permanently on that basis would be other than a difference in cosmetics.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. FRIEDEL (presiding). Mr. Rogers.

Mr. ROGERS. Mr. Secretary, as I understand it, you feel that all has been done to try to settle the matter by mediation, and now out of consideration for the public interest you feel this suggested legislation should be tried.

Secretary WIRTZ. Yes, sir.

Mr. ROGERS. As I understand it, you maintain this is not compulsory arbitration since they can change the Board findings and the Board findings are only binding for so long.

Secretary WIRTZ. And more particularly because of the area of determination here being so narrow and is so tied to their collective bargaining.

Mr. ROGERS. Do you feel that is a distinguishing feature of compulsory arbitration?

Secretary WIRTZ. Yes, sir, I do. I think compulsory arbitration properly attaches to a proceeding in which that element dominates, covers the whole of the situation, is established in advance of any dispute, in contrast to a situation here where the Congress would provide that the history of collective bargaining in that particular case, which is quite extensive, must be brought to bear and must constitute the element of third party determination.

Mr. ROGERS. I had assumed that if parties could get together on other issues, the only point they could not get together on would be submitted to the Board and would be binding. I do not see a distinguishing feature there.

Secretary WIRTZ. Let me make a comparison. I don't think collective bargaining in this country today is properly described as compulsory collective bargaining.

It is a matter of terminology. There is a requirement by law that parties bargain collectively, but I don't think the application of the term compulsory to that is today a fair communication of the idea.

I have thought that to talk of the union shop as compulsory unionism is not a fair application of the term compulsory. It always is a question, Mr. Rogers, of whether the element of final determination which is here, and undeniably here, is a dominant characteristic, as I think it not to be in this case, or is the controlling consideration, as

I think it to be in Australia, and as it was during the war in this country.

Mr. ROGERS. Do you feel that this is temporary legislation?

Secretary WIRTZ. Yes, sir.

Mr. ROGERS. Is there any reason you see why the Congress should not, in its consideration of this matter, go ahead on its own volition to consider permanent legislation to meet these national problems that arise?

Secretary WIRTZ. Your question is, if I see any reason why it should not consider that?

Mr. ROGERS. Yes.

Secretary WIRTZ. I see no reason why it should not consider it. You will note from what I have said, my present testimony, if called upon, would be in opposition to that. But the situation is certainly such that that is a proper subject of consideration.

Mr. ROGERS. Could we expect cooperation from the administration with the committee in considering these matters of a permanent solution?

Secretary WIRTZ. Complete cooperation. But I don't want to diminish the course that I feel in my own mind on the subject. I am at the present point strongly opposed to that. But you would get the fullest cooperation in connection with its consideration.

Mr. ROGERS. What I am thinking is this: I understand that the administration has come to no position on this so far as a solution. Suppose this committee could arrive at a conclusion.This does not mean that you would necessarily oppose it until you see what the proposals would be.

Secretary WIRTZ. That is correct, and a proper criticism of the statement I just made. I went too far. I shouldn't say I would oppose anything along that line, or everything along that line.

Mr. ROGERS. Would there be any reason why this legislation should not be permanent and apply to all situations affecting the national interest?

Secretary WIRTZ. That was really the question I was answering. I would like to clarify my answer of before. I do not mean to suggest that I would automatically be opposed to any proposal for dealing with this matter over the longer run. I would not take that position.

I was replying in terms of this particular proposal. I would not be prepared at this point—putting it the other way, I would at this point oppose the establishment of a general law cast in these terms, because I think that here you have a special situation, and this legislation is designed to meet the facts in this particular case, and, therefore, would not be applicable as a general law because it is so closely tied in with the bargaining, the mediation, in this case.

Mr. ROGERS. Thank you.

Mr. FRIEDEL. Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Secretary, this question I am about to propose to you is not about anything I have made up my mind on, I am seeking information only.

What if this committee would table this legislation and take no action and then a strike does result? Is there any legislation that empowers the President to do anything at that point?

Secretary WIRTZ. Let me be sure I understand the question. You are assuming the enactment of this resolution?

Mr. CUNNINGHAM. No; say that we table this resolution and take no action and the strike ensues. Then is there anything at all legislative-wise or any power the President has to deal with the situation after the strike takes place?

Secretary WIRTZ. There is up to the 19th of June because of the extension of last week, and after that there is nothing at all.

Let me answer more precisely in terms of your question. There would be no authority for the President at that point to do anything.

Mr. CUNNINGHAM. I want also to go over what another member asked about, a long-range solution to these sorts of strikes.

I know we cannot presume what the President had in mind when he delivered his State of the Union message a year ago.

I believe in response to that question, however, you stated—and correct me if I am wrong—that such legislation is under active consideration. I don't know exactly what that means.

Is there a study continually going on in this particular field?

Secretary WIRTZ. Yes. It has been the subject of extensive discussion at the Cabinet and sub-Cabinet level over a rather extended period. There has also now been a considerable amount of public notice of the fact that the President appointed a task force some 6 or 7 months ago made up of people outside the Government to consider this matter, that made some recommendations to him.

The matter is, beyond that, the subject of continuing consideration as these problems arise. My answer to Mr. Rogers would have been very misleading if I hadn't corrected it. My answer was that I would oppose the making of this as permanent legislation. But we are actively considering the question of what should be done about the broader matter.

Mr. CUNNINGHAM. That was really what I was trying to get at.

Of course, you are the experts, and the people in the Labor Department are the experts, in this field. The career people in your Department, are they, too, thinking this over and contributing to it?

Secretary WIRTZ. It is not a matter of false modesty. We all know that we become the victims of our own habits. We are working with the parties as mediators. We are affected by that judgment, and so on and so forth.

So there has been every effort on the President's part, and I think very properly, to enlist the widest variety of opinion and reaction with respect to this matter.

Mr. CUNNINGHAM. I can assume that with the special panel, and your people, those responsible for such legislation if it should be developed, that they have studies and consultations going on and it is under active consideration.

Secretary WIRTZ. Just last week the American Bar Association had a 2-day session, I believe, here in Washington at which they had an extremely competent group of people come in and speak to this subject. We are looking at their statements with great interest.

Mr. CUNNINGHAM. I don't believe there are any more competent people than you and your Department.

Secretary WIRTZ. We get too close to it, for one thing.

Mr. CUNNINGHAM. I was always under the impression that the Railway Labor Act was one of the finest acts that we have in the field of labor-management relations. Isn't it looked upon that way?

Secretary WIRTZ. The Chairman of the Board is here and he could perhaps speak better to that. I think the answer is, "Yes," except that there is a feeling that, as the practice has developed, there is a strong tendency on the part of both sides, the railroad organizations and the railroad carriers, to rely too much on the statutory procedures and not to do enough of a job themselves.

Mr. O'NEILL. That is true. Of course, it should be recognized that this is the first time in my memory where we had a wage case put in the hands of Congress. The other cases dealt with serious problems involving changing rules and eliminating manning problems. That was the one in 1963.

This is a wage case, which is quite unusual. They always seem to get ironed out under the act. This one, unfortunately, has not been.

Mr. CUNNINGHAM. In other words, we had the one in 1963, then the airline strike, and now we have this one. It seems then that these are, except in this case, far-reaching, technical disputes and that is the reason we are having them before us now?

Secretary WIRTZ. No. The first one was, but in distinction this one is not.

Mr. CUNNINGHAM. This is all wage?

Secretary WIRTZ. That is correct.

Mr. CUNNINGHAM. Thank you.

Mr. FRIEDEL. Mr. Kornegay?

Mr. KORNEGAY. Thank you, Mr. Chairman.

Mr. Secretary, most of the questions I had in mind have been asked, but I don't know that I fully understand the answers.

One of them concerns your statement, on page 5, which is repeated several times, that this is only the third case to come before the Congress in the last 4 years. Actually, there are about 100,000 cases a year under labor-management contracts. Somebody touched on it, but I don't recall what your answer was in connection with how many of these have been in the area of transportation that is covered by the Railway Labor Act, the railroads and airlines.

Secretary WIRTZ. I think we ought to supply a detailed record of that, but this much is true, and I think central to the answer to your question:

The most serious problems we encounter in collective bargaining center to an extraordinary degree on the transportation industry, the railroads, the airlines, the offshore and onshore maritime problems, and the trucking problem this year, although this is the first time that that has become so great.

But your point, and my answer, is that there is a real concentration of difficulty in the transportation industry.

Mr. KORNEGAY. Would you care to make any statement, if you have any opinion about it, as to why this is the case?

Secretary WIRTZ. I am frank to say that I get more confused about it than I get clear about it.

I think the elements in the railroads and the airlines have a similarity, but they are quite different from the elements of controversy

in the longshore, in the maritime industry, and quite different from the elements which showed up in the trucking industry.

One of the easiest assumptions would be that there becomes a monopoly element here not in legal form, but in actual fact, so that you have in each of these cases a situation in which a strike or a lockout does hurt the country before it hurts either party. I think that is an important element.

In that sense, a strike or a lockout becomes not only an economic but a political question; not only directed against the other party, but against the country.

It is in this area that the common denominator lies. I don't understand all of it, and there are different factors in different situations.

Mr. KORNEGAY. Might it be that transportation becomes so vital to the country and the welfare of the economy that it approaches the point where, I get from you, the administration and people generally, we just can't afford to have a railroad strike? Is that the present case?

Secretary WIRTZ. It is our belief that at the present time that is true.

Mr. KORNEGAY. That distinguishes it from a factory that is making automobiles or plumbing fixtures, or anything else, where there are other companies making the same things to provide to the American public; is that right?

Secretary WIRTZ. Yes. And in connection with that, it is also true either as a cause or as a development of this that there are patterns of nationwide bargaining or areawide bargaining in all of these four industries which contribute to what you are suggesting.

It has developed that as far as the railroads are concerned most of the bargaining, as illustrated here, is on a nationwide basis.

Mr. KORNEGAY. That was going to be my next question, as to whether or not there was any hope or solution in maybe changing our system of bargaining in the transportation industry.

Secretary WIRTZ. Yes, I think there is a possibility. But it would be a mistake to disregard this fact: There is a general assumption in the country as a whole that it is labor which insists on the broad bargaining pattern and management which opposes it. It is significantly true that in these industries that is not the fact, and it is here that management urges most strongly that there be nationwide bargaining on the railroads—particularly on the railroads.

You have a parallel to that as far as the maritime industry is concerned. You have a considerable amount of it as far as the airlines are concerned. You have in the recent trucking case, in the fact of a lockout, a national lockout, a reflection of it, too.

So yes, I think you are very close to the heart of this problem, but I don't mean to suggest that there is any solution.

Mr. KORNEGAY. I wanted to get your ideas. I think when you have a monopoly, not in the legal sense but in this sense, of course, you eliminate one of the forces that work in the ordinary collective bargaining situation. That is the element of competition, which is a dominant factor in the ordinary situation, certainly on the part of management.

Secretary WIRTZ. These are root considerations in any wide, general attention to this problem.

Mr. KORNEGAY. Thank you very much.

Mr. FRIEDEL. Mr. Broyhill?

Mr. BROYHILL. Thank you, Mr. Chairman.

Mr. Secretary, the questions this morning have been lengthy, and your responses have gone into great depth. I only have one or two questions.

From reading the report to the President by Emergency Board 169, I find on pages 4 and 5 recommendations by the Board for permanent legislation.

As the Secretary of Labor, and as the spokesman for the administration, do you feel in a position this morning to comment on these legislative recommendations made by Emergency Board No. 169?

Secretary WIRTZ. Those are on pages 4 and 5?

Mr. BROYHILL. Yes.

Secretary WIRTZ. The first one is for the extension of the statutory period to 80 days, the no-strike period. That was recommended by the President in this particular case and acted upon by the Congress. Although I am in no position to make any formal administration——

Mr. BROYHILL. That was not permanent.

Secretary WIRTZ. No, it is not. I cannot give you an administration position on that.

In personal terms, that would seem to have a good deal to commend itself and that would bring it in line with the Taft-Hartley period. I take no formal position on that, but I would express some concurrence in that view. You will understand the author [Mr. Ginsburg] of this report is here.

Then the President shall have the power to extend the initial period for an additional 30 days. I would not be prepared at this point to express a judgment with respect to recommendation No. 2.

I would express a favorable position with respect to Recommendation No. 3. On this point, Mr. O'Neill's judgment would be better than mine, but I think we would both feel that sometimes emergency boards have made mistakes by making specific recommendations when it would have fitted in much better with the collective bargaining process for them to be more general in their approach.

I would agree that there must be attention to the methods for achieving speedier and more effective settlements.

So with respect to 1, 3, and the general provision, I would concur, and would only reserve judgment with respect to No. 2.

Mr. BROYHILL. There are at least two bills before our committee introduced by our colleagues, one introduced by our colleague on this committee, Mr. Pickle.

Do you, as Secretary of Labor, and the spokesman for the administration, have any position on these two bills?

Secretary WIRTZ. Not as spokesman for the administration. We have given very serious consideration to the bill introduced by Congressman Pickle. I cannot express an administration position on it.

Mr. BROYHILL. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Van Deerlin?

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

Mr. Secretary, in Chairman Staggers' opening statement he referred to a written offer from the Railway Brotherhoods to continue such operations as are vital to maintaining the movement of defense shipments. Would you evaluate the practicability of that offer?

Secretary WIRTZ. I have only a layman's knowledge of it, Mr. Van Deerlin. I can only say to you that those with whom I have discussed

the matter within the administration find that a suggestion which would present very real operating difficulties, and they would be inclined to question whether it could be worked out at all easily.

But I don't count that a definitive answer, as far as I am concerned. I really don't know.

Entirely respectfully, I would suggest that the carriers and the unions would know better the possibility of that than I do.

Mr. VAN DEERLIN. Almost two-thirds of the military shipments, of course, go by railroad. Do you have an estimate of what percentage of the total railroad freight business this represents?

Secretary WIRTZ. No, sir; I don't.

Mr. VAN DEERLIN. The point was made a moment ago that the President would have no powers other than what he had by the last congressional action after this 45-day extension expires in June.

Secretary WIRTZ. June 19.

Mr. VAN DEERLIN. Has there been an opinion from the Attorney General as to whether he might still have the same power that President Truman exercised in August 1950 under wartime powers of the act of 1916?

Secretary WIRTZ. There has been such an opinion. It is that there would be no authority.

Mr. VAN DEERLIN. That the authority that President Truman exercised no longer exists?

Secretary WIRTZ. I don't know that the opinion is in that form. The opinion is that there is today no authority.

My own personal impression is that the authority under which he acted in 1950 terminated in 1952. But I would have to check the details of that. I mean to be categorical about the absence of any authority today. My only reservation is in terms of your question that I don't know what happened to that authority. My recollection is that it terminated in 1952.

Mr. Moss. Would the gentleman yield?

Isn't that the instance where the courts ruled that the President had no inherent authority to operate, in the *Youngstown Sheet* case?

Judge FAHY. That is correct.

Mr. Moss (presiding). I thank the gentleman for yielding.

Mr. Harvey?

Mr. HARVEY. Thank you.

I am sure you considered the other alternatives to 559. I am sure one of the alternatives was seizure. Why do you object to that?

Secretary WIRTZ. I have a little difficulty in answering about seizure, in broad terms. I will preface my answer by recognizing that there would be different forms of it. But I don't think that the circumstances of this case warrant the taking over of a property.

As the chairman indicated, there are an infinite number of problems, one being whether the conditions should be frozen as they are or whether there would be the power to change them. There would be the introduction of all the complexities of the transfer of ownership or operation.

There were about 125 or 135 seizures during the war. Most of them ended up in litigation. So there are all those complexities.

I also think it is a matter of common fairness involved here, equities of the situation. I don't think the circumstances here warrant the taking over of properties by the Government.

Mr. HARVEY. So for all of those reasons, you are recommending House Joint Resolution 559 as the alternative?

Secretary WIRTZ. I guess it would be fair to say I came here to bury seizure, not to praise it.

Mr. FRIEDEL (presiding). Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

First, Mr. Secretary, I want to compliment you on the statement you have made. I have been impressed with your sincerity, with the conviction you have expressed, that we have to find an answer, and with the fact that House Joint Resolution 559 represents what you think is in the best interest of the public.

I conclude from what you said, Mr. Secretary, that you are offering House Joint Resolution 559 because you don't know what else to suggest as a remedy to the present problem, or at least because you think this is the most fair and equitable solution under the present circumstances?

Secretary WIRTZ. I think it is very fair. I don't have any stomach any more than the rest of us for this whole business. This is a matter of "yes," because I don't know anything else better.

Mr. PICKLE. I would point out that I am almost like a relative, an illegal relative, at a family reunion. I have introduced a bill in this field. Are you familiar with it in general?

Secretary WIRTZ. Both in general and in detail.

Mr. PICKLE. In my way of analysis, what I have proposed is much the same as what you have come forth with here in House Joint Resolution 559; there is a great deal of similarity. Would you agree with that?

Secretary WIRTZ. There is a great deal of similarity. If I may add just a word about the differences, the differences are two: First, the bill which you have introduced would apply to all situations in advance. I don't say we will eventually find that wrong. It does introduce a kind of crutch effect into it. But secondly——

Mr. PICKLE. It is limited to the field of transportation.

Secretary WIRTZ. That is correct. It is in transportation alone.

Probably the greatest distinguishing characteristic is that this one is tied very directly into perhaps 98 percent of the job, and that is a conversational statistic, which has already been done by collective bargaining in this case. That would be very difficult in general, advance legislation.

But there is certainly a similarity, Mr. Pickle, in trying every way in the world to get a settlement by mediation before you introduce any other elements.

Mr. PICKLE. I would want to point out to you, and to all other members, that the measure I have recommended would amend section 10 of the Railway Labor Act to extend collective bargaining and allow one of two routes—in one instance up to 280 days and in another instance up to 150 days—and during all this time a choice of procedures would be offered to either the President, to the Congress, or to a special board. There could be other refinements to that.

And then, much the same as you have recommended here, there would be a determination of up to 2 years, but the parties could still agree after that time. That is the same thing you have recommended.

You answered to Congressman Rogers a moment ago that you thought that permanent legislation would not be desired in this par-

ticular case because the particular negotiation which has been going on is rather rigid and rather set, set in concrete, I guess.

Why wouldn't it be desirable, Mr. Secretary, to have a law that would have this flexibility, that would give a series of choices, that would provide an arsenal of weapons to try to bring these things to a culmination?

I assume what you are saying is that it would be well for us to consider it, although you may not be in favor of it right now; that it would be well for our committee to consider it.

Secretary WIRTZ. Yes, and I would go on to add that the pattern which is followed here is more like the pattern in the bill you have introduced than it is like any of the other patterns which have been introduced. It does have the important distinction, in my judgment, of tying it to the bargaining.

I don't think of that as inflexibility here, and, therefore, a disadvantage. I think of it as an advantage because it draws on what the parties have already done.

Mr. PICKLE. Mr. Secretary, I would request that you and the administration give to me your comments on the measure that I have recommended. Would you do that?

Secretary WIRTZ. Yes, sir.

Mr. PICKLE. One last question: On page 6 of your testimony you made a very strong point that this resolution "provides that if a determination must eventually be made by someone other than the parties, that determination will be drawn from the record of the parties on bargaining in this case." I think that is a good point.

My question to you is this: Are you saying that you would take from the Mediation Board and the Emergency Board the right to consider the various offers involved in dispute, or that you would choose one or the other? Would you either choose the pros or the cons of the case, or would you give that much leeway?

What do you mean when you say "limited to the determination of the parties on the bargaining"?

Secretary WIRTZ. I do not mean that they would be held to a position taken by either party. I do mean, in answer to the first part of your question, that their discretion would be very sharply limited, and even if they felt, just to be specific, or if they found that the parties had come within the distance between A and B, and if they felt that the right answer was outside that area and was over at C, they would not be permitted to go outside that area which the parties had found in their own bargaining.

Mr. PICKLE. Thank you.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Secretary, although the committee members have been quite pointed in their questions, I am sure I reflect the sentiment of those who would express it here, that we are grateful to you for the very able and knowledgeable manner in which you have handled this problem.

I would only venture one comment: I don't see why these parties haven't gotten together, because you have been quite persuasive here this morning.

Has not the solution of this particular dispute been aggravated by the fact that some 74 percent of the railway employees have already agreed to the terms for a new contract, and should the demands of the disputed unions be agreed to or acquiesced to, it would have adverse repercussions to some 75 percent of the other employees?

Secretary WIRTZ. My answer would have to be a little cautious on that. You say "aggravated." I would take a more neutral word. It has been affected by the settlements made in the rest of the industry. That works both ways, of course.

Let me say, and I hope I don't avoid your question in my answer, that it is first the fact that there has been the settlement in the rest of the industry. It is, second, a fact that that has had an effect on the bargaining here.

Mr. WATSON. Mr. Secretary, earlier my friend from Michigan questioned you concerning whether or not the carriers or management supported this particular resolution. I am sure you would rather have us get their positions from them rather than from you, for the record.

But by way of background, what has been the attitude or reaction of management concerning the recommendations of the Mediation Board, the recommendations of the Emergency Board, and those of the Special Board?

Have they been so intransigent as you have implied? I would like to get this in proper perspective.

Secretary WIRTZ. The problem, I think, to which you refer, or the point, has come up at three stages in this proceeding. The problem probably came up first in connection with the proffer by the National Mediation Board of voluntary arbitration. That was accepted by the carriers and was rejected by the unions.

It came up next in connection with the recommendations of Emergency Board No. 169. At that point the carriers accepted the recommendation and the unions did not.

It came up then in connection with the proposals of the Special Mediation Panel on April 21. In that situation neither party accepted the recommendations.

That is where the record stands as of now.

Mr. WATSON. I have one further question concerning the Special Board that would be established should this resolution be passed. You say the five who are members would be generally recognized as public representatives, and you say the President will look toward labor for one and management for one of the five.

Secretary WIRTZ. That is correct.

Mr. WATSON. Would those appointees be restricted to labor and management involved in this dispute, namely, the railroads, or will it come from management in general, and labor in general, not related to this dispute?

Secretary WIRTZ. There is no indication in the President's message with respect to that point, nor do I know.

Mr. WATSON. Do you believe that the chances of collective bargaining working even at this late juncture would be enhanced by having these parties from the railroads and the labor organizations involved, or from nonrailroad or nontransportation appointments?

Secretary WIRTZ. I don't have a conclusive judgment on that. I would think that the quality that would be sought would be that of a richness of experience in the settlement of disputes, in a public interest that combines the two interests, but that it would necessarily require knowledge of the special situation in the railroad industry on the part of the labor organizations and the carriers.

Mr. WATSON. I can see that, but as I recall, earlier you stated that even with the expertise of the Department, and of you personally—which obviously you have—perhaps you are so close to the problem that your judgment is not as free or is not quite so objective as one of the others totally removed from it. Do I recall your making such a statement?

Secretary WIRTZ. Yes.

Mr. WATSON. And yet you counteract that now and say perhaps you should have those involved in the process.

Secretary WIRTZ. I said that the knowledge of the railroad situation would be important here.

Mr. WATSON. Thank you very much, Mr. Chairman.

Mr. FRIEDEL. Mr. Secretary, can you return Thursday?

Secretary WIRTZ. Surely, I can.

Mr. FRIEDEL. Thursday morning at 10 o'clock?

Secretary WIRTZ. Yes, Mr. Chairman.

Mr. FRIEDEL. Tomorrow morning at 10 o'clock the Secretary of Transportation, Mr. Alan Boyd, will be our witness.

The committee will not adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 12:05 p.m. the committee adjourned, to reconvene at 10 a.m., Wednesday, May 10, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 10, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Today the committee resumes its hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain of the railroad carriers and certain of their employees.

We have today as the first witness the Honorable Alan S. Boyd, Secretary of the Department of Transportation.

STATEMENT OF HON. ALAN S. BOYD, SECRETARY OF TRANSPORTATION; ACCOMPANIED BY SCOTT HARVEY, LABOR ECONOMIST, OFFICE OF THE ASSISTANT SECRETARY FOR TRANSPORTATION POLICY DEVELOPMENT

The CHAIRMAN. I have two letters, one from the Secretary of Transportation and one from the Deputy Secretary of Defense, both of them in the same vein and both of them addressed to me. I want to ask the Secretary first about the letter that I received from him yesterday, on the day before he would testify here. I want to know why he would send me a letter about his testimony and release it to the press, so that the press would actually ask me several questions about this. Why didn't he wait until today when he would be here to testify at the regular time before the committee.

Can the Secretary answer this?

Secretary BOYD. Yes, I would be delighted to.

The letter was in response to a statement made by the chairman on the floor, I believe, expressing the view that there may well not be any emergency involved. I am paraphrasing.

The CHAIRMAN. You couldn't wait until today to do that?

Secretary BOYD. Yes, sir, I——

The CHAIRMAN. You had to write a letter and give it to the press yesterday. I didn't make the statement on the floor. If you knew what was going on, I made it right here yesterday. I didn't make it on the floor. You could have waited until today when you knew you were coming to testify.

Secretary BOYD. Yes, sir, I certainly could have.

It was my impression, Mr. Chairman, that I was doing the proper thing in expressing my views.

The CHAIRMAN. I might ask who you consulted with in this that you would go ahead and answer this before you came up here today.

Secretary BOYD. I am my own adviser.

The CHAIRMAN. You are your own adviser?

Secretary BOYD. Yes, sir.

The CHAIRMAN. And you did this on your own, you say, just to release this?

Secretary BOYD. Yes, sir.

The CHAIRMAN. Do you think this is ethical?

Secretary BOYD. Certainly, there is no question of ethics involved here to my mind, Mr. Chairman. Had I thought there was anything unethical involved in this, I would, I assure you, not have transmitted anything to you.

The CHAIRMAN. I think you would have been far better off if you had done just that and waited until today to state your opinion before this committee without sending a letter, and without telling me, release it to the press of the Nation.

Secretary BOYD. If that is the case, I must apologize. My information is that the letter was delivered to you before it went to anybody else, before copies were made available.

The CHAIRMAN. That it was delivered to me personally?

Secretary BOYD. Yes, sir.

The CHAIRMAN. Mr. Secretary, whoever your adviser is, he is completely wrong. It was not delivered to me personally, ever. It was delivered to my office. You may have thought it was delivered to me personally. But it was not. I have other duties, too.

Secretary BOYD. I appreciate that.

The CHAIRMAN. I don't think you do. When you hear these matters from other sources, there is something wrong when we have to go to the press without waiting until the time to come before this committee, in proper order, to give your views.

Secretary BOYD. I certainly want to apologize for the failure of the letter to reach you, Mr. Chairman.

The CHAIRMAN. I think you should have at least ascertained that it had been delivered and brought to my attention, without leaving us to go to the press to get our information.

You may proceed with your testimony.

Secretary BOYD. Thank you, Mr. Chairman.

I am here today as a witness for the public interest as expressed in the House Joint Resolution 559. I am not here to support or condemn either labor or management in the current railroad dispute. I am not here as an experienced expert in the very complex area of labor-management relations. Judgment on such questions I leave to others within the administration.

The President has had the benefit of the advice and counsel of a large number of such experts. I will defer to them in expressing the administration's opinion on the implications of this resolution in terms of collective bargaining.

When I was confirmed by the Senate for the post I now hold, I made it clear that in transportation labor-management disputes of a national nature, just as in major transportation cases coming before regulatory agencies, the Department of Transportation would vigorously represent the public interest. In my opinion, the American public

is a vital third party in such issues which deserves at least equal if not paramount consideration.

Too often in the past there has been the assumption that within the Government, the Department of Commerce has been a spokesman for management and the Department of Labor a spokesman for the unions.

I know that the present Acting Secretary of Commerce and the Secretary of Labor as well as the past Secretaries with whom I have been associated reject that characterization. They would acknowledge no representation other than that of the public interest. That also is my position.

The public interest in the railroad dispute goes beyond a matter of inconvenience—it vitally involves this Nation's Vietnam and defense effort and capability; it involves provision of essential commodities to our great cities; it involves maintaining our 73-month record of economic expansion and our current low-unemployment rate. And it involves more.

Mr. Chairman, the information that we provide to you today is by no means a total picture of what will happen if there is a nationwide railroad strike.

Our Department is now approximately 5 weeks old. We have not yet had the opportunity to develop the research and analysis activities that will enable us to assess, with far greater precision, what the impact of ary transportation shutdown will be. We have several contracts with research experts which will, within a short time, enable us to make such evaluations.

Nevertheless, the evidence that we offer you today has convinced us that a national railroad strike would affect virtually every segment of the American economy and cause immeasurable hardship for most Americans.

The railroads operate 211,500 miles of line serving over 50,000 communities. During 1966, the rail system moved over 738 billion ton-miles of freight, approximately 43 percent of the total intercity movement. Nearly 13 billion passenger-miles in intercity transportation were provided by the rail system, which is 18 percent of the total intercity movement carried by common carriers.

Rail commutation service produced over 4 billion passenger-miles, concentrated mainly in New York, Chicago, and Philadelphia. Transportation services performed by the railroads produced $10.7 billion in revenues or 1.4 percent of total gross national product. The railroads employ over 630,000 workers, most of which would be immediately without work should a stoppage occur.

A characteristic of the development of transportation in this country has been a growing specialization of transportation services. The economics of rail transportation make it the most inexpensive means of moving many high density, bulk commodities.

In areas without access to effective water transportation, rail is the only economically feasible alternative available for the movement of bulk traffic. Some groups of commodities move almost exclusively by rail.

Among manufactured products, railroads carry over 90 percent of the ton-miles of shipments of passenger car bodies and body parts, nonferrous metal primary smelter products, millwork and prefab-

ricated wood products, and flour and other grain mill products, among others.

Railroads account for 37 percent of total manufacturing shipper ton-miles and over 60 percent of total manufacturing shipper ton-miles if petroleum and coal products are excluded.

Particular products which are carried almost exclusively by rail and which are important to the Nation's health and welfare include chlorine, without which water purification efforts would be hampered.

Rail is also the primary source of transportation for many non-manufactured commodities. 72.8 percent of coal tons move by rail, as do 89.5 percent of hogs, 73.3 percent of cotton bales, 68.0 percent of Northwest grains, and 74.2 percent of North Central grains.

Rail is of greater importance to commodities produced in particular regions than in others. For instance, while railroads carry 83.8 percent of the ton-miles of lumber and wood products in the Nation, they carry 91.9 percent of the ton-miles originating in the Pacific States.

The Department of Agriculture has informed us that any prolonged interruption in rail service would bear most heavily on perishable products and on semiperishable grains that usually move to concentration and consumption points by rail. May through September is the heaviest period of production of poultry meat.

Southeastern producers rely on regular movement primarily by rail of large quantities of corn and other feed ingredients. Any interruption of these movements could result in grossly inadequate supplies of feed for the poultry in houses at the time.

June, July, and August are months of heavy movements of fresh fruits and vegetables. Carlots moving by rail from California in June 1966 were almost 31,000, and in July, over 29,000. If not moved quickly to market, most such products deteriorate and cannot be salvaged.

The impact on agriculture of a nationwide strike would be particularly severe now for some areas.

As of April 1, 1967, there were still more than 3.1 billion bushels of grain and soybeans in storage on farms.

The 1967 harvests, the majority of which moves by rail, have already started in Texas and will continue northward throughout the spring, summer and fall. Any lengthy interruption in the movement of wheat, sorghum, corn, soybeans, soybean oil, and meal to ports would be a great loss to the industry and the Nation, as large quantities of our supplies move into export channels as commercial sales or as donations.

Many processors ship full train loads (40 cars or more with reduced rates) of these items to port locations. A rail strike would interfere with the flow of this country's agriculture traffic to foreign nations—and thus the further aggravation of the balance-of-payments problem.

Forestry products, reportedly have been lagging in shipments over the past 8–12 months because of the lull in building activity. This has resulted in unemployment and hardships in many lumbering areas of the Northeast and Northwest. Most lumber products move by rail, and any further interruption of the movements now beginning in response to the brighter construction outlook would be disastrous to numerous communities.

These facts vividly point out the importance of rail transportation to the economy. Furthermore, it is unlikely that a significant pro-

portion of this traffic could be shifted to other modes. Estimates of excess capacity available from other modes place the maximum divertible amount of traffic at 10 percent of the normal rail volume and that only after extensive adjustment in traffic patterns have been achieved over a number of weeks. Even this low figure does not account for the specialized handling requirements of much of the traffic normally carried by rail.

The importance of rail transportation as a supplier and as part of the production process leads to a spreading or cumulative effect which is much greater than the immediate impact on particular industries which rely heavily on rail service.

Using the example of coal, three-fourths of which is moved by rail, interconnection with other industries and the spreading effect can be demonstrated. Coal is used partly for final personal consumption and for export, but it is also used by producers of energy and other commodities such as iron and steel and stone and clay products, which are in turn utilized in the production of other goods like automobiles and other manufactured products.

This spreading effect produces a real and serious result upon overall gross national product which is many times the value of rail service.

In 1963, the Council of Economic Advisers estimated that a rail strike of one month's duration would produce a decline in gross national product of over 13 percent, nearly four times the quarter-to-quarter drop in gross national product during our greatest postwar recession in 1957–58.

This cumulative effect can also be expressed by looking at the industries affected. Immediately affected would be coal mining (and export), several chemical industries, movement of animals for slaughter, and refrigerator car traffic, plus intercity passenger and commutation service.

Within a week, the automobile industry and construction would begin to be seriously affected. As the stoppage continued, the effect would be spread into periodicals, boiler products, motors, generators, and nearly all areas of economic activity, either directly or indirectly.

At the end of one month, over 6½ million persons would be unemployed due to the stoppage of rail service.

Aside from the impact on the private economy, the Government relies heavily on rail service. Past experience indicates that the Post Office Department would be forced to refuse all second, third, and fourth class mail, including parcel post, moving more than 150 miles from origin.

Nearly 40 percent of the ton-miles of Defense Department freight moves by rail. Thirty percent of this traffic is of a nature which precludes diversion even if capacity were available. During a time in which the free flow of defense commodities to support the effort in Vietnam is required, an interruption of rail service could seriously diminish our military capacity.

Fortunately, there is little past experience which can guide us as to the actual effect a nationwide stoppage would have The only case in which a stoppage of the magnitude concerning us now actually occurred during the postwar period was the 48-hour nationwide strike May 23–25, 1946.

The impact of that strike was limited due to its short duration, but reports of the chaos which resulted in passenger and commutation service and in particular industries such as automobiles, coal, and steel indicated a potential national catastrophe had the stoppage continued.

Even with such a short strike, there was serious disruption. Widespread layoffs were reported. Lack of newsprint forced newspapers to publish without advertising. Construction industries suffered shortages. California and Arizona suffered an estimated $450,000 daily loss in agricultural commodities which could not be shipped.

New England, which imports a great percentage of its food, considered emergency action and Connecticut was reportedly without certain types of foodstuffs.

Limited strikes during the period between 1946 and the present were prevented from reaching the disaster level by short durations and by the ability of shippers to switch to other rail carriers not affected by the strike, but were still of serious impact.

The 1966 strike called by the Firemen on eight railroads forced 32,000 commuters in Chicago and 12,000 in Boston to shift to other modes and produced serious traffic congestion. General Motors closed down seven plants and Chrysler and Ford shortened shifts, affecting over 100,000 auto workers.

In a nationwide strike the impact would be magnified several times and rerouting to other railroads could be be accomplished as it has been through ICC measures during such partial strikes.

Should a stoppage of national scale occur, there would be little the Government could do to lessen its impact. Even if agreements could be reached to move essential commodities it would be difficult to determine which should move and to solve problems of mixed trains and products indirectly, but crucially, related to the production and use of essential commodities.

Should accommodation be developed, there would still be significant costs and delays which would adversely affect the flow of defense materials.

During a Presidentially declared emergency, the Department of Transportation could, by Executive order, be charged with coordinating the movement of essential commodities in a manner which would permit priority utilization of available capacity of other modes.

It has already been pointed out, however, that this available capacity is limited and could be used for only those commodities for which feasible alternatives exist.

Emergency action by the ICC to assist shippers in finding alternate means of transport is similarly limited by the capacity considerations and the specialized nature of much of rail service which would be affected.

I have attempted to develop for you the very serious impact a stoppage of rail service would have on the economy and upon the effort to support the Vietnam action.

In my opinion, the effects are sufficiently serious to warrant special action by Congress to prevent them from occurring. The joint resolution before you is designed to prevent the threatened stoppage.

At the same time, our policy toward labor relations is based upon the desire to maintain collective bargaining as the preferred method of settling disputes.

The joint resolution would permit, and, indeed, contribute to such a solution. Considerable progress during the long course of bargaining has narrowed the difference between the parties. The remaining difference should not be permitted to produce a work stoppage of the magnitude involved here.

I support the joint resolution as a fair and equitable solution to the difficult situation which has developed in this dispute.

I would further hope that the parties would be able to resolve their differences between themselves within the procedures established by the resolution.

Finally, I think it is essential to take full cognizance of the efforts that have led up to the presentation of this proposal. The best brains and talent in this country, from labor, management, and the Government, have exhaustively researched and weighed every conceivable alternative given full consideration. The extent of support for these alternatives has been determined.

The negotiations that have already taken place and have already produced substantial agreement on a number of issues have, of course, been considered and must be utilized in any final settlement.

The joint resolution you are considering takes all this into account and makes maximum use of any and all advantages attached to the present situation.

The administration feels that there is no other feasible alternative which protects and assures the interest of the public as well as the interests of labor and management.

Speaking for the public interest, especially as it relates to our total transportation system, I heartily concur and urge the swift passage of this resolution.

Mr. Chairman, that completes my statement.

I am accompanied by Mr. Scott Harvey, a labor economist, in the Office of the Assistant Secretary for Policy Development in the Department of Transportation.

The CHAIRMAN. Thank you, Mr. Secretary. I want to thank you for your statement. It states your views very clearly and that of your Department.

In the light of your last statement, since you urge the passage of the resolution. I am sure you would agree that if this committee sees fit in their wisdom to alter that resolution after they have heard all sides, that could coincide with your thinking on the democratic form of government, would it not?

Secretary BOYD. Yes, sir.

The CHAIRMAN. You mentioned about the different things that had been agreed upon, without mentioning them specifically.

Do you know what the differences are between the unions and the railroads now?

Secretary BOYD. I will give you my understanding of the differences. One is on duration of contract, one is on level of general wage increase, and one is on level of the so-called inequity relationship between skilled and unskilled labor within the railroad industry and between the railroad industry and other industries having similar skills.

The CHAIRMAN. It may not be fair to ask you this question, but the last one you mentioned, the inequities between the skilled workers in

the community and the others who reside and work in the community, do you think they ought to be commensurate with the others or comparable?

Secretary BOYD. I certainly accept the point of view which I understand was expressed by the shipcraft unions through their bargaining representatives before the emergency board, which was that these could not be made totally comparable right now, that there should be a step operation.

Ultimately, yes, I agree, but I do not think that it would be possible within the context of the other agreements in the rail industry and the period of time over which the so-called compressibility issue has developed at one fell swoop to resolve it.

The CHAIRMAN. You mentioned these other things, but isn't that really the crux of this disagreement?

Secretary BOYD. That, I don't know, Mr. Chairman.

The CHAIRMAN. I think if you will read the issues, that is mainly it. These are only six of the different unions that are involved here that have not come to an agreement, I think.

Secretary BOYD. Yes, sir.

Mr. PICKLE. Mr. Chairman?

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. In order to complete the record, I wonder if the Secretary could give us, with respect to the differences involved, what was the split or difference in duration and wages.

As I remember, it was a matter of 18 months as opposed to 2 years and 6 percent as opposed to 6.5. I am not positive, but is this generally correct? Are you familiar with the differences?

Secretary BOYD. The latest information I have, Mr. Pickle, is that the brotherhoods were seeking a 2-year contract. The railroads were prepared to offer a 1-year contract. The railroads offered a 1-year contract at 5 percent with a study, or they accepted the findings of the emergency board which would have provided a 5-percent, across-the-board increase, a 1-year contract, the provision for establishment of an escrow fund on the part of the railroads and a job evaluation study to ascertain which of these 137,000 employees were suffering from any inequities and which were not.

On the other hand, the brotherhoods sought a 2-year contract. The latest information I have on their proposal is 6.5 percent for 1 year across the board, 5 percent for the second year, with 12½ cents in equity provision the first year and 12½ cents the second year.

Mr. PICKLE. Was this the offer of the so-called Fahy group?

Secretary BOYD. No, sir. The Fahy Panel recommendations were for an 18-month contract with a 6 percent across the board for the 18-month period with three 5-cent increments on the inequity provisions, 5 cents as of April 1, 1967; 5 cents as of October 1, 1967; and 5 cents as of April 1, 1968.

Mr. PICKLE. And this was rejected?

Secretary BOYD. Yes, sir.

Mr. PICKLE. By both parties?

Secretary BOYD. It is my understanding it was rejected by both parties.

Mr. PICKLE. Thank you, Mr. Chairman.

The CHAIRMAN. Would you state those again and then I will finish my question?

Secretary BOYD. Sir?

The CHAIRMAN. Would you state your understanding of the Fahy Panel proposals again?

Secretary BOYD. A contract of 18 months' duration with an across-the-board 6 percent increase, with a three-step so-called equity increase to those who qualified as the skilled workers, which I think represents about 100,000 of the 137,000. That would be 5 cents on April 1, 1967; 5 cents on October 1, 1967; and 5 cents on April 1, 1968.

The CHAIRMAN. Those are all the questions I have. I would like to say this, that I believe when we get these two groups here that there is a really misunderstanding that has been bandied about in the public.

I don't believe they have met face-to-face recently. Do you know whether there is collective bargaining now?

Secretary BOYD. No, sir, I do not know.

The CHAIRMAN. I believe if we had both of them in here for an understanding, I believe perhaps both of them would offer to settle on a common basis.

Secretary BOYD. I would certainly hope so. From my knowledge of the individuals involved, I am convinced that both sides are composed of and represented by very responsible American citizens, and I am confident that they will, in the final analysis, accept the realization which I think they must, that the public interest is a vital interest in their own negotiations and that they cannot turn their back on the public interest, which would lead them, in my judgment, to a successful conclusion under collective bargaining.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Secretary, I take it in general you are appearing just on behalf of the public interest, is that right?

Secretary BOYD. To discuss impact. That is the only area in which I feel I have any basis for testifying.

Mr. MACDONALD. On page 2 of your testimony, you discuss public interest going beyond inconvenience and talking about the Nation's involvement in Vietnam, the defense effort, and so forth. And the providing of essential commodities to our cities.

I was wondering if you were aware of a message by way of Western Union sent to Mr. McNamara, the Secretary of Defense, by the AFL–CIO Railway Employees Department and by the Railway Labor Association, in which they straightforwardly said to him—

> In view of the scheduled national strike by railroad shopcraft unions at 12:01, May 3, we stand ready to meet with you at any time to arrange continued rail transport of all shipments necessary to our Nation's military effort.

I would guess that would certainly mean Vietnam.

And then it refers to the public health—

> This offer is made on behalf of the shopcraft unions and other railroad unions; cooperation on the part of the railroad managements would also be needed.

This is signed by the president of the AFL–CIO Railway Employees Department and by the Railway Executive Association chairman.

I have no reason to question good faith in this statement. Do you?

Secretary BOYD. No, sir.

Mr. MACDONALD. If you don't, then why all this talk about the Nation's defense, its capability for defense and providing essential services to our cities?

Secretary BOYD. I tried to explain in my testimony what I was talking about, Mr. Macdonald. First of all, I would like to suggest that this question be raised with Defense witnesses. I have been advised by the Defense personnel that the same commitment was made at the time of the Firemen's strike in 1966, and that from the standpoint of Defense this was an unmitigated disaster, not because of lack of good faith or good will on the part of anybody, but because of the terribly complicated situation of trying to figure what was essential and what was not essential, and trying to switch cars out of trains and things of that nature as a mechanical proposition.

Mr. MACDONALD. I can see that it would raise some difficulty, but don't you think that it raises a difficulty to force people to go back to work against their will when they have the right to strike under our Constitution?

Secretary BOYD. I think it raises great difficulties. I think that is why we are here.

Mr. MACDONALD. Of course that is why we are here. But you don't talk about that. You talk about public interest. I say that if this offer can be concretely followed by a factual demonstration of their ability to do this, then the public interest would not be affected.

I ask for your comment about that. Am I naive? Am I wrong? The reason I didn't ask Defense is that Defense might say that they have technical reasons. But you are not here on technical reasons.

You stated at the outset you are here representing the public interest.

Secretary BOYD. I am here stating what I think is the public interest.

I would say, Mr. Macdonald, if I may elaborate——

Mr. MACDONALD. Could I finish a question?

Secretary BOYD. Excuse me. I was trying to answer your last question.

Mr. MACDONALD. Don't you think our Government owes a duty to the workers of this country, the right to attempt to do what they say they can do before they are forced to go back to work against their will?

Secretary BOYD. All I am trying to outline in my testimony, Mr. Macdonald, is what I think the impact of a strike would be.

You talk about essential commodities. I don't know your definition of essential commodities. I do not know the Brotherhoods' definition of essential commodities. If we are talking about the movement of fruits and vegetables as essential commodities, if we are talking about the movement of chlorine for water purification as essential commodities, if we are talking about the movement of coal to central power stations as essential commodities, if we are talking about the whole gamut which goes into the defense production industries—that is to say the raw materials which come into the factory and which are then manufactured into finished defense products—I would say it seems

to me it would be very difficult to say that this is the sort of thing that is going to wreck our society.

Mr. MACDONALD. I did not say anything about essential commodities nor does the telegram. The telegram says that they are ready to arrange for continued rail transport of all shipments necessary. It does not say anything about essential. It says those necessary to our military effort and public health. That seems to me quite a broad offer. And would seem to be in the public interest.

Secretary BOYD. I must defer to the Department of Defense in this area.

Mr. MACDONALD. I just have one last question.

Your predecessor, though not of Cabinet level at that time, Mr. Roosevelt, in 1963, appeared before us and gave some statements in connection with a chart. They are contained in the railroad work rules dispute hearings before this committee. They are found on 959.

If you don't have them, I will not press you now, but I hope you can give an answer to the committee on this. Do you find his statements concerning what a strike does do to be still applicable?

Secretary BOYD. Yes, sir, generally.

Mr. MACDONALD. In other words, you are familiar with them?

Secretary BOYD. Yes, sir.

Mr. MACDONALD. And secondly, you buttress what he said and say, "Yes, he was correct"?

Secretary BOYD. In developing this testimony we looked at the statement which was made by Under Secretary Roosevelt and the Council of Economic Advisers. We attempted to assess the accuracy of those statements and then to relate them to the present. Having done so, we find that they were generally correct and we support them.

Mr. MACDONALD. Thank you.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Thank you, Mr. Chairman.

May I say to the Secretary, whom we have known in the past on many other occasions, including as Chairman of the CAB, may I congratulate you on one thing: You are the first public official that I know of in my time, 17 years, who has used both sides of the paper in order to send a statement up here.

I am glad to see there is at least one person in this administration or in Washington, for that matter, whether in the administration or not, who has his eye on economy. If everybody did it in half as much as you have done here, in the same way, we would save a lot of paper and a lot of money for this Government.

Mr. Secretary, I have been much interested in listening to the answers you have given to questions thus far, and I realize that what has been said here with reference to what the brotherhoods are willing to do, as I understand it, in the field of Vietnam and the military effort, and essentials, I take it, would be food and general welfare, and also passenger service—this is my understanding of the three areas—if we were to set them aside and assume that they do all of this, what still would be a problem for the economy?

Would there be any problems then or not?

Secretary BOYD. Yes, sir, I don't think there is any question about that.

As I mentioned in my testimony, a good bit of the basic materials which are moved by rail are moved for export. We have had considerable concern over our balance of-payments situation for quite a number of years. This would have an immediate and dramatic impact on that.

As you may know far better than I, a number of our manufacturing industries utilize the railroad as a pipeline, as a warehouse, in effect, and the automobile companies, for example, I am advised, bring material in, component parts, right off the rail cars into their production line. This would have an impact on automobile manufacturing.

Mr. SPRINGER. Since I only have 5 minutes to question you, could you give me any idea, and I believe this is what the committee is interested in, on how your rate of employment would be affected, at the end of 72 hours, at the end of 7 days, at the end of 2 weeks?

Could you give the committee those figures? It would be helpful in getting the impact. That is what we are interested in. I am hazy from your testimony thus far as to what would be the impact on the employment.

Secretary BOYD. I provided the figure of 6½ million at the end of 30 days. I do not think we can give you a figure on 1 day or 2 days, particularly if one assumes that the strike will not really be a strike.

Mr. SPRINGER. Six and a half million at the end of 30 days is what rate in percentage of unemployment? Can your expert give it if you cannot give it?

Secretary BOYD. I will ask him to work on it.

Mr. SCOTT HARVEY. I can't give it to you right now, sir, but in 1963, when the rate of unemployment was considerably higher, the Council of Economic Advisers said that the additional unemployment would produce an overall unemployment rate of 15 percent.

I don't have the figures right now, but we will provide them for you.

Mr. SPRINGER. Are you thinking in terms of the same thing now?

Mr. SCOTT HARVEY. I don't have the figures, sir.

Mr. SPRINGER. Would you supply them to us?

Mr. SCOTT HARVEY. Yes, I will.

Secretary BOYD. Yes, Mr. Springer.

(For information requested see letter at end of testimony (p. 108).)

Mr. SPRINGER. May I ask your adviser this question: Would there be any reason why it would be any greater or any less today?

Mr. SCOTT HARVEY. Assuming that the rate of unemployment now is lower now than in 1963, the total unemployment rate would probably be lower.

Mr. SPRINGER. I see.

I have never understood, Mr. Secretary, and I assume as Secretary of Transportation you are interested in the general wage schedules—

Secretary BOYD. General what?

Mr. SPRINGER. Wage schedules.

Secretary BOYD. Yes, sir.

Mr. SPRINGER. This has been raised in this committee and I have never understood it.

For instance, is there a reason why—and maybe your economist can help out on this—a reason why, for instance, in Chicago, which I take it is the hub of the transportation industry in this country, that there would be a wage differential which would be substantial, we will say,

from the South Side yards of many of the trains which cross the country, and what there would be, say, at O'Hare Airport, which is the largest airport in the world?

Would there be a reason for that?

Secretary BOYD. Yes, there is a definite reason for it.

As I understand it, unlike the other industry negotiations, aviation, aerospace, and so forth, in the railroad industry for the past 20 years the negotiations between the railroads and the brotherhoods have been based on general across-the-board increases.

This has led to this major issue of compression where the relationship of the wages of unskilled workers has become closer and closer to the wages of the skilled workers. This is what is the inequity situation.

Mr. SPRINGER. That is between skilled workers and unskilled. What I was primarily trying to get was this: Take the machinists, for example. A machinist at a railroad on the South Side of Chicago, and a machinist with the same qualifications working on airplanes at O'Hare Airport, for those two I understand there is a substantial difference between the two in Chicago.

Can that be explained?

Mr. SCOTT HARVEY. I am sure the Department of Labor can answer much more fully than I have. You do have different bargaining patterns in the industries that are involved. There are differences in skill levels. This is one of the issues that is involved in this present dispute.

Mr. SPRINGER. A variation of skills? That is, for abilities in the same skill grouping?

Mr. SCOTT HARVEY. Let me put it this way, that the skills of the airline mechanic are probably not completely comparable to the skills of the railroad mechanic. There may be differences up and down. Certainly the bargaining patterns are different. In some cases you have national bargaining which doesn't take into account the local differences.

In some cases, you have local bargaining which does take this into account. Yo do have a problem involved in adjusting to the local differences.

I would feel the Department of Labor would be much more qualified to comment on the actual aspects of the wage differentials.

Mr. SPRINGER. This has intrigued me. I admit I am not an expert in the field. I wonder what testimony will be offered as to what is the true situation. I will wait until some other witness arrives.

The CHAIRMAN. Mr. Secretary, I have to leave to go before the Rules Committee, but we will return as soon as we possibly can.

Secretary BOYD. Thank you, sir.

Mr. MACDONALD (presiding). Mr. Moss.

Mr. Moss. Mr. Secretary, prior to calling up in the House the last extension resolution, I attempted to develop some comparative studies or facts as to payment schedules in the areas where there would be a concentration of shopcraft employees.

I had my personal staff prepare this. I had to have them do a considerable amount of long-distance telephoning because the information I felt most pertinent to this issue was not available here in Washington.

I was unable to develop fully the statistics from either side in the dispute.

In your appearance today, you have attempted to assess the impact.

Secretary BOYD. Yes, sir.

Mr. Moss. Yet on page 2 in the last sentence of the third paragraph, you say, "We had several contracts with research experts which will, within a short time, enable us to make such evaluation."

I would like to know what types of contracts, with whom, the scope, and the date the contracts were made.

Secretary BOYD. I will be delighted to furnish that information for the record. I do not have it with me.

Mr. Moss. Mr. Chairman, I would like to ask that that information be incorporated into the record.

Mr. MACDONALD. It is so ordered.

(For information requested see letter at end of testimony (p. 108).)

Mr. Moss. Looking over the statement of the Secretary of Labor yesterday and your statement today, it seems to me that the impact of the two statements is that under no condition could this Nation tolerate a railroad strike now or in the future.

Is that a fair assessment?

Secretary BOYD. I would not go that far.

Mr. Moss. Would you then define the conditions under which a strike could occur?

Secretary BOYD. No, sir, I cannot do that. But I would say this, that depending upon the international posture of the United States in both the military and political areas, and on the state of the economy within the United States, I can visualize a situation where a strike would not be, in my judgment, disastrous, given some limited duration.

I think, as a matter of fact, if a strike is expected to be projected beyond a very few days, then it is going to be disastrous regardless of the other conditions I mentioned.

Mr. Moss. That would be true of several industries, would it not? You mentioned the railroads frequently play an important role in the export of commodities in the United States. We have had major shipping strikes and the Nation has survived.

Secretary BOYD. That is a completely different proposition, Mr. Moss. We had, I believe, a 76-day shipping strike in the summer of 1965. But that had nothing to do with the number of bottoms that were available for the movement of cargo. The limitation was on the U.S. Merchant Marine, not on the world merchant marine.

As I recall, ships of other nations, other flags, freely moved in and out of the ports of the United States during that period of time.

Mr. Moss. And were loaded and unloaded?

Secretary BOYD. Yes, sir.

Mr. Moss. Unloaded during the strike?

Secretary BOYD. I was talking about the shipping strike.

Mr. Moss. I am talking about the longshoremen strike that tied up the shipping industry. We have had those, haven't we?

Secretary BOYD. Yes, we have.

Mr. Moss. And we survived them?

Secretary BOYD. I don't want my testimony to be characterized as saying that this nation is going to fail, that we will no longer be a society that can survive, with a strike. I don't believe we need to go

that far in order to say that a strike is something that has a major detrimental impact, a particular strike, on the economy and welfare of the United States.

Mr. Moss. You have indicated on page 8 during the Presidentially declared emergency the Department of Transportation could, by executive order, be charged with coordinating the movement of essential commodities.

Congressman Macdonald has read into the record a telegram offering to move, in effect, essential commodities on the part of the brotherhoods. Has anyone in your Department, or to your knowledge has anyone in the administration, attempted to arrange agreements to define a definition as to the commodities which would be covered in the event of a strike?

Secretary Boyd. No, sir. My reference to the movement of essential commodities in this sentence on page 8 refers to the definitions or judgments by the user agencies of the Government. I do not know, but it is my understanding that each user agency, consumer agency, the Department of Agriculture, the Department of Defense, et cetera, does have some basis for calculating its essential commodities to be moved.

Mr. Moss. But should we not, with the offer now pending, with the fate of this legislation undecided, as a matter of prudence, attempt to establish liaison with the spokesmen for the brotherhoods and the carriers in order to define the types of commodities which could be moved under that offer? How can you make an assessment of impact without first attempting to arrive at those definitions?

Secretary Boyd. I think that would be a very wise thing to do. This, so far as I can see, is a matter for the user agencies to work out. The activities of the Department of Transportation are strictly related to the movement of priority items among those calculated by the various user agencies to be essential.

Mr. Moss. Shouldn't someone within the administration take the initiative to coordinate such an undertaking?

Secretary Boyd. I think it would be a very worthwhile thing.

Mr. Macdonald. The time of the gentleman has expired.

Mr. Keith?

Mr. Keith. Thank you, Mr. Chairman.

I appreciate, Mr. Secretary, that you have only been on the job for 5 weeks, but all of us have been concerned with this problem as we watched it develop in recent years. We have relied to some extent upon the President's statement that some long-range solution must be found and that he would propose such a solution to Congress.

Have you been a part of any effort to find a more permanent solution instead of these piecemeal approaches?

Secretary Boyd. I have been involved in two meetings in this area, Mr. Keith. As a result of those two meetings, where I obviously didn't make much of a contribution, I have been made aware of the efforts which have gone on within the administration to attempt to devise the kind of legislation the president mentioned in his state of the Union message, and some knowledge of the very substantial number of people who have been involved in these efforts and who have not, to my knowledge, yet come forth with something which they feel is a satisfactory, long-term, permanent resolution.

Mr. KEITH. When were these two meetings in which you were involved?

Secretary BOYD. I do not remember. They have been since I was appointed Secretary.

Mr. KEITH. In the last 5 weeks?

Secretary BOYD. No. I was appointed Secretary on January 16, 1967. The Department began to function on April 1.

Mr. KEITH. There has been some discussion here about the alternative shipping that was available because of foreign flags using our ports. Is there not a parallel, to some extent, in this particular situation, in that we do have trucklines and we do have railroads where there are alternative routes? In those areas where there are competing trucklines, waterways, or parallel routes, should there not be some recognition of their right to continue in operation rather than having this legislation apply across the board?

Secretary BOYD. I know of no alternative routes available by rail if there is a nationwide rail strike.

Mr. KEITH. No parallel lines?

Secretary BOYD. Not to my knowledge. By definition, I would think that a nationwide rail strike would put all rail lines out of business. In my testimony on page 5, at the bottom of the page, my statement was that estimates of excess capacity available from other modes place the maximum divertible amount of traffic at 10 percent of the normal rail volume, and that only after extensive adjustment in traffic patterns achieved over a number of weeks.

Even this low figure does not account for the specialized handling requirements of much of the traffic normally carried by rail.

Mr. KEITH. Are there any alternative approaches to this problem that you personally think are worthy of this committee's consideration if the administration fails to come up with a proposal?

Secretary BOYD. I know of none.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. MACDONALD. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Secretary, I apologize for being delayed. I read over your testimony very carefully, and I think your statement is an excellent one. I think we sometimes get off base in forgetting the public interest.

As I read your statement, I think you have tried to stress the public interest in this whole matter.

Secretary BOYD. Yes, sir.

Mr. ROGERS. And I am concerned about it, of course, as a Member of Congress. Of course, we do want to protect the collective bargaining where we can, but the public interest must prevail.

We have gone into the matter of how you would set priorities of essential goods, if it were decided to do nothing but just let them move essential goods. I would think you could get into rather prolonged negotiations about what might be essential to a community. A man who is going to be put out of a job because they can't get coal for a manufacturing plant might feel he is pretty vitally affected and would feel it were an emergency.

I would think then we could get into a discussion and we would have to have an emergency board to get them together on that and

another emergency board, maybe, as we have today. What would be your comment on that?

Secretary BOYD. I think, as I attempted to outline to Mr. Macdonald, given all the good faith in the world, which I accept, on both sides of this issue, the mechanical problem of trying to define "essential" or "necessary," I believe, in the words of the telegram, commodities for movement, I think, is just going to be a mare's nest.

Mr. ROGERS. I would think it would be very difficult. As I understand it, the Chairman of the Council of Economic Advisers has advised the President that it would be very serious, that it would have a disastrous effect upon the economy of the country at this time. The Defense Department said it would vitally affect our effort in Vietnam.

Secretary BOYD. That is correct.

Mr. ROGERS. I don't know how much more documentation we need than the facts presented so far. I would be concerned that we don't get off track and forget the public interest and the interest of the Nation as we consider this problem.

Thank you.

Mr. MACDONALD. Mr. Broyhill?

Mr. BROYHILL. Mr. Secretary, did your Department research and determine that the President has no legal authority to seize the railroads or to prevent a strike of this kind?

Secretary BOYD. Our Department has done no research in this area. I have been advised by the Attorney General that the President has no further authority in this matter.

Mr. BROYHILL. The authority that the President used in the 1950 strike is no longer applicable? Have you gone into that?

Secretary BOYD. No; I have not gone into it. I have not gone beyond the statement of the Attorney General, as a matter of fact.

Mr. BROYHILL. Thank you.

That is all.

Mr. MACDONALD. Mr. Kornegay.

Mr. KORNEGAY. Thank you, Mr. Chairman.

Mr. Secretary, it is nice to see you here today.

Secretary BOYD. Thank you, sir.

Mr. KORNEGAY. This is a very difficult problem that we all have to struggle with.

A while ago, pursuant to the question put to you by Mr. Moss, you did not say that the Nation at any time in the future should tolerate a nationwide strike.

Secretary BOYD. Yes, sir.

Mr. KORNEGAY. I gather from your answer that you referred to the international and national conditions existing at the moment. What is the condition of today? Can we tolerate it at the moment or next week?

Secretary BOYD. No, sir, that is the burden of my testimony, that we cannot at this time tolerate a nationwide rail strike. I tried to make clear in my conversation with Congressman Moss that I do not believe a rail strike would lead to the destruction of the United States of America. I don't mean, when I say we cannot tolerate, it is a matter of survival or destruction as a nation. Obviously I don't think that would happen. What I do think is, my subjective judgment based on the information which I have presented in my testimony is, it is a

greater burden on the public interest than it should be required to bear at this juncture because of the issues which are still before the two parties.

Mr. KORNEGAY. Let me interrupt you there to say this: Based upon your knowledge of the situation, and the issues involved between the two parties, if there were a strike, how long do you think that strike would last before an agreement could be reached by the parties?

Secretary BOYD. I have no idea, Mr. Kornegay. I don't think that is something I would estimate. I am completely unable to assess that situation.

Mr. KORNEGAY. We have had only one nationwide rail stoppage since 1946?

Secretary BOYD. That was in 1946.

Mr. KORNEGAY. That was in 1946; what was the duration of that?

Secretary BOYD. Two days, 48 hours.

Mr. KORNEGAY. Was agreement reached within 48 hours by the parties in that case? I don't recall the details of that.

Secretary BOYD. That was the 1946 seizure case, as I understand it.

Mr. KORNEGAY. And what happened after the seizure?

Secretary BOYD. The brotherhood returned to work and over a period of time, and I do not know the extent of the time, on the basis of continued bargaining, there was agreement reached.

Mr. MACDONALD. Will the gentleman yield for one question?

Mr. KORNEGAY. Yes.

Mr. MACDONALD. Mr. Boyd, I know you are not from the Labor Department, but don't you believe that every time the Congress or the Government intervenes in collective bargaining, that it further weakens the whole fabric of collective bargaining and that both sides in a dispute will just say—

We don't have to really bargain in good faith because the Government will step in and either seize or order us back to work. Therefore, we don't really have to make up our minds between ourselves.

Secretary BOYD. Mr. Chairman, I don't know how to answer that question. The Government has intervened in a number of cases, through Taft-Hartley and through other activities authorized by law over the period of years just going back to World War II.

Yet in the railroad industry today, it is my understanding that on the basis of collective bargaining nearly three-quarters of the railroad brotherhoods, the total employees of the railroad industry, through the collective bargaining process, have reached agreements. That is, I believe, one of the critical elements here, whether or not there can be some agreement in this remaining area which is not going to have the effect of dynamiting the agreements which have been reached with 70 percent of the brotherhoods, of the employees.

Mr. KORNEGAY. That was one of the things that concerned me, and I am sure it concerns everybody else. That is, that a great majority have reached an agreement.

Secretary BOYD. That is my understanding.

Mr. KORNEGAY. You have to have all of the elements, I am sure, in order to run a railroad. You can't have everybody standing there except one man, maybe, who does a certain thing essential to the operation. Of course, this affects not only those for whom settlement has not been reached, but all the others standing by who are perfectly

happy and satisfied, apparently, with the agreement that has been reached.

Mr. PICKLE. Would the gentleman yield?

Mr. KORNEGAY. If you will yield back to me.

Mr. MACDONALD. You don't have very much time to yield.

Mr. KORNEGAY. How much time have I left?

Mr. MACDONALD. Not very much.

Mr. PICKLE. I will withdraw my request.

Mr. KORNEGAY. I have another question.

The question has been brought up, of course, about priorities in the event of a strike, and it would be very difficult, I am sure, to determine all of the raw materials and medicines and things of that sort. Who would determine, if you know, what is necessary under the wording of the telegram referred to by Mr. Macdonald?

Secretary BOYD. I don't have any knowledge. I don't believe that was covered in the telegram. I cannot imply any answer.

Mr. KORNEGAY. Have we had any prior experience with this type of limited offer?

Secretary BOYD. My understanding is that there was a similar offer at the time of the firemen's strike in 1966, and that the Department of Defense, which felt that its requirements were essential for Vietnam indicated that it would not work as a practical matter, that they had chaos.

Mr. KORNEGAY. One final question: Mr. Secretary, insofar as you know, do the parties to this dispute know, and have they known for some time, of the impact of a strike, of the facts that you brought out today regarding the seriousness of it?

Secretary BOYD. I do not know. I cannot give you a factual answer.

Mr. KORNEGAY. Thank you very much.

Mr. MACDONALD. Mr. Harvey?

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Secretary, I would like you to refer to page 8 of your statement, the last sentence thereon. You say,

> During a Presidentially-declared emergency, the Department of Transportation could, by executive order, be charged with coordinating the movement of essential commodities in a manner which would permit priority utilization of available capacity of other modes.

My questions are: When you speak of priority utilization of available capacity of other modes, are you talking about truck lines, the airlines, or what have you in mind?

Secretary BOYD. Under various statutes, as I understand it, the President of the United States is empowered to declare a national emergency, and with such declaration he is empowered to designate what personnel and commodities may be moved. That could be delegated to the department.

Mr. HARVEY. Is this a situation short of war that you are talking about?

Secretary BOYD. No, it is not. As I understand the present laws, they refer to a war or something similar to a war.

Mr. HARVEY. But this is authority on the books today for the President to seize? I wonder if we could have that citation.

Secretary BOYD. I do not understand that what we are talking about is seizure, Mr. Harvey.

Mr. HARVEY. I beg your pardon?

Secretary BOYD. I do not understand that what we are talking about is seizure in any way, shape or form. What I understand to be involved is that the transportation companies would operate as they do now. The Government would be in a position to allocate the priorities to be moved by these private operators in their continued private operation.

Mr. HARVEY. This would be something less than seizure for the trucklines?

Secretary BOYD. I don't understand the seizure connotation at all.

Mr. HARVEY. I am trying to understand your language in your statement. What bothers me is that if I understand this correctly, what you are saying is that the trucklines would be forced to abandon commitments which they otherwise had to haul goods on some order by you in a situation something less than a war, I take it.

Secretary BOYD. I didn't mean something less than a war.

Mr. HARVEY. But at any rate, there is statutory authority for this particular situation at the present time?

Secretary BOYD. In event of war.

Mr. HARVEY. I would appreciate receiving that authority. If you don't have it here, I would appreciate it being supplied for the record.

Secretary BOYD. I will provide what information we have, Mr. Harvey.

(For information requested see correspondence at end of testimony, p. 110.)

Mr. MACDONALD. Would you yield for a short question?

Mr. HARVEY. Yes.

Mr. MACDONALD. What is Vietnam if it is not a war?

Secretary BOYD. I am completely unable to characterize that, Mr. Macdonald.

Mr. MACDONALD. You don't think it is akin to a war?

Secretary BOYD. It is certainly combat.

Mr. MACDONALD. But the troops, troop movements, are one of the reasons you gave as being in the public interest to force these people back to work. I was wondering if troops don't have a connotation of a war, of killing an enemy, moving troops around to foreign countries. That is not a war?

Secretary BOYD. As a layman, I would call it a war, Mr. Macdonald. As a Government official, I am unable to give you the precise terminology by which this is described as a legal matter.

Mr. MACDONALD. I am not trying to embarrass you, Mr. Secretary. But with regard to the question asked by Mr. Harvey, I thought I would clear this up.

Secretary BOYD. As a legal matter, I do not understand that the United States is in a "state of war." I am unable to give you any of the interpretation or implications of that.

Mr. ADAMS. Mr. Chairman?

Mr. MACDONALD. Mr. Harvey has yielded to me for just these brief moments.

I would like to clear up the Section 472 that President Truman relied upon. He said, "In time of war, when we have controlled transportation." But I suppose you wouldn't say this is in time of war.

Secretary BOYD. My understanding of that is that that relates to a declaration of war by the Congress of the United States, that "in time of war" comes from that action by the Congress.

Mr. MACDONALD. I wasn't in Congress, but my memory is that in Korea Mr. Truman never declared that a war, either.

Secretary BOYD. I am not sure myself.

Mr. MACDONALD. You can take my word for it, he didn't.

Mr. ADAMS. Would the chairman yield on that point?

Mr. MACDONALD. I yield back to Mr. Harvey.

Mr. HARVEY. May I say, Mr. Secretary, this whole area seems very hazy, it seems to me, in your statement. Where you speak of "in the priority utilization of the available capacity of other modes," I would like to know just what authority you think you have for this action less than seizure of the trucklines, the airlines or the other modes. I gather this, No. 1, it is less than seizure, and, number two, it is in a state of war, which we are not in right now, according to your thinking.

In any event, I think it would be helpful to the committee to amplify the authority you have and set forth what the statutory authority is for it.

With that, I will yield back to the committee my balance of time.

Mr. MACDONALD. Mr. Van Deerlin.

Mr. VAN DEERLIN. I yield to the gentleman from Washington.

Mr. ADAMS. On behalf of the committee, would you supply to the committee the status of the emergency powers granted to the President after World War I and during World War II, and during the Korean emergency, which I understand are still in existence and continue through to this day?

Secretary BOYD. Yes, sir.

Mr. ADAMS. We would like to have them by tomorrow when the next witness comes.

I think all that is required here is not a declaration of war but a declaration of a national emergency, within the powers of the President. If you would specifically supply it, we would appreciate it. I think I have referred you to where it can be found.

Secretary BOYD. I will be delighted.

Mr. ADAMS. There was another question, Mr. Boyd.

Don't you presently, and we appreciate very much your coming here so soon after having tried to start the Department, but it is not true that you presently have within your Department now the Defense Transportation Department?

In other words, it has been shifted from the Department of Defense to your area?

Secretary BOYD. No, sir.

Mr. ADAMS. That is not true?

Secretary BOYD. No, sir. I am not sure what you are referring to, but nothing in that area has been transferred from the Department of Defense. I will put it this way: The only functions which were transferred to the Department of Transportation from Defense were certain civil functions of the Corps of Engineers, which have nothing whatsoever to do with any emergency activities.

Mr. ADAMS. Then as to the Department of Defense transportation we would have to inquire about from the Defense Department? You are certain there is no jurisdiction in your Department on that?

Secretary BOYD. That is correct.

(For further information see correspondence at end of testimony, p. 110.)

Mr. ADAMS. Mr. Boyd, you have testified that basically you are here to discuss impact.

Secretary BOYD. Yes, sir.

Mr. ADAMS. And not to discuss the labor negotiations portion of it. But your Department now has jurisdiction over the railroads. Is it not true that you presently have in the railroad industry, in effect, a Government-regulated monopoly situation? In other words, that certificates of public convenience and necessity are required, and rates are set, and all of these things will be in the jurisdiction of your Department?

Secretary BOYD. No, sir.

Mr. ADAMS. I withdraw that. You have substantial jurisdiction in the railroad area, though. I remember now we do have the other.

Placing these together in a nationwide bargaining position, as we have them, and putting together the situation that any type of strike that occurs is going to not affect individual lines but is going to put us into this area of the national emergency that you mentioned then is it not true that if this committee goes through with Resolution 559 which you recommend on page 9 of your statement, that we have, in effect, stated what the terms and conditions will be in this industry?

Secretary BOYD. No, sir, I don't think that follows. I believe I can do no more than accept the statement of Secretary Wirtz who testified yesterday, which is his belief, that if this resolution is adopted, the parties will, through collective bargaining, reach agreement before anything else happens.

Mr. ADAMS. You have testified that the only time prior that we have had such an agreement was after a strike plus a later seizure which placed the parties in a position where they would bargain. I don't want you to go into the collective bargaining aspects, because we will go back to Mr. Wirtz on that.

I would however like you to state from the public interest viewpoint, in the emergency that we have now, what pressure there will be on the management in this case to settle this strike when, in effect, there will be an injunction against the men striking, and the rates established by the government.

You have stated very clearly we will not have an operation change and no strike at this time. What is going to make the companies and no strike at this time. What is going to make the companies bargain?

Secretary BOYD. That requires a very subjective judgment which I am unable to give you, Mr. Adams. I am somewhat confused in this whole area because we have the Railway Labor Act which provides for the establishment of emergency boards, and my recollection is that at least within the recent past historically the railroad industry has accepted the findings of the emergency boards who are comprised of individuals drawn from society with knowledge of collective bargaining and of the industry, and, drawing on that, I would assume that they are prepared to reach an agreement which is within the pattern of the other agreements which they have reached.

Mr. MACDONALD. The time of the gentleman from California has expired.

Dr. Carter.

Mr. CARTER. Mr. Secretary, I certainly think you have presented a fine statement. We realize that you have not been in your present capacity long enough to get the seat warm and we realize the dreadful problem facing the country today.

However, we do know that in 1950 the railroads were taken over by the Federal Government into the Department of the Army. What was the basis of this takeover?

Secretary BOYD. If I may cite Mr. Adams as my authority, it was the statutory authority which was granted to the President of the United States in connection with World War II.

Mr. CARTER. World War II has been over since 1946, of course.

Secretary BOYD. My understanding from Mr. Adams is that the emergency legislation which was provided to the President had not been repealed.

Mr. CARTER. Has it been repealed today?

Secretary BOYD. Again citing Mr. Adams, it is still in effect.

Mr. CARTER. Then this might be used as well during this Vietnam conflict or police action, as well as it was used during the Korean disaster, is that true?

Secretary BOYD. If that is the case, I would think yes, it could be. I am going to attempt to find out and provide for the committee what the situation actually is.

Mr. CARTER. I yield to Mr. Springer.

Mr. SPRINGER. I would like to clear this up, Mr. Secretary, because I have been advised informally by the Attorney General that there exists no power in the President with reference to seizure.

Secretary BOYD. So have I.

Mr. SPRINGER. I think this ought to be clarified before this committee so we know accurately whether he does or does not have this power. I am citing only informally. He hasn't told me that face-to-face but I have made the inquiry and received that reply.

I don't think we ought to be under the impression that there is some law which nobody knows anything about. I can't assume that the Attorney General doesn't know what the law of this country is with reference to seizure. That would be one of the most important pieces of legislation that a Chief Executive could have in an emergency.

Who will supply this? Will you consult with the Attorney General and write us a letter?

Secretary BOYD. I will attempt to generate the information, Mr. Springer. It may come from the Attorney General or it may come from our office.

Mr. SPRINGER. I think the Attorney General ought to make a statement on this because if this is not true, then this committee is generally under the impression, as of this morning, that they should not be under.

Mr. Adams has raised a different question. He cited a piece of legislation and seems to speak with some authority. I certainly want it clarified. Thank you.

Secretary BOYD. I will undertake to see that it is provided.

(For information requested see correspondence at end of testimony, p. 110.)

Mr. CARTER. There is a problem now of the Congress pulling the administration's chestnuts out of the fire as they did twice before, when the administration might well have the power, as it did in 1950, to accomplish the same thing now as it did then.

I yield back the balance of my time.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Secretary, I am glad to see you before the committee and I appreciate your statement this morning.

Going back to one of the earlier questions with regard to the inability of the present parties to get together, it was my understanding, according to the newspaper report, that just before the first extension was granted, five out of the six bargaining unions had reached agreement, and one had refused to agree to the offer.

Do you know which one of these groups did not want to have an agreement.

Secretary BOYD. I have no information on that, Mr. Pickle.

Mr. PICKLE. I wonder if the gentleman with you knows.

I am advised that it was the Mechanics or that group, the Shop Workers. Is that correct?

Mr. SCOTT HARVEY. I am not aware of the fact that it is. I think you will have to ask that of the union members themselves.

Mr. PICKLE. I would like to have that put into the record, too. I just wonder if it is the same group that was party to the five-airline difficulty we had last year.

Secretary BOYD. My belief is, Mr. Pickle, that the only source for that information would be the brotherhoods themselves.

Mr. PICKLE. Then you wouldn't have any comment as to whether this is a power play between unions?

Secretary BOYD. I have no knowledge on that subject.

Mr. PICKLE. We have talked a good bit in the last several questions about Government and what powers the Government would have with relations to seizure.

I am speaking as one individual. It seems to me like we are just chasing rabbits. We are doing a lot of talking about what the Government does or does not have with respect to seizure, hoping we would have some authority to prevent the country getting completely tied into a catastrophic knot. But whether we have that power or not, it seems to me like all you are trying to say, in terms of seizure, would be that that would be more palatable.

My thinking is if we do not pass 559, as I see it, the only alternative then would be, one, that the Congress do nothing, and just let the country get into a complete breakdown of transportation with respect to rails; second, the Government, if it has power, would have to go into some kind of a seizure, and if we don't pass this bill the only alternative, in effect, would be for the Government somehow or another to try to have seizure.

My question is: Wouldn't it follow-on, then, that if we don't do something, if we don't pass this resolution, that inevitably this committee and this Congress is going to have to consider the possibility of passing something that would be compulsory arbitration?

Secretary BOYD. I think you have outlined what the possible choices are, Mr. Pickle, very clearly.

Mr. PICKLE. My question to you is what is your opinion about it.

Secretary BOYD. If the Congress does nothing at this stage of the game, and if, as the Attorney General has indicated, the executive branch of the Government has no legal power to take any further action, then either we are going to have a strike of some undetermined duration or this will be back in the lap of the Congress to do something about.

Mr. PICKLE. Then if we don't pass this, the net of it is that this committee, this Congress, must consider some kind of permanent legislation with respect to emergency work stoppages in the transportation field. Or if you want to put it more bluntly, we will either have this or compulsory arbitration.

Is that an unfair analysis?

Secretary BOYD. My own personal judgment is that if the Congress does nothing and there is a strike, there will then be compulsory arbitration legislation enacted by the Congress, which I do not favor.

Mr. PICKLE. I don't think anybody on the committee, regardless of what feelings we might have, really wants to see compulsory arbitration forced on the workers of this country.

In the transportation field we have reached the point where we can't have national strikes of this kind.

My personal thought is that sooner or later this Congress will have to face the task of drafting legislation that would amend the present Railway Labor Act, to try to extend collective bargaining, to give it a chance to work, or else we will have to have compulsory arbitration.

Would you venture an opinion on that?

Secretary BOYD. I don't know. The other alternative may be to just let the situation ride. Getting back to priorities, it gets to be a question of whether the right of collective bargaining is stronger than the right of anything else in this country.

Mr. PICKLE. I think that is a correct analysis.

In conclusion, I want to say that I appreciate your testimony. I did not hear the first part of the hearing this morning in which the chairman was concerned about your earlier statement. It is not objectionable to me.

It seems to me like it has been common knowledge that the purpose was to talk about whether a railway strike would cripple this country or not. Any statements you would make on it are certainly not objectionable to me.

I appreciate your testimony.

The CHAIRMAN. I would like to state to the gentleman, in defense of my position, that I do not believe ever it is a crime to find anything in the public press in this country. I stand by the statement I made when I opened the committee.

The gentleman from Colorado, Mr. Brotzman.

Mr. BROTZMAN. Mr. Secretary, we are getting pretty far down on the committee and a lot of questions have been asked you. I have listened to you testify and I have also gone over your statement again.

I think it would be fair to say that you have very carefully tried to limit your testimony to the question of "impact" and to limit it to this specific series of occurrences.

I think that would be a fair statement.

Secretary BOYD. Yes, sir.

Mr. BROTZMAN. The questions I really want to ask you probably relate to information that you are going to get from your research contracts. You are charged with a tremendous responsibility, of course, to manage the transportation of our country.

I think we are going to have to have some very careful evaluation as to how much impact this Nation can absorb. I believe you stated that you felt "the economy should not have to bear the impact" of this particular strike.

Secretary BOYD. Yes, sir, certainly because of the issues that are involved here, and how close these parties are.

Mr. BROTZMAN. What I am really leading up to is that we have a question of determining what to do in regards to this specific series of facts, but we have to be, I think, looking ahead as to the whole pattern in transportation as related to the labor-management field.

At this particular time, Mr. Secretary, do you have an opinion as to whether or not the Congress should be dealing with this problem on a one-shot arrangement, or do you feel that there should be a more permanent type of legislation that is more prospective in its nature?

Secretary BOYD. I am very much in favor of the ad hoc approach, Mr. Brotzman.

As I said in my statement, I am not an expert in this field at all.

Mr. BROTZMAN. I wanted to say that you can't disclaim expertise ultimately because these things are all related to the question of transportation and this field is your responsibility.

I think right now we need some guidance and we need some expert testimony of the type that would help us to determine what really is best to do in the national interest.

I frankly haven't made up my own mind as to whether this is the best approach or whether some other approach is better.

You presently favor, as I understand it, the ad hoc approach. Is that correct?

Secretary BOYD. This is the only feasible approach, in my judgment, that is available today for this situation.

Mr. BROTZMAN. That is predicated on the fact that you do not have all the information that you think you are going to be able to obtain through your research; is that correct?

Secretary BOYD. No; that goes to a different point, Mr. Brotzman. The information which we expect to be able to obtain as a result of these research contracts is a major improvement in our ability to measure impact on the economy and the society.

Mr. BROTZMAN. Let me express a feeling I have. Yesterday, we had the Secretary of Labor here, Mr. Wirtz, and today we have you. Undoubtedly we will have some more members of the Cabinet.

It seems to me like there isn't any dovetailing of this decisionmaking because one will say, "This is in someone else's area," and I can't get down to the real tough questions on this. It seems like there is overlapping, or, if not that, not consistent agreement.

Let me ask you this specific question and I will conclude. I think we mentioned this heretofore. Are you, in fact, working with other individuals now to try to propose something of a more permanent nature or to decide whether or not this is necessary?

Secretary BOYD. I am not personally at this moment working on that.

Mr. BROTZMAN. Did I understand that you were a part of some committee or some meeting relative to this subject?

Secretary BOYD. I said that I sat in on two meetings of groups who has been working on this matter for some time. I can't honestly tell you whether I am now a member of the group or what.

Mr. BROTZMAN. I don't want to betray any confidential communications, but can you tell me who was working with you on that?

Secretary BOYD. No, sir, I am not at liberty to do that.

Mr. MACDONALD (presiding). The time of the gentleman has expired.

Mr. Satterfield.

Mr. SATTERFIELD. Thank you, Mr. Chairman.

Mr. Boyd, I don't think there is any question here that the No. 1 consideration before us is whether or not this Nation, in terms of its national interest, can afford a strike.

In this sense, I would like to follow up a statement you made to a question posed by the gentleman from Colorado.

As I understand it, you have stated, in essence, that a strike would not destroy this country, but that it would be too great a burden to bear based on the issues between the parties.

Secretary BOYD. Yes, sir.

Mr. SATTERFIELD. Am I to infer from this that if the issues were different, or perhaps the parties were a little further apart on the issues, that this burden then might be justified?

Secretary BOYD. I make no judgment on that, Mr. Satterfield. I am merely trying to relate my testimony to the facts and have made no judgments on other contingent possibilities which do not exist.

Mr. SATTERFIELD. In your own opinion, if this strike were to occur, do you believe it would develop a national emergency?

Secretary BOYD. Yes; certainly I do, depending on the duration of the strike. A nationwide rail strike of any sustained period, I think, would constitute a national emergency.

Mr. SATTERFIELD. Then the whole thrust of your statement this morning—I take it from that answer—is that, aside from the issues that might be involved, a strike of undetermined duration would produce the type of emergency that you feel would be against the public interest?

Secretary BOYD. I think any strike, in the light of the circumstances of these negotiations, would be detrimental to the public interest. I think a strike, regardless of the issues, of any sustained period, would be a national emergency.

Mr. SATTERFIELD. In the final analysis, the issues between the parties really don't obtain, in determining whether or not from the standpoint of national interest we can afford a strike?

Secretary BOYD. Not in terms of impact; no, sir.

Mr. SATTERFIELD. Thank you.

Mr. MACDONALD. Mr. Satterfield, would you yield for a moment?

Mr. SATTERFIELD. Yes.

Mr. MACDONALD. Your answer to Mr. Satterfield, Mr. Secretary, was that said with knowledge of the telegram that was sent to the Department of Defense and acknowledged, that they will not interfere with anything necessary for defense in Vietnam or anyplace else, or any health movements?

Secretary BOYD. I was trying to respond to Mr. Satterfield's question within the context of his question. I was not relating it to the telegram to which you have referred.

Mr. MACDONALD. Isn't that a very important thing, that these people who are a party to the strike say in their own words that they will arrange continued rail transport of all shipments necessary to our Nation's military effort and the public health? Doesn't that change the entire complex of the matter?

Secretary BOYD. No; I don't think it changes the entire complex.

Mr. MACDONALD. Perhaps I overstated myself. Isn't that a major change?

Secretary BOYD. It is a factor.

Mr. MACDONALD. Is it a factor that you had in mind when you answered Mr. Satterfield?

Secretary BOYD. No. As I said, I answered his question in the terms in which it was placed.

Mr. MACDONALD. Could I ask you the same question, bearing in mind this telegram and its acknowledgement by the Defense Department?

Secretary BOYD. I would accept the telegram as not being an empty gesture. I would accept it as being sent in good faith. I would consider that the acknowledgement meant nothing more than that the telegram had been received.

I still have the problem which we discussed earlier, and that is that I do not know what is meant by "necessary movement," and I do not know who the brotherhoods feel would be deciding what was necessary and what was not necessary.

Mr. MACDONALD. You are at a disadvantage, I think, Mr. Secretary, because you don't have a copy of the telegram. You keep misinterpreting the telegram. I will repeat again that the brotherhoods' offer is to meet with whomever the Secretary of Defense determines proper to be met with, to arrange for continued rail transport for all shipments necessary to our Nation's military effort and the public health.

Mr. ROGERS. Would the gentleman yield?

Mr. MACDONALD. After I get an answer from the Secretary I will be happy to yield.

Mr. Satterfield actually has the floor at this time.

Secretary BOYD. I reiterate that it would be a factor, Mr. Macdonald. The fact remains that in discussing impact this morning, economic impact goes far beyond what would constitute, I think by anyone's definition, vis-a-vis the Department of Defense and the railroad brotherhoods, necessary to the national defense and public health.

I think if we were to speculate on a strike for a month, given a broad interpretation of the language in that telegram, we would still have a disastrous impact on the economy of the United States.

Mr. MACDONALD. I yield back to Mr. Satterfield.

Mr. SATTERFIELD. I yield to the gentleman from Florida.

Mr. ROGERS. I think the point has been made, that the two factors critical to the Nation are not just defense and health alone.

Secretary BOYD. That is correct.

Mr. ROGERS. I think this has been brought out in the testimony and from the President's Council of Economic Advisers.

Mr. DINGELL. Will the gentleman yield to me?

Mr. MACDONALD. The gentleman is out of time.

Mr. Brown.

Mr. BROWN. Mr. Secretary, as I understand from the testimony yesterday of Mr. Wirtz, the Secretary of Labor, if we pass 559, by January 1, 1969, if the procedures outlined in the resolution all take effect and the 91st day comes, and there is whatever we might call it short of compulsory arbitration—but nevertheless it is temporary 2-year settlement of this dispute—what happens after January 1, 1969?

Secretary BOYD. First of all, as I understand it, the language of the resolution is up to 2-years, not to exceed 2-years. But whatever the date is, then the brotherhoods and the railroads would be in negotiation prior to that time, would have been in negotiation, for a new contract.

Mr. BROWN. Under the provisions of the Railway Labor Act?

Secretary BOYD. Yes, sir.

Mr. BROWN. And presumably, then, if they weren't able to settle, we would start over again on the same procedure?

Secretary BOYD. It is entirely possible.

Mr. BROWN. This resolution would become precedent to that sort of thing, would it not?

Secretary BOYD. I should think very probably it would. If anyone sought the same sort of solution again, they would obviously utilize this act as a precedent.

Mr. BROWN. So, in effect, we may have eliminated the possibility of any future nationwide rail strike by passing this resolution?

Secretary BOYD. I don't think that follows.

Mr. BROWN. Why not?

Secretary BOYD. Because the Congress would have to vote on that.

Mr. BROWN. Well, the Congress having voted on it once before, has a precedent for such a vote, is that correct?

Secretary BOYD. It might be of a different temper.

Mr. BROWN. In other words, are you suggesting that we might, 2 years hence, be ready to take a nationwide rail strike?

Secretary BOYD. All I am saying is that the temper of the Congress might be different at that time than it is today.

Mr. BROWN. Would you accept the fact that passage of this resolution does become a precedent for its passage in the future?

Secretary BOYD. If I were to advocate a solution of the same type in the future, I would certainly attempt to use this action as a precedent.

Mr. BROWN. So it does become a precedent.

Secretary BOYD. To an advocate, certainly it becomes a precedent. To the judge, I don't know whether it is a precedent or not.

Mr. BROWN. You indicated that you would be willing to take this as a precedent in arguing it.

Secretary BOYD. If I were seeking the same kind of solution. If I were seeking a different kind of solution, I would attempt to point out why it didn't meet the new requirements.

Mr. BROWN. I am contributing my time to the edification of the committee. The Secretary of Labor said yesterday that the President would not, after June 19, have any power to resolve this strike. He did not make clear whether the President had an opportunity to resolve this strike by some action of his own prior to that date. Un-

fortunately, my turn in questioning didn't come yesterday, so I didn't get to explore that point with him.

What are the choices besides this resolution that you see, Mr. Secretary, for the resolution of this situation short of a strike at this time?

Secretary BOYD. The only one that I can see is seizure. That is short of a strike.

Mr. BROWN. The Secretary suggested another possibility, and that was compulsory arbitration. Are you not drawing a distinction between this resolution and compulsory arbitration?

Secretary BOYD. Yes, compulsory arbitration would certainly have the same effect.

Mr. BROWN. You suggested, I think, in your colloquy with Mr. Pickle that if we didn't pass this resolution the Congress would undoubtedly pass some form of compulsory arbitration.

Did I understand you to say that?

Secretary BOYD. I said that is my personal judgment of what will result if there is a nationwide rail strike.

Mr. BROWN. Based on the temper of the Congress and of the necessity.

Secretary BOYD. Yes, sir.

Mr. BROWN. Let us remove ourselves from this extremity now and emergency situation in which we find ourselves as a nation with reference to this strike. Let me ask you: Is permanent resolution to resolve or eliminate the recurrence of such strikes desirable?

Secretary BOYD. I am not prepared to say yes. I don't know enough about it, Mr. Brown. I have not been involved in this area of labor-management. I am just now beginning to learn.

Mr. BROWN. I am not asking with reference to labor-management. I am asking with reference to the transportation circumstance in our Nation. You have certainly been involved in that for some time.

Secretary BOYD. Yes, I have. It is a balancing of values. Certainly it is important to have a functioning transportation system. Certainly it is important to have the right of collective bargaining.

I am not prepared to say that the importance of the functioning transportation system at all times, under all circumstances outweighs the importance of the right of collective bargaining.

Mr. BROWN. My question is should we have permanent legislation in this field.

Mr. MACDONALD. The time of the gentleman will have expired after he receives an answer.

Secretary BOYD. I do not know of any permanent legislation that would be satisfactory, just, and equitable.

Mr. BROWN. So we should handle this on an ad hoc basis.

Secretary BOYD. Yes.

Mr. MACDONALD. Mr. Adams.

Mr. ADAMS. Mr. Secretary, I can give you the five points to look at on this seizure and then I want to follow as to the reason why it is important that we discuss it. There are five things:

First, whether or not there is a war power.

This would be under 10 U.S. Code 4742. The key question there is whether or not this requires a declaration of war or "a time of war." We would like to know the administration's position on this.

Second, we understand the war in Japan is over by the treaty. The question becomes whether or not the war with Germany, which has never been terminated by treaty, is over.

Secretary BOYD. The Second World War is still going on.

Mr. ADAMS. Third, there was a declaration of the Korean emergency which has never been terminated. We would like to know what the powers are considered to be under that.

Fourth, there is the general constitutional power which was relied upon once by President Truman.

Now the reason this becomes important. There is another alternative. I disagree with my colleague from Texas. The other alternative is one we have talked about. It is compulsory negotiation. Compulsory negotiation is based on the fact that you make the choice unpalatable of what will happen to both parties and, therefore, they will arrive at a solution.

That is why I asked you the question before.

Have you any position with regard to whether or not this committee should recommend a statute that would, in effect, at the end of this period of required negotiations, say to the parties. "We will enjoin one side and seize the other and put into effect these work rules until you can agree"?

Secretary BOYD. No, sir; I have no position on that.

Mr. ADAMS. Does the gentleman from California want some time back?

Mr. VAN DEERLIN. No, Mr. Adams.

Mr. ADAMS. With regard to whether or not there is at the present time an emergency, it is your position, as I understand it, that the starting of a strike for any period of time would be an emergency?

Secretary BOYD. No, sir; that is not my position.

Mr. ADAMS. A strike beyond short duration?

Secretary BOYD. Any strike beyond short duration, I think—a nationwide rail strike—would constitute a national emergency.

Mr. ADAMS. Has there been any discussion in the administration as to if there should be a seizure or an impounding of profits during a period of time while the parties were both being held and in effect being required to negotiate. whether the Department of Transportation, the Department of Defense, or some other department would be the one that would be involved?

Secretary BOYD. No, sir.

Mr. ADAMS. Do you have a recommendation on this?

Secretary BOYD. No, sir.

Mr. ADAMS. The last question that I have is this: Are you aware of the fact that in the railroad industry at the present time compulsory arbitration covers all grievances and all matters up to what are considered major labor disputes?

Secretary BOYD. The National Railroad Adjustment Boards; yes, sir.

Mr. ADAMS. Are you aware of the fact that it is the announced position of the National Railway Labor Conference that compulsory arbitration or, in effect, the establishment of conditions, is to be desired in the railroad industry overall?

Secretary BOYD. No, sir.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Kuykendall.

Mr. KUYKENDALL. Mr. Secretary, it seems your patience is endless and I want to congratulate you on it.

It seems that of the five parties involved here, the administration, the Congress, labor, management, and the general public, four of these five interested parties, the first four I named, not including the general public, are rather playing around a Maypole avoiding one thing: We admit almost everything. You presented your case well.

The impact this possible rail strike would have on the economy has just been clarified by you. I think we were all pretty well aware of it and all pretty well have to agree we have to avoid it.

We are all avoiding this word "compulsion." The Congress doesn't want to use the word "compulsion" because constituents at home don't like it and they have to face up to them.

The administration, particularly the Secretary of Labor, spent yesterday avoiding the word "compulsion." I know the labor unions don't like the word "compulsion" and I know management doesn't like the word "compulsion."

All right, 90 days are up and they have not agreed. They have to accept something that neither of them agree to. Is this or is this not compulsion?

Secretary BOYD. If I were either party, I would certainly think so.

Mr. KUYKENDALL. I will yield the remainder of my time to Mr. Brown.

Mr. BROWN. There are certain competitive pressures, are there not, on the rail industry to settle the strike for fear of loss of their traffic to the trucking industry? Is that not correct? The trucking industry is viable now.

Secretary BOYD. Certainly there is always the fear of a shutdown in a transportation service industry resulting in traffic moving on substitute modes if it is possible to do so.

Mr. BROWN. And perhaps not returning?

Secretary BOYD. They face that possibility.

Mr. BROWN. If this strike were not nationwide, would it be less in its impact than it is as a nationwide strike?

Secretary BOYD. Clearly.

Mr. BROWN. If the trucking industry were also on strike, the impact, I gather, would be much greater?

Secretary BOYD. Yes, sir.

Mr. BROWN. Is there any possibility that we could work out a system whereby if there was not total involvement of the rail lines and all the rail unions at one time, this would tend to eliminate the possibility of a nationwide rail strike?

Secretary BOYD. I don't know how that would work, Mr. Brown.

Mr. BROWN. It might work by force of law.

Secretary BOYD. Yes. That would be the only way. As I gather, what is being suggested is the possibility of a law which says that a national brotherhood——

Mr. BROWN. I am not suggesting, I am asking a question.

Secretary BOYD (continuing). Brotherhood cannot negotiate on a national basis.

I go by the proposition that anything is possible, Mr. Brown.

Mr. BROWN. My question is: If this were not totally involving all the rail lines in the country, would it be less of a national emergency, and is there a possibility that you could eliminate the lack of settlement pressures by doing this?

In other words, would you increase competitive pressures on the rail industry to settle?

Secretary BOYD. On the basis of selective strikes rather than nationwide? I don't know the answer to that.

Mr. BROWN. You have no opinion?

Secretary BOYD. I have no opinion. I do have an opinion, if you have less than a national strike. Then you have less of an impact.

Mr. BROWN. That is what I am talking about. Would you give me your opinion, please?

Secretary BOYD. I am trying to answer you. If you have less of a national strike, you have less of an impact than you do with a national strike.

Mr. BROWN. And there would be greater competitive pressure to settle that strike?

Secretary BOYD. On that I have no knowledge.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. DINGELL. Thank you, Mr. Chairman.

I would like to refer, if I may, Mr. Secretary, to the telegram that was discussed by and between yourself and Mr. Macdonald.

I would like to know if there has been any action taken in the administration to scrutinize the contents of that telegram, to ascertain whether or not some movement of essential goods during a railroad strike has been studied by the administration, whether there are plans to utilize discussions toward this end as an alternative to the legislation presently before this committee.

Secretary BOYD. I have no knowledge as to any action being taken by the administration in relation to this telegram. This telegram, as I understand it, was directed to the Secretary of Defense. I have been sitting in this chair since I was advised of the telegram. I have not had any contact with the administration.

Mr. DINGELL. As Secretary of Transportation, it would appear that you would have some concern with the contents of that telegram.

It would also appear to me that a telegram similar to this should have been sent to you and to the Secretary of Labor. If such telegram were sent to you, would you think it would be incumbent on the administration to look at this as an alternative to the legislation before the committee?

Secretary BOYD. I don't see it as an alternative in any way, shape or form, Mr. Dingell.

Mr. DINGELL. If it moves essential goods and services, both from the standpoint of the Nation's health and welfare, and insofar as national defense is concerned, it is conceivable that, within the framework of that language, something might be worked out that might generally serve the national interest and still not involve the kind of incursion we have in collective bargaining as seen in the legislation before this committee; am I correct?

Secretary BOYD. I think there is a national interest which goes beyond essential defense and public health.

Mr. DINGELL. I understand that. But doesn't it appear that the exploration of this kind of offer is very much in the public interest by the administration?

Secretary BOYD. Certainly. But I don't see that that has any bearing on this.

Mr. DINGELL. I have no way of knowing what would come from these discussions any more than you do. But I am well satisfied that an offer of this kind should be scrutinized with great care. I hope you will agree with me. Is that correct?

Secretary BOYD. Yes, sir.

Mr. DINGELL. Now, Mr. Secretary, with regard to Presidential authority to seize the railroads, the act of August 29, 1961, title 10, United States Code, section 4742, reads as follows—

> Control of transportation system in time of war. In time of war, the President, through the Secretary of the Army, may take possession and assume control of all or any part of any system of transportation to transport troops, war material and equipment, or for other purposes related to the emergency.
> So far as necessary, he may use the system to the exclusion of other traffic.

We are now involved in a very serious conflict in Vietnam and, if it is not a war, we are shooting some $24 billion or $25 billion worth of munitions involving half a million American troops not to fight a war.

Has there been any scrutiny of the utilization of this section for the prevention of a nationwide railroad strike?

Secretary BOYD. Mr. Dingell, the only information I can give you is that in a conversation with the Attorney General of the United States, Ramsey Clark, I was advised by the Attorney General that the President has no legal authority at this stage of the game; that he has exercised all the legal authority he has available.

Mr. DINGELL. That is a bald statement. But you will agree that, in time of war, the President may take possession and assume control of the transportation system?

Secretary BOYD. I accept whatever the statute says. But Mr. Clark has to be the man who indicates and interprets the law for the administration.

Mr. DINGELL. Mr. Chairman, may I suggest it would be highly appropriate, before we go much more deeply into the legislation we have before us, to hear from the Attorney General on this matter.

I believe this is a very important point, lying very close to the heart of the issue presently before this committee.

Mr. MACDONALD. I am sure we will.

Mr. DINGELL. Thank you.

Mr. MACDONALD. Mr. Boyd, you have had a long day here, but I know of my own knowledge how good a witness you are for the Department you represent. You have been before us many times when you were with the CAB.

There is one very small thing and it is so small I shouldn't bother you with it. It deals with your duties as head of the Transportation Department and isn't strictly confined to this strike.

On page 8 of your testimony, you point out that in 1946 a strike called by the Firemen affected 32,000 commuters in Chicago and 12,000 in Boston, who shifted to other modes and produced serious traffic congestion.

That may be a historical fact, I don't know; but how many do you think would be affected, as a concrete example, in Boston now if the strike were to take place?

Secretary BOYD. I can't give you an answer on Boston. I can tell you that the information I have is to the effect that in excess of 700,000 persons per day use rail for commutation traffic primarily in Chicago, New York, and Philadelphia.

Mr. MACDONALD. And, therefore, the remark about Boston is sort of gratuitous?

Secretary BOYD. It is information which was accurate as a fact.

Mr. MACDONALD. Mr. Brown?

Mr. BROWN. My question cuts the same thing, Mr. Secretary, and perhaps I should only ask it to cite a bias, but I would like to get some figures on it.

What is the change in passenger impact and commuter impact since the strike of 1946? That was 21 years ago and we have built an Interstate Highway System and have taken off a great many passenger trains.

Is there some way you can tell us how those two things relate?

Secretary BOYD. I think we can provide that information. I do not have it readily available.

(For information requested see letter at end of testimony (p. 108).)

Mr. BROWN. I thought you might not. If you would provide it, I would appreciate it. I would also like to get some other factual information: What is the percentage of many processors, whom you refer to on page 5, who ship by full trainloads, 40 cars or more, versus those who ship by less than full trainloads and, I presume, less than 40 cars?

If you could supply that, I would like to have it.

Secretary BOYD. You want the ratio of the full-car shippers to the total shipments?

(For information requested see letter at end of testimony (p. 108).)

Mr. BROWN. The sentence said, "many processors ship full trainloads (40 cars or more) with reduced rates."

I would like to know what the percentage is of those processors versus the processors who ship by individual cars or a few cars at a time.

The reason this is significant for this hearing is I think, obviously, anybody who ships by 40 cars or a full trainload needs a train to work on, but anybody who ships a car or two at a time might be able to find an alternative method of shipment in case there is a rail strike.

Mr. ADAMS. Would the gentleman yield on that point?

I believe you have been discussing substitute modes of transportation, but as I understand from your testimony, Mr. Boyd, the real reason for your testimony on the impact and the national emergency is that there is no substitute means available that would have any type of significant impact to reduce the emergency situation if all of these railroads went on strike.

Secretary BOYD. That is correct. As I outline in my testimony, the best information we have is that all other modes of transportation collectively could, after a period of adjustment, pick up approxi-

mately 10 percent of the movement by rail. That is just on a pure tonnage basis. It has nothing to do with oversize commodities, with the various missiles, for example, Titan and others, which can only move by rail.

Mr. ADAMS. So your testimony about the danger of shifting to other modes of transportation is really a limited one, isn't it, a limited danger?

Secretary BOYD. Yes.

Mr. ADAMS. Thank you.

Mr. MACDONALD. The chairman has now returned.

The CHAIRMAN. I would like to say that we appreciate your coming up to give us the benefit of your views. You and I are necessarily on the same side on this subject, for the public interest and for no other interest, is that correct?

Secretary BOYD. Yes, sir.

The CHAIRMAN. I am elected for that purpose and you are appointed for that purpose.

Secretary BOYD. Yes, sir.

The CHAIRMAN. We are not for either railroads or labor, but we are here to see that justice is done.

Secretary BOYD. That is correct.

The CHAIRMAN. Perhaps my statement a little earlier was a little bit severe, but I still stand by it. I believe your place is here to tell us about your views, which you have done very well.

Secretary BOYD. Thank you, Mr. Chairman.

The CHAIRMAN. We appreciate your coming to give us the benefit of your views.

I might say, tomorrow morning we will continue with Secretary Wirtz, and some of the points brought up today can be asked of him.

I am sure your labor adviser can get information requested of him.

The hearing will be adjourned until 10 o'clock tomorrow morning.

(The following letter replying to questions posed during Mr. Boyd's appearance, was subsequently submitted by the Department of Transportation:)

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 23, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony on May 10, 1967 on the railway dispute, the Committee requested additional information on certain economic points.

Concerning the unemployment rate which would result from a month-long railroad strike, the additional unemployment of 6.5 million would produce an unemployment rate of from 12 to 12.5 percent, depending on seasonal conditions, as compared to an unemployment rate of 3.5 percent in April 1967. The normal unemployment rate for June or July would be somewhat higher due to the presence of students looking for work and could go up to approximately 4.0 percent. The unemployment rate resulting from a month-long rail strike would be considerably higher than any reached during the period since the 1930's.

Information was requested on changes in railroad traffic since 1946. While the rise of other transportation modes has contributed to a decline in the relative importance of rail transportation both for passengers and freight and a decline in absolute numbers of total passengers carried (as is shown in the table below), freight traffic has increased in absolute terms over 20 percent and the railroads

account for nearly twice as many ton-miles of intercity freight as the trucking industry (both for-hire and private). Commutation service, though less in the aggregate than in 1946, is still of crucial importance to such cities as Chicago, Philadelphia, and New York.

Trends in railroad traffic and the rail share of total intercity traffic

Year	Billions of passenger-miles			Percent rail of total intercity passenger-miles (public carriers)	Revenue freight	
	Total	Commutation	Other		Billions of ton-miles	Percent rail of total intercity freight ton-miles
1946	64.7	5.9	58.8	65.7	602.1	66.6
1947	45.9	6.0	39.9	59.5	664.5	65.3
1948	41.2	5.9	35.3	57.3	647.3	61.9
1949	35.1	5.5	29.6	48.6	534.7	58.4
1950	31.8	5.0	26.8	46.3	596.9	56.2
1951	34.6	4.9	29.7	45.9	655.4	55.6
1952	34.0	4.8	29.3	43.5	623.4	54.5
1953	31.7	4.8	26.9	40.5	614.2	51.0
1954	29.3	4.7	24.5	38.6	556.6	49.6
1955	28.5	4.8	23.7	36.5	631.4	49.5
1956	28.2	4.8	23.3	35.2	655.9	48.4
1957	25.9	4.9	21.0	33.7	626.2	46.9
1958	23.3	4.8	18.5	31.5	558.7	46.0
1959	22.0	4.5	17.5	29.0	582.5	45.0
1960	21.3	4.2	17.1	27.6	579.1	43.7
1961	20.3	4.1	16.2	26.6	570.0	42.9
1962	19.9	4.0	15.9	24.7	600.0	43.1
1963	18.5	4.1	14.4	21.6	629.3	43.4
1964	18.3	4.2	14.0	19.6	666.2	43.3
1965	17.5	4.1	13.3	(1)	708.7	43.0
1966(p)	17.2	4.2	13.0	(1)	740.0	(1)

[1] Not available in final form.

Source: Association of American Railroads.

I was also asked to provide a percentage figure for "full train" (40 car or more) grain shipments. The Department of Agriculture informs me that when moving by rail all shippers attempt to move in trainload lots to obtain lower rates and that most all moves are in solid trainloads to the ports regardless of the shipper. No specific percentages are available however.

The questions raised on legal aspects of emergency powers will be answered by separate legal memorandum. If any further information is desired I will, of course, be happy to provide it for you.

In response to a question by Representative Moss, information on Department of Transportation Research contracts which will assist in measuring strike impact was requested to be furnished for the record at page 109 of the transcript. The enclosed table (attachment A) provides that information.

Sincerely,

ALAN S. BOYD,
Secretary.

ATTACHMENT A

Studies relating to the measurement of strike impact

Date of contract	Contractor	Study and scope
July 1966	Harvard economic research project.	Feasibility of established input-output analysis for transportation sectors. Completed in March 1967. Suggests interconnection of transportation modes with other sectors of the economy. Further work will be contracted shortly to develop the data for input-output analysis.
Mar. 1, 1967	EBS management consultants	Phase I, suggests strike impact measurement methodology and proposes a design for testing this methodology.
	Not chosen	Operational methodology simulation and test of methodology suggested in phase I of strike impact study.

(The following correspondence, regarding administration of emergency transportation functions and Presidential authority for seizure, was submitted by Chairman Staggers:)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., May 10, 1967.

HON. ALAN S. BOYD,
Secretary of Transportation,
Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: It seems to me that the record this morning is somewhat unclear insofar as it relates to certain answers that were given to questions from Mr. Brock Adams having to do with your responsibilities as the Administrator of the Office of Defense Transportation. It is my recollection that the title of this office has changed from time to time since it was first created back in World War II, and the administration of the office also has changed from the Interstate Commerce Commission to the Office of the Under Secretary of Commerce for Transportation; but I believe that just before the creation of the Department of Transportation, there was an Office of Emergency Transportation within the Department of Commerce, which was under your aegis when you were Under Secretary of Commerce for Transportation. It had been my impression that this was a function which was transferred to you as Secretary of Transportation.

The United States Organization Manual for 1966–67 states that the activities of this office are as follows:

"This office develops and coordinates overall policies, plans, and procedures for the provision of centralized control of all modes of transportation in an emergency for the movement of passenger and freight traffic of all types and the determination of the proper apportionment and allocation of the total civil transportation capacity or any portion thereof to meet overall essential needs. Within this overall coordinating function is a special operational planning responsibility for utilizing the civil air carrier capacity, both domestically and internationally, in a national emergency."

From this quotation and on the assumption that this is a function which is now yours, it would be my assumption that you are in charge of developing procedures for the control of all modes of transportation in an emergency for the movement of passenger and freight traffic and the determination of the allocation of transportation capacity or any portion to meet the nation's essential needs. I should welcome being informed as to whether you have responsibility in this area.

In addition, I would think it appropriate for you to indicate whether among the other authorities transferred to the Secretary of Transportation there is one in which you act on behalf of the President or participate in recommending to the President the certification required under sections 1(15) and 6(8) of the Interstate Commerce Act that in time of war or threatened war it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and that the railroads and the Interstate Commerce Commission comply with such preference or priority.

Sincerely yours,

HARLEY O. STAGGERS, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., May 18, 1967.

HON. ALAN S. BOYD,
Secretary of Transportation,
Department of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for sending me a copy of your letter dated May 17 to Senator Yarborough including a memorandum setting forth a series of answers to questions propounded by members of the Labor Subcommittee. I note that your answers are a result of substantial interagency discussion within the Federal government.

Without commenting upon these answers or the conclusion reached by you as a result of your interagency discussions that it would not be practical, feasible,

or economic to maintain partial operations of the railroads to carry the commodities essential to the national defense and the public health. I do wish that you would indicate to me just what you had in mind in your answer to question 4 when you stated that it appears likely that such partial operation would require legislation by the Congress for implementation.

Is it your thought in this connection that existing authority under the Interstate Commerce Act with the President in times of war or threatened war to establish priorities of movement of traffic is inadequate?

As you know, I just recently have written you in connection with the authorities that you do have or may have as a result of delegation from the President in this area of traffic priorities.

Sincerely yours,

HARLEY O. STAGGERS, *Chairman.*

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 26, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letters of May 10 and May 18, 1967, and for the opportunity to provide additional information with respect to the emergency transportation functions now lodged in the Department of Transportation. My testimony was, of course, directed toward those functions which would be relevant in the event of a nationwide railroad work stoppage, and not specifically to those which are designed to meet emergencies of other sorts.

You are entirely correct that the Office of Emergency Transportation (OET) has been transferred to this Department from the Department of Commerce. In the past, its responsibilities under Executive Order 10999 (February 16, 1962) have generally been construed to relate primarily to national defense emergencies arising out of enemy actions against this country proper rather than to emergencies arising out of a major disaster or strike. It should be noted that planning with respect to emergencies of the former sort is not readily applicable to emergencies such as a rail strike, in part because of the greater legal authority which could be made available in the former case, and in part because of the obvious factual differences.

In establishing the Department of Transportation the Congress has charged the Secretary with responsibility "to exercise leadership under the direction of the President in transportation matters, including those affecting the national defense *and those involving national or regional emergencies . .* ." (emphasis added). We have already initiated discussions within the Executive Branch looking toward developing orderly programs to carry out this portion of our responsibility.

In response to your inquiry concerning the Interstate Commerce Act, no specific authority has been transferred to the Secretary of Transportation to act in behalf of the President under Sections 1(15) and 6(8) of that Act to obtain preferences for defense traffic carried by rail. It should be noted, however, that both of these sections of the Act relate only to service by rail and would be effective in the event of a rail shutdown only with respect to whatever rail facilities remained in operation. "Partial" operation of railroads (dependent upon voluntary agreement of the carriers and the unions) to move "essential" goods is not feasible without additional legislation, in my opinion, since there is no authority under such a scheme to require shipment of materials which one or the other of the parties may regard as not essential and hence not within the scope of the agreement. Sections 1(15) and 6(8) of the Interstate Commerce Act do not provide authority to resolve disputes as to the scope of a voluntary agreement, nor to prevent either party from ceasing operations rather than carry materials which it does not regard as covered by the agreement.

I enclose, further to clarify the record, a memorandum (attachment A) from General Counsel on the Executive Branch's existing emergency transportation authorities.

I trust that this is fully responsive to your inquiry but, if I can be of further assistance, please do not hesitate to call on me.

Sincerely,

ALAN S. BOYD,
Secretary.

ATTACHMENT A

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
May 18, 1967.

Subject: Emergency authority over transportation.
From: General Counsel.
To: The Secretary.

INTRODUCTION

You have requested an outline of the authority available to the Executive Branch in the event of a major shutdown in the rail industry.

We conclude that the President is not authorized to seize and operate the railroads or other transportation facilities under present circumstances. He is authorized, however, to assign priorities in the movement of traffic over those transportation facilities which remain in operation when he deems it necessary or appropriate to do so to promote the national defense. In addition, the Interstate Commerce Commission and the Civil Aeronautics Board may grant temporary authority to operating carriers under their jurisdiction to carry traffic for limited periods of time in areas in which regular service is insufficient.

DISCUSSION

Seizure

A. *Inherent President Authority.*—In 1952 President Truman seized most of the Nation's steel mills to avert a work stoppage which would, in his view, have "immediately jeopardize[d] and imperil[led] our national defense" and endangered the military forces then engaged in Korea. Executive Order 10340 (1952). Since there was no statutory authorization for the seizure, the President relied upon his Constitutional powers as Chief Executive and as Commander-in-Chief. The Supreme Court held the seizure unconstitutional. *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952). Mr. Justice Black's opinion for the Court concluded that the President had no inherent constitutional seizure authority outside the geographical area in which U.S. forces were engaged in combat. There is nothing in the opinion to suggest that the President has greater constitutional authority with respect to the transportation industry than with respect to the steel industry.

In addition, Mr. Justice Frankfurter, concurring, noted that Congress had, in the Taft-Hartley Act, reserved to itself the power to fashion a remedy in the case of a particular dispute which was not resolved by the statutory procedures:

"By the Labor-Management Relations Act of 1947 Congress said to the President, 'You may not seize. Please report to us and ask for seizure power if you think it is needed in a specific situation.' This of course calls for a report on the unsuccessful efforts to reach a voluntary settlement, as a basis for discharge by Congress of its responsibility—which it has unequivocally reserved—to fashion further remedies than it provided." 343 U.S. at 603.

Mr. Justice Burton, Mr. Justice Clark and Mr. Justice Jackson expressed similar views in their concurring opinions. See, e.g., 343 U.S. at 639 (note 8), 657, 660, 663–4.

In the case of the Railway Labor Act, Congress appears to have similarly reserved to itself the power to provide remedies when the statutory procedures fail to resolve a dispute. In recommending enactment of the Railway Labor Act in 1926, the Senate Committee on Interstate Commerce declared that if the statutory procedures should fail to work

"so as to avoid any impairment of the public interest [in "adequate and uninterrupted transportation"] . . . Congress will be unembarrassed in adopting any means it sees fit to protect the public interest." S. Rep. No. 222, 69th Cong., 1st Sess. (1926) at p. 6.

Accordingly, the rationale of the concurring Justices in the Steel Seizure Case seems equally applicable to seizure of the railroads.

B. *Statutory Authority.*—The one statute currently in force which expressly authorizes seizure of the railroads is 10 U.S.C. § 4742 (1958), codified from the Act of August 29, 1916, 39 Stat. 619, 645 (1916), in which Congress has authorized the President "in time of war" to seize "any system . . . of transportation." The President has relied upon this law to seize major portions of the railroad

industry on five occasions,[1] each occurring during a time of war declared by the Congress.

In addition, there have been three seizures of single railroads in connection with labor disputes, each occurring during a time of war declared by Congress (Executive Order 9108, 7 F.R. 2201 (1942); Executive Order 9602, 10 F.R. 10957 (1945); Executive Order 10141, 15 F.R. 4363 (1950).

The United States is not now in a state of war declared by the Congress. The state of war with Germany terminated on October 19, 1951. P.L. 82-181, H.J. Res. 289, 82d Cong., 1st Sess. (1951). On March 20, 1952, the Senate ratified the peace treaty with Japan, and the state of war with Japan was terminated by Presidential Proclamation on April 28, 1952. Proclamation No. 2974, 17 F.R. 3813 (1952).

Upon the termination of the war with Japan, the last Congressionally-declared war, Congress had occasion to consider whether to declare that the various statutes which confer powers on the President "in time of war" would remain available for application in the post-war period. It should be noted that United States troops were at that time engaged in combat in Korea. The President's power under the Act of August 29, 1916, to seize transportation facilities received particular Congressional attention because the railroad seizure of August 27, 1950, under authority of the 1916 Act, was still in effect at the time of the termination of war with Japan and continued in effect until May 23, 1952. The Administration proposal expressly provided for the continuation of the President's powers under the 1916 Act. H.R. Doc. No. 368, 82d Congress, 2d Sess. (1952) at p. 7.

However, although the Congress continued in force certain of the President's statutory wartime powers, it declined to continue the seizure power under the 1916 Act. Emergency Powers Continuation Act of 1952, 66 Stat. 330 (1952). Noting that the Administration's assumption in seeking the Continuation Act was that "the military action in Korea does not constitute a state of war within the meaning of the statutes conferring authority in time of war", the House Committee on the Judiciary concluded that—

"Congress should be cautious and slow in extending this tremendous grant of power [to seize transportation facilities] in the Executive to a period where there is no state of actual declared war." H.R. Rep. No. 2041, 82nd Cong., 2d Sess. (1952) at pp. 3, 4; see also p. 22.

In the light of this legislative history, we conclude that Congress did not contemplate the use of 10 U.S.C. § 4720 under such circumstances as those now prevailing.[2]

Direction and coordination of operating transportation facilities

The President is authorized by the Defense Production Act of 1950, 64 Stat. 799 (1950), 50 U.S.C. Appendix Sec. 2071, as amended, to require acceptance and performance of contracts or orders and to allocate materials and facilities and assign priorities as he deems "necessary or appropriate to promote the national defense." Pursuant to this statute, the President or his delegatee is empowered to direct and coordinate transportation activities for the statutory purposes. This authority has been delegated to the Director of the Office of Emergency Planning, see Exec. Order 10480, 18 F.R. 4939 (1953), as amended, and redelegated to the Interstate Commerce Commission and the Department of Commerce, see 28 F.R. 12164 (1963). To exercise the authority under this statute, it is not necessary either for the Congress to declare war or for the President to declare a national emergency.

However, nothing in the Defense Production Act empowers the President either to seize the railroads or to prevent railroad workers from striking. As originally passed, the Act added only a provision for "voluntary conferences" at the behest of the President to the labor dispute procedures of the Taft-Hartley and Railway Labor Acts. Defense Production Act, Title V, 64 Stat. 812 (1950),

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[1] See: Presidential Proclamation, 40 Stat. 1733 (1917), Executive Order 9412, 8 F.R. 17395 (1943). Executive Order 9727, 11 F.R. 5461 (1946). Executive Order 9957, 13 F.R. 2503 (1948). Executive Order 10155, 15 F.R. 5785 (1950).

[2] See also President Kennedy's Special Message of July 22, 1963, on the Railroad Rules Dispute, H.R. Doc. No. 142, 88th Cong., 1st Sess. (1963); *Brotherhood of R.R. Trainmen v. Akron & Barberton Belt R.R. Co.*, — F. 2d — (D.C. Cir. May 12, 1967) ("[In July, 1963] a strike was immiment. . . . No outstanding techniques [for resolving the dispute] remained. . . . Only Congress could avert a national catastrophe, and it was to Congress that President Kennedy turned. . . ." Slip Opinion, p. 9).

50 U.S.C. Appendix Secs. 2121–2123 (1951 ed.). See also *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579, 603–609 (Frankfurter, J., concurring) (1952). Even the President's authority to initiate voluntary conferences under the Act expired on April 30, 1953. 66 Stat. 306 (1952), 50 U.S.C. Appendix Sec. 2166.

In addition to the powers of the President, certain administrative agencies having jurisdiction over transportation facilities are authorized to respond to abnormal traffic conditions. Thus, the Interstate Commerce Commission may permit motor and water carriers over whom it has jurisdiction to provide temporary service (limited to 180 days) to areas which such carriers are not normally certified to serve when existing service to these areas is inadequate.[3] 49 U.S.C. secs. 310(a), 911. Similarly, the Civil Aeronautics Board may exempt carriers from route limitations (49 U.S.C. sec. 1386) and may authorize supplemental service for periods up to 90 days over routes where the regular service is temporarily insufficient (49 U.S.C. sec. 1387). We do not address in this legal memorandum the extent to which use of these authorities could mitigate the consequences of a nationwide shutdown of rail service.

JOHN E. ROBSON,
General Counsel.

(Whereupon, at 12:20 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 11, 1967.)

[3] Under 49 U.S.C. secs. 1(15) and 1(16), the Interstate Commerce Commission is also given broad authority to direct *rail* traffic under emergency conditions (to the extent, of course, that railroads may be operating). The President is empowered, moreover, to obtain preferences for military traffic carried by rail. 49 U.S.C. secs. 1(15) and 6(8). See Act of June 30, 1963, 67 Stat. 115 and Act of July 31, 1953, 67 Stat. 244, continuing those powers in effect without requiring declaration of war.

RAILROAD LABOR DISPUTE

THURSDAY, MAY 11, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

Mr. FRIEDEL (presiding). The committee will come to order.

We will continue consideration of the legislation presently pending before the committee, House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Would you please identify the gentlemen with you, Mr. Secretary?

FURTHER STATEMENT OF HON. W. WILLARD WIRTZ, SECRETARY OF LABOR; ACCOMPANIED BY JUDGE CHARLES FAHY, CHAIRMAN, SPECIAL MEDIATION PANEL; AND FRANCIS A. O'NEILL, JR., CHAIRMAN, NATIONAL MEDIATION BOARD

Secretary WIRTZ. Yes, Mr. Chairman.

Judge Fahy is with me again today, and Frank O'Neill, the Chairman of the National Mediation Board.

Mr. Ginsburg and Mr. Reynolds, who were here on Tuesday, cannot be here this morning because of conflicting commitments but will, of course, be glad to be available if there are questions that any member of the committee wishes to address to them.

Mr. FRIEDEL. Mr. Rooney, have you any questions?

Mr. ROONEY. No, Mr. Chairman.

Mr. FRIEDEL. Dr. Carter?

Mr. CARTER. Mr. Wirtz, under what provision of the law were the railroads taken over in 1950?

Secretary WIRTZ. In 1950?

Mr. CARTER. Yes.

Secretary WIRTZ. I cannot identify the act technically. My information, subject to correction, is that it was an act of 1916. I will have to add to the record the technical identification of the law passed in 1916 (10 U.S.C. 4742 and 9742).

Mr. CARTER. Does the same law exist today?

Secretary WIRTZ. Subject to amendments in the meantime which amendments control and are very relevant to this matter, I think that law is still in effect today.

Mr. CARTER. Under the authority of this act, then, could the President not take over the railroads today as he did in 1950?

Secretary WIRTZ. Subject to correction, which I will make if I find it to be the fact, the answer is, "No," he could not, by virtue of the amendment of that act in 1953 which specifically withdrew this authority.

Mr. CARTER. That was not made clear yesterday. In fact, the testimony was quite different on that.

Secretary WIRTZ. I testify from my understanding at the moment. I do want to make it clear that I understand that question arose. I have not had time to make a complete check on it, but I testify to the following, subject to correction.

I am relatively confident that there was the amendment to the act in 1953 which would preclude that result. Subject to the advice of the Attorney General, I will take the position that the present situation is one in which there is no arguable authority to seize.

Mr. CARTER. Then the administration has no means whatever of taking over the railroads at the present time, as it did in 1950?

Secretary WIRTZ. That would be my position.

Mr. CARTER. Thank you, sir.

The CHAIRMAN. Mr. Macdonald?

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Wirtz, yesterday the Secretary of Transportation was here and he indicated that he had been in contact with many people, apparently, about the result to the union offer made to the Secretary of Defense and acknowledged by the Secretary of Defense to carry all shipments necessary to our Nation's military effort and the public health.

I am interested in what response the mediators or the people on this side of the fence from the brotherhoods, by way of speaking, have made to this offer by the brotherhoods and by the workers.

I think it of vital importance. They have stated that they won't interrupt the war effort. They have stated that they will see that the national safety and health are protected. It seems to me a very reasonable statement on their part.

I was very surprised that yesterday the Secretary of Transportation could offer no light on what had happened as a result of this offer. I am wondering if you can tell us.

Secretary WIRTZ. There has been no representation to the parties by the mediators with respect to this matter. The position that the Secretary of Transportation took yesterday with respect to this matter is one which I would have no reason to change in any way. But if your question is whether——

Mr. MACDONALD. Sir, he didn't take any position about it, frankly.

Secretary WIRTZ. Then I am perhaps under a misunderstanding. I understood his advice to be apparently categorical that the situation would not, in his judgment, permit the satisfaction of the public's needs by the representation which had been made by the unions.

Mr. MACDONALD. He merely indicated, as I recall—and, of course, the record will reflect what he said—that it would be very difficult to determine what things should be moved. We all agree with that. It perhaps would be difficult.

But that isn't my question. I am not saying whether it would be difficult or not. I think it probably would be. But certainly no more difficult than having the Government tell people that they don't

possess a right that they have traditionally always had; namely, the right to work or the right not to work for cause.

I am asking you what, if anything, have the mediators done in response to this offer by the unions?

Secretary WIRTZ. The mediators have done nothing in response to the offer.

Mr. MACDONALD. Has anybody on the Government side done anything?

Secretary WIRTZ. It is not only my understanding, but I do testify, that there has been consideration of the matter as reflected in the testimony of the Secretary of Transportation. After consultation, it is my understanding, and it is the position of the Secretary of Transportation, that the arrangement proposed would not satisfy the public interest.

Mr. MACDONALD. As far as I can tell—and that message was sent to the Secretary of Defense on the 28th of April, and then it was followed up by a response by a Mr. Caputo, whom I don't know, but whom you may know——

Secretary WIRTZ. No, I don't.

Mr. MACDONALD (continuing). And it was addressed to Secretary McNamara—and it was followed up on the 10th of May by another letter from the brotherhoods and the workers.

They suggested that a panel be set up immediately, of interested people on both sides, responsible railroad people, responsible union people, and they even suggested perhaps since the onus or at least the administration has come to us—perhaps somebody from the Senate side and the House side also be represented as representing the legislative branch.

It seems to us if, indeed, there is an attempt to mediate this strike, that this is a reasonable offer and should be followed up. I don't truly understand why it hasn't been followed up.

Secretary WIRTZ. I thought when you referred to mediators you were referring to those of us who have been working with the terms and conditions of employment that are involved in the dispute here.

Mr. MACDONALD. Actually, I am talking about everybody in the Government who is interested in getting this national emergency, which it has been called, settled. It seems to me if one side says, "We ought to set up a panel and try to resolve this thing so there won't be a national emergency," that it is beholden on those people who have the authority to negotiate in the name of the Government to follow it up.

Just to have it sit there blank in the record as an offer made by the brotherhoods, the workers, and to have no response except an acknowledgment that, "Yes, this offer had been made," seems to me—and I am not being critical of you, obviously, because you have my deep sympathy; you have a very tough job and I know you do, and I know you are a very able person—it seems to me that somebody, and I don't know who—it wasn't the Secretary of Defense, certainly, because he didn't even answer this thing; it wasn't the Secretary of Transportation; and now you say it wasn't the people who are dealing as you are, as a mediator—I am suggesting that somebody should follow this up.

I ask your opinion. Don't you think that is a reasonable approach?

Secretary WIRTZ. Yes, I think the only question is about it not being followed up. The suggestion that it has not been given full consideration would be a dubious basis in my mind. I think you have had pretty direct representation from the Secretary of Transportation and from the Secretary of Defense that in their judgment this situation is not one which lends itself to that approach.

If the question is as to whether they responsibly arrived at that conclusion without further consideration with the parties, you would understand by deferring to their judgment on that, or at least to their responsibility on that.

I would think it a mistake for the Secretary of Labor to get into the question of mediation with the parties on the question of what transportation can be adequately supplied under the circumstances, not because it is a matter of no interest—because it is a matter of very real interest—but when it comes to working out, in your suggestion, what can be done by way of something along lines of this kind, I would feel no real competence myself to do it.

Mr. MACDONALD. Thank you.

The CHAIRMAN. Mr. Brotzman?

Mr. BROTZMAN. Thank you, Mr. Chairman.

Relating to House Joint Resolution 559, Mr. Secretary, it is my understanding from reading this bill and from the testimony that has been adduced thus far before the committee, that this contemplates the continuation of the collective bargaining process, under the aegis of this so-called "Special Board" that is to be appointed.

Will this special board be taking testimony, mediating, or what will their function be as you envision it?

Secretary WIRTZ. The contemplation would be that they would be mediating at all times through the 90-day period. They would, if the mediation had not proved successful on the 30th day, hold a hearing. The resolution does not specify——

Mr. BROTZMAN. And the purpose at the end of the 30 days would be what?

Secretary WIRTZ. The purpose would be this: As suggested by the resolution, they would take as the starting point for their consideration the mediation proposal of April 21, and they would inquire of the parties and receive testimony from the parties as to what their position is.

In practical terms, I take it that at that hearing they would say, "We want to know plainly the lines," whether in public or private being up to them, "what is the matter with this proposal that seems to so many people so unreasonable."

I guess you could call it in legal language kind of show-cause proceeding. "Why don't you put it into effect? It seems reasonable to a lot of other people. What is wrong with it?"

In technical terms, I would call that an extremely forceful mediation device which would include among other things, an attempt to attach as much public attention to that as possible.

If, after another 30 days, there is still no settlement, that determination would be filed with the mediators, it would be filed with the President and with the Congress, for no purpose except to make it a matter of clear public notice and attention.

So there would be hearings, there would be hearing tied very closely to the mediation function and designed to implement that function by bringing whatever value ventilation has to the matter.

Mr. BROTZMAN. So it is a progressive adding of, shall we say, public attention, incentive and pressure to try to bring the parties to voluntarily agree upon something.

Secretary WIRTZ. That is correct.

Mr. BROTZMAN. This really leads up to my question. I wasn't clear, Mr. Secretary, the other day as to what you answer was relative to the present situation between the parties. If I understand your answer correctly to a question, there is no communication or no attempt being made to presently bargain on these respective points at the present time.

Is that a fair statement?

Secretary WIRTZ. Just very briefly, there was, on April 25, a meeting across the table between the two parties. That was on the question stimulated by the Senate committee's resolution, the question of whether they could find in that April 21 proposal an answer to their problems.

That meeting continued about an hour and was terminated with both of them keeping their previous position, which were rejections of that settlement.

On the weekend of April 29, 30, and May 1, there was a strong mediation attempt on the part of some of us who have been working with this case to see if we could find another answer which would have been somewhat different. That was intensive over the weekend. It did not involve the parties meeting across the table. It did not involve a formal change in either party's position.

It involved a strong mediation effort to see if there was another answer. That ended in frustration, completely.

There has since that time been an active keeping in touch with both parties and with the situation.

Mr. BROTZMAN. Keeping in touch by the mediators?

Secretary WIRTZ. By the mediators. There has been, so far as I know, no communication between the parties during that period. There has been mediation contact with both of them and there will continue to be. There is presently nothing working that would seem to be relevant to the disposition of this matter.

Mr. BROTZMAN. I was hoping we might have a courthouse step settle here. We are asked to do something that I am not sure anyone really likes so far as precedent is concerned.

It would seem to me that the incentives ought to be quite evident in this particular case. I am trying to find out if a settlement might be in the offing or if it looked even possible that such might occur even before the Congress is called upon to take definitive action.

Secretary WIRTZ. I would surely share that hope. I have no basis at this point for contributing to that expectation.

Mr. BROTZMAN. I thank you.

The CHAIRMAN. Mr. Adams?

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. Secretary, I want to express my appreciation to you personally and to your staff for the cooperation and the help that you have given to members of this committee as we have gone along.

I want to confine my remarks particularly now, Mr. Secretary, to the national emergency strike as opposed to other types of collective bargaining. I would ask you first:

Is there not a considerable body of thought among labor experts that there should be, in national emergency strikes, an open-ended system with Congress sitting as the final arbiter?

Secretary WIRTZ. If I understand the question, Mr. Adams, I don't find much support for the idea——

Mr. ADAMS. I don't mean support for it. But there is a theory in labor law that says you should leave Congress as the uncertain, final forum to solve the strike when nobody else can. There is such a body of thought, is there not?

Secretary WIRTZ. I don't believe there is. But there it may be my own prejudice against it.

Mr. ADAMS. I think that is a fair statement. I haven't asked you whether or not you favor it.

Secretary WIRTZ. Just very briefly, the closest I come to hearing that is the feeling that there has been little enough of it, that it would be better to do that than to adopt a general rule.

Mr. ADAMS. What we are in effect doing with the Railway Labor Act, and we have done it twice in the last year, and prior to that had done it in the middle 1960's, is by a series of ad hoc congressional decisions settling the matter between the parties so there will not be a strike. Is that correct?

Secretary WIRTZ. Congress has done that?

Mr. ADAMS. Yes.

Secretary WIRTZ. I wouldn't say so. I would say that in the last 4 years, matters of this kind have come to the attention of the Congress, two at the introduction of the administration and the other one with some uncertainty on it. There have been those three. There was not a settlement in the first one. There had to be legislation. There was a settlement in the airlines case.

Mr. ADAMS. After considerable congressional hearing and pressure?

Secretary WIRTZ. This is true.

Mr. ADAMS. And we are here today. In each one of these, Mr. Secretary, we establish, in effect, by an ad hoc settlement, in fact, a position of Congress as to how we will handle these. In the past, in 1946 for example, and in 1950, seizure was used.

More recently we have used, in 1963, in effect, a compulsory arbitration or a statement—we won't use that word—a statement of, "This is what you shall do."

Resolution 559, in effect, says, "If you don't agree, we will tell you for a substantial period of time what the terms will be." Is that correct?

Secretary WIRTZ. Yes, sir.

Mr. ADAMS. Is it not correct that it is the position of management, between these two parties, that they favor having the parties told, by compulsory arbitration, what the result will be?

Secretary WIRTZ. My impression is that in the transportation industry there is a substantial body of management opinion in support of legislation of that kind.

It is also my impression that that is a divided opinion. I think it is probably a majority opinion, but I am not sure.

Mr. ADAMS. Mr. Chairman, I would ask unanimous consent that there be entered into the record two letters that were sent to me, one dated April 27, 1967, and one dated May 2, 1967, from the National Railway Labor Conference, signed in both cases by Mr. J. E. Wolfe.

I would ask that in this case the Secretary be allowed to refer to the letter of April 27.

The CHAIRMAN. This has not appeared yet before the committee?

Mr. ADAMS. That is correct. I want the Secretary to refer to the statement.

(The letters referred to follow:)

NATIONAL RAILWAY LABOR CONFERENCE,
Chicago, Ill., April 27, 1967.

Hon. BROCK ADAMS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: For what assistance it may be to you in deciding the steps Congress should consider to stop a disastrous railroad strike, I am enclosing a brief memorandum which expresses some of the thoughts of the railroad industry on the problem. I hope it will merit your careful consideration.

If there are any questions on the matter which I can answer, I hope you will get in touch with me at the Statler Hotel here in Washington.

Respectfully yours,

J. E. WOLFE, *Chairman.*

APRIL 27, 1967.

FATEFUL CHOICE: GOVERNMENT SEIZURE OR IMPARTIAL ARBITRATION

As Congress faces the necessity of acting to forestall a shutdown of the nation's essential rail services by six shop workers unions, there are those who advocate legislation providing for government seizure of the railroads. This approach would merely postpone resolution of the controversy, not solve it—in contrast to the alternative of passing legislation providing for binding arbitration of the dispute.

When the nation was confronted by an imminent rail strike in 1963, the late President Kennedy asked Congress for special legislation to head off the walk-out in a July 22 "Special Message on the Railroad Rules Dispute." In this message, President Kennedy said that instead of setting up an arbitration board he preferred that the dispute be submitted to the Interstate Commerce Commission. However, after extensive hearings and detailed consideration of alternative solutions, Congress chose the remedy of requiring arbitration.

President Kennedy and the Congress rejected seizure of the railroads. In his "Special Message," President Kennedy said:

"Seizure of the railroads has been rejected as unjustified in the circumstances of this case, as creating complex legal and financial problems for the government, and as merely postponing the day of reckoning on more efficient work rules and their acceptance by the brotherhoods."

It was recognized that seizure does nothing to solve a labor dispute or settle the differences that lead to a strike threat. It is simply a device for "postponing the day of reckoning."

In the present shop unions case, seizure of the railroads would also serve to punish the innocent—the one party, the railroads, that has demonstrated by its record of accepting public board recommendations a sincere desire to settle the dispute.

The only way that seizure could dispose of a labor dispute, assuming the unions persisted in asserting unrealistic demands, would be for the government in its role as operator of the railroads to impose on the employers terms that the unions would accept—terms that would have to exceed what Presidentially appointed boards have found to be merited by the facts.

This is not only unfair to employers and owners *but to the public which must finally pay the bill for any unrealistic settlements forced by political expediency.* And if the government during seizure does press management for greater concessions to the unions, will not labor be encouraged to bargain less and to resort

more and more to the tactic of forcieng seizure in major disputes? Certainly at the very least the functions of Presidents' Emergency Board provided for by the present law would become merely futile exercises. The unions would be *rewarded* for rejecting their recommendations.

Even when labor unions advocate government seizure, there is evidence of serious reservations on the part of responsible union leaders. For example, the April 18 issue of the Daily Labor Report of Bureau of National Affairs stated:

"C. L. Dennis, president of the Railway Clerks, AFL–CIO's largest transportation union, says at a press briefing in Washington that compulsory settlement of nationwide contract disputes may not be far down the road. The immediate prospects, according to Dennis, is for 'a one shot law' to settle the current dispute between the railroads and the six shopcraft unions."

The shop unions themselves have suggested that if the parties cannot agree, arbitration is the way to provide an ultimate solution, as follows:

"In their efforts to reach agreement on the ultimate goal of such a wage rationalization, the parties can invoke the good offices of the Department of Labor and other Federal agencies to furnish occupational and labor market information needed in their determination of occupational and job comparability. If in the final analysis they cannot agree on the ultimate degree of comparability, they should then have recourse to arbitration of the unresolved issues." (Page 35, Shop Union Brief filed with Emergency Board 169, February 1967.)

Arbitration assures a prompt disposition (instead of postponement) of the dispute—a disposition that is not dictated by unreasonable demands of one side or the other, but is responsive to the merits of the case. A party seeking justice need not fear an impartial adjudication where all other avenues of settlement have failed.

Certainly arbitration—a prompt and fair decision—is far preferable to seizure, which postpones the day of reckoning and opens Pandora's Box of unmeasurable consequences for the whole nation.

[From the Washington Post, Apr. 28, 1967]

ARBITRATION IS THE FAIR WAY TO PROTECT THE PUBLIC FROM A PARALYZING RAILROAD STRIKE

The fair—the only—way to save this nation from a paralyzing railroad strike in the next few days is for Congress to require both the unions and the railroads to submit the dispute to binding arbitration.

Unless Congress acts to prevent it, a group of shopcraft unions led by the International Association of Machinists, will bring the nation's rail transportation system to a grinding halt at 12:01 a.m., on May 3. The International Association of Machinists is the same union that shut down a large segment of the nation's airlines for more than 40 days last summer.

The railroads have consistently said they are willing to leave the decision in this dispute to an impartial third party. But the unions have steadfastly refused.

Why?

The railroads believe anyone seeking justice need not fear an impartial decision by a third party when all other avenues of settlement have failed.

The public overwhelmingly favors arbitration over a rail strike. A recent national poll of public opinion (February) showed the public almost 2 to 1 in favor of arbitration over a strike in transportation (57% for, 29% against 14% no opinion).

Unlike government seizure of the railroads which may keep the railroads operating but really does nothing to settle the issues, arbitration does clear up the issues, bring final settlement and protect the public interest.

In view of the basic fairness of an impartial third party decision when two sides fail to agree; in view of the public support for the principle of arbitration in transportation, and in view of the disastrous consequences of a nation-wide rail strike, Congress can serve the public interest best by promptly enacting legislation requiring an arbitrated settlement of the issues in this dispute.

NATIONAL RAILWAY LABOR CONFERENCE,
Chicago, Ill., May 2, 1967.

Hon. BROCK ADAMS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: In the hope that it may be of some help to you in determining the best course of action to take in the railroad labor crisis, I am enclosing some evidence of widespread sentiment for arbitration.

On the attached sheet (attachment A) are some typical editorial comments we have received in the last few days showing that an influential segment of the nation's responsible press supports arbitration as the practical way to solve these continuing crises.

In addition to the nation's press there are many, many other influential groups who favor arbitration. Among them is the Transportation Association of America who, in a public statement relating to the railroad dispute, stated on April 27, 1967:

"The fairest—and only final solution—is for Congress to meet its public responsibilities and to legislate binding arbitration promptly."

The Chamber of Commerce of the United States in a special bulletin of May 1, 1967, reiterated its position in the following words:

"Arbitration should, as a general rule, be wholly voluntary and should only be used as an adjunct to free collective bargaining. Where fact-finding boards are prescribed by law, and where the recommendations or awards of such boards have in practical effect become binding on one party to the dispute, the recommendations should be made legally binding on both parties to the dispute or the use of fact-finding boards should be discontinued."

The General Federation of Women's Clubs, representing 13 million women, acting under the authority of a resolution unanimously adopted at their national convention on June 9, 1966, just recently issued a public statement on this same subject. Under date of April 14, 1967, Mrs. E. D. Pearce, President of the General Federation, said:

"I lend the voice of the General Federation of Women's Clubs in support of steps necessary to effect permanent machinery for binding adjudication of railroad labor disputes on a fair and equitable basis while at the same time insuring uninterrupted service to the public."

In addition to the statements of these public groups, there is impressive evidence that the general public itself strongly favors arbitration in preference to a rail strike. I am attaching a page from a public opinion survey (attachment B) made last February by the Opinion Research Corporation of Princeton, N.J., showing a vote of 57% in favor and 29% opposed (14% no opinion).

In the interest of brevity, I have referred only to excerpts from these various reports and documents. Should you wish more information, I will be glad to furnish the entire document.

Respectfully yours,

J. E. WOLFE, *Chairman.*

ATTACHMENT A

EDITORIAL COMMENT ON THE NEED FOR ARBITRATION

Baltimore Sun (May 1, 1967): The present dispute over the wage increases sought by the shop craft unions may have to be settled by special arbitration legislation in the end, since there is a broad acceptance of the point that a railroad strike could not be tolerated. But members of Congress should feel called upon to consider whether something firmer and longer-lasting than special emergency laws is needed to prevent such recurring crises.

New York Times (April 29, 1967): Chances are strong that something not radically different from compulsory arbitration will have to be voted in the rail controversy unless the country is to witness another disgraceful resort to Government-fostered wage inflation of the kind that marked settlement of the strike of airlines mechanics last summer.

Chicago Daily News (April 28, 1967) : When Congress imposed a settlement on the railroad firemen, the public was well served by the decision to jettison ludicrous union demands. The same concern for the public good should prevail now.

Washington Star (April 28, 1967) : As we have pointed out in the past, laws compelling a settlement have successfully been used in several other countries including Australia, New Zealand, Germany and Sweden. It's time for Congress to get to work on such a basic new law.

Los Angeles Times (April 27, 1967) : An ideal solution would be agreement by both sides to submit to binding arbitration if an impasse is reached. . . . Congress compelled arbitration in the threatened nationwide rail strike in 1963 when a work rules dispute resisted all mediation attempts. That action must again be taken if the rail shopcraft unions refuse to call off their strike.

N.Y. World Journal Tribune (April 13, 1967) : Certainly there is a strong case to be made for (Congress) obviating strikes that motivate national calamities. . . . Does this add up to a case for systematic compulsory arbitration? It may, indeed, in the absence of workable alternatives.

St. Louis Globe Democrat (April 13, 1967) : We badly need a law to bar national strikes which erode public interests and slug the public. Such a law should propose compulsory arbitration and a special court for management-labor issues.

St. Louis Post-Dispatch (April 12, 1967) : Congress knew or should have known in 1963 that compulsory arbitration, permanent and covering all the railroad unions, was the only remaining recourse to bring reasoning into these disputes.

Cleveland Plain Dealer (April 12, 1967) : The only way to end the almost continual labor contract crisis in the nation's transportation facilities covered by the Railway Labor Act appears to be to put teeth in the recommendation of presidential emergency boards . . . to make binding a board's findings could be the only answer.

Christian Science Monitor (April 10, 1967) : We recommend that the possibility of including compulsory arbitration in any strike legislation be given serious consideration.

ATTACHMENT B

ORC CARAVAN SURVEYS, FEBRUARY 1967

"Here's a suggested plan to do away with strikes in transportation industries. Companies and unions would try to settle each labor dispute by bargaining. If they could not settle the dispute, the President of the United States would appoint an impartial arbitration board and whatever the board decided would be final and binding on both sides. Would you be for or against a compulsory arbitration law like this?"

	Total U.S. public
Number of interviews	2,023
For (percent)	57
Against (percent)	29
No opinion (percent)	14

Mr. ADAMS. Referring to the first paragraph, Mr. Secretary, and then referring to the first paragraph in the memorandum, would it be your statement that that gentleman, Mr. Wolfe, has indicated that compulsory arbitration is at least an acceptable position to the industry?

Secretary WIRTZ. Yes, I think that is right, although that would be subject to his own comment, of course.

Mr. ADAMS. Yes. I want to put this in context.

In 559, you have suggested that there be this freezing. I want to know what your position would be on requiring the parties in a 90-day period to have the management make a public offer, have it voted on by the unions, and, if rejected, a counter public offer sent back to management with either a public acceptance or rejection of it. Remember, we are talking about only national emergency strikes.

Secretary WIRTZ. I have just one question. That would be an offer which is submitted by a Government agency to the membership?

Mr. ADAMS. It would be the last offer of the parties, similar to what is done under Taft-Hartley, and submitted to the membership directly for vote.

Secretary WIRTZ. I have never thought about bypassing the union processes to get a membership vote.

Mr. ADAMS. And the counteroffer back?

Secretary WIRTZ. The vote thing I would be opposed to, and the formality of saying that there is to be a final offer—I neither oppose it nor approve it.

Mr. ADAMS. You will assume this has been done and you have the last stated positions of the two parties. What is your position with regard to, instead of 559, saying at the end of this period—

We will have the Board appointed. It will take the Fahy Panel recommendations and build upon them in the same fashion that Resolution 559 does. At the end of the period the public offers, the statement of the Board, would be made public, and the parties would have a period of 10 days within which to negotiate. At the end of that period, if they did not, then there would be sanctions applied that both dislike, which would be to continue your injunction, require the panel to set up the terms and conditions, and to seize.

Secretary WIRTZ. To seize the company or to seize the company and the union?

Mr. ADAMS. To seize the company and to impound profits during this period of time, freeze bonuses and to freeze, in effect, both parties.

Secretary WIRTZ. I would be opposed to that.

Mr. ADAMS. Why?

Secretary WIRTZ. Because I don't see equity in it and I don't see necessity in it.

Mr. ADAMS. I would say this to you: If one party is in favor of the proposal that is being made, and the other party has indicated its opposition to it, why do you think this type of proposal will make them both negotiate?

Secretary WIRTZ. I want to know which party is right. One may be right and the other may be wrong. Without making that assessment, to suggest equality lies in satisfying both of them goes beyond my understanding.

Mr. ADAMS. No; not satisfying both of them. Satisfying neither of them and applying pressure to both. You stated, and I agree with you, that House Joint Resolution 559 is requiring the littlest possible interference in the collective bargaining process.

What I am saying is that by applying the littlest possible interference with the process in a national emergency strike, we simply will not get both to continue any further bargaining. Why should they?

Secretary WIRTZ. The point is that I don't see the fairness in treating equally just one side that may be right and I don't know which side is right.

Mr. ADAMS. I haven't passed on the merits at all.

Secretary WIRTZ. That is the point. I don't see how we get equality by dealing equally, according to your statement, with two parties, one of whom may be reasonable and the other unreasonable.

Mr. ADAMS. All right. What I am saying is remember that this is in the context of each time we make one of these decisions we are setting up the next one to come before us.

What I am attempting to find from you is your position and that of the administration, if Congress, in effect, says to the parties, "If you cannot complete your bargaining and get an agreement when you come up here, it is going to be unpalatable to you. So bargain."

That is as apposed to the proposition you have here of saying to both parties, in effect, "We will set up or we will establish", which is really what the Government does, "your agreement for you."

Secretary WIRTZ. I still have the same feeling that the public does not reach a fair answer by simply saying, "We are going to do whatever is necessary to make both parties unhappy, without regard to which of them is reasonable and which of them is unreasonable." I just don't follow that.

Mr. ADAMS. I will limit the context even more narrowly to an industry, the transportation industry, where you have the Government regulating, you have the establishment of rates basically in Government control, you have no competitiveness—and this was testified to by the Secretary of Transportation—no real competitive alternative.

So we are moving this out of the context that original collective bargaining was based upon, which was that the parties would both be injured and that there would be a movement to a competitor and, therefore, they had to settle. I am limiting it now to this type of situation.

Do you not believe that with the public interest, and that is all we are talking about, involved, that in this type of industry we should do and go farther than we might in a nonregulated, nonmonopoly industry?

Secretary WIRTZ. Yes; I think that is entirely conceivable.

Mr. ADAMS. Taking it in this narrow area, would your answer still be the same as what I proposed to you?

Secretary WIRTZ. Yes, it would, and it would be the same if the question were am I in favor of broad, compulsory arbitration. It would be exactly the same. The view of neither party should control.

Mr. ADAMS. Since you seem to feel that in this case there may be something in the merits that makes a difference in this, suppose the Congress were to pass ad hoc legislation in this case and tack to it, in effect, a permanent type of legislation saying, in effect, to the parties in the future, "If you come back, this is what is going to happen." What would be your position on that?

Secretary WIRTZ. Come back to Congress?

Mr. ADAMS. In other words, you go through the whole process under section 10 as we do now and you can't agree.

Secretary WIRTZ. I would say if there should be a development along the line of permanent legislation, I would think the idea embodied in this resolution of tying whatever final determination is made completely to the path or course of collective bargaining that has been followed would be an advantage.

I have also said that I think this resolution is tied so completely and tailormade to this case that it could not be made a permanent matter.

But I do think that idea of a final keystone determination, drawn from the collective bargaining is worthy of consideration.

Mr. ADAMS. Mr. Secretary, it is true, is it not, that approximately 70 percent or a great portion of the railroad industry at the present time is under a type of compulsory arbitration in their grievance machinery?

Secretary WIRTZ. In the grievance machinery?

Mr. ADAMS. In the area of their labor negotiations, grievance machinery and so on, with the exception of these limited areas, it is under compulsory arbitration now?

Mr. O'NEILL. There is a vast distinction between negotiations and grievances. It is true that under section 3 of the act the parties must go to a tribunal to get interpretations of existing agreements. But when they come in for a change in an agreement, or a new agreement, there is nothing compulsory under the Railway Labor Act.

Secretary WIRTZ. The answer is, "Yes." It is not 70 percent. It is the whole of the industry.

Mr. ADAMS. I meant all of the industry. I am talking about the total number of labor-management disputes now. Basically, under the agreements, it is settled by compulsory arbitration.

Mr. O'NEILL. Grievances are handled by a tribunal. The Supreme Court has said that is the way they must be handled. But that is only after you have an agreement.

Secretary WIRTZ. Furthermore, almost 100 percent of industry, all of industry, has voluntary arbitration of grievances.

Mr. ADAMS. That is very different.

What you are proposing in Resolution 559 is that, in fact, by establishing this kind of a pattern, where the parties know when they start to bargain—I will ask you this, Mr. Secretary—is it not true that every time we establish a precedent here of this nature, it affects the bargaining process?

Secretary WIRTZ. Yes.

Mr. ADAMS. The parties know, then, that if they come here there will be a final result of "We will settle it."

Secretary WIRTZ. It does have an effect on the future. There is no question about that.

Mr. ADAMS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Mr. Secretary, I must apologize to you and the chairman for being a little tardy. I understand a question similar to the first question I would like to ask has already been asked. I beg your patience with it.

As I understood when you were here Tuesday, you said after June 19 the President has no power to resolve this dispute or to put off an impending strike.

Does he have such powers prior to June 19?

Secretary WIRTZ. Yes. There would be a prohibition by operation of the resolution on any strike up to June 19. That was the effect of the extension order, the second extension order, adopted by the Congress.

It would not be a power in the President. It would be an extension of section 10 of the Railway Labor Act, the extension of the status quo order.

Mr. BROWN. But nothing beyond that?

Secretary WIRTZ. That is correct.

Mr. BROWN. Can you describe the status of negotiations at the present? Are there any negotiations going on?

Secretary WIRTZ. No, there are not.

Mr. BROWN. How long has that been the case?

Secretary WIRTZ. The last meeting across the board was on April 25. On the weekend of April 29, 30, and May 1, there was a strong mediation effort by the mediators, which was not successful. There has been subsequent contact by the mediators with both parties which will, of course, continue. But there has been no further discussion between the parties.

Mr. BROWN. Is there any indication that any further discussion will be taken up in the near future or prior to June 19?

Secretary WIRTZ. There is no present indication of that. I do not mean by that to preclude that possibility, but there is nothing presently. There is nothing working at the moment.

Mr. BROWN. I have two questions a little off the track, Mr. Secretary. When the Secretary of the Department of Transportation was with us yesterday he testified to the fact that one of the problems in these negotiations is the compression in wages between the skilled and unskilled in this industry.

Isn't this compression also occurring in many other industries and to some extent hasn't this been an objective of some recent labor negotiations?

Secretary WIRTZ. It is a very widespread problem today. It results from the fact that over about a 20-year period most increases in wages were on a cents-per-hour basis rather than on a percentage basis, which narrowed over the years the gap which had previously existed between the high-wage people and the lower wage people.

This is a problem in a good many relationships today.

Mr. BROWN. And we find this apparently reversing, or at least some interest in reversing that procedure or that situation?

Secretary WIRTZ. That is correct.

Mr. BROWN. Is it fair to ask if this is also a Government objective, compression or reversal of compression?

Secretary WIRTZ. As far as Government rates are concerned?

Mr. BROWN. As far as the social objectives of the Federal Government.

Secretary WIRTZ. Yes, that is right.

Mr. BROWN. Yes, what?

Secretary WIRTZ. There is a recogntion of the desirability of reinstituting to some extent the previous difference between the lower rate and the higher rate people. That is recognized by all parties in this case. It has been accepted as a matter of principle from the Emergency Board report on, through the mediation proposal, and accepted by both sides, that this matter requires attention.

Mr. BROWN. Mr. Secretary, would you consider this legislation, if passed, 559, a precedent for similar action in the future, in the instant case of this strike, or a similar strike?

Secretary WIRTZ. I have said to Mr. Adams that I think it is unquestionably true that any action of this kind does influence the future to the extent of expectation of a similar approach.

Does that answer your question?

Mr. BROWN. Yes.

Secretary WIRTZ. I would like to add to that that I think there is a certain amount of discouragement that comes to the parties in going through what they have properly gone through in something of this kind that mitigates that a little bit.

Mr. BROWN. If this situation is carried to its extremity, if 559 is passed, and the procedures outlined in 559 are carried to their extremity, what will be the situation after January 1, 1969?

Secretary WIRTZ. It would be that the matter would be open as it would be at the end of any contract period under the Railway Labor Act.

Mr. BROWN. And is it possible that we would go through the same procedure again? Is it possible?

Secretary WIRTZ. It is possible, but you will understand my adding that it is no more possible than it is with respect to all of the other contracts that are opened at any time under the Railway Labor Act.

Mr. BROWN. But this does become a precedent for that possibility?

Secretary WIRTZ. You have gone further than my reactions would justify. I recognize that practically the fact is that whenever we take special action it has an effect upon the future.

To suggest that this now becomes a precedent for the next disagreement that arises between any parties in the railroad industry, with the suggestion that there is a likely reliance on that precedent, does not accord with my expectation.

I point out that in this last year, despite the 1963 action, we had what I think was the strongest, most vigorous private collective bargaining throughout most of the railroad industry that we have had in a long time, and it included the parties to the 1963 case.

They bargained out their differences themselves.

Mr. BROWN. May I ask an assumption now? Let us presume that the news came that the unions and management settled the railway strike right now.

Would you favor the presentation by the administration or the consideration by the Congress of permanent legislation to avoid going into this extremity in the future?

Secretary WIRTZ. I think in a sense it would renew the very active concern about and interest in developing whatever is the proper pattern for the future, as far as this emergency dispute matter is concerned.

I think it is true that in a very real sense the arising of this crisis has made it difficult to consider that other matter.

Mr. BROWN. At this time?

Secretary WIRTZ. That is correct.

Mr. BROWN. May I ask one other area of questions?

If this involvement were not nationwide, would the competitive pressures on both the union and the various segments of the industry be such that a less than nationwide strike might be settled with more ease than a nationwide strike?

Secretary WIRTZ. Yes, I suppose so. I will answer very briefly because the question of the desirability of nationwide handling of these cases as distinguished from property by property handling is a

very real difference between the parties at this time, which I should not want to prejudge.

But it is quite true that the development by the parties, with some variety of position about it, of nationwide bargaining here, does contribute to matters of this kind.

Mr. BROWN. Would it be within the province——

Mr. FRIEDEL (presiding). The time of the gentleman has expired.

Mr. BROWN. May I finish my question, Mr. Chairman?

Mr. FRIEDEL. Yes.

Mr. BROWN. Would it be within the province of the Congress to give consideration to legislation which might outlaw industrywide bargaining in such industries as adversely affect the national interest when we get to that strike threat situation?

Secretary WIRTZ. I want to be sure, when you say would it be within the province of the Congress to consider that, do you raise a question as to authority or as to wisdom?

Mr. BROWN. If you would like to answer on both issues, I would be pleased to have you do so.

Secretary WIRTZ. On authority, I would think there would be no question about it.

On wisdom, I think it would present a very important question. I would not commend any easy moving toward a prohibition of it.

Mr. BROWN. Do you consider the question of compulsory arbitration or seizure more important?

Secretary WIRTZ. You say more important.

Mr. BROWN. More fundamental?

Secretary WIRTZ. Yes, I think so.

Mr. BROWN. I gather that you would put that last on the list in a choice between compulsion and seizure and monopolistic bargaining?

Secretary WIRTZ. I would think a constructive approach to the question of sounder collective bergaining in this industry could very well start with consideration of the fact that as things now stand—with a nationwide approach to it—collective bargaining loses its typical motive power, which is the power of one side or the other to say no, and to hurt the other party before it hurts the public.

That is too long a statement. But a basic factor here is that now the exercise of economic force by either side has nationwide implications.

I think you come very close to the heart of the problem when you refer to that point.

Mr. BROWN. If I can just finish this question by asking it in this way, am I to assume that you are suggesting that nationwide bargaining in the rail industry is a given?

Secretary WIRTZ. I do not assume that it is a given. I am being too careful, but I mean to say to you that if there is consideration of what ought to be done by way of amendment of legislation, or by development of different private practices, I would start with the consideration of problems of the kind you have raised rather than with the problem of what kind of castor oil dosage—compulsory arbitration or seizure—and to try to get at the roots of the problem rather than at this ultimate sanction.

Mr. BROWN. In other words, you would prefer this consideration to compulsory arbitration or seizure?

Secretary WIRTZ. Yes, sir.

Mr. FRIEDEL. Mr. Blanton.

Mr. BLANTON. Thank you, Mr. Chairman.

Mr. Secretary, do you feel that the trend in Federal intervention, and that is what it amounts to, in utilities such as the railroads is a trend toward both the regulation of the wage rate and the utility rate, too?

Secretary WIRTZ. We already have it on the utility rate side to a very considerable extent. I seem to have become oversensitive to the terminology, but I don't mean to be. We call it a trend. I am not sure the two cases are a trend.

There is surely a rising concern in the country today. It is reflected in the three times the Congress has considered it. I am not sure I have answered your question. I am a little confused, because we do already have it as far as the rates are concerned.

Mr. BLANTON. Isn't this a step, in your judgment, toward wage regulation by the Government, too?

Secretary WIRTZ. I have answered in terms of whether it would have an effect on the future, and I don't disregard that effect. When we ask whether it is a step, I suppose, it is true, and I don't mean to be facetious, but when I go home, which is 3 miles west, I take a step toward San Francisco. I don't intend to get there. I am a little worried about the taking-a-step point.

I have no difficulty with recognizing the fact that it does influence the future to some extent.

Mr. ADAMS. Would the gentleman yield?

Mr. BLANTON. Yes.

Mr. ADAMS. Mr. Secretary, what would be the position of the administration if we should follow some scheme of either ad hoc or permanent legislation on, first, who should make the determination of a national emergency, the President, the Congress or some other body?

Secretary WIRTZ. I haven't shifted gears fast enough. I don't quite understand. What would be the position of the administration if the Congress were to take a step of what?

Mr. ADAMS. A step of establishing either ad hoc or permanent legislation in section 10 as is being contemplated here for the future.

Who do you think should declare that there is a national emergency?

Secretary WIRTZ. The President or the executive branch.

Mr. ADAMS. All right.

Which is the least objectionable to you in case of a seizure, a judicial receiver, an appointed Presidential Board, or a member of the Cabinet?

Secretary WIRTZ. In the case of a seizure?

Mr. ADAMS. Yes.

Secretary WIRTZ. I am not prepared to answer that, because I am opposed——

Mr. ADAMS. I know you are opposed, but I am asking you which is the least objectionable.

If something comes out, which do you think is best?

Secretary WIRTZ. All are equally objectionable.

Mr. ADAMS. You wouldn't select one?

Secretary WIRTZ. No.

Mr. ADAMS. What is the position of the administration on the appointment of a board at the final point of selecting something from either the Fahy Panel or, if it is permanent legislation, of taking the two public offers and putting it out, a board composed of two from

management and two from labor selecting a third, or one that is appointed by the President, or a combination of the two?

Secretary WIRTZ. I think the President's suggestion does reflect a good deal of the common experience here, and it would be the identification of a group which would be denominated as representing a public interest but would include one with particular identification with, knowledge of, rich experience with, the representations of the labor and management groups.

Mr. ADAMS. In other words, you would go nomination by the two parties but selection by the President?

Secretary WIRTZ. No, I would go naming by the President.

Mr. ADAMS. With regard to seizure powers, we asked this of the Secretary of Transportation yesterday, what is the position of the administration as to whether or not there is power under 10 U.S.C. 47–42, or otherwise to presently seize the railroads?

Secretary WIRTZ. Is that the 1916 statute?

Mr. ADAMS. The 1916 statute. There is also the carryover of the World War II and Korean emergency powers.

Secretary WIRTZ. I have answered here categorically, but making it clear that I haven't had time since this question came up yesterday morning and doubt was raised on it to get a formal ruling.

My present position is that there is no authority at all today with respect to that. Out of deference to the committee and the importance of the point involved I want to check further with the Attorney General to confirm or to set aside my view. It is presently that there is no authority.

Mr. ADAMS. I thank the gentleman for yielding.

Mr. FRIEDEL. The gentleman's time has expired.

Mr. Kuykendall.

Mr. KUYKENDALL. Mr. Secretary, does every railroad necessarily go out in the case of a strike?

Secretary WIRTZ. Two or three might be offended, but my answer is yes. By that, I mean there are two or three railroads——

Mr. KUYKENDALL. This is truly a nationwide strike.

Secretary WIRTZ. Yes. I shouldn't have been facetious.

Mr. KUYKENDALL. Several weeks ago a member of the Department of Transportation polled this committee and briefed the contents of House Joint Resolution 559. The briefing was excellent. I don't know that we have done anything but clarify the situation since that time with these very good hearings. However, at the time I was briefed I was asked, "Do you look favorably upon the resolution as you see it?" At that time I said yes.

At the present I say no, for this reason more than any other: Who said "Me thinketh you protesteth too much about this compulsory arbitration."

On the 92d day, June 21st, if these people had not reached an agreement, and they are working on it, are they not working under compulsion?

Secretary WIRTZ. Yes.

Mr. KUYKENDALL. This doesn't offend me because in the case of a truly national emergency if it came to this point, then I suppose I would have to recognize that point. But it has offended me that so

many people have protested so much to try to prove to, I don't know who, that there isn't this compulsion that you are talking about.

Secretary WIRTZ. I would not be one of those.

Mr. KUYKENDALL. A gentleman in the other body made a statement yesterday which I understand the unions gave him a pretty hard time about. He said, "We are doing everything to prevent compulsory arbitration."

Secretary WIRTZ. That is a different point.

Mr. KUYKENDALL. Let me change gears. I don't think there is anyone here that compulsory arbitration is not repugnant to.

You have stated that, and we all feel the same way. I think all of us are looking for a realistic out on the thing. We have referred to January 1, 1969. Some partisan politicians might say a few weeks after the election. You have stated that you did not see that there was any more difficulty in arriving at a new contract at the end of this contract which was more or less a compulsive contract.

I don't see how you can say that there would be no more difficulty, because it would seem to me that they would have the old, unsettled situation still with us, and new ones that had arrived in the interim.

What is your stand there? You said there would be no more difficulty.

Secretary WIRTZ. Several things, but taking just our last point first, I understood the question to be what would their legal status be as of January 1.

Mr. KUYKENDALL. I think that is what I wanted to make very clear. There would be no difference.

Secretary WIRTZ. I want to be sure about the significance as to the date, with the reference to the election. That doesn't surprise me at all. But you should know that this is the date which covers the demands of the two parties.

It seemed only appropriate that the authority of the Board here be an authority which permitted them to cover the demand of both parties—the unions' demand and the companies' offer—for 2 years. So that is the reason for that date.

I would not suggest that it would be any harder for them to reach an agreement on January 1, 1969, than it would otherwise. I think that was your point. I do not think it would be harder.

Mr. KUYKENDALL. In other words, you do not feel that the unsettled part of this particular round of negotiation would hang over into the new agreement?

Secretary WIRTZ. It would not. It would be quite similar—as this would work out, this settlement would be in the same situation that the others are. There are different patterns. There was the 1966–67 round, which we are here trying to complete. All of those will come up.

As for the election, a good many cases are going to come up in January 1968, and some more in June 1968. My only point is that this would put this case in the same pattern as the others.

Mr. KUYKENDALL. You use the term that we are here trying to complete. I think there is a difference of opinion here as to whether this would complete it or not. This would only suspend it.

Secretary WIRTZ. It would complete this round. You see, the other unions have made agreements which run to, some of them, January

1, 1968, some of them to June 1 or July 1, 1968. They work on a kind of——

Mr. KUYKENDALL. You are speaking chronologically and I am speaking philosophically.

Secretary WIRTZ. But we are both speaking practically. The point is that there would be, regardless of this case, another round of wage demands in the railroad industry in 1968 and 1969.

Mr. KUYKENDALL. One last question.

Am I to understand that Mr. Brown's premise, and it was a premise, about the difficulty that has been created by the nationwide bargaining, a look at this would truly be one of the first things you would look at in the idea of a permanent settlement of this type of legislation?

Secretary WIRTZ. Not with the implication of changing it, but looking at it to see whether it should be changed, whether it is a good thing or a bad thing, and if it is to continue what kind of adjustments should be made to accommodate the public interest in the same situation.

Mr. KUYKENDALL. It would seem to me that the one factor that the workingman would find in his best interest would be to somehow leave the strike to where he strikes against the railroad and not the general public.

I have seen the workingman put behind the 8-ball so much by this nuationwide bargaining. The union is no longer striking against the railroad but they are striking against the general public. This puts the workingman in a bad position because of the nationwide bargaining.

Secretary WIRTZ. May I take a moment to go back to the first question about compulsion?

There is no question in my mind, and I don't believe in anybody's mind, that the effect of this that the working would be by compulsion, just as indeed it is today, just exactly. There is no question about that whatsoever.

The only argument, and I take no offense at all against the objection to terminology, your position, comes with respect to the question of whether this is compulsory arbitration.

I think there is room for a very real difference of view as to that. But on the question, there should be no attempt made by anyone to confuse the question of whether there is the element of finality in here if it has to be used. There has been no question about that. I think there is another basic difference.

Mr. BROWN. Mr. Secretary, would you accept the term deferred compulsory arbitration?

Secretary WIRTZ. No.

No, it is very basic, Mr. Brown. I don't mean to go over it again.

I recognize the fact that the decision would be final with respect to that area covered here. The only question is whether it is drawn from the minds of the independent arbitrators or the history of the bargaining. I don't mean to press that point.

Mr. FRIEDEL. The Chair will recognize Mr. Macdonald, but I want to inform each member that they will be strictly held to the 5-minute rule.

Mr. MACDONALD. Thank you, Mr. Chairman. I thought the chairman had been enforcing that rule.

Mr. Secretary, I don't mean to belabor the point, but I think it is very important, at least it is in my mind, 5 minutes do run quickly

and I didn't have a chance to finish up my questions concerning the offer by the unions to cooperate with the administration or the Government concerning movement of defense material and that material that affects public health.

As I tried to indicate, it seemed to me it was very cavalierish on somebody's part to take an offer of this magnitude and just pay no attention to it.

It seems to me that the Secretary of Defense didn't even give them the courtesy of a reply about this, in my judgment, very important matter, inasmuch as we the Congress are supposed to be interested in this matter because of the public interest.

I would ask you if nobody on the side of the administration, and I don't mean you people but I mean anybody, is going to do anything about this offer, don't you think we ought to take out the language, even if this bill were passed—and I have some doubts about that—if it were passed, on page 2, where it is giving the whereases as to why this bill should be passed, "Whereas, the national interest, including the national health and defense," and so forth, "be maintained"?

If it is important enough to be put into the bill, why isn't it important enough a subject that somebody respond, somebody with some authority respond, and set up a meeting, even though you and I agree that the meeting might be a difficult one in coming down to definitions of what affects public health, as a concrete example. I think the military effort is pretty clear.

Is anybody who is interested in trying to solve this problem going to do anything with the unions on this offer?

Secretary WIRTZ. I was concerned about your first questioning, Mr. Macdonald. I am now in a position to advise you that my information, which I have obtained since we talked before, is that the Department of Defense has sent a letter, either to the unions or to this committee—and I don't know which—which does set out in some detail, not in cavalier fashion, the considerations which are involved here, and calls attention to these matters: First, the inability to handle less than carload lot shipments; second, the impossibility of moving and sorting essential freight through railroad classification yards; and, third, the difficulty in moving assembled, complete trains from one location to another.

This does not go to your question of whether there ought to be consultation. I don't believe anybody is going to object—not only object, but I don't think anybody is going to pass up—any opportunity or any possibility of discussion. It sure shouldn't be precluded, in any judgment.

I would be glad to undertake it to see that it is arranged. I think it is true that there has been more detail here in the expression of a position than at least I realized when you asked before.

Could I inquire, Mr. Chairman, as to whether that letter is a matter of record at this point?

Mr. MACDONALD. The only letter that I have is a letter addressed to the chairman of the Railway Labor Executive Association, signed by the Director of Transportation and Warehousing Policy of the Department.

It just thanks them for their letter but says, "In view of the fact that the deadline for the scheduled national strike by the Railroad

Shopcraft Unions has been extended to June 19, it would appear that a meeting as you propose is not now necessary."

I don't believe that seems to be a very well thought-out answer.

Secretary WIRTZ. I should think incomplete, at least. There is the subsequent letter that I just referred to. If it hasn't been made a matter of the record, I will introduce it as soon as I obtain it.

(See p. 142.)

Mr. FRIEDEL. We can make it a part of the record.

Mr. MACDONALD. I would like to see it, and also, aside from the exchange of letters, I hope that the matter will be taken up because whether or not a national emergency does exist would depend in large degree on what material the unions say they will carry.

Secretary WIRTZ. Mr. Chairman, I would simply respect the request of any member of the committee, regardless of anything else, that there be such a meeting and I will undertake to see that there are conversations of that kind.

Mr. MACDONALD. Thank you.

Mr. FRIEDEL. Mr. Springer.

Mr. SPRINGER. Mr. Secretary, it seems to me the big issue, at least as I see it, in which these particular unions are interested is this whole question of differences in abilities and skills.

It is my understanding, Judge, that you included job evaluation as one of the important recommendations of your committee.

Is that correct?

Judge FAHY. The Emergency Board, which was chaired by Mr. Ginsburg who was here Tuesday, recommended a job evaluation, in recognition of the fact that there were inequities which had arisen over the years—differentials between the skilled and the less skilled.

That Board also recommended—in connection with the job evaluation—the creation of what was termed an escrow fund from the carriers, out of which these inequities would begin to be compensated for as the job evaluation progressed.

Mr. SPRINGER. How long does the job evaluation take?

Judge FAHY. It wasn't specified.

Mr. SPRINGER. Did they put a limit on the time of the job evaluation?

Judge FAHY. 120 days, yes. And if they did not agree, it was to be arbitrated.

Mr. SPRINGER. On this job evaluation, there is a 120-day period. If they come to a conclusion at the end of that time, then this escrow fund was to pay these differences in skills. Is that correct?

Judge FAHY. Yes. But when my group came along—I was not on the Emergency Board—I was the Chairman with Dr. Taylor and Dr. Dunlop, of the Special Presidential Panel of Mediators which was appointed during the 20-day extension period.

Mr. SPRINGER. What did you recommend?

Judge FAHY. On that problem of the job evaluation, we took a somewhat different position but one which we thought was consistent with the general approach of the Emergency Board. That was this: We thought some "downpayment" should be made to the skilled without awaiting the completion of a job evaluation and its uncertainties.

Mr. SPRINGER. Did either party accept that?

Judge FAHY. I think without violating any mediation technique, one might term it, that is now accepted by both parties, but the amount has not been accepted. That approach was accepted.

Mr. SPRINGER. Let me dwell on this evaluation on one more problem. It is my understanding on the limited research my staff has made, that there is a substantial difference between what, we will say, a machinist on the South Side of Chicago gets who works in the yards—this is a technically different question from what you are talking about, Judge—and a machinist at O'Hare Airport, which may be in the nature of 50 cents to 75 cents an hour more, I understand.

If I am wrong about this, we will correct the record. Was anything done on that kind of evaluation as between the same skills in the same union, in the same community?

First, is my conclusion correct about this, Judge?

Judge FAHY. Yes. The principal emphasis on the job evaluation was on the compression—let me put it another way.

Mr. SPRINGER. That is within the railroad industry between the skilled and the unskilled. I am talking about another problem now, the skills within the same union, apparently doing approximately the same job. I don't know whether it takes more skill to be a mechanic on an airplane than it does on a train or not. But I take it they are relatively in the same category.

Judge FAHY. That element of differentiation was not pressed upon my group.

Mr. SPRINGER. By anybody?

Judge FAHY. No.

What was pressed, Mr. Springer, was the differences between the skills in the mechanics and journeymen in the railroad industry and comparable skills in other industries.

Mr. SPRINGER. The point I am raising in the second issue was not raised?

Judge FAHY. I wouldn't say it wasn't raised. That would be going too far. There was a suggestion by the carriers that the job evaluation would disclose not simply the differentiation—which was conceded—between the mechanics and journeymen in the railroads and in General Motors, for example, but also that some of the skilled within the unions themselves were less skilled than others, and that that should be taken into consideration.

Mr. SPRINGER. In other words, then, even within a union group there is a difference as to if you are doing a certain job you should receive more than if you are doing another job, even within the machinists or some other skills, is that right?

Judge FAHY. Yes; I think that is correct. But let me add in defense of what our group did, and I don't want to enlarge upon it because it would be subject to Resolution 559 if it passes, it would be subject to the reappraisal of the different group. We recommended in our mediation proposal of April 21, that we begin immediately to rectify that inequity by 5 cents an hour increase in the wages of the skilled.

Mr. SPRINGER. For each 6 months' period?

Judge FAHY. April 1, 1967. And another 5 cents October 1 of this year, and the final 5 cents next year.

Mr. SPRINGER. The big difference is between this 15 cents and apparently 12½ and 12½.

Mr. Secretary, to complete this, and I hope you will allow me to divulge this, at the White House it was my understanding that you said, and correct me if you did not say it, that really you thought that if you took the 6 months out, which was the difference between 2 years and 18 months, you were ordering the difference between 15 cents and 18 cents.

Is that correct?

Secretary WIRTZ. Substantially so. You are right clearly, on the record, of the difference between a union request for 12½ cents and 12½ cents, or a total of 25 cents over 2 years, as compared with the Panel recommendation of 15 cents over 18 months.

I did, you are correct, add that if you make that comparison then on an 18-month basis, the 25 cents requested by the union would translate into about 18 cents, which made a comparison on an 18-month basis with the 15 cents recommended by the Panel.

That did leave a difference of 3 cents on that basis.

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Moss.

Judge FAHY. Mr. Chairman, could I supplement my answer to Mr. Springer?

Mr. SPRINGER. Yes.

Judge FAHY. I think in fairness to the problem about the differentials, I should add that the carriers in connection with that contended before us that the increase in wages which had been used in collective bargaining for about 30 years, which created this compression between the skilled and the less skilled, needed an adjustment, would be shown if the job evaluation study would be completed, that some of the less skilled had received more than they should, though they recognize there was an adjustment due in favor of the skilled.

They were willing not to offset any wages of incumbents who they thought might have received more through this scheme that has been going on for many years, but that for new employees the jobs would be reevaluated which might mean some reduction.

We didn't accept that approach, that it was time to reduce the wages.

Mr. SPRINGER. Mr. Secretary, I would like for you to place into the record how much this 3 cents amounts to in the industry for a total.

Secretary WIRTZ. Surely.

(See letter dated May 23, 1967, p. 139.)

Mr. MACDONALD (presiding). Mr. Moss.

Mr. Moss. Mr. Secretary, I will not ask for a reply now, but there seems to be an element of confusion as to exactly what has been agreed to by both parties in the settlement called the Fahy proposal.

I would like to ask you to supply the members of this committee a concise summary of what has been agreed to.

Secretary WIRTZ. Nothing Mr. Moss. The answer to that is that on none of the specifics, and there are three, has there been agreement.

Mr. DINGELL. By either party, Mr. Secretary?

Secretary WIRTZ. No, that would not be right.

Mr. Moss. That is why I asked for a concise summary in writing so that the members of this committee may have the benefit of it. The record at the moment, I submit, is a very confused one on this point.

Secretary WIRTZ. I will be glad to supply it.
(The information requested follows:)

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 23, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to the request of your Committee that the Department of Labor develop estimated costs for the various proposals in the current railroad shopcraft dispute.

Comparison of the costs of these proposals is complicated by two factors: (1) they refer to different contract periods—1 year, 18 months, 2 years; (2) the proposal of Emergency Board No. 169 provides for unspecified inequity adjustments.

The attached summary presents estimates of the increase in costs under each of three proposals: (1) The recommendations of Emergency Board No. 169; (2) the Fahy panel proposal; and (3) the unions' proposal.

If I can be of any further assistance do not hestiate to call.

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

ESTIMATED COST OF VARIOUS PROPOSALS IN RAILROAD SHOPCRAFT DISPUTE

1. Recommendation of Emergency Board No. 169 (accepted by carriers)

1-year contract. 5 per cent general wage increase, retroactive to January 1, 1967. Vacation change (3 weeks vacation after 10 instead of 15 years' service). Inequity adjustments for journeymen and mechanics as determined by job-evaluation study.

The general increase (5 per cent) would raise the average hourly earnings figure from a present $2.92 to $3.066. The cost of this for one year (for 137,000 employees, 2000 hours each) would be *$40,004,000.*

The vacation change is priced at 1 cent per hour. Cost for one year: *$2,740,000.*

The cost of the inequity adjustments could not be determined until after the job-evaluation study had been made.

The total cost for one year would therefore be *$42,744,000 plus the cost of the inequity adjustments as subsequently determined.*

2. Proposal of Special Mediation Panel (not accepted by either party)

18-month contract. 6 per cent general wage increase (retroactive to January 1, 1967). Vacation change (same as Emergency Board). Three 5¢ inequities increases for 100,000 journeymen and mechanics: 4/1/67, 10/1/67, 4/1/68.

The general increase (6 per cent) would would raise the average hourly earnings figure from a present $2.92 to $3.095.

The cost of this would be:

For the 1st 12 months	$47, 950, 000
For the 18 months	71, 925, 000

The cost of the vacation change (same as Emergency Board) would be:

For the 1st 12 months	$2, 740, 000
For the 18 months	4, 110, 000

The cost of the inequity adjustments would be:

For the 1st 12 months	$10, 000, 000
For the 18 months	22, 500, 000

The total cost would be:

For the 1st 12 months	$60, 690, 000
For the 18 months	98, 535, 000

3. The most recent union proposal

Two-year contract. 6-½ per cent general wage increase, and 12-½¢ inequity adjustment for 100,000 journeymen and mechanics effective 1/1/67; 5 percent general wage increase and 12-½¢ inequity adjustment effective 1/1/68.

The general increase for the first year (6-½ percent) together with the inequity adjustment would raise the average hourly earnings figure from the present $2.92 to $3.20; and the 5 percent (and the inequity adjustment) for the second year would raise this figure to $3.45. The cost of the general increase would be:

For the 1st 12 months	$52,060,000
For the 1st 18 months	100,010,000
For the 24 months	147,960,000

The vacation change (same as Emergency Board) would be:

For the 1st 12 months	$2,740,000
For the 1st 18 months	4,110,000
For the 24 months	5,480,000

The cost of the inequity adjustments would be:

For the 1st 12 months	$25,000,000
For the 18 months	50,000,000
For the 24 months	75,000,000

The total cost would be:

For the 1st 12 months	$79,800,000
For the 18 months	154,120,000
For the 24 months	228,440,000

Mr. Moss. Mr. Secretary, in talking about precedents, when did the last railroad strike, national in character, occur without the immediate threat lurking in the background of either seizure or a congressional intervention?

Secretary WIRTZ. My answer would be that I don't suppose there has been a situation of that kind in our history, at least in the history of the last 4 or 5 years. To be sure I understand your question, you ask when has there been a nationwide strike without a threat of legislative action in the background?

Mr. Moss. I confined it to railroads.

Secretary WIRTZ. Yes, confined to railroads. I know of none.

Mr. O'NEILL. The shopcrafts in 1922.

Mr. Moss. So we really haven't, if we want to regard free collective bargaining as dealing across the table, agreeing by parties, free to employ their economic powers in order to finally force a settlement, we have really not had that kind of bargaining, have we?

Secretary WIRTZ. Correct.

Mr. Moss. The proposal here would postpone until January 1969 a settlement of some of the issues, those issues unresolved on the 91st day after the enactment of this legislation, if it is enacted, is that true?

Secretary WIRTZ. I am not sure about what you said. The present notices in this case will be covered by the action under the resolution.

Mr. Moss. I will tell you very candidly, sir, that I was under the impression, and I believe I sat through every session of the hearings in 1963, that it was the clear intent of this committee that we were dealing with a temporary settlement, and that we were not prejudicing the rights at the end of 2 years of either party. But we do have a decision by Judge Holtzoff intervening that says that we had a different intent. Am I correct?

Secretary WIRTZ. Yes, sir.

Mr. Moss. What assurance have we that in January 1969 we could not have a similar decision by another court?

Secretary WIRTZ. I would find that assurance in the difference between the issues in that case and in this one.

Mr. DINGELL. Would the gentleman yield?

Mr. Moss. Yes.

Mr. DINGELL. Mr. Secretary, would you be able to advise us what the precise difference in the issues is that would change the effect of the legislation?

Secretary WIRTZ. The critical key issue in that case was the manning as far as several classifications are concerned—the number of people who would be used.

The issue here is dollars and cents with respect to the general wage increase, the differentials, and the length of the contract. There are other issues covered by the notices filed by both parties in this case. The clear understanding of the record so far is that the wage issue here is the central issue.

Mr. Moss. Compression is also a central issue, is it not?

Secretary WIRTZ. I meant to include that.

Mr. Moss. And job classification?

Secretary WIRTZ. Not job classification.

Mr. Moss. You said there was a recommendation, I believe, in the Fahy report that there would be a survey. Am I correct on that?

Secretary WIRTZ. No, that is not right. In the Emergency Board Report there was a recommendation for a job study, but not in the Fahy report.

Mr. Moss. But there is a difference in the problem in the area of compression which is not unique to the railroads because I recall that it has been a problem in Government as long as I have been acquainted with it, going back 15 years ago to my service on the Post Office and Civil Service Committee.

We have not resolved that issue here in the Congress up to this time.

Are you optimistic that it would be resolved in the intervening approximately 18 months that the proposed resolution would be effective?

Secretary WIRTZ. I think that compression issue in this case would be resolved, with the matter now being one of a difference in dollars and cents.

Mr. Moss. Thank you.

Mr. FRIEDEL (presiding). Mr. Secretary, is any mediation going on now?

Secretary WIRTZ. None at the moment.

Mr. FRIEDEL. Why not?

Secretary WIRTZ. Let me be sure I know that you mean by mediation.

Mr. FRIEDEL. Are both sides trying to get together or are they trying to force us to pass this sort of legislation? Are they going to meet or not? I thought they would be trying to meet right now and trying to settle without our passing any legislation.

Secretary WIRTZ. There are continuing inquiries on the part of the mediators about this matter. There is no disposition shown at this point.

Mr. FRIEDEL. Is there any way we can get them together?

Secretary WIRTZ. I guess only the future will tell that, Mr. Chairman.

Mr. FRIEDEL. I think they should be trying to settle it as soon as they can, without any legislation.

Secretary WIRTZ. Could I say to Mr. Macdonald that I do have now the detailed information. The letter to which I referred is a letter of May 9 from the Acting Secretary of Defense, Mr. Vance, to Mr. Staggers, setting out the detail to which I referred.

I have also, since our second conversation, been in touch indirectly with the Department of Defense which indicates its complete willingness to meet on any further discussion of this which seems advisable.

(The letter referred to follows:)

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., May 9, 1967.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: We appreciate very much the cooperative attitude of the Unions as expressed in their telegram of April 28, 1967, to Secretary McNamara, in which they stated they stood ready to attempt to arrange for continued rail transport of shipments necessary to our military effort and the public health. Unfortunately, however, the proposal contained in the telegram does not meet the national defense requirements for the following reasons:

1. The movement of essential defense materiel in less than carload lots would require special trains. This in turn would result in a slowing down of the delivery of required equipment and ammunition to the ports.

2. The sorting and selecting of railroad cars containing essential defense freight in classification yards will also delay the delivery of essential defense materiel.

3. The time required to assemble complete trainload lots will, of course, also substantially delay the shipment of essential defense materiel.

It is our belief that the nation cannot tolerate a rail strike at this time. It is also our belief that the fairest and most equitable solution is the Joint Resolution recommended by the President last week.

Either Secretary McNamara or I, accompanied by appropriate military advisors, will be pleased to appear before your Committee to amplify on the foregoing matters, or to answer any other questions which your Committee may have.

Sincerely yours,

CYRUS VANCE,
Acting Secretary of Defense.

Mr. MACDONALD. Then there will be a meeting?

Secretary WIRTZ. There is a compete willingness there.

Mr. MACDONALD. How about the railroads?

Secretary WIRTZ. I think it is safer to say that there will be a meeting. My jurisdiction isn't quite that broad.

Mr. MACDONALD. I am very happy to hear it. Thank you very much.

Mr. FRIEDEL. Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman.

Pursuing the inquiry of a moment ago, I am sure if we were to hold 12-hour day hearings here for the next 90 days this committee would never fully understand the ramifications of wage compression.

Let us get down to the basic issue which concerns all of us. That is the matter of whether or not this is compulsory arbitration.

I am not going to engage, Mr. Secretary, in any argument with you over words. I believe it should not be restricted to compulsory arbitration.

As the chairman noted a moment ago, it concerns me deeply that there is no apparent effort at this time to negotiate on the part of the parties.

May I ask you further as to whether or not the President has called on the parties to meet and try to settle their differences in recent days?

Secretary WIRTZ. The President has not done so in person. There has been repeated contact by myself, and by the Under Secretary of Labor, with the parties.

Mr. WATSON. I think it is fair to say that neither of the parties favor compulsory arbitration, and one of the parties has been quite vocal in their opposition to it. I guess down home we are sort of country folks and believe in the old adage that your actions speak louder than your words. Right now I am finding it particularly difficult to wrestle with this problem when apparently those who say "don't deny us voluntary arbitration" apparently are doing nothing in trying to prove that it will work.

Do you not agree with me that the only sure way that we can avoid the passage of this legislation is for the parties to agree?

Secretary WIRTZ. I do. I call attention to the last paragraph or two of the President's message in which he transmitted this proposal, and in which he said that there is only one right way to settle it and that is by agreement of the parties, and what is called for here is an act of responsibility by the parties which would make an act of necessity by the Congress unnecessary.

Mr. WATSON. So the real solution to this problem as to whether or not it is compulsory arbitration or whether or not we have this bill enacted into law rests in the hands of the disputing parties.

Is that correct?

Secretary WIRTZ. Yes, sir.

Mr. WATSON. Did I understand you to say that the last meeting was probably April 27?

Secretary WIRTZ. The last across-the-table meeting was on April 25. There have been subsequent meetings between the mediators and the parties or representatives of the parties.

Mr. WATSON. Mr. Chairman, if I may make one very candid observation, I am not impuning the motives of anyone, but I make this observation with a great degree of personal concern: I don't believe that any parties are going to be able to get together when I observe in this hearing room that they wouldn't even sit together. It is very disturbing that apparently the differences have become so pronounced. Unless there is a third party objection here, I believe it is rather hopeless at this point.

Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Secretary, I have a number of points I would like to treat with you.

Can you make the flat statement that the wage scale in the railroad industry for the several crafts is commensurate with the wage scale in other similar industries, for example the Greyhound bus industry, the airlines, and perhaps some of the other portions of the transportation industry?

Secretary WIRTZ. No.

Mr. DINGELL. Would it be fair to say that, as a matter of fact, it is rather below the other industries?

Secretary WIRTZ. Yes, I think that is right. The answer would have to be broken down, but it is surely below, in some areas, on the basis of some comparison.

Mr. DINGELL. Would it also be fair to say that it is rather below the manufacturing industries?

Secretary WIRTZ. I would have to check the record on the degree of that comparison. There is a comparison available. I think it was made at Mr. Moss' request, a matter of record, in an earlier stage of these proceedings.

Mr. DINGELL. I requested similar information.

Mr. Moss. Mr. Secretary, the material I placed in the Congressional Record was developed by my personal staff, making extensive use of the long-distance telephone because I was not able to receive it here in Washington from any agency of the Government, the definitive material I wanted.

Mr. DINGELL. As you recall, Mr. Secretary, I have requested such information from you for the record. I am trying now in the absence of that to develop other matters that I think important to this committee in its considerations.

Secretary WIRTZ. I will accept Mr. Moss' statement that it is not in the record at any point.

Mr. DINGELL. I do not know whether it is or not. I have not seen it.

Secretary WIRTZ. I think it should be, and it will be.

(See p. 25.)

Mr. DINGELL. At the time the Fahy Panel recommendations are implemented, would it be fair to say that the wages which will be payable among the several crafts in the railroad industry will still be below those of other industries in the area of transportation?

Secretary WIRTZ. It would be a mistake for me to go too far in the detail of that, and I would rather rest on the information which it has been asked to be added to the record. My impression is that there would still be a differential between those rates and other rates which are comparable. I don't know how complete it is, Mr. Dingell.

Mr. DINGELL. Could you, in a fashion you regard as appropriate, in the information you are going to submit to us, give us some understanding of these points?

Secretary WIRTZ. I should amplify the answer just to this extent: One of the questions in issue is whether the whole group should be treated together, the skilled journeymen and the mechanics. My answer should not compromise that point.

I think you will find the differential is larger between the skilled journeymen and those outside than it is between some of the mechanics and those outside.

Mr. DINGELL. Coming around now to this legislation which is before us in the light of those matters, isn't it fair to say that we are going to then, by the action of this committee, legislate into being a set of recommendations which are going to leave this industry for a period of at least 2 years in a noncompetitive position insofar as wage scales are concerned?

Secretary WIRTZ. Unless we are prepared to go into the discussion of the merits, Mr. Chairman and Mr. Dingell, I think it almost compromises my position as a mediator to speak to that question.

Mr. DINGELL. You have to remember, Mr. Secretary, that we find ourselves in the very ugly position of also being mediators and also having to determine the matter of this legislation.

I want to respect your position, and if you feel as a matter of policy you are not able to make this kind of an answer, if you will submit the appropriate information to the record on the wage scales, that will be sufficient.

Mr. FRIEDEL. I think it was testified a little earlier that labor has recommended 12½ cents——

Mr. DINGELL. I would rather let the record stand as it is, Mr. Chairman, and have you make your statements on your own time.

Mr. FRIEDEL. I just wanted to repeat what was stated earlier, 12½ cents and 12½ cents for a total of 25 cents for 2 years.

Mr. DINGELL. I do appreciate that.

Now if I may continue, Mr. Chairman.

Mr. Secretary, assuming this to be so, we are legislating, then, wage settlements for a period of 2 years, either by the action of the committee or by the action of some committee delegated by law to fix the wage scales, is that right?

Secretary WIRTZ. No, I would state it quite differently.

Mr. DINGELL. We are legislating into effect wage scales in the industry, are we not?

Secretary WIRTZ. No, I think not. You would be legislating criteria which this Special Board should follow in arriving at this determination.

Mr. DINGELL. And the Special Board is going to use those criteria to fix wage scales, am I correct?

Secretary WIRTZ. I don't think it will work out that way.

Mr. DINGELL. Now, why should not the directions furnished by this committee by way of criteria be that wage scales should be comparable? That is not in the legislation which is before the committee, is it, Mr. Secretary?

Secretary WIRTZ. Fair and equitable, I think, is the standard that approaches that.

Mr. DINGELL. Do you construe fair and equitable to be comparable?

Secretary WIRTZ. "To achieve a fair and equitable extension of the collective bargaining in this case."

Mr. DINGELL. That does not say that wage scales are going to be either fair and equitable nor assure that the wage scales will be comparable, Mr. Secretary.

Secretary WIRTZ. If the question is whether the Congress should give somebody authority to go outside what the parties have offered or demanded on this case, I would urge strongly against it.

Mr. DINGELL. The simple fact of the matter is that neither party, from what I read in your statements or from what is indicated here, are satisfied with the recommendations of the Fahy Panel.

Secretary WIRTZ. That is correct.

Mr. DINGELL. So we come to a situation where we therefore will be legislating into being a set of wage scales which labor has clearly indicated are unacceptable to them. Am I correct?

Secretary WIRTZ. I think you would properly be limited to—or direct this Board to be limited to—what the parties have offered and demanded. To go outside of that would seem to me wrong.

Mr. DINGELL. Thank you.

Mr. FRIEDEL. Mr. Cunningham.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

I will only ask one question. Mr. Wirtz, in responding to a question from the gentleman from Michigan. I believe, sir, you said that the railroad craft wages were below similar crafts in other transportation industries.

Mr. Dingell mentioned Greyhound, I believe, and several others.

Am I right in understanding that you said in the railroad crafts wages for similar work is below those mentioned?

Secretary WIRTZ. That is my general understanding of it with respect to the journeymen. I think there is no disagreement about that. I think it is less true with respect to some of the other what they call mechanic crafts here and on that there is an argument as between the two parties.

Mr. CUNNINGHAM. I wonder if you would express your view on this further? Are you considering just the wage that is paid or are you considering the variations in the fringe benefits which are a part of the wage package? Perhaps in the railroads the fringe benefits might be different than a similar craft in another industry.

The question is were you thinking of the whole package or just the wage paid?

Secretary WIRTZ. The general point is well taken. I don't know the details of it. That would make a difference. I think the basic point is the feeling that there has been more compression within this industry as between these journeymen and the lower paid workers than there has in, for example, the building trades, where the skilled mechanics or the journeymen, the machinists, or in the metal trades, have bargained separately.

So I think it is fairly well recognized that there is some differential when you get to that point, even taking all of these things into account.

Mr. CUNNINGHAM. Then in conclusion, what is your view or your position, or your philosophy or how you operate in the Department, when you compare wages? Do you just consider the wage rate or do you consider the various fringe benefits in your work in dealing with these disputes and consider the total package?

Do you set them aside and just deal with the wages?

Secretary WIRTZ. Any final comparison of that kind ought to include both.

Mr. CUNNINGHAM. You would include both?

Secretary WIRTZ. Yes.

Mr. CUNNINGHAM. Thank you, sir.

Mr. FRIEDEL. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Wirtz, perhaps Mr. O'Neill could answer this question: What is the average length of time it takes for a rules notice served on a party by the Railway Labor Act to be handled to conclusion?

Mr. O'NEILL. If it is a wage movement handled on a concerted basis with all the railroads, I would say a period of 6 months.

Mr. ROGERS. We have in Florida this East Coast Railway situation which has been going 4 years now.

Why is that?

Mr. O'NEILL. I didn't hear the question, sir.

Mr. ROGERS. If my information is correct, I understand there is a case in Florida where notice was given, the Florida East Coast

Railroad has been going for 4 years and there is no conclusion. Why is that?

Mr. O'NEILL. There has been a strike for 4 years.

Mr. ROGERS. But I mean even a notice since that.

Mr. O'NEILL. There have been notices by the railroads to change the agreements.

Mr. ROGERS. Why hasn't this been handled as you normally handle others?

Mr. O'NEILL. We have handled all of the carriers' notices on several of the crafts and cut them loose.

Mr. ROGERS. I understand that. But you haven't handled this last notice that they have been given. I wondered why, after 4 years. Is there a good reason for this?

Mr. O'NEILL. I don't think it has been 4 years. There has been a strike on for 4 years. A year after the strike started the carriers served notices to change the agreements.

Mr. ROGERS. Isn't this true: The railroads served a wage and notice rule in September 1963. That is not quite 4 years, but it is almost.

Mr. O'NEILL. That is right.

Mr. ROGERS. Why hasn't that been handled by your organization?

Mr. O'NEILL. It has been handled, sir.

Mr. ROGERS. It hasn't been brought to a conclusion.

Mr. O'NEILL. That is correct. There is already a strike down there.

Mr. ROGERS. But that is a different matter. It is not involved with this wage notice, as I understand it.

Mr. O'NEILL. That is correct.

Mr. ROGERS. I would like an explanation be given to us as to why you do not handle these in the same way.

Mr. O'NEILL. We have handled them extensively.

Mr. ROGERS. I would like to know about this. You say normally it takes 6 months. Here is one that has been going for 4 years. I think someone is entitled to an explanation of that.

Mr. O'NEILL. Mr. Thornton and Mr. Wyckoff werei n my office just last week about this matter.

Mr. ROGERS. I would like it publicly known. You may not be able to give it to us now, but if you could give it for the record, I think it would be helpful.

Mr. O'NEILL. I will certainly do that.

(The information requested follows:)

NATIONAL MEDIATION BOARD,
OFFICE OF THE CHAIRMAN,
Washington, D.C., May 17, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: At a hearing before your distinguished Committee on May 11, 1967, Congressman Rogers of Florida made an inquiry as to the status of some cases presently in mediation on the Florida East Coast Railway. The thrust of his inquiry was the length of time that this Board had taken to handle carrier requests for changes in wages, hours and conditions of employment. A portion of the record is as follows:

Mr. ROGERS. I would like to know about this. You say normally it takes six months. Here is one that has been going on for four years. I think someone is entitled to an explanation of that.

Mr. O'NEILL. Mr. Thornton and Mr. Wyckoff were in my office just last week about this matter.

Mr. ROGERS. I would like it publicly known. You may not be able to give it to us now, but if you could give it for the record, I think it would be helpful.

Mr. O'NEILL. I will certainly do that.

Mr. ROGERS. Thank you, sir.

The purpose of this letter is to explain the factual situation on the Florida East Coast Railway. The Eleven Cooperating Non-operating Railway Labor Organizations, including the six shopcraft organizations presently before your Committee in your consideration of H.J. Res. 559, went out on strike on the Florida East Coast Railway on January 23, 1963, due to failure of the parties to agree on a wage increase which had been agreed upon by over 95% of the railroads in the country. Up to this point, the strike is continuing and the issue over the wage increase has not been resolved. An emergency board made recommendations to settle this dispute. The organizations accepted the recommendation but the carrier declined. The organizations have repeatedly offered to arbitrate the issues which brought about the strike. The carrier refused and continues to refuse arbitration.

In September 1963, the carrier served Section 6 notices on all the standard railway unions seeking drastic revisions in the working conditions set forth in collective bargaining agreements. In almost every instance, the rules which the Florida East Coast Railway sought to change are standard rules on the great majority of Class I railroads in the United States.

In due course, the carrier requests were docketed for mediation. The mediation proceedings were extremely difficult because of the insistence on the part of the carrier of having either a recording device in operation during every conference or a stenographer present to record everything that was said. We need not elaborate on the difficulty of conducting meaningful mediation under these circumstances. The carrier requests on the Operating Organizations have been processed through the Act. When the carrier promulgated its new set of operating rules, the Operating Organizations also went on strike. In sum, every standard railway labor organization, both operating and non-operating, is now on strike on the Florida East Coast Railway.

It is assumed that Congressman Rogers' inquiry has reference to our Cases A–7027, A–7055 and A–7055, Sub. 1. *Case A–7027* involves a request by the carrier to cancel the union shop agreement. *Case A–7055* involves drastic rules revision whereby the agreements with the Seventeen Cooperating Railway Labor Organizations would be merged into one agreement covering all non-operating employees; craft lines would be destroyed. *Case A–7055*, Sub 1 deals with a notice served in September 1965, seeking to adjust the rates of pay set forth in the proposed agreement in Case A–7055 by 10%.

The changes sought by this carrier in these cases constitute the most far-reaching mutilation of existing agreements that has ever been before this Board. The relief sought by the carriers generally, embodied in Public Law 88–108, was extremely gentle by comparison.

On March 5, 1967, this Board did close out a similar case involving the Brotherhood of Locomotive Engineers. At the time that action was taken, the wire services carried a story that the National Mediation Board had approved the rules changes proposed by the carrier. Said wire services quoted the president of the railroad as making such a statement. The National Mediation Board does not at any time approve or authorize changes in collective bargaining agreements. Its function is limited solely to assisting the parties in reaching an agreement.

Hopefully, someday, the prolonged strike on the Florida East Coast Railway will be settled. However, it is only fair to report that at this juncture, a solution is not in sight. It had been our expectation that the identified cases could have been resolved as part of an overall package settlement of the many pending disputes on this railroad. In the present state of affairs, however, we will more than likely have to take the next step under the Act, which is to urge the parties to arbitrate the issues. If history is any guide, the carrier will refuse to arbitrate.

Sincerely yours,

FRANCIS A. O'NEILL, Jr.,
Chairman.

Mr. ROGERS. Thank you, sir.

Mr. FRIEDEL. Mr. Brotzman?

Secretary WIRTZ. Mr. Chairman, may I say that the information Mr. Dingell and Mr. Moss requested be supplied will be made a matter of record either tomorrow or on Monday.

Mr. BROTZMAN. I have no questions, Mr. Chairman.

Judge FAHY. Mr. Chairman, may I make a brief statement in connection with the matter that Mr. Springer was interested in—job evaluation?

Mr. FRIEDEL. You may.

Judge FAHY. There are two points I would like to make.

One, the Emergency Board in its report stated, "Both parties agree that there is a serious wage compression and that it cannot be corrected in a single step."

At that point in the Emergency Board report, the Board dropped a footnote and a quotation from the brief filed with the Board by the employees. That reads as follows—

> We admit that full correction of what 30 years created cannot be accomplished at one time and that completion would necessarily have to be phased out over a reasonable period of years.

So the 5–5–5 formula for the increase in our proposal was not designed to close the gap, and with the full understanding of the parties that it could not all be done at once.

The second point I would like to cover in this, which I think Mr. Springer might want to have in the record, the recommendation of the evaluation study made by the Emergency Board.

That contemplated that the parties would seek agreement on the procedure for the evaluation within 60 days from the filing of the Board's report. But when they had agreed on the procedure to be followed then the study would be completed within 120 days after the study began, or such longer time as the parties agreed was necessary.

Mr. FRIEDEL. Thank you.

Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Secretary, you have been with us now for 2 days. I again want to thank you for your appearance and for your very forthright and helpful answers.

I know you have come to us with the complete conviction that we have to do something. I believe the members of this committee share that feeling. Although you have been barraged with a lot of questions, I think every member of this committee wants to meet his responsibility, although sometimes some of the questions are a bit irrelevant.

It seems to me that if we do not pass this particular resolution or something similar to it, then we do have either a strike or we have seizure.

In your own words, in your own statement, Number 1, we could not have a strike because it would be catastrophic, it would affect the national health, welfare and safety coming at this point.

You said that such a point did not even enter your mind, the possibility of a strike.

Secondly, it seems to me we can go the other alternative, then, of seizure, which means that the Government gets into the operation, the direction and the maintenance of the railroads. We would get into the problem of setting wages and profits; the problem of accidents;

unemployment insurance; all phases of the operation of this particular industry, and these would lead to other problems.

Additionally, where, then, do we draw the line? Why don't we admit that eventually the Government would have to go into every kind of industry? I think that makes seizure that much more unpalatable.

I would think if you got into seizure, in effect, the parties from that point on would probably be resigned to never really effectively attempt collective bargaining. It would be "We will let the Government take it over."

I think in answer to the statement of the gentleman from Florida, you said the parties have been given ample opportunity. Whether it has been 18 months or 3 years that this has been going on, surely we must say that the parties have been given every fair and reasonable chance to get together and they have not done it.

So it seems to me, then, that after having gone on for upward of 3 years, somebody has to say at some point, "This is a solution; this is a fair and equitable answer." I take it that is what you attempt in this resolution to do.

I think we have reached a point, Mr. Secretary, and this is not a question but just a feeling of my own, where the U.S. Congress or the Government must say to the unions and must say to management that, "You are not bigger than the Government." We must say to the union and to the railroads, "You are not above regulation, and you are not above the law."

Even though none of us want to weaken collective bargaining, I think we have reached a point where we must say that collective bargaining, or even the right to strike, is not above Holy Writ. It is not holier than the scriptures. Therefore, it is not improper for us to consider this resolution.

For us to consider this bill, the resolution that you have, in my opinion is not an attack on motherhood. It is not an attack on our patriotism. I think it is an honest effort by your Government to try to find a solution to the problem that has been nagging and hanging on, threatening, upward of 3 years.

Some members have asked for additional information to be submitted for the record, letters, conferences, inserts, a very full submission about wages, as if we ourselves were going to establish which is fair and right.

The inference has been, Mr. Secretary, it seems to me, that we are not quite satisfied that there is either an emergency or that somebody would be hurt, or that the health would be affected, and other similar doubts. To me it would be as if you were to make a statement that "you would be seriously hurt if you were run over by a railroad locomotive," and then for some member to ask that written proof be submitted to prove that you would be hurt if you were run over by a locomotive.

I think it is fine to have this information, but we are really just delaying the answer. I think this committee must measure up to its responsibilities. I do not agree with you that we do not need to be considering some kind of permanent legislation. I think that is long overdue. But I assume what you are trying to do is to limit your discussion to this specific resolution and the consideration of permanent legislation is something we must face at some other point.

Secretary WIRTZ. That is correct.

Mr. MACDONALD (presiding). The time of the gentleman has expired.

As I was called out of the room, Mr. Secretary, you told me that the letter had been sent about a meeting.

Secretary WIRTZ. No, not about a meeting; that the letter had been sent about detail. You had a letter which you described as cavalier, to which I would not take exception. I do refer to a subsequent letter of May 9 to Chairman Staggers from Acting Secretary of Defense Vance, in which he sets out details, and I did add, in light of your inquiry here, that we have communicated by phone to the Department of Defense. We have gotten a reply that they would, of course, be glad to have the discussions.

Mr. MACDONALD. The letter didn't deal with the meeting, but it was your phone call which dealt with the meeting, and the response was to your phone call. It has nothing to do with the letter received by Mr. Staggers.

Secretary WIRTZ. That is correct.

Mr. MACDONALD. So the date of the message about the meeting is today; is that correct?

Secretary WIRTZ. The date of that message is today.

Mr. MACDONALD. Mr. Brown?

Mr. BROWN. Mr. Secretary, I would like to follow up on a point made by Mr. Pickle.

If we are to consider the comparability of skilled wages between rail and air or the trucking transportation industry in determination of the issues in this situation, then shouldn't we also consider rate differentials set by Federal authority which affects the profitability of railroads and, for that matter, that profit factor that exists in railroads now, whether they are in a good position or in a bad positon?

Secretary WIRTZ. I don't believe my comment on that would be very helpful. I would have a real question on it. If you were asking me, I think it almost presumptuous for me to answer.

It would seem to me it is a question as to whether any of that is germane, particularly with regard to the recommendation the administration is making.

Mr. BROWN. I would agree with that. If we are going to get into the relative wage levels and skills between different industries, we have to consider the overall picture for the industries, the wage schedule, the profitability, and so forth.

You have been asked to submit some of that information for the record. This, then, gets us into the relative value of the present subsidies, historic subsidies, and the whole gamut of this regulated industry, doesn't it?

Secretary WIRTZ. You will understand my respecting that as a statement and there is not much I could add by way of answer to it.

Mr. BROWN. What I am getting at, Mr. Secretary, is this: It seems to me that we have two separate problems here, and I would ask for your concurrence or disagreement on this. One is how to deal with this instant case, and the other one is whether or not we can at some future date legislate, or the administration can recommend legislation, which would avoid a repetition of cases of this nature.

Secretary WIRTZ. That is correct.

Mr. BROWN. Do I understand that you do not feel that the second thing can be done?

Secretary WIRTZ. No. I think some answers of mine the first day may have contributed to that. I will try to correct them. I think both can be done.

Mr. BROWN. And should be done?

Secretary WIRTZ. Yes.

Mr. BROWN. And will be done at least in the instant case. What about the other cases?

Secretary WIRTZ. I am assuming there will be a subsequent consideration of the longer range problem.

Mr. BROWN. Based on recommendations by the administration?

Secretary WIRTZ. There has been the indication from the President, now some 16 months ago, to that effect. I would expect that. I would not be in a position to say anything specific as to the time of it.

Mr. BROWN. I wonder if it is proper to ask if that recommendation would come after the resolution of the instant case?

Secretary WIRTZ. Yes; I think it is fair to assume that.

Mr. BROWN. And prior to the next date in the instant case, which would be January 1, 1969, at the extremity?

Secretary WIRTZ. I am not in a position to answer that question.

Mr. BROWN. Mr. Secretary, I would like to submit that if you are not, I think no one is. I must, of necessity, be critical of that.

Secretary WIRTZ. No offense at all.

Mr. BROWN. I feel that the problem is such, and it has been recurrent to the extent, that such permanent recommendation must be made. If it is not, then the Congress may have to act without recommendation. Would you prefer that?

Secretary WIRTZ. Mr. Brown, let me make just these two comments: You understand the properties that are involved as far as my declining to answer are concerned, because that must come from the President.

But you will understand, too, I am sure, the justification for my pointing out that a meaningful recommendation from the administration would be one which takes account of the possibilities of its passage.

I known of no further testimony or more complete testimony to the difficulties of that particular point than the preceedings of the last couple of days. If we have this much trouble finding a common ground with respect to what to do about this case—which I should have thought was an extremit case—if there is this much difficulty in finding any kind of consensus of approach here, you do appreciate the considerations, which means that a responsible recommendation to the Congress on permanent legislation ought to take account of that same division of view.

Mr. BROWN. May I summarize that comment to suggest this: Are you advising us to act on this instant case and consider permanent legislation later?

Secretary WIRTZ. I worry only about the "advise." If you mean do I think that is a good thing to do, yes.

Mr. BROWN. Let me put it another way. You think we ought not consider permanent legislation now but, rather, this legislation which is aimed, as you have tried to point out, at this instant case only?

Secretary WIRTZ. Yes, sir; I do feel that very strongly.

Mr. BROWN. But ultimately we must get into permanent legislation.

Secretary WIRTZ. Yes. I think that is right. The only reason I draw back is that if this were to connote permanent legislation of this same type, I would not be convinced that that is the right answer to it. The consideration of the longer range problem, yes, I think should be taken.

Mr. BROWN. Permanent legislation aimed only at avoiding a recurrence of the threat of a nationwide rail strike?

Secretary WIRTZ. I wouldn't go into it that much. We are so much along the same lines in our thinking that I hesitate to seem to differ. I would suggest only that that consideration take account of the kind of thing that was referred to here earlier in our conversation and discussion, the whole of the collective bargaining, not just the sanctions in this case.

Mr. BROWN. One final question.

Mr. PICKLE. Would the gentleman yield for a moment?

Mr. BROWN. If I can get in this line of questions before my time expires, I would be delighted.

Mr. MACDONALD. You don't have terribly much time.

Mr. BROWN. If I may finish my question, then, please.

We have the same problem, do we not, cases in extremist with references to the trucking industry, some communications industry, some parts of the communications industry, and others, perhaps not as severe as the rail strike, but to a relative degree; is that correct?

Secretary WIRTZ. Not current.

Mr. BROWN. Not current, but the possibility is there.

Secretary WIRTZ. The problem centers, in my judgment, in the transportation industry. It includes the newspaper industry, it includes the defense plants, particularly.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Adams?

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. PICKLE. Would the gentleman yield?

Mr. ADAMS. In just a moment I will, Mr. Pickle.

Mr. Secretary, you testified to one of the other questions that the last meeting was on April 27 between the parties.

The reason I ask this question is because you have indicated that even in public interest strikes you do not believe we should take, in effect, the lid off collective bargaining and require public disclosure of last positions. I would like to know this:

This, and I happen to disagree with you on that——

Secretary WIRTZ. So do I disagree. I think public disclosure is a good thing and it is contemplated by this resolution in connection with the hearing at the end of 60 days. I think it is a good thing. I am sorry I misunderstood you.

Mr. ADAMS. I will ask you this question, then: Has there been a later proposal submitted after the Fahy proposal to the two parties? If so, what was the result?

Secretary WIRTZ. I would be very reluctant to answer that and would do so only on the express instruction of the committee and only after advising the committee that to answer the question at this point

would make my utility as a mediator in this case zero. That may be a low price to pay.

Mr. ADAMS. Mr. Secretary, I think it is a high price. We will discuss it here in the committee. It goes to the basic points we just mentioned. You and I both agree that public disclosure is a good thing, but you take the position you should not do it here and I respect that and would not go farther until we have discussed it in committee.

But I think it should be contemplated as something that we will certainly be discussing to have you do. If the public doesn't know where the parties finally are, it puts a very different connotation on the whole picture.

Secretary WIRTZ. I am sorry I lost that point in your first question because I would agree with that point very strongly and would point out that it is reflected to a considerable degree in this suggestion.

Mr. ADAMS. I will yield to the gentleman from Texas.

Mr. PICKLE. Thank you for yielding.

In answer to the gentleman from Ohio's question a few moments ago you said you wanted to limit your discussion primarily to this specific resolution, although you did think it would be proper and in order for this committee to later consider permanent legislation.

But you just now said you would not recommend this as permanent legislation, nor anything similar to it. You had told me a day or two ago, on Monday, that yeu weren't recommending anything in particular. I wanted to be sure that you weren't saying whatever we passed upon would never be considered again. It might or might not.

I assume that is your intent. My measure, I think, is "somewhat similar." But at the same time, if we are not to discuss it now, I would respect that. I want to be sure you are not ruling that out. You don't intend that?

Secretary WIRTZ. You have stated my position exactly.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. ADAMS. I have no further questions, Mr. Chairman.

Mr. MACDONALD. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Secretary, I think there is another very important point to have careful consideration of. If you will, direct your attention to section 5 of the bill. It says if an agreement has not been reached by the parties upon expiration of the period specified in section 6—

> The determination of the Special Board shall take effect and shall continue in effect until the parties reach agreement or, if agreement is not reached, until such time, not to exceed two years from January 1, 1967, as the Board shall determine to be appropriate. The Board's determination shall have the same effect including the preclusion of resort to either strike or lockout as though arrived at by agreement of the parties under the Railway Labor Act.

At the conclusion of the 2 years, if the parties have not reached agreement, would it be necessary for the parties to serve section 6 notices under the Railway Labor Act?

Secretary WIRTZ. Yes, I think it would be.

Mr. DINGELL. Then upon conclusion of the 2 years, the parties would be compelled to wait another additional period before they could engage in any strike or management could engage in lockout.

Secretary WIRTZ. You are right, and it is a very important point.

I think the Board's determination, if it goes to that, would properly cover the point of the time at which section 6 notices could be served, which might be at an earlier period.

Mr. DINGELL. But, as a matter of fact, we have then arrived at the position where the period involved in this legislation is well in excess of 2 years.

Secretary WIRTZ. No, it would depend upon the determination. I should point out, of course, that the period may be shorter than 2 years, either by agreement of the parties or by determination.

I would point out, second, that it would seem to me properly within the Board's authority, the point you have in mind, to indicate that time at which section 6 notices could be instituted, taking account of the time period involved so that it would not necessarily result in more than the 2-year period.

Mr. DINGELL. Let me ask you, Mr. Secretary, how long has it been since there has been any meaningful negotiation between the parties?

Secretary WIRTZ. Meaningful negotiation?

Mr. DINGELL. Yes.

Secretary WIRTZ. Negotiation is too broad a term. I can tell you the facts. The facts are that there was an across-the-board on April 25 and there subsequently have been conversations between the mediators and the parties.

I think the answer to your question is May 1.

Mr. DINGELL. The reason I asked that question is that there have been reports in the paper, in the press, attributed to a number of persons involved in this, that there have been no negotiations for a substantial period of time on the real issues at stake now. Am I correct in that?

Secretary WIRTZ. The more we get into this, Mr. Chairman, and I would like to raise a point that I think is of real importance——

The CHAIRMAN. Yes, Mr. Secretary?

Secretary WIRTZ. I am being pressed about negotiations since the last period. They are proper questions and I will answer them, but let it be understood the more than point is pressed with me as a mediator, the more I am going to just shut up about mediation and not do a single thing about it. I cannot talk with these parties privately and then get up an testify as to what, when, and who. We can do it one way or the other.

Mr. DINGELL. Mr. Chairman, I still have the time.

The CHAIRMAN. I know.

Mr. DINGELL. I only have 5 minutes under the rule. I would like to control my time.

The CHAIRMAN. Just a moment.

Mr. Secretary, I sympathize with your stand, but this committee has a very important job to do and I think they are entitled to get everything they can get. Mediation evidently has fallen on its face as of now. It has been brought to the Congress and turned over to us.

I think this committee, acting as a jury of 33, is entitled to get every bit of information, and no one should hold back anything that will help us to make a decision. That would be my ruling on this.

Secretary WIRTZ. I will answer every question, but I will tell you right now, Mr. Chairman, that from this juncture on I will not be in a position to contribute at all in mediating this case.

You are dead right. This committee and the public is entitled to full information, and I will surely answer any question that you put. But you will understand, too, that that means that to testify here, to try to mediate over here, is an impossible combination.

I respect the ruling and I will comply with it, but I simply tell you that will preclude any possibility of negotiations.

The CHAIRMAN. I understand. I think the committee will bear with that. The question has been brought to the Congress now. It is our duty here to get every single shred of evidence that we can possibly get, anywhere on earth, and by any method in order to make a decision when we have to make that decision.

I do believe, perhaps, some of the questions could have been directed to the unions and to the railway organization when they are before the committee. I do say that. But I will not stop any committee member from trying to get any bit of evidence they can get in a legitimate way. The fact is that some of this perhaps could have been gotten from the rails or from the unions.

Secretary WIRTZ. I not only respect your ruling, but I think it is right.

Mr. DINGELL. Mr. Chairman?

If at any point you feel the questions are not appropriate or not proper, Mr. Wirtz, I hope you will feel free to tell us.

Mr. ADAMS. Might I suggest, Mr. Chairman, that we meet on this question as a committee in executive session and make a decision on it, reserving the right to recall Mr. Wirtz at a later time if this information becomes vital?

The CHAIRMAN. I have made a ruling on it. I think if we have an executive session we will have 25 or 32 different opinions.

Mr. DINGELL. Mr. Chairman, may I continue?

Mr. Secretary, in your statement on your first day of appearance before this committee, you made a number of comments with regard to the conduct of negotiations, some of which you had assurances that the matter would be concluded before it would be necessary, before the last 30-day period.

In other words, you felt that the matter would be resolved within the 90-day period. Is that correct?

Secretary WIRTZ. Yes.

Mr. DINGELL. That being so, Mr. Secretary, would I be fair in inferring that perhaps it may not be necessary to include in the legislation any matters that follow that 90-day period, except to legislate the men back to work for that 90-day period, and to leave off the requirement that wages be fixed other than as provided in the first 90 days, and that the men be forced back to work for that 90-day period?

Secretary WIRTZ. I expressed an expectation, Mr. Dingell, but the country needs an insurance policy.

Mr. DINGELL. The insurance policy is now setting in a serious matter, Mr. Secretary. As you know, the Congress is an insurance policy on this matter. We are not being asked to consider permanent legislation; rather, we are being asked to consider an ad hoc approach to what is apparently a great problem.

Secretary WIRTZ. In this case—your suggestion is right.

Mr. DINGELL. With regard to this other matter, I would like to hear from you how much negotiation went on during the time what you referred to as compulsory arbitration was taking place in the three prior to the 1963 legislation.

Secretary WIRTZ. A very great deal.

Mr. DINGELL. How much of the issues were resolved during that period?

Secretary WIRTZ. None.

Mr. DINGELL. So we really have no assurance that the matter will be concluded in the 2-year period in House Joint Resolution 559. We have no absolutely firm assurances that we will not find this matter in our lap at the end of 2 years; is that correct?

Secretary WIRTZ. I misunderstood your question. I thought it was how much went on during the period that Congress was considering the legislation, how much was settled during that period.

With respect to the period covered by the resolution, a very great deal was settled in addition to those matters covered by the Arbitration Board that was set up. In fact, all the other issues were settled, if my recollection serves me right, with the exception of the interdivisional run issue.

Mr. DINGELL. Thank you very much.

The CHAIRMAN. Mr. Watson?

Mr. WATSON. Mr. Chairman, I would like to make one observation. Apparently at this juncture I am the ranking member on this side.

Mr. Secretary, it certainly was not my intention, and I don't believe it was the intention of anyone on this side of the committee, to jeopardize your position or to impair it as a mediator in this dispute.

So far as my questions, which were addressed to you, I was concerned about the absence of negotiations at this time. I don't recall during the time I have been here in this hearing that anyone on this side asked you specifically to comment on any of your discussions or any dialog that you had during the course of your mediation.

Mr. Chairman, I want to make that expressly clear on my part and on the part of the committee members on this side.

Secretary WIRTZ. Thank you

The CHAIRMAN. Mr. Brown?

Mr. BROWN. I want to make that point, too, Mr. Chairman, and associate myself with the gentleman from South Carolina in that regard.

I think it would be a grave error to jeopardize the effectiveness of the Secretary of Labor as a mediator in this case. I am sure every member of this committee would like to see the case resolved before any action would have to be taken on House Joint Resolution 559.

For that reason, I would hope that if there are areas, Mr. Secretary, which you consider delicate and jeopardizing your position, Mr. Secretary, you would so advise us. It seems to me that such questions could be pursued, if they must be pursued, with you in executive session, or could, as you suggested or someone else suggested, be pursued with the representatives of the unions and the management in this case.

Secretary WIRTZ. It wouldn't help me any if it were in executive session. It may make it worse.

Mr. PICKLE. Mr. Chairman——

The CHAIRMAN. Mr. Pickle?

Mr. PICKLE. Mr. Chairman, I was going to make the point of order that the House is in session.

The CHAIRMAN. The point of order comes too late. The committee is going to recess right now.

Mr. Wirtz, Mr. Fahy, and Mr. O'Neill, I want to say thank you very much for coming up to give us the benefit of your views. These are trying hearings and I know you have been busy these last 3 days. I appreciate your patience in trying to help the committee. We are trying to do what you are trying to do—to do the best we can for the public interest of the Nation.

Sometimes we may seem to be at cross-purposes, but I am sure we are seeking the same result.

Again, I want to say thank you for coming before the committee, and thank you for the presence of your distinguished advisers you have with you.

Secretary WIRTZ. I only feel a great respect toward the approach this committee is taking to this matter, Mr. Chairman. I speak for my colleagues in expressing our unqualified appreciation of your approach to us in this matter.

The CHAIRMAN. Thank you.

Would you be available if this committee needs you sometime in the next week?

Secretary WIRTZ. Yes; at any time.

The CHAIRMAN. Perhaps in executive session, if we so deem, but, if not, in open session?

Secretary WIRTZ. Surely.

The CHAIRMAN. The committee will adjourn until next Tuesday morning at 10 o'clock.

(Whereupon, at 12:18 p.m. the committee adjourned, to reconvene at 10 a.m., Tuesday, May 16, 1967.)

RAILROAD LABOR DISPUTE

TUESDAY, MAY 16, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The committee this morning will resume hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Our first witness this morning will be Mr. James E. Wolfe, chairman, National Railway Labor Conference.

STATEMENT OF JAMES E. WOLFE, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE; ACCOMPANIED BY W. E. QUARLES, JR., VICE CHAIRMAN; AND MAYNARD PARKS, VICE PRESIDENT, MISSOURI-PACIFIC LINES

Mr. WOLFE. Thank you, Mr. Chairman and members of the committee.

I would like, if I may, Mr. Chairman, to introduce those who are with me this morning.

To my left is Mr. W. E. Quarles, Jr., vice chairman, National Railway Labor Conference, a former officer of the Atlantic Coast Line Railroad.

At my right is Mr. Maynard Parks, vice president of the Missouri-Pacific Lines.

Both of these gentlemen have had many years in labor relations work.

I want to thank you very much, Mr. Chairman and gentlemen, for having the opportunity to appear before you today. I do not have a prepared statement. My statement, however, will follow very closely the statement I made to the Senate committee.

First, I think I should introduce into the record, as precisely as I may, the chronology of this dispute. In doing so, I shall refer, from time to time, to the record before me in the interest of accuracy and also brevity.

After introducing the chronology of the dispute into the record, I shall then discuss aspects of this dispute which are peculiar to this particular controversy. I shall then discuss the record that was before Emergency Board No. 169. That is the Board that was composed of Chairman Ginsburg and Frank Dugan, professor of law of George-

town University, and Mr. McConnell, president of the University of New Hampshire.

I will also refer, Mr. Chairman and gentlemen, to the record before that Board and the report and recommendations of the Board.

I shall also discuss what transpired in connection with the Special Mediation Panel composed of Judge Fahy, Dr. John Dunlop, and Dr. George Taylor, which I believe will be of interest to this committee.

Mr. Moss. Mr. Chairman, I would like to ask why we have no prepared statement on a matter of this significance when the rules of the committee require that witnesses appearing present a prepared statement in order that the members of the committee have an opportunity to follow it and to be better prepared for appropriate examination of the witnesses?

The CHAIRMAN. I might ask the clerk if he so notified the witnesses who were to appear, if they were to have a statement in writing.

Mr. Moss. Mr. Chairman, I would strongly urge that all witnesses be so instructed in the future of the rule of the committees of the House, on the matter of preparing their statements for the benefit of the members.

The CHAIRMAN. According to the precedents of the committee, we have always asked that where possible we do have a prepared statement. In this case, as I understand, the different witnesses were notified by telephone, not by letter. It is customary for the committee to have prepared statements of the witnesses. However, the gentleman will proceed in this fashion.

Mr. WOLFE. Thank you very much, Mr. Chairman.

By way of explanation, and perhaps apology, I did testify before the Senate committee in the same manner that I intended to testify before this committee. I did not know that I was supposed to submit a written statement. Had I that knowledge, I can assure you that it would have been available this morning. I am sorry if there has been a misunderstanding.

The CHAIRMAN. I think you have appeared many times before this committee, Mr. Wolfe. It has been the precedent that we require all statements in 5 days ahead of time, before testifying before the committee.

Mr. Moss. If the chairman will yield, that precedent is in the rules of the committee.

The CHAIRMAN. The gentleman will proceed.

Mr. SPRINGER. Mr. Chairman, may I say in deference to Mr. Wolfe that the greatest witness before this committee that I ever saw was Bobby Kennedy on the satellite corporation. He took 14 minutes and he did not have a single note for a single statement, so I don't think the quality of the testimony is determined by whether or not you have a written statement.

On the other hand, if that is the rule of the committee, of course, that is the rule. But I do give that as a background; that a statement does not necessarily determine whether or not you cover all the issues.

Mr. WOLFE. I shall do that to the very best of my ability.

This dispute arose on May 17, 1966, by the serving of notices by the unions upon the individual railroads as required by the Railway Labor Act, as amended in 1934. The law requires that the carrier receiving such a notice acknowledge receipt thereof within 10 days and set a

date for conference, which must be held within 30 days from the date of the notice, unless there is a mutual agreement to defer.

There was no such agreement and, therefore, the initial conferences were held as prescribed by law.

In June 1966, on various dates, the carriers, parties to the dispute, served counterproposals. Conferences were held by the parties in July and August 1966. These conferences were between the system committees and representatives of the individual railroads. No agreements were reached.

In the meantime, the unions had requested that the dispute be handled on a national basis.

On September 28, 1966, discussions and negotiations began at the national level. On October 12, 1966, the parties mutually agreed to request the assistance of the National Mediation Board.

On October 19, 1966, mediation began and continued intermittently through January 6, 1967.

On October 25, 1966, the unions authorized a strike for February 13, 1967.

On October 27, 1966, the Chairman of the National Mediation Board proposed a settlement to the parties. The settlement proposed by the National Mediation Board followed almost completely the pattern settlements that had been made with several other unions.

The railroads accepted this proposed settlement, but it was rejected by the unions.

On January 6, 1967, the National Mediation Board, carrying out a mandatory function under the Railway Labor Act, proffered arbitration to the parties and endeavored to induce the parties to refer the dispute to the procedures of arbitration. The carriers accepted the proffer of arbitration; the unions rejected it.

On January 28, 1967, President Johnson, after being notified by the National Mediation Board that the dispute threatened to substantially interrupt interstate commerce so as to deprive the country of essential transportation service, created Emergency Board No. 169.

That Board, whose members I identified earlier, was chaired, as I indicated earlier, by Mr. Ginsburg.

For brevity and perhaps more precise identification, I shall hereafter refer to the Emergency Board as the Ginsburg Board.

The Emergency Board began its hearings on February 1, 1967. The parties, at the suggestion of the Board, streamlined their respective cases so that only material sufficient to bring out all of the essential facts in the case, and establish a clear understanding of the issues involved and possible solutions was presented.

That material was presented through exhibits, witnesses, argument of counsel, and finally the closing argument which, at the request of the Emergency Board, was submitted in the form of briefs.

The recommendation of that Board, in our opinion, was generous, very generous. Those recommendations did provide for a peaceful solution of what had become a very perplexing and disturbing controversy.

After most profound deliberations on the part of those of us who have the responsibility of representing the carriers, we concluded that the best interests of the public, of the employees, of the unions repre-

senting those employees, and the railroad industry would best be served if the carriers accepted the recommendations.

We did so accept and we publicly stated that we would negotiate an agreement within the framework of those recommendations.

The unions rejected the report. Their spokesman, the vice president of the International Association of Machinists, stated publicly that the recommendations were wholly inadequate and absolutely unrealistic. This same spokesman also had certain rather unkind things to say about the members of the Emergency Board.

On March 28, 29, and 30, 1967, the time of the parties was consumed by discussion of the Emergency Board recommendations.

On March 31, 1967, the National Mediation Board moved back into the dispute after the parties, unfortunately, had made little or no progress in solving their dilemma.

On April 6, 1967, Secretary of Labor Wirtz and Under Secretary Reynolds began separate talks with the parties. A suggestion was made that the deadline for a strike be deferred. We understood that this request came directly from our President.

The carriers accepted the request that there be a deferment so as to give the parties a greater opportunity to try to solve their own difficulties without further assistance from anyone and without causing uncertainties and apprehension in our country.

On April 10, 1967, President Johnson sent a message to Congress asking for a 20-day extension of the period of statutory restraint during which neither of the parties could legally resort to helf-help. We agreed to that. The unions did not.

The House committee, as we understand it, almost immediately approved this resolution. We appeared before the Senate committee and at that time the Senate committee again made an effort to secure a voluntary acceptance of the request of the President for a 20-day deferment of the restraint period.

At that hearing, the chairman of the Senate committee made a personal request upon the parties to agree among themselves to the suggested deferment, and the two spokesmen for the unions said that they would recommend to their associates that the deferment be granted.

Later it was reported to the Senate that the request of the President had been refused, and it was stated to the press that the rejection was unanimous. That seems somewhat surprising in view of the fact that two members of the committee had stated to the Senate committee that they would affirmatively recommend that the deferment be accepted.

That came as a surprise to many, but not to me, because that was the kind of good-faith bargaining we had encountered from the very beginning.

On April 11, 1967, the Senate passed the 20-day resolution by a vote of 81 to 1. The House passed it 396 to 8.

On April 12, 1967, the President appointed a three-man panel to help the parties mediate their differences, and it was also provided that if the parties failed to reach an agreement this Special Panel would make such recommendations as it deemed to be appropriate in an effort to resolve the controversy.

On April 12, 1967, the unions set a new strike date for 12:01 a.m. May 3.

From April 14 to April 23, the Special Presidential Panel, sometimes referred to as the Judge Fahy Panel, met with the parties in an effort to settle the dispute.

On April 24, the Mediation Panel reported that the dispute was deadlocked. At this point I think I should state for the record that the Special Presidential Panel was composed of Judge Fahy as Chairman; Dr. Dunlop, chairman of the Department of Economics of Harvard as a member; and Dr. George Taylor, of the Wharton School of Finance was also a member.

That Board was composed of perhaps as experienced and knowledgeable men as you will find in this country in this particular line of endeavor.

The proposed settlement terms were more costly to the carriers than those recommended by the Ginsburg Board. They were rejected in their entirety by the unions. The railroads before the Senate committee made a statement to the effect that the carriers would accept part of the Fahy Panel recommendations, and it was rejected in part by the carriers.

On April 25, 1967, the day following the Senate hearing, I called Mr. Fox, the chief spokesman for the unions, and suggested that we meet in conference at 10 a.m. that morning. We did so meet.

After discussions, which at the outset involved only the so-called across-the-board increase—by that I mean the increase that would be granted to all employees represented by the six organization parties to the dispute, irrespective of degree of skills, duties, and responsibilities, or any other of the elements that are generally accepted as a measurement of wage levels—it developed at that conference that the unions were unalterably opposed to that part of the Fahy Panel recommendations dealing with the across-the-board increase. They stated that they would not settle for that.

At that time, and I make this statement so that the record will be absolutely clear, I stated on behalf of the railroads that we would not go beyond the Fahy recommendations insofar as the across-the-board part of the settlement is concerned.

It was obvious, after we had explored that part of the dispute, that we were not going to make an agreement. A report was made to the Senate committee to that effect.

At the close of the last Senate hearing, immediately preceding the conference on April 25, 1967, Senator Robert Kennedy, of New York, propounded a question to the spokesman for the unions and also to me. His question was this:

> Gentlemen, if you will not accept the Fahy recommendation, why would you not do so? I would like you to particularly give me a definite answer as to whether you will or will not accept it.

On April 25, 1967, at the very close of the meeting, I asked the spokesman for the unions:

> Am I to understand that your answer to Senator Kennedy's question is no, you will not accept the recommendations of the Fahy Panel?

The answer was:

> It is definitely no. We will not accept those recommendations.

On April 28, 1967, President Johnson sent Congress a proposal to extend the no-strike, no-lockout deferment for a period of 47 additional days. At the same time, he indicated that he would submit proposed legislation to Congress which, in his own words, "will protect the public interest in this case."

As we understand it, the proposal sent to Congress is the proposal under discussion here today, that is, House Joint Resolution 559. Congressional hearings began on the President's proposal on May 9.

I will have more to say later in this statement as to the feelings of the railroad industry toward the President's proposal. At the moment there are certain things I wish to discuss because I believe they are of great importance in your deliberations concerning the recommendations of Emergency Board No. 169.

I think you want to know whether these recommendations were adequate, whether they were fair to the employees, to the public, to the railroad industry, and whether such recommendations were supported by the record that was put before this Emergency Board by the parties.

In this respect, I would like to make it clear, perhaps for the first time, that the recommendations of Emergency Board 169 followed almost precisely what the unions had argued for. The carriers did not get what they advocated. But in all of my experience, I have never known of an Emergency Board appointed by the President of the United States under section 10 of the Railway Labor Act to recommend exactly what counsel for the unions argued they should include in their recommendations.

In this respect, a great deal has been said about arbitration, mediation with finality, or whatever enlightened and knowledgeable people might recommend in an effort to prevent a national disaster. I am not going to deal with semantics. Call it anything you want. I am simply trying to carry out our responsibility to our principals, to our employees, and to the public.

But I do want to point out that at page 34 of the closing argument for the unions submitted to Emergency Board No. 169 in brief form, the unions said:

> Although it may require several years to fully correct these inequities, the evidence is more than ample to warrant an immediate down payment. In the case of shop mechanics to close the demonstrated differentials of the art of 40 to 50 cents—

And it is quite important that you keep that clearly in mind, 40 to 50 cents—

> might require 3 or 4 years, but the evidence fully justifies a down payment of 13 or 14 cents at once and the Board should recommend.

I would like to ask you to consider carefully this statement, which was before the Ginsburg Board, in the light of the testimony of Mr. Fox, the chief spokesman for the unions, before the Senate committee. Mr. Fox said:

> Our last offer is 25 cents to correct the differential, 12½ cents on January 1, 1967, and 12½ cents on January 1, 1968.

In other words, 25 cents in less than a year, although counsel urged upon the Ginsburg Board that there should be a down payment of 13 or 14 cents.

The brief of the union goes on:

> The precise extent of the gap admittedly is in dispute because of differences between the parties over skill comparison and cannot be determined with competence by this or any other Emergency Board. Only the parties can determine this, and then only after objective inquiry and intense negotiations. The ultimate objective should be to agree on a set of rates for railroad shop mechanics consistent in terms of their skill, their worth and their responsibilities with rates in the same occupations in comparable employment outside the railroad industry.

I want to read what I consider to be the most important aspect of this dispute. I wish you now to consider it, and I ask that with the greatest respect in light of what has been said to you and in the light of this record. I also urge that you keep in mind that the only semblance of due process in this case was before Emergency Board No. 169.

There the parties were permitted to present witnesses, exhibits, to argue their case, and they were given all the rights, moral and constitutional, encompassed in the phrase "due process."

Here is what the unions said, and again I quote:

> In their efforts to reach agreement on the ultimate goal of such wage rationalization, the parties can invoke the good offices of the Department of Labor and other Federal agencies to furnish occupational and labor market information needed in their determination of occupational and job comparability. If in the final analysis they cannot agree on the ultimate degree of comparability, they should then have recourse to arbitration of the unresolved issues.
>
> However, uncertainties to the extent of future adjustments that will ultimately be justified by occupational or wage comparisons obviously does not preclude and should not stand in the way of an immediate and significant beginning.

The first mention of the word arbitration is on the part of the union.

They were bitterly critical of the Ginsburg Report but it contained exactly what the unions urged this Emergency Board to recommend. And then they rejected the report in its entirety.

I want to read, if I may, a few things that the Emergency Board had to say about the wage adjustments they had recommended:

> During the 3-year period from December 1963 through December 1966, the average straight time hourly earnings of the shop craft employees increased from $2.62 per hour to $2.97 per hour, with an average annual increase of 3.4 percent. During that period the average straight time hourly earnings of production workers in durable goods increased from $2.59 to $2.81 an hour, with an annual increase of 2.8 percent. To us, this record means that the real earnings of the shopcraft employees have increased during this period at a rate greater than that for workers generally in the economy.

The recommendations of this Board were made on the record that was submitted to the Board by the parties, and it was a most comprehensive record. This Board did not reach up in the air and get an amount simply in an effort to impose a settlement on one or the other of the parties.

They did support it, and they supported it by the record that was made by the parties.

For their reward for their diligence and conscientious effort to help the parties do something that they were obviously not big enough to do themselves—because we did fail—they were bitterly criticized by the unions.

Nevertheless, this Board did give us a recommendation that should have been acceptable, that should and would have corrected any inequity in our industry, regardless of what those inequities may have been. They recommended that this be done in the same manner that the unions urged it be done.

This so-called compression, that is, the inequity—I might term it an internal inequity—between the unskilled, the partially skilled, and the skilled, is something that is due entirely to the fact that for 30 years the unions have insisted that all wage settlements be what we call horizontal settlements, that is, cents per hour increases.

We knew and they knew that if we continued the horizontal increases rather than percentage increases, the end result was inevitable, that there would be a compression in the basic rates as between the unskilled and the skilled employees.

On the basis of the record in that respect, the Emergency Board said:

> For 30 years the unions have insisted on uniform cents per hour wage increases for all shopcraft employees. The result has been to compress severly the wage differentials between skilled and unskilled shopcraft employees, and to widen the wage disparity between skilled workers in railroad shops and skilled workers in other industries. Both parties agree that there is a serious wage compression, and that it cannot be corrected in a single step.

We do not question that. We realize that the persistence on the part of the unions in urging the across-the-board cents per hour increases brought about compression. We are willing to work that out. But it can't be done over night, and the union did not argue that it be done over night.

They realize it takes time to correct inequities of that nature.

The record in this case discloses things that are absolutely amazing to people who have engaged in the field, have been engaged in the field, of collective bargaining for many years. It reveals a situation where the unions argue for certain things and the Board recommended the exact things the unions argued for, and then the unions rejected those recommendations in their entirety.

As a matter of fact, they would not even discuss them.

Gentlemen, there are many terms, many connotations to the phrase "good faith collective bargaining". If that is good faith bargaining, I have just about had all I want of that kind of bargaining.

It does not bear the slightest resemblance to bargaining, and it does not even remotely represent good faith.

Turning now to the President's proposal now identified as House Joint Resolution 559, when we first had knowledge of what the President had proposed we immediately issued a press release. It is brief. With your permission, Mr. Chairman, I would like to read it into the record.

It is very brief.

The CHAIRMAN. Very well.

Mr. WOLFE (reading):

> The President's proposal will settle this particular case, but it will not prevent a similar crisis in the railroad industry any time a union refuses to bargain in good faith. We still think the law should be amended to prevent crises like this one from arising in the future, and we will vigorously pursue our efforts to attain this essential objective which obviously has great public support. However, we will not oppose the proposal of the President in this case.

In this respect, gentlemen, the railroad industry, as you all are aware, had finally, long last, reached the conclusion that section 10 of the Railway Labor Act was no longer producing the result that was intended when the Railway Labor Act was amended.

We felt, and we urged, that section 10 be amended so that some kind of finality is assured and thus prevent a return to Congress under

emergency conditions when that can be avoided without depriving the employees, their unions, or the railroads, for that matter, any transportation industry, of any of their fundamental rights.

When you go to arbitration, it has been my experience, and I have served as an arbitrator on a number of occasions and participated in arbitration proceedings in many more cases, you almost invariably get exactly what you are entitled to, no more and no less.

I have never met a member of a Presidential Emergency Board or of an Arbitration Board who did not have a background favorable to labor. I have never met one of those gentlemen who did not conscientiously try to do his duty on the basis of the record.

When railroad management, or any other management, is convinced that disputes such as we have, so-called major disputes under the Railway Labor Act, should be submitted to arbitration in an effort to avoid a national catastrophe, that employer is making a great sacrifice, taking a great gamble, a gamble that undoubtedly does involve the stockholders, those people who have invested their money in the industry, the public—because, after all, the public pays the bill—and it is a gamble.

But we have definitely reached the conclusion that if we are going to avoid these ad hoc emergency propositions such as we have right now, we would be better off to submit to arbitration. It is the American way of disposing of disputes.

If the parties are not big enough or not intelligent enough to settle their own troubles, which, of course, is the right way to do it, if they are not going to do it that way then I think, especially in the transportation industries, the time has come when we are going to have to look at our hole card and see what we are going to do about it.

As to the President's proposal, it will solve this dispute. Being, I hope, a realist, I am convinced that there isn't enough time for Congress to consider thoroughly, as it should, any permanent remedy. I don't think it can be done in time to avoid a strike of the railroad industry which, in the opinion of every person with whom I have talked, cannot be tolerated, especially at this time, though the President's proposal will avoid a strike over this dispute. It will give the parties another chance to talk and try to dispose of it. But it also will permit those discussions without having a shotgun aimed at you, or perhaps I better say without having a shotgun aimed at the public. That is exactly what a strike would do.

I don't think there is anything worse that could happen to the railroad industry, or to the public, than to have a serious railroad strike at this time.

We have approached this I think in a realistic way. Some people have the idea that there are no pressures on the industry. Nothing could be more erroneous.

Keep in mind that if we have a national railroad strike, the railroads are going to pay every employee who is not working, and we have roughly 630,000 of them, something in excess of $10 a day for every day they are not working. That applies to the strikers as well as those who refuse to cross the picket line because they are in sympathy with the strike, or because it is the traditional thing to do, or simply because they don't want to work.

That will cost the railroads over $6 million a day.

That is quite a bit of pressure, I think.

The railroad industry is the only industry that finances the strikes against the industry.

There is another little matter of expense. Our fixed charges amount to about $6 million a day. So when you take the $6 million fixed charges, and the $6 million strike benefits that the railroads have to pay to strikers and the others that don't work, we have $12 million a day.

Some of those people, unwisely, I think, who are advocating more pressures certainly do not understand exactly what the situation is or I think they are somewhat unfair. I can't think of much more pressure than $12 million a day, which is exactly what we have.

It has also been said that the only difference between us is money, that there is no principle involved. When I say among us, I mean the disputing parties.

That is wrong. There are at least two principles of vital importance to the continuance of free collective bargaining in this industry.

At this point I want to say that freedom to me never meant license. The freedom of collective bargaining, if it is to endure, must be a freedom that is exercised or at least one of the most important criteria completely disappears. That is good faith bargaining. Bargaining in itself is not meaningful unless there is good faith. If either party fails to carry out its duty to bargain in good faith, then if they sacrifice that freedom it is their own responsibility.

And, gentlemen, I think that is exactly what we have here.

There is another principle and we think it is of great importance to this industry: That is the principle that there must be come respect for the recommendations of emergency boards.

When the emergency board procedure was first made a part of the Railway Labor Act, it was on the basis of an agreement between the railroads of this Nation and the standard railway labor unions. At that time there was no question in anyone's mind.

The congressional record is so absolutely clear that it is not debated. The recommendations of emergency boards were intended to be accepted. It was intended that the force of public opinion would compel the parties to accept those recommendations.

If it developed later that the equities were not completely served, the parties have a perfect right in the future to serve another notice and to bargain again.

It generally develops in our country, and I hope it will always remain that way, that inequities generally disappear and the equities are preserved. If it doesn't continue that way, then I think it will be too bad for our country.

I am not going to take up too much of your time, but there is one thing that has disturbed me greatly as chairman and chief spokesman for the railroad industry. This is the charges that the railroads have not bargained in good faith.

We have been assisted in our endeavors almost from the beginning by Mr. Frank O'Neill, Chairman of the National Mediation Board, and later by Secretary of Labor Wirtz, and Under Secretary of Labor James Reynolds.

From time to time I have asked is there anything I have done that I shouldn't have done. The answer has been invariably "No."

Is there any position we have taken that we should not have taken?

The answer is "No."

Have we cooperated?

The answer has always been "Yes, you have cooperated."

And I think the President of the United States made that statement just a few days ago.

If there is any question about who bargained in good faith and who failed to bargain in good faith, I think it would be well to ask the three gentlemen I have just mentioned, or one of them: Did the carriers bargain in good faith? Was there any evidence that we were stalling, that we were trying to create an emergency and thus force Congress into the undesirable, unpleasant position that you are now in?

I think you would find that the answer would be that the carriers did bargain in good faith. I will say to you now that I accept that verdict. Whatever those three gentlemen will say to you I will accept as being factually correct as a true statement of what occurred.

I will not accept an indictment which is absolutely untrue as to our not bargaining in good faith. That is exactly what these irresponsible charges made by certain representatives of the unions amount to. They just are not true and that is all there is to it.

Leaving the President's proposal and the chronology of the present dispute for a moment to talk very briefly about the Railway Labor Act and the possibility or desirability of giving profound consideration to some change, whatever it may be, which will avoid a recurrence of this incident and the possibility of another crisis or crises that cannot do our country any good, and certainly could do vast harm, there was a book written in 1955 by a Mr. Lack, entitled "Experience Under Railway Labor Legislation," Columbia Press, 1955. Among other things, he said, "In practice, however, it has worked out that these recommendations are binding on the railroads while they serve only as a floor for further negotiations by the unions."

That is what I mentioned a few minutes ago. So far as the railroads are concerned, what we have now is tantamount to compulsory arbitration. What the unions have is nothing but a recommendation to be scorned or cast aside, and it thus creates a new floor from which to work up.

Not too many years ago when Arthur Goldberg was Secretary of Labor, we had an Emergency Board that was going to cost the railway industry a couple hundred million dollars a year.

By the way, I want to say that every 1-percent increase in wages in the railroad industry—and I am speaking for all the employees—costs $45 million. Every 1-cent increase cost $15 million.

That is quite a bit of money. It is not like a small industry where 1 cent an hour can be brushed off or passed on to the consumer, and the consumer may hardly notice it. But a regulated industry, such as this industry, when we took on the 5-percent across the board for everyone and hoped to establish a pattern, we knew that we were taking on $250 million a year.

When we add to it the 2 cents an hour we pay for supplemental annuities, of which the chairman is very familiar, and I appeared before him on that, and the improvement in the third week vacation—all of those things put us up to $300 million a year for the year 1967.

Anyway, that Emergency Board recommendation which we felt was wrong—we felt it could hardly be accpted without almost ruinous results—caused me to go see Arthur Goldberg. Sometimes I wish a had not gone over there.

He said to me. "Mr. Wolfe, it would be intolerable for the railroads to refuse to accept these recommendations." Those were his exact words. I will never forget them.

The unfortunate part of it was that I knew it would be intolerable. I knew pretty well what the outcome would be, too. I knew it wouldn't be very pleasant for those of us on management side in the railroad industry. So we accepted it. We tightened our belts a little bit. We were prevented from building more cars that the public was screaming for. Perhaps our maintenance wasn't kept up to the standards they should have been. But if you do not have money, there are certain things you can't do.

But that is exactly where we stand now so far as section 10 of the Railway Labor Act is concerned. We have arbitration for the management. We have nothing but a self-serving new floor for the union. Congress ought to do something about it.

What you do, of course, must be decided on the basis of your own wisdom, your own experience, and your admitted conscientious efforts to protect our country.

It would be presumptious for me to tell you what I think you should do, and I don't intend to do it.

There is another thing, and that is the question I hear so often about equality of bargaining, that the unions have the right to strike; the railroads have the right to lock out.

Well, there isn't any such right at all. The railroads have a public duty under the Transportation Act to serve the public. We can't lock out our employees. Whether it is lawful or not is highly questionable but we know it is not practical.

On the question of law, there was a case in Oregon a few years ago where there was a serious strike of an industry, Montgomery Ward, and the railroads did not use officer crews to go in there and serve the plant. A suit was brought against the railroad and the railroad has to pay damages. So there is no equality of bargaining.

Any thought that the railroads can lock its employees out is not even wishful thinking because in the first place we wouldn't want to do it even if we had the legal right to do it. That isn't the ay to conduct collective bargaining. So there is no equality of bargaining.

There is no right, legal, moral or practical right, to lock railroad employees out. It just isn't here.

By the way, yesterday a statement was read into the Senate record by Mr. Schoene for Mr. Leighty. He dealt with my statement in regard to the so-called equality of bargaining, and particularly my statement that there just was not the right to lock out in the field of resort to self-help. So far as the railroad industry is concern, it just isn't there.

I want to comment on that because it is quite possible that the same thing may be said a little later.

Mr. Leighty intimated that in my testimony I had stated that if there was some kind of partial seizure or partial operation on the basis of their offer to handle certain essential materials that the railroads would lock the employees out, nothing could be further from the truth.

If Congress passes legislation, which I think would be unwise and I would argue against it before you, if you should pass such legislation whatever Congress decides the railroads will cooperate, and there will be no lockouts of any kind, or anything else to interfere with the conduct of our war in Vietnam or the health and welfare of our Nation.

We don't do business that way. We never have and we don't propose to. You will find the railroads will cooperate.

I am going to close, Mr. Chairman and gentlemen, with this very brief statement.

We believe that if House Joint Resolution 559 is enacted into law, that it will solve this particular problem. It provides for further discussions, further negotiations, with the help of another Panel. Of course, we have about run out of boards and panels, but we will sit down and do our best to try to settle this problem in negotiations with the help of that Panel.

We would anticipate that the President will select dedicated, knowledgeable men to serve on that Panel. We hope that they will be helpful and that their objective may be attained.

If there is failure to reach an agreement which, of course, would be the ideal solution, then the recommendations of that Panel will become effective for a stated period of time, not to go beyond January 1, 1969.

That means that isn't the end of the whole dispute. It simply means that during that period whatever the panel thinks is proper would be effective. At the end of the period, if either party feels that justice had not been done, then that party, under the Railway Labor Act, which remains untouched, may serve a section 6 notice and then they will again have their day in court.

I do not consider that compulsory arbitration. I think it is an expedient. I think you have to be rather naive not to think so. But I think it is a worthwhile expedient when one considers what the alternatives are.

It is for that reason that the railroads of this Nation do support what the President has proposed, and we believe that the alternatives that have been suggested are not feasible, not workable, will not solve this problem and, therefore, should be rejected.

I thank you very much, Mr. Chairman and gentlemen of the committee.

The CHAIRMAN. Thank you, Mr. Wolfe.

I will defer all but one or two questions until the end. I would like to ask you, is there any collective bargaining going on at the present?

Mr. WOLFE. No, Mr. Chairman; there is not.

The CHAIRMAN. When was the last meeting?

Mr. WOLFE. April 25.

The CHAIRMAN. How long did you meet then?

Mr. WOLFE. How long did that meeting last?

The CHAIRMAN. Yes.

Mr. WOLFE. It did not last very long. I referred to it in my testimony.

The CHAIRMAN. Five minutes, 10 minutes, a half hour?

Mr. WOLFE. About a half hour, I would say.

The CHAIRMAN. Did you get to talk over any issues?

Mr. WOLFE. Yes, sir. We talked over—of course, the issues are rather finely drawn. It isn't one of these real complex cases where you have a great many working rules involved.

We came to the table and there it was, the unions stating flatly and positively that the Fahy recommendations for across-the-board settlement would not be accepted by them and there was not very much else to talk about.

The CHAIRMAN. Have they made any counterproposals since that time?

Mr. WOLFE. Not to me; no, sir.

The CHAIRMAN. Have they made any to the railroads, to your knowledge?

Mr. WOLFE. They have made no counterproposals to the railroads at all.

The CHAIRMAN. That certainly is not what I understood. I understood that there was a proposal. Maybe it was discussed with the Labor Department. We will have to ask them to come back again.

Mr. WOLFE. I know nothing. I can say this, that the last proposition we had from the unions was the proposition referred to by Mr. Fox in his testimony before the Senate committee last Thursday in answer to a direct question from a member of that committee as to what the last proposal of the unions was. He stated what that offer was and it was read into the record.

The CHAIRMAN. Was that presented to you?

Mr. WOLFE. Yes, quite early in the game, 6½ percent for the first year, 5 percent for the second year, 12½ cents retroactive to January 1, 1967, and another 12½ cents January 1, 1968.

The CHAIRMAN. And there has not been a subsequent proposal of 5, 5, and 5 percent and 5, 5, and 5 cents?

Mr. WOLFE. There has been no proposal to me. Mr. Fox stated before the Senate just a few days ago, that the last proposal, and it is right in the record, is the proposal that I referred to.

The CHAIRMAN. We will have to have the Labor Department back, then, because this had to be cleared up. That is the trouble about trying to find out without everybody being together. I think the next time we will have to have all of you in here together before we get through and find out who and what is making what proposal.

You agreed, I believe, that there was an inequity in some of the craft unions about the wages in certain areas in what is being paid by the railroads?

Mr. WOLFE. Yes, Mr. Chairman. I believe the record conclusively proves that the cents per hour increases had the effect of bringing about unjustifiably high rates for certain classes and lower rates for others.

There are intermediate rates that are high enough, and perhaps not too high. This same question has been before at least two Emergency Boards. Both decided that those inequities could not be measured at all, except by a job study. I agree.

The CHAIRMAN. I have a lot of figures here from all over the United States. I am not going to take the time to show that there are differentials. You have said that in your testimony, that there were differentials.

Mr. WOLFE. Absolutely, and I repeat it.

The CHAIRMAN. That is, in the skilled workers.

I believe also that you felt that this should be closed up slowly to conform with the different areas of the United States.

Mr. WOLFE. I want to say it exactly the way I said it before, Mr. Chairman.

The CHAIRMAN. All right, go ahead.

Mr. WOLFE. Wherever there are inequities they ought to be corrected, whether they are too high or too low. If a rate is too high we are perfectly willing to establish an incumbent rate so that the individual who is on the job will not lose.

But if the rate is too high, a new entrant should accept the job at a rate that is commensurate with his duties and responsibilities.

We have told everyone we are willing to do that. That means that if they are underpaid now based on their skills and responsibilities, then over a reasonable period of years it would be corrected.

But the person who is overpaid, we do not expect to take anything away from. Only a new employee would come in at the proper rate. I can't figure out how you could be more fair.

The CHAIRMAN. You said you have not put this into certain amounts but you are willing to close this gap over a period of years. You don't say how many years or how it is going to be done.

Mr. WOLFE. I don't believe, Mr. Chairman, that that can be done and permanently correct the inequities without a determination as to relative skills.

The CHAIRMAN. Now I want to ask you about this.

Today there is a meeting between some of the Government agencies and some of the representatives of the unions as to whether they can work out a union proposal to carry defense and health cargo without disrupting too much the defense effort and also the health of the Nation.

Would you care to comment on this proposal?

Mr. WOLFE. I will, to the best of my ability.

I have been away from operating for a long, long time. I was an operating officer at one time.

Yesterday, Mr. Tom Rice, president of the Atlantic Coast Line, testified before the Senate committee. Today, Mr. Grenshaw, president of the Pennsylvania Railroad, will testify, and later, Mr. Lambritt, operating vice president of the Southern Pacific, will also testify before the Senate committee.

I read the testimony of Mr. Rice, the transcript, early this morning. I think he, in a most persuasive and clear manner, described all those difficulties.

The CHAIRMAN. Would you give us the answer you gave to the Senate?

Mr. WOLFE. Yes; I will. I do not think it is feasible. I think that in the first place the delays that could not possibly be avoided would completely defeat the plan. I do not think it could be worked out at all except under governmental supervision.

There would have to be someone to decide what is essential and what is not essential. There are operating problems that, in my opinion, defy a solution.

In the first place, there is the movement of empties, there is the congested yard, the greater amount of switching to switch out a car that is loaded with essential material from cars that are nonessential.

There is the question of the interchanging of cars from one railroad to another, and the inspection of commodities at those points to make a judgment as to the essential and the nonessential.

In my opinion, it would take months to solve those things, and all during that period our people would suffer, our war effort would be seriously damaged, and then, in the final analysis, you would still have almost complete destruction of the vitality of our production in the country, with millions of innocent people suffering, including the wives and families of our employees with whom we have made agreements. We have made agreements with 13 unions representing roughly 74 percent of our employees.

The CHAIRMAN. I don't know whether I understood you or not. You said that this could be worked out under Government supervision?

Mr. WOLFE. I said I don't think it could be worked out at all unless it was Government supervised, and then it would take months and months to work it out so it would be even halfway workable. Even then you would have to draft practically all the Government workers to supervise the thing.

The CHAIRMAN. Is that the answer you gave to the Senate yesterday?

Mr. WOLFE. Substantially so; yes, sir.

The CHAIRMAN. Mr. Friedel?

Mr. FRIEDEL. Mr. Wolfe, you said in your statement that if we pass this bill and try to dispense with this important matter, then you would be able to continue your talks. Why try to force Congress to pass legislation when you could be trying to bargain right now, trying to settle the matter now?

Mr. WOLFE. I do not believe, Congressman Friedel, that we are going to make an agreement without some help. I think and I believe that those who have been very closely associated with our problem, and I refer now to the Department of Labor and the National Mediation Board, share my views in that respect.

I believe Senator Morse, who is very knowledgeable in this field, also shares our view. I think if this resolution becomes law, we might have a different situation.

Mr. FRIEDEL. Mr. Wolfe, I want to make one thing clear: that I am not trying to take sides at the present time. The questions I ask you I will also ask the unions.

You made another statement that 74 percent of your employees have now settled. That means 26 percent have not. Are the 26 percent the skilled craftsmen?

Mr. WOLFE. The skilled craftsmen, Congressman Friedel, takes in quite a group. There are six unions here representing about 137,000 employees. Roughly 40,000 of those people are not skilled at all.

Mr. FRIEDEL. They are not what?

Mr. WOLFE. They are not skilled at all. They are the shop laborers, the helpers, the trainees, the apprentices who are seeking skills. They don't have them now. Then there are others who are intermediate; that is, they have some skills but we do not believe that the skill requirements are comparable to our higher class mechanics or to journeymen in outside industry.

That is one of our big problems. But to get the idea that we are dealing with 137,000 skilled employees is just not right.

Mr. FRIEDEL. I did not say that. I said you said that you have agreed with 74 percent of your employees. There is no problem there. That leaves 26 percent in the dispute. I thought they were the skilled and

unskilled mechanics or electricians that you have not come to an agreement with. How far are you apart in that 24 or 26 percent?

Mr. WOLFE. There are two unions of any consequence that have not settled. We have a few small unions that haven't. The main reason, I believe, is that we just haven't gotten to them. It is not hurting them too badly because the effective date of the wage increase will be January 1. We are going to set dates for discussions with them. We have written them.

But the conductors and the engineers have not settled. I think we will make an agreement with the engineers. I am almost certain we will. As to the conductors, we are in dispute.

On the groups that we have settled with, we have settled with the clerks, the largest union we deal with. They have thousands upon thousands of highly skilled employees, the computer operators, the high-class secretaries and stenographers, the rate clerks, and so forth.

Mr. FRIEDEL. I think we are getting a little far afield here. We are led to believe that you are not too far apart with this other 26 percent. I don't know what they base it on. I am trying to find out from you, are you too far apart, or can you get together and settle this thing so the country can be at ease without forcing Congress to pass legislation that we might regret, you might regret, and the unions might regret?

Mr. WOLFE. You speak now of the shopcraft unions, do you?

Mr. FRIEDEL. Yes.

Mr. WOLFE. The best I can do is to give you the same answer I gave the chairman: that I do not think we can make an agreement unless we have some pretty expert assistance. I think that assistance can best come from the panel that is referred to in House Joint Resolution 559.

Mr. FRIEDEL. We have 27 days and we are losing minutes now. Why aren't you trying right now to get together and settle this thing?

Mr. WOLFE. There comes a time, Mr. Congressman, when your efforts are exhausted. I think that is exactly where we stand now without a lot of pressure from somebody.

Mr. FRIEDEL. Thank you.

The CHAIRMAN. Mr. Springer?

Mr. SPRINGER. There is one thing that is disturbing the committee, and apparently it is not being brought out. I have been trying to bring it to a head, Mr. Wolfe; that is, what the issues are and where you are.

Let me take these issues one by one. Let's find out where we are on the issues. Let's take them. There were eight proposals by labor, is that correct, originally? Let me go through all eight of them.

The paid lunch period was withdrawn; is that correct?

Mr. WOLFE. The what?

Mr. SPRINGER. The paid lunch period was withdrawn.

Mr. WOLFE. Yes.

Mr. SPRINGER. The pay for jury duty is next. Is that still in dispute?

Mr. WOLFE. I don't think it is.

Mr. SPRINGER. The Board didn't make a recommendation on this at all.

Mr. WOLFE. The Board rejected all of the carriers' proposals, every one of them, and rejected everything——

Mr. SPRINGER. Wait a minute. Stay with these one by one. We will never get anyplace if we take generalities.

The pay for jury duty, is that in dispute?

Mr. WOLFE. It is not.

Mr. SPRINGER. Holidays guaranteed numbered nine. Is that in dispute?

Mr. WOLFE. It was the last time we talked.

Mr. SPRINGER. All right, that one is in dispute.

Vacations. That is not in dispute; is that right? The Board recommended that you accept that?

Mr. WOLFE. We had offered that.

Mr. SPRINGER. You offered it?

Mr. WOLFE. We had offered that before we even went into mediation.

Mr. SPRINGER. That is not in dispute?

Mr. WOLFE. I do not think it is.

Mr. SPRINGER. The shift differentials, 18 cents per hour for 4 to 12 and 25 cents per hour from mdnight to 8 in the morning; is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Overtime and double time; is that in dispute?

Mr. WOLFE. No, sir; it is not.

Mr. SPRINGER. Is the cost-of-living increase for each quarter in dispute?

Mr. WOLFE. I do not think it is.

Mr. SPRINGER. Then I take it we have removed practically all the things they have been talking about except the basic time rate increase; is that right?

Mr. WOLFE. And the adjustment of the so-called inequities.

Mr. SPRINGER. Let me see if I can develop this point. Then I want to get over to what you have offered. Is this the difference: You have offered 5 percent or 6 percent?

Mr. WOLFE. We offered originally 5 percent. That is what the Mediation Board suggested and we accepted it.

Mr. SPRINGER. What about the second Board?

Mr. WOLFE. They recommended 5 percent and we accepted.

Mr. SPRINGER. Was this 5, 5, and 5?

Mr. WOLFE. The second Board recommended that. That is the Emergency Board.

Mr. SPRINGER. They recommended 5 or 6 percent?

Mr. WOLFE. Five percent.

Mr. SPRINGER. Five percent and 5–5–5?

Mr. WOLFE. Right. That is Emergency Board 169.

Mr. SPRINGER. That is the second Board; is that correct?

Mr. WOLFE. I want to make the record absolutely clear. Emergency Board 169, the Ginsburg Board——

Mr. SPRINGER. I have that report before me.

Mr. WOLFE (continuing). Made a recommendation of 5 percent for the year 1967, across the board, and a down payment to correct the inequity which would have to be agreed upon.

Mr. SPRINGER. And that was the recommended job evaluation, 120 days in escrow; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Did you agree on the escrow?

Mr. WOLFE. No.

Mr. SPRINGER. This is a point of dispute, then?

Mr. WOLFE. Yes.

Mr. SPRINGER. The second Board didn't do anything about job evaluation at all, did they?

Mr. WOLFE. The second Board recommended against job evaluation. That is the Fahy Board.

Mr. SPRINGER. Then I take it that the difference between what your real dispute is, between you and labor at this point, is the difference between 5 percent and 5–5–5, and 5 percent, 12½ cents for the first year, 5-precent increase for the second year and 12½ cents; is that correct?

Mr. WOLFE. No; that is not correct.

Mr. SPRINGER. Will you tell us in your own words, as simply as possible, what the dispute is on this point?

Mr. WOLFE. First, I will give you the carriers' position. That is that it should be 5 percent for 1967, although in an effort to make an agreement we accepted what the second Board, the Fahy Panel, recommended—6 percent for 18 months. That is from January 1, 1967 to July 1, 1968.

Mr. SPRINGER. Plus 5, 5, and 5?

Mr. WOLFE. We did not agree to the 5, 5, and 5.

Mr. SPRINGER. Then see if what labor proposed is correct and let me state it: Five percent the first year, plus 12½ cents?

Mr. WOLFE. Six and one-half percent the first year plus 12½ cents effective January 1, 1967.

Mr. SPRINGER. And the second year?

Mr. WOLFE. Five percent effective January 1, 1968, and another 12½ cents effective January 1.

Mr. SPRINGER. So it is 6½ percent, 12½ cents; in 1968; 5 percent and 12½ cents?

Mr. WOLFE. Correct.

Mr. SPRINGER. How much does that make, if you put all of that together, their proposal?

Mr. WOLFE. In percent?

Mr. SPRINGER. Yes.

Mr. WOLFE. About 20 percent; about what they asked for originally.

Mr. SPRINGER. This would be about their original proposal of a 20-percent increase; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. All right. Now I think we have before us what their proposals are and where they stand. Now I would like to go, if I could, to this point: Subsequently, in June 1966, various proposals were served by individual carriers on the organizations. Among the changes requested were: First, a revision of the vacation agreement.

Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Second, the elimination of certain craft jurisdictional barriers. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Third, a revision of the rules governing the work of car inspectors. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Fourth, a greater freedom to institute technological, operational, and organizational changes. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Fifth, the establishment of entrance rates. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Sixth, compulsory retirement age limits?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Seventh, the revision of the 40-hour workweek rule. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Eighth, the establishment of a rule to prohibit duplicate holiday payment. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. And ninth, the force reduction privilege. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. Tenth, the rule providing for common-law agreements on breach of law contracts. Is that in dispute?

Mr. WOLFE. No, sir.

Mr. SPRINGER. So that which you have served upon them is not in dispute but has been settled; is that correct?

Mr. WOLFE. Let me explain it this way, because I want the record to be correct: If there is a strike, if there is no legislation passed and there is a strike, then every notice that the union served upon the railroads, and every demand that the railroads served upon the unions are before us.

But so far as our negotiations are concerned and the posture of the dispute right at the moment, it is as you have placed it in the record through your interrogation of me.

Mr. SPRINGER. May I repeat: The real difference, then, as I understand it, and I want to be sure this committee gets this clear, Mr. Wolfe, is apparently the difference between what you are willing to accept as the recommendation of the second Board of 6 percent for 18 months and 5, 5, and 5—or did you accept it?

Mr. WOLFE. We did not accept it.

Mr. SPRINGER. So that hasn't been accepted?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Your only proposal, then, at the present time is 5 percent; is that correct?

Mr. WOLFE. No.

Mr. SPRINGER. Give us what you are willing to accept.

Mr. WOLFE. We are willing to accept the 6 percent for an 18-month period. We are willing to make a down payment on the so-called inequities. That amount of down payment is to be agreed upon.

Mr. SPRINGER. This is the first Board's recommendation of job evaluation, then, 120 days and money in escrow?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Plus 6 percent, did you say?

Mr. WOLFE. Six percent. We were willing to accept.

Mr. SPRINGER. Six percent for 18 months plus job evaluation, 120 days in escrow.

Mr. WOLFE. But in the meantime, we would make a down payment to be agreed upon to partially correct the inequities.

Mr. SPRINGER. Let me ask you this: Is there any great dispute about how much will go into escrow? Is there any great dispute about how much that ought to be between you and labor?

Mr. WOLFE. Well, there is this dispute, Mr. Springer: The unions wouldn't talk about it.

Mr. SPRINGER. Do you mean they wouldn't discuss it?

Mr. WOLFE. They wouldn't discuss it because it contemplated subsequent job evaluation.

Mr. SPRINGER. We know where you stand. We know what you have offered. This is what your position officially is today.

Now I want to see if I can get what you understand labor's position is today. Let me state it and you tell me if it is yes or no, and if it isn't, will you modify it?

That is, they are talking about 6½ percent the first year.

Mr. WOLFE. Right.

Mr. SPRINGER. Plus 12½ cents for 1967, the first year.

Mr. WOLFE. Right.

Mr. SPRINGER. For 1968, 5 percent and 12½ cents.

Mr. WOLFE. That is absolutely correct.

Mr. SPRINGER. You say that those four proposals would mean an increase to them of approximately 20 percent across the board. Am I stating this correctly?

Mr. WOLFE. You are.

Mr. SPRINGER. That is what I wanted to do. I wanted to be sure this committee understands what the dispute is all about. I think we have it clear on the record from management as to what you think the matter in dispute is.

When labor comes in, maybe we can find out what they have to say about it. At least the committee understands what this is all about. We have all of these things being thrown at us every day. I can't find out where anybody has stood on this until you said where you stood.

Mr. BROWN. Is there a dispute between the unions and management as to the amount of time that this contract should be written for?

Mr. WOLFE. Yes. We originally insisted on a 1-year contract. But we have modified that to this extent: We would go for the 6 percent recommended by the Fahy Board for 18 months.

Mr. BROWN. Thank you.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Wolfe, continuing just a little bit, what did the Boards recommend as a suggested settlement of the areas where you are apart?

Mr. WOLFE. The Emergency Board recommended 5 percent. That is the established pattern for the year 1967 with the reopening clause as of January 1, 1968. For the inequities, whether they be overpaid or underpaid inequities, they recommended that an amount be agreed upon, a so-called downpayment, and held in escrow pending a job evaluation to determine exactly what the employees were entitled to or what management might be entitled to, with the understanding that if the job evaluation revealed certain classes being overpaid, there would be no reduction in pay insofar as the present incumbent is concerned. It is what we sometimes term a red circling.

They also recommended favorably on the vacation matter, which we had already tentatively agreed upon. We accepted.

The so-called Fahy Panel cast aside job evaluation and recommended 6 percent to be effective January 1, 1967, across the board for everyone, and that increase to remain effective until July 1, 1968.

The Fahy Panel also recommended a 5-cent-an-hour inequity adjustment effective April 1, 1967; a second 5 cents effective October 1, 1967; and a third 5 cents effective April 1, 1968.

Mr. ROGERS. Was this acceptable to the railroads or not?

Mr. WOLFE. The 6 percent across the board was; the 5, 5, and 5 was not, because we thought that it would only further disturb an already badly disturbed wage structure and would not correct anything. It would, in fact, cause many other wage behavior disturbances with the 24 unions with which we deal.

Mr. ROGERS. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Mr. Wolfe, do you feel that this committee of the Congress of the United States should sit here, in effect, as a mediation board for a dispute between management and labor?

Mr. WOLFE. No, sir, Mr. Devine; I do not think you should act as a mediation board.

Mr. DEVINE. This is the third time this has occurred in the last 4 years, if I am not mistaken. There must be some void or something lacking in the Railway Labor Act that would cause this situation to develop time and again, wouldn't you say?

Mr. WOLFE. There definitely is something wrong. It is unfortunate, although Congress predicted it might happen when the act was last amended, because it was clearly stated, and it is in the Congressional Record, that if section 10, the Emergency Board procedure, did not correct the situation, Congress would have to take more drastic action. That is in the Congressional Record.

Mr. DEVINE. Wouldn't you agree that if this type of a situation continues to develop each year when one or the other of the parties, or both of the parties, fail to collectively bargain in good faith, we may be put into the position one day when we will be forced to pass, perhaps, restrictive legislation on both parties in order to keep these little percentages and so forth out of the committee and let them be settled by the parties?

Mr. WOLFE. Yes. I think Congress eventually is going to have to give this very careful study. I think so far as the Emergency Board procedures are concerned there has been a complete breakdown.

Mr. DEVINE. To use your term, I think you have suggested it, perhaps the labor interests have used the recommendations not only of the Ginsburg Board, but the Fahy Board and the Presidential Emergency Board as a floor or base from which to commence further negotiations, rather than accepting the recommendations; it that correct?

Mr. WOLFE. That is exactly right. That is my firm belief.

Mr. DEVINE. Trying to avoid the words "compulsory arbitration," which are obnoxious, I guess, to most everyone, are you going to make any specific recommendations to this committee on a corrective type of legislation rather than a one-shot deal such as we have here today? Then perhaps the Railroad Labor Act can prevent a recurrence of this situation so far as the committee is concerned.

Mr. WOLFE. We support the so-called Herlong bill, which is the finality bill. We also would support the Pickle bill. We firmly believe that certain amendments would make the Pickle bill more acceptable to all the parties. But there isn't any question that the Pickle bill is

well prepared. It was given a great deal of consideration by Congressman Pickle. Certainly, it is a step in the right direction. It may solve all the problem.

Mr. DEVINE. That, of course, is not pending before this committee today.

Finally, in your statement you suggested that the junior Senator from New York asked the question in the Senate committee of you, "Why won't you accept the Fahy recommendations?" and that question was asked both of the labor interests and the management interests.

I don't believe you gave us the answer other than you said that the labor people said, "No, definitely no." But they didn't say why? Did you say why?

Mr. WOLFE. No, they didn't tell us why, except that it wasn't enough money. That was obvious.

Mr. SPRINGER. Would the gentleman yield for one question?

Mr. DEVINE. Yes.

Mr. SPRINGER. I want to get this straight. This is offered in good faith. Down at the White House the Secretary did say that he thought the difference between the two parties was about 3 cents, the difference between 18 months and 2 years. I asked him this again on the stand the other day and he said he thought he was right. I think he believes this. I am sure he is intellectually honest and wouldn't intend anything else.

Do you understand that?

Mr. WOLFE. No, I think the Secretary made a mistake in that.

Mr. SPRINGER. From your testimony, as I see it, the difference is 6 percent for 1 year or 6 percent for 18 months, plus the job evaluation and escrow, and the difference between 6½ percent, 12½ cents, 5 percent and 12½ cents on top of that. That is a big difference, as I understand it.

Mr. WOLFE. That is correct.

Mr. SPRINGER. You aren't even close at all; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Some on this committee are under the understanding that it was only about 3 cents. I think this ought to be cleared up.

Mr. DEVINE. I have nothing further, Mr. Chairman.

The CHAIRMAN. Mr. Van Deerlin?

Mr. VAN DEERLIN. Mr. Wolfe, you said that the last bargaining session involving both sides was on April 2, 3 weeks ago today. What efforts have been made through representations to one side or the other by mediators, the Labor Department or anyone else, since April 25?

Mr. WOLFE. There have not been any to the best of my knowledge.

Mr. VAN DEERLIN. Are you unaware of representations to either side since the 25th, then?

Mr. WOLFE. I am not aware of anything since April 25 other than our frequent appearances before Congress, and things of that nature.

Mr. VAN DEERLIN. You are unaware that on April 29 representations purportedly were made to the brotherhoods in regard to an acceptance of a modified version of the Fahy recommendations?

Mr. WOLFE. I heard rumors that there had been some discussion, not with the people with whom we deal, but with someone in higher authority. But there was no formal discussion with us at all.

Mr. VAN DEERLIN. By "higher authority" do you mean within the brotherhoods or within the Labor Department?

Mr. WOLFE. I am not absolutely certain.

Mr. VAN DEERLIN. You were not consulted in regard to them?

Mr. WOLFE. No, I was not.

Mr. ADAMS. Will the gentleman yield?

Mr. VAN DEERLIN. I will be glad to yield to the gentleman.

Mr. ADAMS. Is it your testimony, Mr. Wolfe, that you know of no offer that has been made for mediation to railroad management after the meeting on April 25 which would involve a proposal of roughly 5 percent plus 5, 5, and 5 as recommended by the Fahy Panel? Is that your statement?

Mr. WOLFE. Let me clarify it to this extent: The only knowledge I have at all about anything like that was a call I received, a personal call, that there had been discussions with some top officers of AFL-CIO, and they were talking somewhere in that area. But there was no assurance given to me that it was acceptable to anyone.

Mr. ADAMS. What is your position?

Mr. WOLFE. My position is that anything that goes beyond the recommendations of the duly constituted Boards that have studied this would not be accepted to the railroads.

Mr. ADAMS. In other words, as far as you are concerned, bargaining, mediation, and everything else has stopped, and if the unions don't accept what the last Board—not even what the last Board stated, but your position on the last Board's recommendation, there is not going to be any further bargaining or mediation?

Mr. WOLFE. No. If anybody comes to us with any proposition to continue to bargain or anything else, we will talk about it.

Mr. ADAMS. Will the gentleman yield further?

Mr. VAN DEERLIN. Yes.

Mr. ADAMS. That is not what I understood you to say just now.

Mr. Reporter, would you read back what he said?

(The reporter read from his notes as requested.)

Mr. ADAMS. What is it?

Mr. WOLFE. That is exactly my position, my public position. But that doesn't mean I have contradicted myself because I have not. We will always discuss; we will always listen to propositions. Bargaining, collective bargaining, isn't done out in the public.

Mr. ADAMS. That is exactly the point, Mr. Wolfe, and we agree with that. But you brought this matter—by "you" I mean all of the parties to this—to the public, and the public interest is involved.

This is precisely the point that we have been making to the parties that are before us. Once you have done that, then the game, as you might refer to it—I would rather not—as the bargaining changes. That is precisely what we are thinking about, taking the lid off of this collective bargaining and finding out, as Mr. Springer has attempted to do, and the other members have, where the parties are, why it broke down, and why it hasn't been settled before we jump in and pass some overall legislation that will, as you point out, terminate this matter, but will, in effect, say we, the Congress, through a special board, are settling your dispute.

You can call it anything you want. It is compulsory arbitration.

Thank you, Mr. Van Deerlin.

The CHAIRMAN. Mr. Cunningham?

Mr. CUNNINGHAM. Mr. Wolfe, I asked this question of the Secretary of Labor, and I would like to have your response to it.

If there is a strike, sir, is there any power that you know of in the executive branch to do anything about the strike?

Mr. WOLFE. Mr. Cunningham, I am not a lawyer, but our lawyers have told us that there is no power now vested in the executive branch that yould solve our problem.

Mr. CUNNINGHAM. That, I believe, is what Mr. Wirtz has stated to be his position.

There is talk that if we do not pass this bill the Government may seize the railroads in the event of a strike. Perhaps I should ask our chairman. Does the Government have the law on its side for seizure?

The CHAIRMAN. Do you mean at the present time?

Mr. CUNNINGHAM. If there is a strike and the country is in an awful mess, without legislative action can the executive branch seize the railroads?

The CHAIRMAN. There is a disagreement about that. Some say yes and some say no. If it is put into this law, of course, they would have the right to seize.

Mr. CUNNINGHAM. I would be hopeful that they wouldn't. But I am wondering what is going to happen if there is a strike. What power does the Federal Government have in meeting it? That was the purpose of my question.

The CHAIRMAN. The committee has been served notice that we will not be able to sit this afternoon. We will have to ask you to return tomorrow morning.

I have one clarification before you leave.

I asked you a while ago if an offer had been made to the management after the 25th of April or after this last meeting, and mentioned the figures of 5 and 5 percent, and 5, 5, and 5 cents. I believe you said to me "No."

Mr. WOLFE. That is correct.

The CHAIRMAN. I believe in answer to Mr. Adams' question, you said someone called you and had a telephone conversation with you, relating this to you.

Mr. WOLFE. That is correct. Not the amounts. No amounts at all. It was simply that a discussion had been had with a very high officer of AFL–CIO, and there was a new area.

The CHAIRMAN. I might ask you this: Did this person who called you say that the unions had agreed to this?

Mr. WOLFE. No, sir; he did not. I have confirmed that.

The CHAIRMAN. We will have them here and I will ask them. This is a rumor going around and I would like to clarify it.

Mr. WOLFE. I would like to have it clarified because, Mr. Chairman, I particularly asked that individual after I had heard a question from you, I believe, as to that feature. I called him and asked him, "Had the unions bound themselves to it?" He said "Absolutely no."

The CHAIRMAN. Did they tentatively agree in any way that this would be acceptable?

Mr. WOLFE. No, not so far as I am concerned they did not.

The CHAIRMAN. That is one thing we can clarify when we get them here. It is a rumor. Certainly there is a great misunderstanding somewhere, by different groups of people. That is one of the big things of having all sides here so we can find out. But it has never been put to you as a proposition that was acceptable, as to whether you would take it or not?

Mr. WOLFE. No, sir.

Mr. PICKLE. Mr. Chairman, does the chairman have knowledge that an offer was made?

The CHAIRMAN. I am going to find out. I said there were rumors. We will get that when these men return.

Mr. PICKLE. The chairman must feel that there has been. Is the committee entitled to know?

The CHAIRMAN. Would you bear with me? I said the men are to be here before us and we will ask them. They are the ones who will speak.

The committee will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 12:05 p.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, May 17, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 17, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Yesterday when we adjourned, we had to answer a call to the floor. Mr. Cunningham was questioning at that time.

Mr. Cunningham?

Mr. CUNNINGHAM. I will yield the balance of my time to Mr. Springer.

Mr. SPRINGER. Thank you, Mr. Cunningham.

FURTHER STATEMENT OF JAMES E. WOLFE, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE; ACCOMPANIED BY W. E. QUARLES, JR., VICE CHAIRMAN

Mr. SPRINGER. Mr. Wolfe, I didn't get through entirely yesterday, but you will recollect the trend of my questioning yesterday.

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. What I am trying to find out is this, in dollars and cents: Your offer was 5 percent and job evaluation; is that correct?

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. The offer, as I understand it, of the brotherhoods, is 6½ percent the first year plus 12½ cents. For 1968 it would be 5 percent and 12½ cents; is that correct?

Mr. WOLFE. That is correct.

Mr. SPRINGER. Those are the two relative offers, where you are, as of the present time. Is that your understanding?

Mr. WOLFE. With one thing that should be added, Mr. Springer; that is, the carriers are willing to make a down payment to correct the inequities——

Mr. SPRINGER. I have left out escrow.

Mr. WOLFE. Yes.

Mr. SPRINGER. With that in mind, what I am trying to find out is your offer of 5 percent is equal to how many millions of dollars, just roughly?

Mr. WOLFE. With this group, roughly $30 million.

Mr. SPRINGER. Now, let's take the 6½ percent, 12½ cents; 5 percent and 12½ cents. How much does that amount to in dollars and cents, roughly?

I am not asking the exact figure, but just the general neighborhood.

Mr. WOLFE. Somewhere around, roughly, $125 million.

Mr. SPRINGER. $125 million.

Mr. WOLFE. Please understand, Mr. Springer, that this is strictly a mental calculation, but I do not believe it would be too far off.

Mr. FRIEDEL. From 5 percent—will the gentleman yield?

Mr. SPRINGER. You want an explanation?

Mr. FRIEDEL. Five percent would be $30 million and 6½ percent would be $120 million?

Mr. WOLFE. No; the 5, 6½, and 25 cents per hour.

Mr. SPRINGER. When you say $30 million and then $125 million, is that per year?

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. If this were a 2-year period it would be $250 million; is that correct?

Mr. WOLFE. No, because the 6½ percent and the first 12½ cents an hour would be only during the year 1967.

Mr. SPRINGER. How much would that be? Could you give me another rough estimate as to what 6½ percent plus 12½ cents would be?

Mr. WOLFE. Somewhere around $70 million.

Mr. SPRINGER. It would be $70 million the first year and how much the second year?

Mr. WOLFE. $65 million. Of course, the $70 million would also be paid during the second year, too.

Mr. SPRINGER. The first year would be $70 million and the second year would be $130 million; is that correct?

Mr. WOLFE. Roughly, that is it.

Mr. SPRINGER. This comes, then, roughly, to $200 million for the 2-year period if it were 2 years; is that correct?

Mr. WOLFE. Yes.

Mr. SPRINGER. The second year would be at $60 million on the 6 percent?

Mr. WOLFE. Yes.

Mr. SPRINGER. Actually, it is $30 million as against $70 million, and the 2-year period is $60 million against $200 million; is that correct?

Mr. WOLFE. No, sir; $60 million as against $130 million.

Mr. SPRINGER. $60 million as against $130 million.

Mr. WOLFE. Yes, sir.

Mr. SPRINGER. This is really, then, what you are talking about in terms of dollars and cents as the difference between what you and the brotherhoods are talking about?

Mr. WOLFE. Those are very rough figures, but I think it is in that neighborhood; yes, sir.

Mr. SPRINGER. If I have any time, I yield it back to my colleague.

The CHAIRMAN. I wouldn't want that to stand as a matter of record. You are talking about some money put into escrow. How much will you estimate that at?

Mr. WOLFE. I would not want to estimate it because it is a question of collective bargaining.

The CHAIRMAN. Certainly it is, and it might be more.

Mr. WOLFE. It might be more and it might be less.

The CHAIRMAN. I didn't want the record to stand that this was the only difference.

Mr. Macdonald?

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Wolfe, I read in today's press that the administration has turned down the railroads' request to be heard—well, not to be heard, but the idea of being heard on being able to ship military goods and things that affect the public safety and health.

From reading about the meeting, I understand that it was held at the Pentagon. I wondered if you were there.

Mr. WOLFE. No, sir; I was not. I was here.

Mr. MACDONALD. You weren't here all day, I don't think.

Mr. WOLFE. I understood that was a morning meeting.

Mr. MACDONALD. Do you know if anyone representing the railroads was there?

Mr. WOLFE. No; I do not. I do have what I think is a press release by Secretary of Transportation Alan Boyd. In the lower part of this page there is a list of people who were there.

Mr. MACDONALD. Does that list, as released by Mr. Boyd, include anybody from the railroads?

Mr. WOLFE. No, sir; it does not.

Mr. MACDONALD. Are you familiar with the telegram that was sent? I don't have a copy before me. I believe it was sent by the railroads to Secretary McNamara on the 28th of April, asking for such a meeting. It suggested the railroads be represented, since obviously they were a party in interest, and also, perhaps, a member or members from this committee and the interested committee in the other body.

Are you familiar with the telegram?

Mr. WOLFE. If you are referring to a Western Union telegram signed by Mr. Fox and Mr. Leighty, Mr. Fox is spokesman for the shopcraft unions and president of the Railway Employees Department, AFL–CIO; and Mr. George Leighty is president of the Railway Labor Executives Association. I am familiar with that Western Union message.

Mr. MACDONALD. That is a very complete answer.

I was wondering if you had any idea why the railroads were not invited. I don't know if perhaps this committee should be invited, but we are handed the ball to settle this dispute. You are a very able negotiator, I know of my own knowledge. I sat with you and members of the brotherhoods when you negotiated a bill which I introduced a year or so ago. I know you are a very good negotiator and have been the chief negotiator for the railroads.

It just strikes me as being very peculiar, indeed, that you or a representative of yours, or at least somebody representing the railroads, was not invited to what I think is a very vital meeting. Don't you find it a little peculiar that you were not invited?

Mr. WOLFE. Mr. Congressman, I think I would be presumptuous to either speak in favor of what transpired or to be critical, because I don't know. I would be singing entirely without my music, and I am not a good singer to start with.

Mr. MACDONALD. What I am trying to establish for the record, and I believe I know the answer but I am waiting for you to say it, was the fact that you were not invited. Were you?

Mr. WOLFE. To the best of my knowledge——

Mr. MACDONALD. Or anybody representing the railroads.

Mr. WOLFE. I have no knowledge except this: I was not invited. If I was, the invitation was lost in the mail.

Mr. MACDONALD. The administration is pretty good at following through on matters of that sort, I am sure you are aware. What really astounded me——

The CHAIRMAN. Will the gentleman yield?

Mr. MACDONALD. Yes.

The CHAIRMAN. I believe Mr. Boyd mentioned the statement. Maybe he was speaking for the railroads.

Mr. MACDONALD. Well, he is Secretary of Transportation, but I would hesitate to say that he speaks just for one side, although some of the testimony, I agree, Mr. Chairman, that he gave before us seemed to have him speaking only for the railroads.

He said that the offer—Mr. Boyd said—without any hearings, if this article is correct—and I was not invited, nor was anyone from this committee invited—or he is quoted as saying, and I am sure accurately, the relevant Government agencies had concluded that the offer, the offer to move military goods and goods affecting the public safety and health, "is not practical, feasible, or economical."

Is that his press release?

Mr. WOLFE. Yes.

Mr. MACDONALD. He is very good at putting out press releases. He put out a press release before he testified before this committee concerning testimony that he was going to give here. I will put this by way of a question:

What is impractical, unfeasible or uneconomical about having a meeting of all the people involved to discuss the matter?

Mr. WOLFE. Mr. Macdonald, you are going far beyond my field of knowledge.

Mr. MACDONALD. I am not going 1 inch beyond your field. You are the mediator representing all the railroads.

Mr. WOLFE. But I would not be in a position to say what is practical, feasible, or economical about having other Government people, such as members of this committee, present. I know nothing about that.

Mr. MACDONALD. Don't you think it would be practical, feasible, and economical to have members of the railroad industry invited to such a meeting?

Mr. WOLFE. There, again, Mr. Congressman, I think it would be wrong for me to express an opinion even if I had one, which I do not have. So far as the conclusion expressed in this press release as to what is practical, feasible, or economical in regard to the brotherhoods' proposal, I agree with that entirely and so testified yesterday.

Mr. MACDONALD. The point of my questioning if you, and it necessarily limited by time, is this committee is asked, on page 2 of the bill, "Whereas, the national interest, including national health and defense, requires the transportation services be maintained," et cetera, to solve this problem.

Why wouldn't it be a very good idea, indeed, to have the parties get together to determine what will be carried, what will not be carried, if, indeed, the brotherhoods say they will not handle certain material, and then we will know whether or not there is a national emergency?

Until such time as the brotherhoods have said what they won't carry, who are we, sitting on this committee, to say that there is a national emergency? How do you know there is going to be a national emergency if the brotherhoods carried goods that are essential to the military and for the national health and defense? I don't see where the national emergency occurs.

Mr. WOLFE. Is that a question?

Mr. MACDONALD. Yes.

Mr. WOLFE. As I understood your question, it was something like this: Who am I to say thus and so. Is that correct?

Mr. MACDONALD. Yes.

Mr. WOLFE. My testimony yesterday, which I believe supports the conclusions of the people from the executive branch of the Government as set forth in this press release, was based——

Mr. MACDONALD. That is Alan Boyd's press release?

Mr. WOLFE. Yes.

Mr. MACDONALD. You just held it up in your hand?

Mr. WOLFE. That is correct.

It is based on almost 50 years of railroad experience. It was 49 years on February 2. I have had some experience in almost every line of railroading, including switchman, yardmaster, and so forth.

I believe that I do have some knowledge of the difficulties, I might say the impossibilities, of some of those things. It was on the basis of that knowledge that I testified.

Mr. MACDONALD. I agree that it might be difficult, but it is not impossible. That is proven by a system of priorities that was worked out during World War II; isn't that correct?

Mr. WOLFE. No, sir; that is not correct. There were priorities during World War II, but everything that was offered the railroads to move; that is, all commodities, was handled. There were priorities on certain types of shipments. There were priorities on what we called main trains. Those were troop trains and military impediments, things of that nature.

Occasionally we had to run special trains on commodities of extreme emergency and urgency. Those things were handled. But when we made up a train in a yard, a freight train, of from 80 to 150 cars, all the traffic that had been offered that carrier was put in that train. It wasn't a question of singling out a car here, a car there, or a question of not moving empty cars and things of that nature.

Mr. MACDONALD. Mr. Chairman, Mr. Wolfe is a very careful witness and a very knowledgeable one. But he wasn't at the meeting. Since I feel personally that this meeting is of great importance to determine whether or not there is a national emergency, I would suggest or hope—I would ask, request—that Mr. Boyd be asked back to testify before the committee about this alleged meeting which, according to the press, had Mr. Leighty saying the administration people had already made up their minds that this was not a feasible thing, but they just held the meeting because we, here on the committee, had been pressing them to do so.

I would request that we get Mr. Boyd back so we can ask him about what did transpire.

The CHAIRMAN. If possible, we will do that.

Mr. Kuykendall?

Mr. KUYKENDALL. First, I want to go on record as saying that when both Houses of Congress have to spend untold hours listening to a great deal of very learned testimony and possibly have to pass an act of Congress as a result of the failure of collective bargaining, it is impractical, unfeasible, and certainly uneconomical.

We are here as a result of a failure. I don't think we are going to get completely clean, regardless. In fact, I wonder if we deserve it.

I would like to ask a couple of questions.

When did the bargaining actually begin? You had the chronology down yesterday. I am not talking about the notices, but when was the first meeting?

Mr. WOLFE. The first meetings were the meetings on the properties of the individual railroads. We represent roughly 200 railroads. The meetings were on varying dates. They were in July and August 1966.

Mr. KUYKENDALL. When did your group first meet?

Mr. WOLFE. Our first meeting, Mr. Kuykendall, began on September 28, 1966.

Mr. KUYKENDALL. This is, I think, a very important question: How much time has your group and representatives of labor on the corresponding, opposite numbers—how much time have these two groups spent in open bargaining without Government referees of one kind or another since the date of September 28, 1966?

Mr. WOLFE. There were a good number of days. I don't have the record with me as to exactly the number of hours or days, but we did meet on quite a number of occasions.

At the same time we were meeting with many other unions. We were meeting with the Brotherhood of Railroad Trainmen, with the Brotherhood of Railway Clerks, with the so-called Leighty group. That was maintenance of way, signalmen, dining car employees, telegraphers, and with other unions.

I would say we spent about as much time as we usually do in a national wage and fringe case.

Mr. KUYKENDALL. I have gotten the impression, in watching the progress of this whole case for several months—and I want you to comment on my comment, if you will—that it seems now for several months that these two parties were on a collision course and would collide right here in this room.

It seems we have been sitting waiting for you to be here for a long, long time. The overall purpose of my statement is as much to try to find out what has caused this as how we can prevent it in the future, how we can help write legislation.

Mr. Pickle is trying to do this now. He has written a bill that is up for consideration. I want to try to find out if you have the impression that you were almost destined to end up here for many months now in these negotiations?

Mr. WOLFE. No, sir. As I testified, it was our purpose, our sincere purpose, to try to dispose of all the demands we had before us from 24 unions in a peaceful way through the processes of collective bargaining.

I never did give up hope, although I realized that with this particular group our problem was difficult. But we did make agreements with 13 unions representing roughly 74 percent of all railroad employees, so even though we were not completely successful in what I thought

was a very worthwhile endeavor, in a climate that is not a good one in our country, I still think it was worth the effort, and there was never any thought on my part that we were not going to be completely successful.

Mr. KUYKENDALL. One last question: You mentioned yesterday the series, I believe you said over 30 years, of horizontal increases.

Mr. WOLFE. Yes, sir.

Mr. KUYKENDALL. Are these usually 2-year contracts?

Mr. WOLFE. No, sir. They vary. We have had quite a number of 1-year contracts, some 3 years.

Mr. KUYKENDALL. Let's say there have been probably 15 settlements over the 30 years; is that generally correct?

Mr. WOLFE. Yes.

Mr. KUYKENDALL. Have any of them been compulsory up to this moment on the subject of horizontal wage increases?

Mr. WOLFE. Compulsory?

Mr. KUYKENDALL. Compulsory settlements, such as is suggested in House Joint Resolution 559. Have any of these settlements in the past 30 years on wages in your industry been compulsory?

Mr. WOLFE. I think there was one during the Government seizure that the Government itself designed the wage increase.

Mr. KUYKENDALL. I believe you recognize yourself that these horizontal increases compounded the problem to the extent that we are in the bind we are in today.

Mr. WOLFE. Yes, sir.

Mr. KUYKENDALL. Why did you settle? It takes two to tango.

Mr. WOLFE. Yes; it takes two to tango.

You see, in the beginning of the across-the-board cents-per-hour increases, the so-called horizontal, was 1937. Our country had not yet come out of the worst depression in its history.

There is every reason to try to make agreements without the threats of strike and all of the unpleasant things that go with them. The unions wanted across-the-board cents per hour increases and we agreed. That was the first increase.

Then in 1941, just before Pearl Harbor, we had demands for wage increases, fringe benefits and so forth. Senator Morse, by the way, was the Chairman of the Emergency Board at that time.

By the way, we were not actually in war but we had for some time been preparing for war. Perhaps for all practical purposes we were at war.

The unions at that time were thinking a great deal about dealing more with the underpaid. I don't mean underpaid in its literal sense, but the lower paid. It was a cents-per-hour increase.

In 1962, I believe it was, and I can be corrected on the date, we had an Emergency Board that did recommend 5 cents an hour and an additional 2½ percent. In its findings the Emergency Board made it clear that that was to help widen the margin between the unskilled and the skilled, and if future wage increases would be on a percentage basis in time the compression would be relieved.

But the shop craft organizations at that time, as they had for many years, were a part of the bargaining team of all the nonoperating unions. The shopcrafts did not bargain by themselves until 1964.

From 1937 throughout they were with the 11 and up to 14 so-called cooperating, nonoperating unions.

When we came to settle on the basis of that Emergency Board report, again the unions demanded that 2½ percent be converted into a cents-per-hour increase to be spread across the board equally to all employees. I resisted right up to the point where it looked as if we were going to break off.

Finally, I said, "Well, we will convert the 2½ percent, but the agreement must contain a provision that the carriers agreed to this at the insistence of the unions, and only because it became positive that we could not make an agreement any other way."

Mr. Congressman, I think that is a very strong indication of our recognition of the problem, our effort to dispose of it on the same basis that it was created, over a reasonable period of years. But the unions would not agree to it and the record is absolutely clear on it.

Mr. KUYKENDALL. Let me ask one last question.

Here is what I am trying to develop: Looking back, and they say we can all be very philosophical in retrospect—and this is for the purpose of trying to find information—do you have any regrets now that you just didn't stand firm, period, and say, OK, strike. This has to be done, we have to look forward, we have to take the sensible approach of eliminating this series of horizontal increases.

Do you regret that maybe you didn't go ahead and say, OK, we can't reach agreement. Go ahead and strike and we will settle it right now.

Mr. WOLFE. No; I have no regrets, for the reason that part of the time we were at war, and then we were going through the acute period of adjustment following the war. Then we had the Korean disturbance.

It seems that since 1937 and up to now we have always had problems that just would not permit a national strike of the railroads.

And let me say this to you: I have been criticized by Members of Congress for failure to make agreements. I don't know what they would have done to me if I had come in here on the basis that this Nation was faced with a national catastrophe and my only defense was that I wouldn't agree to an across-the-board increase.

I can assure you, sir, from past experience, that the treatment that I would have received would have been something less than pleasant.

Mr. KUYKENDALL. Thank you, Mr. Chairman.

Mr. SPRINGER. Will the gentleman yield?

Mr. KUYKENDALL. I believe my time has expired.

The CHAIRMAN. Mr. Jarman.

Mr. PICKLE. Mr. Chairman, a point of order.

Is it the intent of the Chair to go down the line of the members by seniority this morning? We stopped yesterday with Mr. Cunningham and you resumed with Mr. Cunningham. I notice he starts again at the head. What is the procedure?

The CHAIRMAN. I am going to get to those who did not ask questions yesterday.

Mr. Jarman.

Mr. JARMAN. I think the particular question that I would have would be with reference to whether you are in a position now to make any statement on recommendations that you might favor for permanent legislation that would be a solution to this problem.

You mentioned in your testimony that you will not oppose the proposal of the President in this case, but you have indicated that you feel that more permanent legislation is needed.

Are you in a position to advise the committee on your thinking on what permanent legislation should be?

Mr. WOLFE. Yes, Congressman Jarman.

Mr. JARMAN. Let me also add that I am aware that in your testimony you indicated support of the Herlong bill. Is that correct?

Mr. WOLFE. Yes; I did.

I believe that the Herlong bill is workable. I believe that it will inspire more sincere collective bargaining rather than defeat the purposes of collective bargaining.

It has been my experience that where there is a terminal end and where the negotiators know that if they do not negotiate, do not make agreements, that someone is going to look at the record and make agreements for them, that they will negotiate sincerely and they will make agreements where now they pass the buck to someone else.

I have studied the bill that was introduced by Congressman Pickle. I commented on that very briefly yesterday.

Mr. JARMAN. And you indicated support for the Pickle bill with certain amendments.

Mr. WOLFE. Yes. I believe after very careful study of that bill that it is one of the best prepared bills I have ever had the pleasure of reading. There is no question but what most profound thought was given to the bill during the preparation. There is no question in my mind but what it protects the equities of the parties, and that if tried it will prove my assertion regarding the protection of the continuance of true, sincere, good-faih collective bargaining.

It will certainly be greatly improved if Congress should decide to give favorable consideration to that bill.

Mr. JARMAN. Are you in a position to submit to the committee your recommendation of amendments that you feel should be made to the Pickle bill to make it an acceptable solution?

Mr. WOLFE. Yes; I think we would be.

There are certain things in the bill that we believe would be objectionable to the unions. There is one thing that I think might provoke opposition from other sources, and that is the Pickle bill—and I say that with the greatest respect for Congressman Pickle—gives the President great discretion in selecting the weapon from the so-called arsenal of weapons which he would elect to use.

A discretion carries with it great responsibility. We think that the selection of the weapon to be used would be better if it were put in the hands of a standing comimttee such as the Secretary of Commerce, the Secretary of Defense, the Secretary of Transportation—I hope it is all right to mention the Secretary of Transportation at this time—the Chairman of the Interstate Commerce Commisison, and perhaps the Chairman of the Civil Aeronautics Board.

That would remove it from the political arena. It would divide the responsibilities. I think to a great extent it would relieve the situation of political pressures that might be present. I wish to say now that I hope, I sincerely hope, that you do not think I am presumptious by trying to answer you to the very best of my ability.

Mr. JARMAN. Thank you very much.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. Thank you, Mr. Chairman.

Are you by chance, sir, familiar with the so-called Bonner bill of 3 years ago? Mr. Bonner was chairman of the Merchant Marine and Fisheries Committee and he filed a bill providing for settlement of disputes in the shipping industry.

Mr. WOLFE. I am familiar with the bill, sir, but not sufficiently to discuss it intelligently. I did see it. I heard it discussed some years ago. I do not have a sufficient recollection of it to discuss it.

Mr. KEITH. I would appreciate it if you could discuss this informally with me, comparing it to the Pickle approach to see if there couldn't be some contribution made from that to this particular approach.

Mr. WOLFE. I would be very happy to do the best I can.

Mr. SPRINGER. Would the gentlemen yield?

Mr. KEITH. Yes.

Mr. SPRINGER. I want to see if I can reduce this or compress it further so that we can understand, Mr. Wolfe. I want to get your side on the record.

I read from the second Special Panel appointed by the President these words on page 3 of this mimeographed sheet:

> Indeed, it is our considered judgment that if the duration and the size of the general wage rate increase expressed in percentage terms could be resolved, the amount of adjustment to correct the wage inequity could readily be solved. Our mediation has, of course, concerned issues in dispute as a whole, but the most intractable problem now concerns the duration of the agreement and the amount of the general wage increase.

Is that your belief?

Mr. WOLFE. I believe the general wage increase has been a serious problem. It still is.

I believe the duration is a problem.

But I do not agree that there isn't a very serious problem still in existence in regard to the correction of inequities.

Mr. SPRINGER. So then you disagree with the second Board, at least I take it that you do. You agree with them in two parts but you add one further reservation which you believe is in dispute and it is serious.

Mr. WOLFE. Yes, sir; I do.

Mr. SPRINGER. First, the duration of the agreement. That is one thing. The amount of the general wage increase is the second. And you think there is also a third, a serious difference in the adjustment of inequities.

Mr. WOLFE. Yes, sir; I do.

Mr. SPRINGER. I thank the distinguished gentleman from Massachusetts.

Mr. KEITH. No further questions, Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Moss.

Will the gentleman yield?

Mr. MOSS. I would be very happy to yield, Mr. Chairman.

The CHAIRMAN. I would like to briefly ask the witness, Mr. Wolfe, if he would briefly give your understanding of the collective bargaining.

I know you did to Mr. Kuykendall, but could you briefly tell that again, the chronology of the collective bargaining as you understand it?

Mr. WOLFE. From the very beginning?

The CHAIRMAN. Yes.

Mr. WOLFE. Beginning with the serving of the notices?

The CHAIRMAN. No. I just want when you started collective bargaining, actually facing each other and talking.

Mr. WOLFE. I think it would be well, Mr. Chairman, to start with negotiations at the national level.

The CHAIRMAN. Yes, I think that is right.

Mr. WOLFE. The unions had asked for national handling of this.

Negotiations at the national level began on September 28, 1966. After some discussions, negotiations, the parties met and agreed to seek the assistance of the National Mediation Board. That was a mutual understanding, that both parties would invoke the services of the Board.

On October 19, just 1 week later, the mediation began and it continued intermittently through January 6, 1967.

Mediation was conducted in the customary manner.

By the way, the Chairman of the National Mediation Board personally handled that mediation. A mediator was not assigned. He did it himself.

As usual, he did an excellent job. That is Mr. Frank O'Neill.

He met with the parties separately time after time. We met together on occasions.

Finally, on October 25, 6 days after mediation began, the unions authorized a strike for February 13, 1967.

On October 27, 1966, 2 days after the strike was authorized, the Chairman of the National Mediation Board submitted a proposal for settlement to the parties. That proposed settlement followed very largely the terms of the settlements that had already been effected with other unions.

The railroads accepted the proposed settlement and the unions rejected it.

On January 6, 1967, the Mediation Board, after advising the parties that the efforts of the Mediation Board were exhausted and an agreement had not been made, proffered arbitration. That is a mandatory procedure under the law.

The railroads accepted the proffer of arbitration and the unions rejected it.

On January 28, 1967, the President appointed Emergency Board No. 169.

The CHAIRMAN. Mr. Wolfe, I think you are giving me the chronology of the mediation. I asked about collective bargaining, when you would get together and talk. Tell me the times you have been together and talked.

Mr. WOLFE. I do not have that record with me, but we met day after day.

The CHAIRMAN. Did you meet for 5 days, 10 days, 20 days, 30 days? You have been at this for almost a year and a half now, haven't you?

Mr. WOLFE. Actually, at the national level since September 28, 1966. Let me count the months.

The CHAIRMAN. That is all right.

You can't tell me anything about any collective bargaining, then?

Mr. WOLFE. All I can say is I think the parties met, discussed, talked with mediators, the Secretary of Labor, the Under Secretary, and did everything we usually do in this type of a case.

The CHAIRMAN. The reason I asked you this question was to read to you a report of the Emergency Board 169, just a paragraph of it.

This Board was made of Ginsburg, Dugan, and McConnell. It says, "As the case developed," and this was submitted on March 10, 1967, and they met on February 1 through 9, as I recall, "it became apparent that no real bargaining had actually taken place between the parties before their appearance before the Board."

That is in February.

I will skip to their conclusions.

"We believe the continuation of this practice will defeat other attempts to improve labor relations in the railroad industry. The Board therefore recommends" and it listed certain recommendations that should be followed.

But it said that there was no real bargaining done until the Emergency Board was appointed.

I believe the Board is correct, that collective bargaining, if this kind of practice is allowed to continue, is dead in the United States. The time you legislate wages for anybody, if you put the railroads under legislation, if it doesn't come in this bill it will come sooner or later. I think the railroads ought to know that. We ought to have collective bargaining. That is what built the Nation.

It looks to me like the machinery has broken down.

Have you any comment on that?

Mr. WOLFE. Yes; I do.

I disagree with the Emergency Board as to the collective bargaining that had taken place.

The CHAIRMAN. These are three pretty prominent men in America. Do you want me to tell you their backgrounds?

Mr. WOLFE. I know them so well.

The CHAIRMAN. You think they made a misstatement?

Mr. WOLFE. In that respect. But as to their whole recommendation, their report to the President, we accepted the report made by those three prominent, fine men, which they are.

The CHAIRMAN. I know that. I am talking about the collective bargaining, where this ought to be instead of being before three or four other people.

Mr. WOLFE. I think the best answer, Mr. Chairman, and I want you to know that I am trying to give you the best answer that I possibly can give you which will square with the facts, is we did settle in collective bargaining with 13 unions, 13 large unions. We were not here or anyplace else asking for help. That is a pretty good indication of whether we bargained in good faith or did not.

It is true we failed in this case. There couldn't be anyone who feels any more badly about it than I do.

The CHAIRMAN. We are talking about two different things in a way. You are talking about the ones that were settled and they were settled. But you have six unions here that are involved in this dispute now, and I am talking about collective bargaining with these six unions.

Mr. WOLFE. Yes, sir, and we did exactly the same kinds of bargaining with these unions as we did with the others.

The CHAIRMAN. Would you submit for the record for this committee how many days you met in active collective bargaining with the unions and how much time was spent on those days?

Mr. WOLFE. Absolutely, Mr. Chairman.

(The information requested was not available at time of printing.)

The CHAIRMAN. Would you say that you spent a week in collective bargaining, 7 days or 10 days?

Mr. WOLFE. I think we spent a great deal more time than that.

The CHAIRMAN. Actually talking? That is, face to face?

Mr. WOLFE. I don't know measuring hours how many days or hours we were face to face. But it is my opinion that when you are working with a mediator and he is going talking with one side for 2 or 3 hours and then with us trying to bring the parties to an agreement, that is just as much a part of the process of collective bargaining as sitting across the table looking for each other.

The CHAIRMAN. It could be, but this is getting to something that involves other people. That is getting to be the system today, I know that. But that isn't men sitting down talking to each other, men of good will, who want to try to settle it. If you have to go to a third party and have him go from one to the other, I don't believe you will ever convey the exact meaning and exact thoughts, if you have to go through a third party.

Mr. WOLFE. Both sides, to the best of my knowledge, completely acquiesced in the procedures that were followed. It has been my experience in national negotiations that with a sincere, hard working mediator working betweeen the parties, your chances of bringing the dispute to a successful termination is better that way than it is if the parties are not making progress and moving together.

The CHAIRMAN. Thank you, Mr. Wolfe.

Mr. MACDONALD. Would you yield for one short question?

Mr. MOSS. If I have any time left I will be happy to yield.

Mr. MACDONALD. I would like to ask a further question.

Don't you think that yesterday had you attended or been invited to that meeting, it would have been a step in collective bargaining?

Mr. WOLFE. To the meeting?

Mr. MACDONALD. At the Secretary of Defense's request.

Mr. WOLFE. My answer will have to be, Congressman Macdonald, that I don't think that has a thing to do with collective bargaining.

Mr. MACDONALD. You would be bargaining whether or not certain goods would be carried in order to avoid an emergency, a national emergency. That is not a step in collective bargaining? Is that what you are saying to me?

Mr. WOLFE. Yes, sir; that is what I say.

Mr. MACDONALD. I find that rather peculiar.

Mr. WOLFE. If that meeting was designed to coerce one side or the other, or put pressures on one side or the other, and if that is collective bargaining, then perhaps that might have taken place.

But I didn't think that is what it was. I thought it was something that the responsible officers of our Government were searching out for themselves in the interest of the country and not intended to bring the parties to an agreement.

As a matter of fact, the negotiators even for the union were not present, if I understand correctly.

Mr. Leighty is not a negotiator. He is not involved in this at all. As a matter of fact, we have settled with Mr. Leighty's union.

Mr. MACDONALD. Thank you.

Mr. Moss. Mr. Chairman, I have just completed familiarizing myself with the testimony of yesterday. I have no questions.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. No questions.

The CHAIRMAN. Mr. Kornegay.

Mr. KORNEGAY. Mr. Wolfe, what, in your opinion, would happen if this committee were to just say we take the position of washing our hands of this matter and throw it back to you, the railroads, and the unions? Would there be a strike?

Mr. WOLFE. In my opinion there would be a strike; yes, sir.

Mr. KORNEGAY. Would you attempt to further negotiate this matter and collectively bargain to arrive at some reasonable disposition of this dispute? That is, with the time that is left, approximately 30 days?

Mr. WOLFE. As I testified yesterday, Mr. Kornegay, it appears that we have reached one of those serious deadlocks that occasionally, but I hope infrequently, happens in collective bargaining.

The railroads are in a very unfortunate position. We deal with 24 unions. It is traditional in the industry that we do not give preferential treatment to one group over the many other groups with which we deal.

After having what we believe to be considerable success in our efforts to make agreements, and then to proceed to give these unions more than they are entitled to, more than can be justified, and thus unsettle everything that has been settled, we believe that that cannot be done and we should not be asked to do it.

A settlement cannot be reached, in my opinion, unless the railroads are prepared to do something that will be more destructive of sound collective bargaining in our industry than has ever happened during the history of free collective bargaining.

Mr. KORNEGAY. I gather in your opinion there would be a strike on June 17, if that is the correct date?

Mr. WOLFE. Yes, sir; I firmly believe that there will be a strike.

Mr. KORNEGAY. Do you have an opinion, sir, as to how long that strike will last?

Mr. WOLFE. No; I do not.

Mr. KORNEGAY. This is assuming it was left up to the parties and there was no intervention on the part of the Congress?

Mr. WOLFE. I do not know how long it would last.

I think such a tragedy should not occur. I think it could not last long. I don't think our country can stand it. I don't think the people of our country should be asked to suffer the consequences of such a devastating thing. Some way would have to be found to dispose of it, and quickly.

Mr. KORNEGAY. I don't know whether you were here the day the Secretary of Transportation testified or not. Were you, sir?

Mr. WOLFE. Yes, sir; I was.

Mr. KORNEGAY. You were here?

Mr. WOLFE. Yes, sir.

Mr. KORNEGAY. I assume that you and your colleagues were familiar with certainly some of the ramifications and impact of a nationwide rail strike?

Mr. WOLFE. I think we were very familiar with it; yes, sir.

Mr. KORNEGAY. I am assuming that the brotherhoods likewise were advised and know what a serious impact it would be to the American Nation in the event of a strike. Is that not so?

Mr. WOLFE. I would think so; yes, sir.

Mr. KORNEGAY. In your negotiations, in your efforts to negotiate between you and the brotherhoods, are those matters taken into consideration? In other words, the public interest in this matter, was it taken into consideration in trying to arrive at some equitable conclusion?

Mr. WOLFE. So far as the representatives of the railroads are concerned that is never out of our minds because, Mr. Kornegay, if the railroads are struck there is going to be a cost, a daily cost, of $12 million a day with no income whatever.

Unfortunately in the railroad industry we have some railroads that are in bankruptcy, we have some that are just struggling along trying to keep out of the red. The wage increases that we have already granted are going to make it even more difficult for those railroads than it has been.

We represent them all and we have to think of them all if we are going to continue to represent them. So we have the interest of all the railroads to think of. We perform a public service as a regulated industry. We must think of the public. We must think of our country.

But under all the circumstances, and particularly the repercussions that will take place with the other unions if we make an unwise agreement, an agreement that cannot be justified, is something that we should not have to do. We should not be compelled to do things that are injurious of all the parties at interest.

And we do not propose to.

Mr. KORNEGAY. In other words, collective bargaining in this instance has failed?

Mr. WOLFE. Sir?

Mr. KORNEGAY. Collective bargaining, the process of collective bargaining in this instance, has failed?

Mr. WOLFE. No. I think collective bargaining in this industry is probably——

Mr. KORNEGAY. I didn't say this industry. I said this instance, in this case.

Mr. WOLFE. Yes. I beg your pardon.

Mr. KORNEGAY. In other words, you have gotten to the point where you say that there is no need for further bargaining, that nothing can be done, you have reached a stalemate, impasse, that future negotiations would be fruitless?

Mr. WOLFE. No.

I think this, Mr. Congressman, that if the President's proposal is enacted into law, there will be available to help the parties a panel of intelligent, knowledgeable men. The President's proposal contemplates further negotiations with the assistance of that Panel.

Mr. KORNEGAY. Let me interrupt you here.

You have had at least two Panels.

Mr. WOLFE. Sir?

Mr. KORNEGAY. You have already had the benefit of two Panels.

Mr. WOLFE. We had more than that.

Mr. KORNEGAY. Three of them.

Mr. WOLFE. Yes, three.

Mr. KORNEGAY. You had the Emergency Board, the Presidential Board, and the Special Panel, the Fahy Panel.

Mr. WOLFE. No. We have had the Mediation Board, the Emergency Board, and the Presidential Panel.

Mr. KORNEGAY. So there are three Boards. Maybe they have been of some help but certainly they haven't been instrumental in reaching a successful conclusion of this dispute. That is my point.

What hope is there that this Board that would be appointed under this piece of legislation would have any different result from those three that you have already had?

Mr. WOLFE. There is this psychological effect, whatever it may be worth: If this proposal is enacted into law, we not only have an opportunity to further consider our respective positions, but we also have the knowledge that if we don't do something we are going to have the dispute disposed of and both sides are going to have to live with it.

Mr. KORNEGAY. For 2 years. Then we are right back where we started.

Mr. WOLFE. Not necessarily for 2 years. That is the absolute maximum.

When you say we are right back where we started, I can't either agree or disagree whether we are back where we started. If the Panel should establish procedures that would dispose of the whole dispute, then I don't think it is reasonable to conjecture that we are back where we started.

Mr. ADAMS. Would the gentleman yield?

Mr. KORNEGAY. Yes; I yield.

Mr. ADAMS. Mr. Wolfe, and I hate to use homilies with Wolfe and Fox involved here, but if you want to have compulsory arbitration which you come out in favor of, aren't you like Brier Rabbit saying, "Don't throw me in the briar patch"?

Mr. WOLFE. I am not too well acquainted with either briar patches or rabbits.

Mr. ADAMS. You will remember Brier Rabbit kept saying "Don't throw me in the briar patch" and that is where he wanted to go all the time.

Mr. KORNEGAY. Brer Rabbit.

Mr. ADAMS. I am sorry.

Mr. KORNEGAY. Brer Rabbit in the briar patch.

Mr. ADAMS. My southern accent is too long gone, Mr. Kornegay, from being in the West too long.

But the precise point, which I think Mr. Kornegay is making so very well, is that if you want to have this settled by compulsory arbitration, which has been the announced position of the railroads, and the do this and set up another Board as the President's proposal does, what hope is there that there is going to be any settlement?

You have achieved what you want.

Mr. WOLFE. All I can do is repeat what I said. The record, in my opinion, is absolutely clear, that the railroads accepted the mediation proposal, accepted the Emergency Board report. There is no reason for anyone to believe, whether you like us or dislike us, that we are not going to accept what this Panel proposes.

Mr. FRIEDEL. Would the gentleman yield?

Mr. KORNEGAY. I will yield if I have any time left.

Mr. FRIEDEL. Didn't you say yesterday that you turned down the last report?

Mr. WOLFE. No; I said that we accepted the 6 percent——

Mr. FRIEDEL. In part. But you turned down, both sides turned down, the last report.

Mr. WOLFE. The unions turned down the whole report.

Mr. FRIEDEL. And you said yesterday both sides have turned down the last report.

Mr. WOLFE. No. Let me repeat it just so there will be no misunderstanding. We reluctantly accepted the 6 percent for the 18-month period across the board. We rejected the 5, 5 and 5.

The unions rejected the thing in its entirety.

In my response, I did not say we accepted the Fahy recommendation. I said we accepted the Mediation Board-proposed settlement. We accepted the Emergency Board's proposed settlement.

Mr. FRIEDEL. But the last one you did not.

Mr. WOLFE. I think, Congressman Friedel, you can go on and on and on, and each time we get a recommendation based on the record where the parties had all the advantages of due process, one side rejects and the other accepts, somewhere along the line you reach the point where you just feel you can't be pyramiding and pyramiding.

Mr. FRIEDEL. I just want to get the record clear. I am not saying you are right or wrong, but I want to get it clear, that both sides rejected the last one.

The CHAIRMAN. Dr. Carter?

Mr. CARTER. No questions.

Mr. MACDONALD. Would the gentleman yield to me to clear the record?

Mr. CARTER. Yes.

Mr. MACDONALD. When we were talking about your not being invited to attend, it was my understanding that you also said Mr. Leighty, one of the chief negotiators for the railroad, did not attend. Is that what you said?

Mr. WOLFE. No. I said Mr. Leighty, who is president of the Railway Labor Executives Association was present, but he is in no way involved in this dispute. He does not represent the shopcraft unions.

We have made a settlement with Mr. Leighty and his union.

Mr. MACDONALD. Was there nobody there from the shopcraft unions?

Mr. WOLFE. According to this report, Mr. Michael Fox was there.

Mr. MACDONALD. Wouldn't it have been helpful for you to try to get together with Mr. Fox at that time? Mr. Leighty is reported as saying, and I have every reason to believe the report, that the Deputy Secretary of Defense, Mr. Vance, indicated early in the Pentagon meeting that the administration had already decided against the proposal.

Mr. Leighty said, "The officials present didn't seem to be interested in our answers to questions about the plan's feasibility or in exploring the matter further."

I say, wouldn't you have liked to have been there to explore the plan further?

Mr. WOLFE. Well, Mr. Macdonald, I can say this to you, that if I had been invited, I would have been there. Whether I would have been able to make any greater contribution than I have elsewhere, which apparently hasn't been too much, that is a question. But if I had been invited, I can assure you I would have been there to do what limited, very limited, things I could do.

Mr. MACDONALD. If you were there, and Mr. Fox was there, wouldn't that have been a confrontation in collective bargaining?

Mr. WOLFE. No, sir.

Mr. MACDONALD. That is, one in which you could explain the railroad's side as to the difficulties that you keep talking about in putting such a plan as has been suggested into effect?

Don't the railroads have more expertise than Deputy Secretary Vance or Assistant Secretary Ignatius in how to run a railroad, if you will pardon the expression?

Mr. WOLFE. I have been out of operating for some time, although I believe I am still an operating man. As to these various people I never even heard of them until I saw their names here. How expert they are in their job, my gracious, I wouldn't be in a position to say. They may be expert railroad men for all I know.

Mr. MACDONALD. But there were no expert railroad men that you do know that were at the meeting? Isn't that correct?

Mr. WOLFE. I wouldn't want to say that the two union people are not railroadmen with a lot of experience. As to the others, I just don't know them. They may be the best railroadmen in the world for all I know.

Mr. BROWN. If Dr. Carter has any time left I would like to ask him to yield, if I may.

The CHAIRMAN. He has time left.

Mr. CARTER. I yield to the distinguished gentleman from Ohio.

Mr. BROWN. Thank you, Dr. Carter.

I would like to clarify one figure that was mentioned yesterday, and which was mentioned again in your colloquy with the gentleman from North Carolina. That is this $6 million a day. That is not the fixed railroad charges. Yesterday you said something to the effect that strikers and nonworkers are paid $10 a day, a total for the railroad industry of $6 million a day.

Would you explain that or elaborate on it?

Mr. WOLFE. Yes, sir. It has been held, and I believe—in fact, I am certain—affirmed by the courts, that employees who strikee in the railroad industry are entitled to unemployment insurance benefits. The benefits are something in excess of $10 a day, and they are paid for 5 days a week.

In other words, if a group of railroad employees strike they are paid $50 plus each week they are on strike, and the railroads pay for it. On the basis of 630,000 employees, at $10 a day—these are rough figures—the railroads would pay $6,300,000 a day in strike benefits.

Mr. BROWN. The railroads contribute to that fund, but it is not my impression that the railroads either pay directly or totally for that amount of money.

Mr. WOLFE. Yes; the railroads build up the fund. No one else contributes anything to it.

Mr. BROWN. It is a separate fund financed in what way?

Mr. WOLFE. Unemployment insurance tax that we pay on our payroll. If that fund, Congressman Brown, goes below a certain figure, then the percentage of our payroll tax goes up until the depleted fund is built up again.

Mr. BROWN. I think I understand how the unemployment compensation system generally works. Am I to understand it works separately for the railroads?

Mr. WOLFE. Yes; entirely so. We have a special act of Congress applying only to the railroads.

Mr. BROWN. This is under the Railway Labor Act?

Mr. WOLFE. No, sir. It is the Unemployment Insurance Act. The railroads have the Railroad Retirement Act, and the Unemployment Insurance Act.

Mr. MOSS. Mr. Chairman, would the gentleman yield?

Mr. CARTER. I yield the balance of my time.

Mr. MOSS. Isn't it a fact that the funds you are referring to, the Railroad Employees Unemployment Fund, is one to which you made currently a contribution required by law?

Mr. WOLFE. Yes, sir.

Mr. MOSS. And that contribution has been considered as a part of the operating expenses of the railroad over the years?

Mr. WOLFE. Yes, sir.

Mr. MOSS. Therefore, you have oversimplified vastly when you say that the railroads will be paying this because your obligation is to the extent of the fund and not an open end one; is that not correct?

Mr. WOLFE. No; that is not entirely correct, Mr. Moss.

Mr. MOSS. I wish you would point out to me wherein I err.

Mr. WOLFE. Yes; I will.

The act specifically provides that the carriers pay a certain percent of the payroll. If the fund goes below a certain amount, the percentage goes up. I am not certain just exactly what that percentage is.

Mr. MOSS. It still is not an open end matter, is it?

Mr. WOLFE. It is 4¾ percent.

Mr. MOSS. It is not an open end matter?

Mr. WOLFE. It is not an open end matter.

Mr. MOSS. You are committed to the extent that the law requires contributions?

Mr. WOLFE. Absolutely.

Mr. MOSS. And only to that extent.

I wanted that cleared for the record.

Mr. WOLFE. I think we have said the same thing in different words.

Mr. MOSS. Thank you.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. I thank you, Mr. Chairman.

I hope what I say to begin with is not considered in any personal vein. I have found that the line of questioning this morning is highly

irregular, and I cannot understand it. It seems to me that some members of the committee this morning have actually challenged the integrity and the motives, and I guess the facts, of Secretary Boyd and Secretary McNamara.

One member even asked if Secretary Boyd was speaking for the railroad association. I am surprised and disappointed that that kind of question was raised.

I think the Secretary of Transportation, Mr. Boyd, and I think the Secretary of Defense, Mr. McNamara, are speaking for the American people. I don't question their integrity and I don't question the motive that prompted the report.

I am surprised that this line of questioning developed, though the witness had nothing to do with it.

As I recall it, the request for a conference with the Department of Defense was made by the unions who wanted to present their plan. I assume that they were there to present their plan. I assume that it was a fair and thorough hearing. If any member doesn't think so, then I think they ought to challenge them and say so publicly.

We can request that the Secretary come back for a meeting. I think we ought to have any kind of hearing anywhere, with any individual, that would honestly and sincerely help the hearings.

But if we bring the Secretary back, we will have testimony on other points, on seizure, and further delays, and if the report is made in the morning they will say it should be made in the afternoon, and if one report is signed by 20 people they will say it should be signed by 50 people.

Mr. Moss. Mr. Chairman?

Mr. PICKLE. I do not yield.

Mr. Moss. A point of personal privilege.

The CHAIRMAN. The gentleman from California.

Mr. Moss. The point of personal privilege goes to the matter I requested very vigorously, on the meeting which apparently took place yesterday. I want to point out to the gentleman that the Secretaries of the Departments of the Government represent the President of the United States, that the members of this committee are elected by free people and we speak for those constituencies. I do not yield to the Secretary of any Department an assumption that he speaks for the American people with any greater right or force than I do.

Any inference to the contrary I think demeans this body. I don't intend to remain silent while it is made.

Mr. PICKLE. I would ask the gentleman what is his point of order?

Mr. Moss. My point of order was precisely as stated. It was a point of personal privilege. I did not make a point of order. A point of personal privilege is a privileged matter.

Mr. PICKLE. Mr. Chairman, I assume there is a difference of opinion here.

I said at the beginning I hoped nobody would think my statement personal because I have not raised any questions or raised my voice in almost 2 weeks of hearings, but the line of questioning, it seems to me, is not pertinent to the facts.

Nevertheless, this is our system and I accept it.

Of course, we do speak for the people and, of course, the Secretary of Transportation and the Secretary of Defense also speak for the people.

You can twist it any way you want to, I say to the gentleman of California, but it is still a fact.

Mr. Moss. Mr. Chairman?

Mr. PICKLE. Does the gentleman have another point of order?

Mr. Moss. The gentleman referred to twisting. I point out the Constitution states the obligations of a Representative. It is not a matter of twisting.

Mr. PICKLE. I would be willing to accept another word, if you would submit it.

Mr. Chairman, I don't want to get into this line of discussion. I simply want to make my point that I think the questioning has been highly opinionated. That is part of the system, but I want to express my own opinion.

Let me say to the witness I appreciate the statements you have made with respect to the measure I have introduced. When you made that statement yesterday I received it with some mixed emotion. I didn't know whether it would hurt or help my bill. But I do thank you and I appreciate your description of it.

I have listened with a great deal of interest to the point you made how we might improve it if we don't give the President as much discretion, but let it be shared by some board or committee. I want to look into that.

I have a couple of questions that I want to ask further on that bill, as I have time, or if somebody will yield to me, or if I have the chance to make the statements.

Do you think that we can mediate this opinion before this committee, this dispute before this Commerce Committee?

Mr. WOLFE. No, sir; I do not think it can be mediated here.

Mr. PICKLE. I share that opinion. I don't think anybody on the committee wanted this political football tossed to us. I am sure all of us would rather not be involved. But we have no alternative, since this particular resolution was introduced, but to consider it.

It seems to me like we are subject to the most intensive opinions and backgrounds. I don't think we will ever be able to actually mediate a dispute of this kind before the committee. However, I was particularly impressed with the line of questioning of the gentleman from Illinois, Mr. Springer, because I think it helped establish the facts.

But we are not going to mediate this thing. We have spent 2 weeks and we can spend another 4 weeks. We can end up using as much time as the Mediation Board and we will never have a decision on it.

I asked that question for a number of reasons. It was my opinion when I introduced my measure that the time has come when we have to find a better answer. The chairman, himself, said that we have reached the point where perhaps collective bargaining has broken down in this dispute and real collective bargaining was not being followed under the present trend of the dispute.

I think that perhaps is correct and we all share that view. If that is so, then we must amend or we must find some other answer to our present procedure. That is why I have introduced this legislation, without respect to the parties involved, but with respect to what I think will be an improvement.

I hope it will be received in that light, and that I will have a chance to testify whenever time is permitted for other measures to be considered other than this particular resolution.

The only thing before us now is that we either have to see a strike take place or we are going to have seizure by the Government, if the Government has the power.

We have limited our discussion to this particular ad hoc resolution. I would think that the questioning would be along those lines and not with respect to a lot of rabbit chasing.

I hate to refer to the rabbits because the gentleman from Washington has already talked about rabbits and foxes. I think he asked that of a gentleman who is named "Wolfe."

I would like, Mr. Chairman, to have 2 additional minutes.

Mr. MACDONALD. I object.

The CHAIRMAN. Objection is heard.

Mr. Brown?

Mr. BROWN. I would like to have the legal opinions from your staff as to any arrangement by which the railroads can be operated.

In the testimony you gave yesterday, you suggested that the employers are taking more of a gamble in a strike and have more to lose in a strike than the employees. Can you elaborate on that just a little for me, please?

Mr. WOLFE. Yes, sir; I shall try to, Congressman Brown.

In the first place, it is going to cost us, as an out-of-pocket cost, $12 million a day.

In the second place, we have no income.

In the third place, whenever there is an interruption of traffic, there is a diversion of traffic to other agencies of transportation. We are now in a highly competitive field. It is no longer a monopoly as it was 50 years ago.

Mr. BROWN. You are suggesting a permanent loss of traffic?

Mr. WOLFE. Yes, sir; I am.

Mr. BROWN. Doesn't that directly, however, also affect the employees?

Mr. WOLFE. Yes, sir; it will definitely affect the employees.

Mr. BROWN. Are there other factors?

Mr. WOLFE. There is this factor: that if this proposal of the President comes on, then we firmly believe that our operating expenses will be increased because there isn't any question but what there will be wage increases.

Mr. BROWN. That goes to the next question I would like to ask. Relative to the $12 million which the strike would cost you, what would settlement on terms that represent the last union offer cost you?

Mr. WOLFE. I gave this to Congressman Springer earlier. As I explained at the time, it was strictly an estimate on my part, but I believe it will be fairly accurate. It would be roughly $130 million a year beginning January 1, 1968; roughly $70 million a year during the year of 1967. Of course, it would be retroactive to January 1, 1967.

Congressman Springer did not ask me this question, but I believe your question is broad enough to cover it: It also would mean, in my opinion, that all the unions with which we have made agreements will immediately move on a catch-up program, and how much that would cost is impossible to estimate at this time.

Mr. BROWN. Would you estimate that it would cost more than $12 million a day?

Mr. WOLFE. For all the employees?

Mr. BROWN. For all the factors you mentioned.

Mr. WOLFE. Yes; if there is a catch up it would cost more than $12 million a day.

Mr. BROWN. Can you give me an order of priority in terms of the railroad viewpoint as between the three possible—I hate to call them solutions—the three possible alternatives in this problem, House Joint Resolution 559, seizure, and a strike, from the railroad viewpoint?

Mr. WOLFE. Yes, sir; I can do that very readily. I am going to do this, if I may, in the order of the alternatives as you mentioned them.

Number 1 is the proposal of the President. We believe that that is the best solution. I concur in what has been said about that bill by Secretary of Labor Wirtz, that it is not compulsory arbitration in the sense that that phrase is generally used.

Mr. BROWN. And the second choice?

Mr. WOLFE. Seizure in our opinion doesn't settle anything.

The dispute remains before us. In my opinion, it punishes the innocent. I think the record before this committee shows conclusively that the railroads have bargained in good faith. I think the President, in his message to the Congress, where he indicated that seizure was not proper in light of the situation here, that that statement was made made on the basis of his knowledge of the negotiating background in this case, where the carriers, without any question at all, have bargained in good faith.

As to the last——

Mr. BROWN. Does that make seizure your second choice, Mr. Wolfe?

Mr. WOLFE. No; I wouldn't take seizure under any circumstances.

Mr. BROWN. And the third choice?

Mr. WOLFE. The third choice is a strike, if I understand you.

Mr. BROWN. My question is what would be your priorities? As I understand it, your first preference is House Joint Resolution 559. Your second preference would be seizure or strike?

Mr. WOLFE. Mr. Brown, that is like saying "Do you want to die from measles or smallpox"?

Mr. BROWN. It is precisely the problem which this committee has, and we don't want any of these three alternatives, I don't think. But we are faced immediately with all three alternatives. My question is—I know what your first choice is—Is there any opportunity for you to give me your second choice? My time is fleeting, too, so if you can indicate an answer, fine. If not, we will go on.

Mr. WOLFE. I am not going to use the word "choice" because if I had my choice, I certainly wouldn't take either, and I have no preference on one between the other.

Mr. BROWN. Thank you.

You indicated in your testimony that you would favor a permanent solution to the situation which has brought us to this particular impasse. Do you have any indications of the direction that permanent solution might go: that is, in terms of permanent labor legislation that might speak to the problem in such an industry?

Mr. WOLFE. I think the Herlong bill would be good. I think it would solve our problem and it would inspire more sincere and effective collective bargaining. I think the bill introduced by Congressman

Pickle is a sound bill and ought to be given very profound consideration.

But I also think, and perhaps I think this more strongly than anything else, that if Congress decides that something should be done, then I think the Congress should enter into this with the idea that the equities of all interested parties will be preserved, but these entirely too frequent crises should be avoided and something should be worked out that will be an effective remedy.

Mr. BROWN. Do you see any "daylight" in the possibility of Federal legislation which would eliminate the nationwide nature of this problem?

Mr. WOLFE. That has been discussed by a great many people, but I honestly believe that it would do more damage than good. I make that statement for this reason: The unions would be severely handicapped if they had to handle, in particular, their wage movements with each carrier.

Keep in mind there are over 200 railroads in this industry. If a union sought to secure a wage increase and they had to go from railroad to railroad, by the time they finished with the 200 railroads most of the beneficiaries would be retired before they got it. It would put a terrible handicap on the unions.

Also, wages for most of our employees are pretty much standardized. You have the problems of ability to pay and many other things. I really do not think that it would improve collective bargaining. Instead, I think it would bring about a deterioration of collective bargaining. I just cannot believe that the unions would support that.

Mr. BROWN. I might say I am not sure that House Joint Resolution 559 will improve collective bargaining either.

The CHAIRMAN. Mr. Satterfield.

Mr. SATTERFIELD. Thank you, Mr. Chairman.

Mr. Wolfe, you have been questioned at some length about specific issues in this dispute. I don't doubt but what there will be additional testimony in this area by future witnesses. That brings to mind a point I would like to pursue.

In answer to a question by the gentleman from Illinois, you stated this morning there were two general areas of dispute, one being the amount of money involved and the duration, and you stated the third being the adjustment of inequities.

Are you talking here about—and I base this on a statement made yesterday that you recognize that there are inequities that ought to be corrected—the question of job evaluation? Is this where the dispute lies in this area?

Mr. WOLFE. It does to a great extent, Mr. Satterfield. The Emergency Board, that is Emergency Board No. 169—and by the way, the previous Emergency Board found the same situation and reached the same conclusion—found a comparison of rates, basic rates, must be accompanied by a comparison of skill requirements, and that can only be accomplished by a job evaluation study.

Mr. SATTERFIELD. Is the question of a job evaluation study in dispute?

Mr. WOLFE. Yes, sir.

Mr. SATTERFIELD. It is also a question in dispute as to who is to conduct such a study?

Mr. WOLFE. The Emergency Board recommendations contemplated that if the parties could not agree on the procedures to be adopted in connection with the job evaluation study, they would be assisted by the Department of Labor.

If an agreement as to procedures could not be reached, that would be arbitrated.

Mr. SATTERFIELD. In your estimation, is the question of disagreement as to amount tied up irrevocably with the question of job classification?

Mr. WOLFE. Certainly if we proceed in an attempt to rationalize this disturbed situation, a job evaluation study is absolutely essential.

Mr. SATTERFIELD. As far as you are concerned, would this not resolve the question so far as amount is concerned?

Mr. WOLFE. Yes, it would, and we would accept it. I think the most appealing factor there involved is that it would bring about a permanent remedy of any alleged inequities, and not a piecemeal proposition which will arise from time to time and continue to harass both of us.

Mr. SATTERFIELD. So the job evaluation is a very critical situation as far as you are concerned.

Mr. WOLFE. Yes.

Mr. PICKLE. Will the gentleman yield?

Mr. SATTERFIELD. Yes, I yield.

Mr. PICKLE. I didn't get to ask you a couple of questions I wanted to ask you a while ago. and which I also want to ask the witnesses who will follow you.

In the consideration of any new legislation, what is your feeling if provision was made by law that the parties dealing in the dispute, in the mediation or on the Emergency Board, the parties, the railroads, and the union, would have plenary authority, that is, authority to actually speak for their group and not have to go back to either the railroad management or to the unions for an answer? If they could reach an agreement, that would be binding.

Mr. WOLFE. I do not believe, especially in the railroad industry, that good-faith collective bargaining can be successfully carried out unless the parties who are actually negotiating have the definite authority to find their principals. We have that authority through power of attorney. If a railroad or a group of railroads feel that we have gone too far, that is just too bad. They are bound when we make an agreement.

Mr. PICKLE. Your answer is that you would think that would help in significant mediation if both parties had plenary authority?

Mr. WOLFE. Yes, sir.

Mr. PICKLE. My next question is: If sometimes they really don't do serious bargaining until they get into an Emergency Board or a Special Board, what would be your feeling if any law we might establish said that the Emergency Board or a Special Board would, in their decision, choose either A or B, they would choose either the railroads' position or they would choose the union position?

Sometimes the parties are poles apart with no real effort, I assume, to get together. What would be your feeling that if you reached a point where the decision was tossed into an Emergency Board? Would you think it would be wise that they get to choose one or the other, but not both?

Mr. WOLFE. That subject was discussed just recently before a Committe of Nine representing the American Bar Association. I was there. I spoke for the railroads. It is a very interesting subject.

The discussion we had may have been a little bit different from your question. It involved compulsion; that is, if you had an Emergency Board with final and binding authority, and before it would be submitted the last proposition of the carrier and the last proposition of the union or unions, and the Emergency Board would be limited to selecting one or the other——

Mr. PICKLE. Pardon the interruption. This pertains to possible future legislation. I am mindful of the other members' time. Would you submit your proposition on that for the record?

Mr. WOLFE. I will be glad to, yes.

(The material requested was not available at time of printing.)

The CHAIRMAN. Mr. Adams?

Mr. ADAMS. Mr. Wolfe, I hope you do understand that the positions that many of us take here do not represent a particular dislike of either party but a dislike of our particular position. We do want to talk about the specific legislation.

The specific thing that continues to bother me about it, and Mr. Kornegay brought this out very well—and it has been brought out several other times—is that the parties have frozen, and the chairman has pointed out there has been very little actual face-to-face bargaining.

It seems to many of us that it is a fact that the parties are not bargaining or will not bargain and, therefore, we are looking for the solution. When we talk about seizure, we are not talking about seizure alone. I want to ask your opinion about this:

Suppose we combine all of the factors which have been discussed here, which are a board that will set down a specific set of findings or a decision—you can call it compulsory arbitration—and we continue to hold the union by injunction, and that we hold management during the same time by a form of seizure which, in effect, puts their profits and so on in escrow and prevents the giving of bonuses and the other things, continuing to operate as usual—that we put all of these factors together.

When you have testified about the fact that in a strike situation you have a $12 million a day loss, I think you know, and I think this affects the bargaining, we are not going to be able to let a strike occur, according to the Secretary of Transportation, the Secretary of Defense, the Secretary of Labor, the President, and everybody else.

I would like to know where you think, if we don't put in in addition to the compulsory arbitration feature which we have in House Joint Resolution 559, and the injunction which we have in House Joint Resolution 559, some pressure on the railroad, why there is any pressure on you to change your position and bargain?

Mr. WOLFE. Is that a question?

Mr. ADAMS. It is.

Mr. WOLFE. It is not a question?

Mr. ADAMS. It is a question. What are we doing in this legislation, in House Joint Resolution 559, that is going to do what we want to do, in other words, to dynamite the parties out of their frozen position, what pressure is there at all on management to bargain?

Mr. WOLFE. There is the pressure that always confronts people who have the responsibility of making agreements. Now, regardless——

Mr. ADAMS. Just a moment before you go any further.

In the normal bargaining situation, you have the parties faced with the ultimate in economic weapons. In other words, the pressure that is upon the railroads is "We don't want to have a strike."

The pressure that is on the men is, "We have to bargain in here and they may either lock us out or they can hold out on us as long as they can. We have this ultimate factor and, therefore, we have to bargain."

In this situation, we are holding the union by injunction. We are not going to let them strike. We are attempting to set up some kind of an award. You are on the record, and I know you don't deny it, that the railroad industry wants and likes to have compulsory arbitration awards. If we don't come down with something that is hostile to your position, you are in the best of possible worlds. Why should you bargain?

Mr. WOLFE. We are not in the best of possible worlds at all. Nothing could be further from the fact.

Mr. ADAMS. Tell me what would make you bargain if we do this.

Mr. WOLFE. Any time the unions demand something and we fail to make an agreement, and we risk permitting that issue to go before someone else, then we are taking the most desperate kind of a gamble. We have no idea just what the result will be.

Mr. ADAMS. You do in this case, do you not?

Mr. WOLFE. I beg your pardon?

Mr. ADAMS. You do in this case. You know what the result is going to be because you have been told by the Emergency Board, by the Special Panel, and House Joint Resolution 559 says that you shall build on that.

Mr. WOLFE. No, that isn't what it says at all. It says it may be modified. That doesn't necessarily mean you are going to build on it.

Mr. ADAMS. In other words, you are telling me that the chance of some modification from the compulsory arbitration or the compulsory statement that has been made is enough pressure on you to move you into a bargaining position when you have already explained to me when you were here before that you have reached a fixed position and although there may be some question about it, you are not going anyplace from that fixed position?

Mr. WOLFE. I don't say that at all. I don't think anyone else has a right to say it. You can guess that. You may dream it up. But there is nothing to support your guess.

Mr. ADAMS. Well, there is this to support it. First is the position the railroads have taken with Public Law 88–108, which was to freeze the award beyond the 2-year period. That is the first thing that supports my guess, or call it whatever you want.

The second thing is the history of the bargaining at this point, as has been brought out by the chairman and by several other members, that the Emergency Board said there was no bargaining until they met. You may disagree with that, but it supports my position.

Third, we are here today because the parties cannot reach the final point. The facts as brought out by Mr. Springer indicate that you are quite close together. What we are trying to determine as a committee

is with this legislation, what we will have to do to make both parties bargain.

We are ready to do it to the unions, to enjoin them, and maybe we are ready to go with an award system in this temporary legislation which they don't like.

All I am asking you is, and you have answered it, whether you think the fact that the award may be modified is enough pressure on you to make you collectively bargain.

Mr. WOLFE. Yes, I do.

The CHAIRMAN. Mr. Nelsen, Mr. Watson wanted to ask a question. Will you yield to him?

Mr. NELSEN. I will yield.

Mr. WATSON. I passed on the first time around. May I ask two or three questions?

Mr. NELSEN. On your time, yes.

Mr. WATSON. Yes, on my time.

I am sure, Mr. Wolfe, all of us are disturbed about the absence of apparently any mediation efforts at this time, so I am going to restrict my questioning to that.

As I recall, you made definite progress with the help of the Mediation Board in narrowing the issues in dispute.

Mr. WOLFE. I think the real progress——

Mr. WATSON. Did you or did you not make progress under the Mediation Board?

Mr. WOLFE. I think we made some progress.

Mr. WATSON. Some progress in narrowing the issues?

Mr. WOLFE. Well, the real progress, Mr. Watson, was made before the Emergency Board, when the Emergency Board rejected a great many proposals, and I think that most of those have been more or less abandoned with the dispute in its present posture.

Mr. WATSON. And I believe further you said you were successful in narrowing the issues in dispute with the special board, the Fahy Panel.

Mr. WOLFE. To this extent: The special panel, the Fahy Panel, recommended a 6-percent across-the-board increase for 18 months and we accepted it.

Mr. WATSON. Did I understand you earlier to say that in the absence of any third party help at this time, you believe it would be fruitless or meaningless for the parties to get together at this time?

Mr. WOLFE. Yes. I base that not only upon my own knowledge of the case, but also the statements made by Secretary of Labor Wirtz before this committee, and others.

Mr. WATSON. Through the efforts of the parties, plus the third party interest, these Boards, you have been successful in narrowing the issues.

Now we are at the point where apparently no effort is being made by either party to the dispute to mediate. You have not had any vis-a-vis contact since April 25, I believe.

Mr. WOLFE. That is correct.

Mr. WATSON. Believing that you do not want compulsory arbitration, even of a temporary nature, and we know from the expression of organized labor that they do not want it, I am sure from the questions that the committee members have asked that they do not want it unless it is absolutely necessary, do you believe it would be helpful at this point for us to give both parties a last chance to prove whether

or not they really believe in collective bargaining, that is, if this committee could come up with a special mediation committee or board composed, let us say, of the Secretary of Labor, Transportation, or Defense, plus a representative from management and one from labor, to give you an opportunity to negotiate with them between now and the end of this 27-day extension?

Do you believe that would be helpful?

Secondly, do you think you would agree to do that if the committee could get together on that recommendation?

Mr. WOLFE. If the committee would instruct us to do something, certainly we would give such instruction profound consideration. But I want you to keep this in mind: that there are six unions involved. My experience is that no one person is going to speak for all six unions.

Mr. WATSON. You agreed earlier in supporting House Joint Resolution 559 to the very same thing that you apparently now are criticizing. Under the provision of this resolution, you would have five appointees, one of whom would be from organized labor and one from management. You supported that.

Mr. WOLFE. Not necessarily.

Mr. WATSON. They are all recognized as public members, at least the President stated that in his message.

Mr. WOLFE. I understand, and I hope I am not wrong that the representatives of the parties will continue to represent their principals before that panel, even to the extent of having hearings, if that is necessary.

Mr. WATSON. So far as my recommendation is concerned, the unions would still have their representatives, but there would be nothing wrong with their having a consensus and one spokesman. If you get too many people involved, you will get lost in insignificant or trivial things.

But you don't believe such a suggestion as that might be helpful in bringing you closer together?

Mr. WOLFE. I doubt it at this moment.

Mr. WATSON. But you would be agreeable to enter into it in good faith?

Mr. WOLFE. I will do anything within reason to try to help resolve this thing, whatever it is, if it is reasonable and fair.

Mr. WATSON. Mr. Chairman, would it be inappropriate at this time to ask the spokesman of organized labor as to whether or not they will agree to this?

The CHAIRMAN. They will be before us, I believe, tomorrow.

Mr. Blanton?

Mr. BLANTON. I have no questions.

The CHAIRMAN. Mr. Nelsen?

Mr. NELSEN. Thank you, Mr. Chairman.

In this dispute have there been any recommendations from higher levels as to a degree of settlement? I recall that in the airline strike we were told repeatedly that certain recommendations had been handed down from high places. In my judgment, this did imply there was some interference.

Has there been any interference from top-level people in your dispute?

Mr. WOLFE. No, sir. To the best of my knowledge there has been no interference.

Mr. NELSEN. Mr. Springer mentioned that labor and management were close together in this dispute. I want to be sure I understand the President's proposal.

It is my understanding that after these Panels are set up in a specified number of days there would be hearings where both sides will be heard. Isn't it true that the Panel might very likely come up with a recommendation that the railroads abide by the request of labor? This is a chance you take, do you not?

Mr. WOLFE. Yes, sir.

Mr. NELSEN. If the Panel were to say that you must abide by the request of the unions, you would have to do it, take this commendation for a period of 2 years; is that right?

Mr. WOLFE. That is correct.

Mr. NELSEN. So you have reason to fear what might happen by going through this Panel, do you not?

Mr. WOLFE. We have very grave reason for apprehension.

Mr. NELSEN. The machinists from my State indicated to me that their level of pay was far below the level of pay in other competing industries within our State. In your job evaluation process, has that been taken into account, the various crafts within organized labor, so that there is some adjustment in those cases?

Mr. WOLFE. Yes. We have given that very careful consideration, Mr. Nelsen, and so did the Emergency Board. If there is a job evaluation study, which I firmly believe is the only permanent remedy, you can rest assured whatever the result is, if it discloses that certain of our mechanics are underpaid, and a recommendation is made that the rates be increased to a certain level, the carriers will accept it.

Mr. NELSEN. Mr. Chairman, may I yield my further time to Mr. Brown?

Mr. BROWN. I will be happy to yield to Mr. Springer, since I think I know what the point is.

Mr. SPRINGER. I thank both of the gentlemen for yielding to me on this point.

I was under the impression, after listening to the Secretary of Labor the other day, that these people were quite close together, 3 cents. According to the testimony given by Mr. Wolfe as of this morning, they are indeed far apart. The difference between the first year of $30 million to $70 million, and for the second year between $60 million and $130 million.

There is the difference between an offer of 5 percent for 1 year and escrow for the inequities, and an offer on the other part, as I understand it, of 6½ percent the first year and 12½ cents, the second year 5 percent and 12½ cents.

We can certainly ask the brotherhood when they come tomorrow, but it is approximately 5 percent on one side and the inequity, and 19 cents. Am I correct?

Mr. WOLFE. You certainly are.

Mr. SPRINGER. I want to ask them if this is their position, relatively, compared to what Mr. Wolfe said today.

Apparently the Secretary of Labor either misunderstood the statement at the White House or he misunderstood the other day here in testifying. I would guess they are 14 or 15 cents apart, if Mr. Wolfe's testimony can be accepted as true.

Maybe we will come up with a different opinion tomorrow. But these parties are not even beginning to get close. There is a variation be-

tween Mr. Wolfe's testimony and the Secretary's. I think it might be wise for the Secretary to come back and give his opinion on this.

Thank you.

Mr. BROWN. I have two questions. I am certain Mr. Pickle will be proud of me on the first one, because it relates only to House Joint Resolution 559 and the Board proposed in the resolution.

Are you satisfied Mr. Wolfe, with the five-member Special Board as constituted or designed to be constituted under this recommendation, an entirely public board, as I understand it, one of whom has a background in railway management and another of whom has background in railway labor?

Mr. WOLFE. If I were certain that that is what it means, I wouldn't be quite as worried as I am. The bill, as I understand, simply says there will be one member with a management background and one member with a union background. It does not specifically state the management man will be with a railroad background, nor does it specifically state that the other member will be with a union background in these particular unions.

Mr. BROWN. Do you think it would be helpful to have House Joint Resolution 559 changed to that extent?

Mr. WOLFE. Yes. I think the man with the management background could be more helpful to the panel if he knew what he was talking about.

Mr. BROWN. Would you prefer three public members and one from railroad management and one from railway labor?

Mr. WOLFE. Yes; I would. I think these shopcraft unions have a perfect right to be represented, to know what is going on.

Mr. BROWN. The other question I have is on the figure of 74 percent of the employees having settled. That figure has been used in these hearings thus far.

Is that precisely accurate? Am I correct in the assumption that there are 24 unions involved here?

Mr. WOLFE. Yes, sir.

Mr. BROWN. With how many of those unions has management settled?

Mr. WOLFE. We made definite contracts with 13 unions. We are making agreements with some of the smaller unions on an individual railroad basis.

Mr. BROWN. How many? You are still negotiating, I gather?

Mr. WOLFE. We do not conduct the negotiations for certain unions. For example, the supervisors, the yardmasters—well, yardmasters will be on a national basis—the chair car porters, the patrolmen have a separate union. They are making agreements all over the industry and are accepting the pattern.

Mr. BROWN. How many unions are still in process? How many unions are involved in your inprocess negotiations to settle this matter?

Mr. WOLFE. Four.

Mr. BROWN. So that leaves how many unions——

Mr. WOLFE. And here are six. That makes 23.

Mr. BROWN. We left somebody out.

Mr. WOLFE. There is one little union that we haven't dealt with yet, but we will.

Mr. BROWN. One with which you have not dealt, and six?

Mr. WOLFE. The six involved here.

Mr. BROWN. The six shopcraft unions involved in this?

Mr. WOLFE. Yes.

Mr. BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. A brief question from Mr. Macdonald.

Mr. MACDONALD. Actually, it isn't a question, Mr. Chairman. I would just like to clear the record. I would like the record to have it show that I wasn't able to get the floor before now to answer the Member from Texas who said that the integrity of the Secretary of Defense and Secretary of Transportation were impugned by some of the members. Since I quoted from an article written by Frank C. Porter in this morning's press, I was quoting him, and the quotes that came from that article in no way, in my judgment, impugn anybody's intention, character or ability.

Certainly I would not want the record to be silent on that point.

I would like to point out, however, that what was said about the Secretary of Transportation talking like the Railroad Association appears in the article. That article states that, "Mr. Boyd said that the proposal by the union would only result in chaos."

In the next line, it says that "Allen J. Greenough, president of the Pennsylvania Railroad, said 'Such a program would prove completely chaotic.' "

So if there is anybody from the Department of Transportation here, he can report that this member did not impugn the motives of the Secretary of Transportation. I merely pointed out the similarity of language used by the president of a very large railroad about this proposal and his own language.

The Secretary of Defense was never mentioned. The person mentioned as attending was Deputy Secretary Cyrus Vance. All I know about him is that he has asked to resign. He voluntarily requested to resign.

I would like to make it clear, and I hope the gentleman from Texas reads the record, that if the gentleman from Texas thought that this member was impugning anybody, he should be more attentive to the words spoken.

With that, I would like to congratulate Mr. Wolfe, with whom I have worked closely on many occasions, for a fine presentation.

The CHAIRMAN. This concludes today's hearings.

Mr. Wolfe, this concludes our session with you.

I would like to say on behalf of the committee, we want to thank you, Mr. Wolfe, for coming and giving us the benefit of the views of your members in your organization. I think you have made a good witness.

Tomorrow we will have some representatives of the Railway Labor Executives Association with us.

Mr. WOLFE. May I thank you, Mr. Chairman and the members of your committee.

The CHAIRMAN. You have been very patient.

The committee will now adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 12:10 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 18, 1967.)

RAILROAD LABOR DISPUTE

THURSDAY, MAY 18, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order, please.

We will resume our hearings on House Joint Resolution 559.

We have for the first witness this morning Mr. George E. Leighty, chairman, Railway Labor Executives' Association. Accompanying him is Mr. Lester P. Schoene, counsel, Railway Labor Executives' Association.

I notice that your statement is a lengthy one, Mr. Leighty. Is it possible to summarize it for the record?

STATEMENT OF GEORGE E. LEIGHTY, CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION; ACCOMPANIED BY LESTER P. SCHOENE, GENERAL COUNSEL; AND MICHAEL MARSH, DIRECTOR OF RESEARCH

Mr. LEIGHTY. I would say that the items are very important. We have briefed them as much as we could. I would prefer to read the statement.

The CHAIRMAN. Very well, sir. You may proceed.

Mr. LEIGHTY. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is George E. Leighty, and I am chairman of the Railway Labor Executives' Association, with headquarters at 400 First Street NW., Washington, D.C. This association speaks for 23 standard railway labor organizations representing nearly all the Nation's railroad employees.

Seated with me is Mr. Lester P. Schoene, the RLEA's general counsel, who will also testify as a witness. On my other side is Mr. Michael Marsh, director of research of the RLEA.

In addition to my post with the RLEA, I am president of one of the railway labor unions, the Transportation-Communication Employees Union. Since 1946, I have served as chairman of the national negotiating committee of the cooperating nonoperating railway unions.

My experience in the railroad industry goes gack about 50 years, and I believe I know this industry as well as any man, not only from the standpoint of its labor relations, but from the standpoint of its operating practices.

I appear before you to voice the railway labor movement's determined opposition to House Joint Resolution 559 and to any other measure that would fasten a regime of forced labor—whether you call it finality or compulsory arbitration, or whatever—on the private employees of privately owned corporations.

Who profits by this bill, if enacted? The Nation's railroad corporations profit, whose earnings will be increased by paying lower wages than their shopcraft employees could win by exerting their own economic strength.

Who loses by this bill, if enacted? The underpaid railroad shopmen lose, by losing their democratic right to strike and the wages it could bring them.

This bill rewards the corporations and punishes the workingman. We find that grossly unfair. Moreover, the compulsory arbitration in this bill, coming on top of the compulsory arbitration Congress enacted in 1963, threatens to kill whatever life now remains in national collective bargaining in the railroad industry. Lastly, House Joint Resolution 559 is not only a biased bill; we believe it is also an unnecessary bill.

I should like to raise with you four principal questions:

First, if the railroad shopmen strike, need it be a national emergency?

Second, isn't there a better legislative approach than compulsory arbitration?

Third, who supports and who opposes antistrike legislation like House Joint Resolution 559?

Fourth, what is the broad background of labor-management relations in the railroad industry, against which one should judge the impact of restrictive legislation?

My first question is perhaps the most important of all. Every one of us is aware that nearly 500,000 young Americans are now fighting in the jungles and mountains of Vietnam. Many of them are the sons of railroaders. Not a single person in the railway labor movement wants to injure these, our sons, so far away.

With that in mind, Mr. Michael Fox, on behalf of the railroad shopcraft unions, and I, on behalf of the RLEA, sent a telegram to the Secretary of Defense, Mr. McNamara, on April 28, 1967, reading as follows:

> In view of scheduled national strike by railroad shopcraft unions at 12:01 a.m., May 3, we stand ready to meet with you at any time to arrange for continued rail transport of all shipments necessary to our Nation's military effort and the public health. This offer is made on behalf of shopcraft unions and other railroad unions. Cooperation on part of railroad managements would also be needed.

On May 2 we received a reply from one of Mr. McNamara's associates, Mr. V. F. Caputo, Director for Transportation and Warehousing Policy in the Office of the Assistant Secretary of Defense. He wrote:

> This is to convey our appreciation for the assurance given in your message of April 28, 1967, to the Secretary of Defense, regarding shipments of materiel required to support our Nation's military effort.
>
> In view of the fact that the deadline for the scheduled national strike by railroad shopcraft unions has been extended to June 19, 1967, it would appear that a meeting as you proposed is not now necessary. We will continue, however, to

follow closely developments in this matter, and should they indicate the desirability of a meeting in the future, we will be in contact with you.

It is our hope that there may be an early resolution of the issues between the shopcraft unions and the railroads, and that there will be no interruption of railroad service.

That was the reply from Mr. Caputo. On the morning of May 10, Mr. Fox and I sent a second telegram to Secretary McNamara as follows:

We received a reply from your associate, Mr. V. F. Caputo, to our telegram to you of April 28 offering to meet with you to work out plans for moving all rail shipments essential to the Nation's military effort and the public health in event of a national railroad strike by the shopcraft unions.

Your associate said we would be notified if and when such a consultation became desirable. We respectfully suggest that the proper time is now. We suggest that you designate a responsible and knowledgeable official of your Department to meet with a committee from the railway labor unions and a committee of practical railroad men from the management side to draw up a program for implementing our offer of April 28.

We further suggest that a senior member of the Senate Labor Committee and the House Interstate Commerce Committee be invited to sit with this planning group. The planning group could begin meeting on Monday, May 15, and continue meeting daily until the question is resolved, whereupon a report can be made to the appropriate committees of Congress. Congress will then be better able to judge whether it is truly necessary to deprive the railroad shopmen of their democratic right to strike.

Gentlemen, I want to tell you about the meeting at the Pentagon last Tuesday which resulted from this telegram—and from your own interest in our partial-operation proposal. Before doing so, however, I should like to recall a bit of history.

Back in 1959 we had discussions of a somewhat similar nature with the Pentagon—and when I say "we" I mean in this case both railway labor and management. That was when the Air Force was considering the idea of putting Minuteman missiles on special trains that would keep moving around the country to avoid offering a stationary target for enemy missiles.

The press reported that the plan was for 150 of these special trains. The military people naturally wondered what might happen to these missile trains in event of a railroad strike.

I might interpose here to say that at that time the contracts of practically all of the railway labor organizations were open and we were in negotiations. Naturally, the Air Force wanted to know what they could count on.

So, at their invitation, Mr. Daniel Loomis, as president of the Association of American Railroads, and I, as chairman of the RLEA, went to the Pentagon to talk with them. The results are indicated in a letter of October 23, 1959 to Mr. Loomis and me from Col. Earl C. Hedlund, Director of Transportation, Office of the Deputy Chief of Staff for Materiel, Headquarters, U.S. Air Force, reading as follows:

"In furtherance of recent exchanges of views between representatives of your organizations, Military Traffic Management Agency and the Air Force with respect to the ability of the railroad industry to provide positive, uninterrupted service in support of Air Force Minuteman missile program when and if activated, it is suggested that an understanding along the following lines might be appropriate.

"Both railroad management and railroad labor unite in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force,

in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

It should be fully understood that the Air Force must be assured of timely and positive operation of this weapon system under all circumstances other than those attributable to acts of God.

In the event that your organization might wish further information with respect to our Minuteman missile program, we would be happy to arrange such a presentation at the appropriate time.

Your response to the above proposal is requested so that the Air Force may proceed in its assessment of the feasibility of utilizing the Nation's railroads as an integral part of a weapon system.

That was Colonel Hedlund's letter. Mr. Loomis replied on November 4, 1959, confirming the assurance requested, on behalf of the board of directors of the AAR, for the member railroads of the AAR, which represents 95 percent of railroad mileage.

I replied on November 10, 1959, after obtaining the unanimous approval of all members of the RLEA, confirming the assurance on our part. I pointed out also in my letter to Colonel Hedlund that:

Mr. Loomis had stated on behalf of railroad managements that if the assurances you sought from railway labor were given, the managements would not, in the event of a strike, use service to the Government as a means of impairing the effectiveness of a strike; that if missile train operations and other services in connection therewith were required, employees who would normally perform such services would be used under joint management-union arrangements and the services thus made available to the Government would not be utilized by management in efforts to handle other traffic.

Mr. Chairman, I ask your consent that the text of this exchange of correspondence be printed in full in your hearing record at the close of my statement.

The CHAIRMAN. Without objection, that will be done.

(See pp. 231–233.)

Mr. LEIGHTY. Now, to keep moving 150 missile trains daily during a strike is by no means a minor operation. The missile trains, running 24 hours a day at an average 40 miles an hour, would accumulate 144,000 train-miles a day. Total freight train-miles of all class I railroads in the year 1965 averaged 1,145,000 a day.

The proposed missile train operation would require most of the basic underpinnings of railroad service—for example, signals, control towers, dispatching, communications, inspection and emergency repair of ways and structures, servicing of locomotives and cars, and inspection and emergency repair of locomotives and cars.

This was the undertaking that railway labor and railway management gave to the Pentagon as to the proposed missile trains in event of a strike. There were at that time no protests or claims of "It can't be done."

I might add one word about the missile train project: If I recall the newspaper accounts correctly, the Pentagon later shifted its interest to Polaris submarines rather than missile trains as mobile launching platforms for long-distance missiles. However, that does not lessen the significance of our 1959 agreement.

I would like to recall an old saying: If you wish peace, prepare for war. The analogy in this present dispute might be phrased: If you wish a settlement, prepare for a strike. I subscribe fully to what Mr.

Michael Fox, speaking for the shopcraft unions, told the Senate Labor Committee when he said:

> If the Congress will only make plain to the railroads that their employees still have the fundamental democratic right to strike . . . then the railroad negotiators will finally, at long last, come and bargain seriously with us, and we shall soon settle this dispute fairly and no railroad strike will take place.

Unfortunately, up to recently, I don't believe anyone in railroad management has had the slightest thought that Congress would let a national railroad strike take place. They know very well what Congress has done in the past against threatened national railroad strikes and they further know that the Nation is now at war. That is why the railroads have dug in their heels and refused to negotiate seriously, as Mr. Fox will undoubtedly explain to you next week.

The railroads expect Congress to bail them out, to pass a law taking away the railroad men's right to strike. If this administration, and you in Congress, want the shopmen's dispute settled through collective bargaining, the most powerful step in that direction would be to create the planning group we proposed and work out the specifics of hauling the shipments necessary to our Nation's military effort and the public health. That would persuade the railroads for the first time that a national railroad strike is a definite possibility. Believe me, gentlemen, if they once got persuaded of that, they would come in and negotiate a settlement of this dispute within 48 hours.

However, as you know, the railroad management spokesmen have denounced our proposal to move essential shipments in event of a strike in the most extreme terms. I suspect part of the reason why they are so dead set against this proposal may lie in the statement made by Mr. J. E. Wolfe to the Senate Labor Subcommittee:

"It would bankrupt the whole railroad industry, completely bankrupt it," Mr. Wolfe declared. As to the truth of that assertion, I have no way of knowing; but I do not doubt that the railroads believe it. However, I would point out that a complete strike, instead of a partial strike, would also cause the railroads very heavy losses. In fact, the whole point of calling a strike is to face the employers with the possibility of heavy losses, and thereby encourage them to bargain the dispute to a fair settlement without a strike.

To our great regret, and despite our telegrams of April 28 and May 10 asking for conferences and discussion of our essential-shipments proposal, various high officials of the administration appear to have decided that our proposal is not feasible. They appear to have so decided even before talking with us, even before they knew specifically what we had in mind.

You are all familiar with the way the Secretary of Labor and the Secretary of Transportation answered your questions on this topic last week. You are also familiar with the letter sent to Chairman Staggers last week on the same subject by Mr. Cyrus Vance, Deputy Secretary of Defense. All this took place before any of these officials had even asked us what we had in mind.

I might also recall a statement by Senator Wayne Morse at the Senate hearing last Tuesday morning. As you know, Senator Morse is managing the administration's bill in the Senate, and he indicated he

was speaking for the executive branch when he declared on Tuesday morning:

> Your Government rejects this (partial operation) as an administrative impossibility, and your Government will continue to reject it.

That was the situation when Mr. Fox and I went to the Pentagon last Tuesday afternoon to discuss railway labor's essential-shipments proposal with various high officials, including Secretary Boyd and Deputy Secretary Vance. We had hoped railroad management representatives might also be present, but they were not. We had hoped for a real brass-tacks discussion, but it did not go that way.

Mr. Vance early in the meeting indicated the administration's decision had already been made against our proposal. Various questions were put to us about how our proposal could work in a practical way.

We answered them all, but the officials present didn't seem to be interested in our answers or in exploring the matter further. I suggested to them they were simply telling us it can't be done.

That isn't the slogan of the Marines, I told them. After about three-quarters of an hour the meeting broke up, and Mr. Boyd then stated to the press, according to newspaper accounts, that:

> The suggested operation would create a situation which could only be described as chaos. It would not result in the movement of essential defense or public health commodities on any schedule.

Gentlemen, if you have any questions about the practicalities of our essential-shipments proposal I shall try to answer them after I finish this statement. But I should like to take just a moment now to answer this claim about chaos and no schedules.

Most long-distance railroad freight moves on scheduled trains, just as passenger trains operate on a schedule. Of course, the railroads also run extra freights and their local freights, which pick up and set out cars along the route, do not have regular schedules. But the scheduled trains do represent the backbone of speedy long-distance railroad freight haulage, and the maintenance of such schedules, because of interconnections, is very important to good service.

But there is no reason whatsoever why all present freight train schedules should not be maintained under our partial-strike essential-shipments proposal except for one thing: to keep the schedules, most freight trains would go out with fewer loaded cars than now; and since the trains would require the same crews, the railroads would make less money than on their present trains; therefore, the railroads apparently have in mind canceling their schedules and holding the essential shipments until they could assemble long and profitable trains like they have now.

This is the only reason for the threat of chaos from no schedules—the insistence of the railroads on making a profit during a strike.

On this point I quote from testimony last Monday to the Senate Labor Subcommittee by President W. Thomas Rice of the Atlantic Coast Line Railroad:

> What are the lines . . . to do when there are only just a few cars to move? Of course they would not move them unless it had been decreed by the government that they had to. Look at the expense of operating a 10-car train compared to 150-car train. . . . Who will pay us? We will be bankrupted before long, in my opinion.

Gentlemen, I don't believe any unions anywhere have made a more generous offer than ours to prevent a strike from hurting our fighting-men in Vietnam and the Nation. We made this offer because we don't want a railroad strike to harm the Nation's vital interests in time of war.

We did not make this essential-shipments offer in order to guarantee a profitable operation to the railroad corporations during a strike. Nor, frankly, did we expect the spokesman for America's railroad corporations, who are patriotic men I am sure, to use the kind of moral blackmail they seem to be using against our essential-shipments proposal.

What they are doing is telling the Government they will create chaos by refusing to schedule the trains we have offered to haul, unless the Government orders them to schedule such trains—and if the Government issues such orders, they will then sue the Government for damages.

Mr. J. E. Wolfe made that last point quite clear, under questioning by Senator Morse, and so did Mr. Rice.

Of course, one can understand why the railroads have taken this position. They hope to use this tactic to force Congress to take away completely the railroad shopmen's right to strike and impose on their employees a form of compulsory arbitration. That is the railroad corporations' goal—to force you to ignore our essential-shipments offer and proceed to enact House Joint Resolution 559.

This brings me to my second topic. Suppose you find that the only answer available under the circumstances is to submit to the railroads' pressure and enact a law forbidding the shopcraft strike now set for 12:01 a.m. on June 19. If that does become your feeling, we would urge upon you the seizure approach rather than the compulsory arbitration approach embodied in House Joint Resolution 559.

Compulsory arbitration is utterly one-sided and unfair when forced on the employees of profitmaking companies. It deprives the employees of their only economic weapon to win fair wages and working conditions.

It brings in the Government to force terms on the employees that may well be more favorable to the owners and less favorable to the men than the men could have won for themselves—and prevents the men from ever knowing what they themselves could have won.

It does this while imposing no restriction whatever on the companies' profits—and those profits clearly would be higher if a smaller increase in wages is forced by the Government on the employees.

Compulsory arbitration is the road to serfdom. For the Government to force private employees to labor for less than they could win for themselves, so as to enrich their private employers, is a fascist arrangement. It is not an American arrangement.

I might add that any Government seizure of an industry where the profits gained through forced labor of the employees are then turned over to the private owners, is also open to this same objection. Mr. Schoene will have something more to say on that question.

Once you start on the path of compulsory arbitration for wages and working conditions you are bound to face demands that prices and profits also be controlled, in simple equity. Of course, we had some-

thing like that in World War II and the Korean war. We had wage and price controls and along with them a very heavy excess profits tax.

There was at least some attempt made to impose equality of sacrifice. But none of us considered those controls as representing the American way of life, and they have been avoided so far in the Vietnam war.

It should be noted also that the railroad industry's rates, or prices, are already subject to Federal regulations. But their profits are not. In fact, far from being subject to a heavy excess profits tax, the railroads and the other corporations are currently being handed by Congress a major tax cut on their profits, through restoration of the so-called investment tax credit on an even more favorable basis than before.

We estimate this new basis for the tax credit, involving a ceiling of 50 percent of total income tax liability instead of the former 25-percent ceiling, will mean at least $50 million a year more profits (and less taxes) for the railroad corporations.

That is what Congress is handing them—at the same moment they are demanding that you rob their employees of their basic democratic rights. And lest you think that the railroads are starving for profits, let me remind you that net profits of class I railroads have already risen during this wartime period from $651 million in 1963 to $925 million in 1966.

Wholly apart from this, it is just as unfair for the Government to impose forced labor on railroad workers for the profit of the railroad industry's customers—nearly all of whom are themselves profitmaking companies—as it is to impose forced labor for the profit of the railroad industry's stockholders.

If the Government wants to subsidize railroad freight rates, it should not take that subsidy by force out of the sweat and labor of the railroad employees.

We have had considerable experience with compulsory arbitration in the railroad industry, and all of that experience has been bad. The Railway Labor Act imposes a system of compulsory arbitration for so-called minor disputes or grievances, including the interpretation of labor agreements.

This has led to delays as long as 10 years in settling such disputes, causing great frustration and injustice to the employees. The situation became so bad, in fact, that Congress last year, by unanimous vote of both Houses, made substantial changes in the system. That bill, as I am sure you recall, came out of this committee.

Congress in 1963 also imposed a 2-year compulsory arbitration of the manning rules for railroad "operating" employees, affecting chiefly firemen (helpers) and trainmen. The compulsory arbitration board in that case handed down an unfair and confusing award, which has imposed needless suffering on thousands of men.

Also important is the fact that this compulsory arbitration award did not settle the manning rules question—it only swept it under the rug for a while, so far as the general public is concerned.

The unions involved have tried to settle the question through negotiations, but—except for one agreement between the trainmen and 34 railroads—the railroads instead have tied the union up through court injunctions.

In the end, the unions involved will get free of those injunctions, and then the manning question will either be settled through collective bargaining or Congress will face a new "crisis."

Altogether, up to now, compulsory arbitration has been a resounding failure in this industry. I believe Mr. H. E. Gilbert and Mr. Charles Luna will have more to tell you about that 1963 law, of great relevance to your consideration of House Joint Resolution 559.

Equally vital is the fact that an evenhanded seizure tends to promote a negotiated settlement of the labor dispute involved, while compulsory arbitration—despite all the trimmings that have been added to House Joint Resolution 559—does not promote a negotiated settlement, because it gives the railroad corporations no incentive whatever to budge from their present position.

In the last four Government seizures of the railroads, in 1943, 1946, 1948, and 1950, there were quite prompt negotiated settlements in three of the cases, even though those seizures were not evenhanded but were stacked in favor of the railroad corporations. Here is what happened:

In 1943 the railroads were seized on December 27, the dispute was settled by the parties by January 17, 1944, and the railroads were returned to their owners on January 18, 1944.

In 1946 the railroads were seized on May 17, the dispute was settled by the parties on May 25 (though only after President Truman had threatened to draft the strikers), and the railroads were returned to their owners on May 26.

In 1948, the railroads were seized on May 10, the dispute was settled by the parties on July 8, and the railroads were returned to their owners on July 9.

The Korean war seizure, on August 27, 1950, lasted very much longer—nearly 21 months. There were several reasons for that: An outrageously unfair Emergency Board recommendation, the wage controls in force at the time and, perhaps most important, the completely token nature of the seizure, including the assurance that the railroad corporations would collect all the profits.

In view of this record I find it astonishing that the railroads in their current propaganda claim that "seizure settles nothing." History shows that even a stacked, one-sided seizure has a good chance of promoting an early negotiated settlement—whereas the 1963 compulsory arbitration law truly did settle nothing. An evenhanded seizure law might well bring a negotiated settlement of this current dispute even before the law took effect.

I come now to my third topic: Who supports and who opposes the right to strike? I believe it is clear that the settled public opinion of the Nation—especially when opinion is not whipped up temporarily by the propagandists of crisis—does support the right to strike.

The Louis Harris organization found some significant answers to this question in a public opinion poll published in the Washington Post on March 28, 1967.

Mr. Harris, among other things, asked specifically how many people approved the right to strike for railroaders. He found that 69 percent of the general public and 89 percent of the Nation's union members voiced approval of this right for railroad employees.

Now I am aware that a poll could be made, financed, say, by the railroads and with questions supplied by their propagandists, which

might show different results. But I believe Mr. Harris' poll is an honest effort to get at the public's true feelings.

I find it significant also that the right to strike is supported by a very wide segment of the big business community. In March 1964 the Research and Policy Committee of the Committee for Economic Development, after 2 years of work on the subject, published a report entitled "Union Powers and Union Functions." This CED Research and Policy Committee, composed of 50 members, was headed then by Mr. Theodore Yntema, chairman, finance committee, Ford Motor Co., with Mr. Emilio Collado, vice president, Standard Oil Co. of New Jersey, serving as vice chairman.

Members included such men as Mr. John T. Connor, Mr. Marion B. Folsom, Mr. Frederick R. Kappel, Mr. Ralph Lazarus, Mr. J. M. Symes of the Pennsylvania Railroad—men of that stature in the big business world.

Mr. Chairman, I ask that a list of members of the CED committee who drew up that 1964 report be printed in the record after my statement.

The CHAIRMAN. Without objection, that may be done.

(See p. 233.)

Mr. LEIGHTY. Now, there is much in that 1964 big business report that I disagree with heartily, nor do I agree completely with their conclusions about "Government Intervention in Collective Bargaining." But I do find the general tenor of their conclusions on the subject highly significant, and I should like to read you a few paragraphs on this from their report:

> There is little evidence that industrial peace is achieved through increased government intervention. While government intervention may end particular strikes, the prospect of intervention may increase the number of disputes carried to the point where intervention becomes necessary. The number of strikes increased during World War II (1942–45) despite the quasi-compulsory arbitration provided by the War Labor Board. Experience with emergency boards under the Railway Labor Act provisions also suggests that fact-finding boards with power to recommend settlements do not lead to voluntary agreements. The government has seized the railroads and enforced acceptance of emergency boards' recommended terms of settlement when the railway brotherhoods have refused to accept the terms of the recommended settlement. In their effect on employers, recommendations were tantamount to compulsory arbitration. (This particular statement, I may say, I find inaccurate.) Free collective bargaining disintegrated in both cases to the point where Congress has now legislated overt compulsory arbitration in the railroad "work rules" case.
>
> The reason for the failure of government intervention to produce industrial peace is fairly clear. Compulsory settlement is destructive of collective bargaining because it removes the responsibility from the parties. Compulsory procedures establish an "adversary" attitude that minimizes the desire of either party to compromise . . . Free collective bargaining falls into disuse under such a system.
>
> A further result is that government-influenced or government-dictated agreements may affect the entire economy, placing federal authorities in the role of controlling wages, prices and working conditions.
>
> *The proper role of government in labor-management relations and collective bargaining is to establish the rules of the game and see that they are observed —not to decide what the final score should be.* (Emphasis in the original.)
>
> We emphasize that the possibility and fact of strikes must exist if there is to be free collective bargaining, and we urge that government intervention in strikes should be strictly limited. However, strikes are not to be welcomed, and efforts *by the parties* to resolve their differences without work stoppages are important.

That was the conclusion reached by this group of big businessmen after 2 years of studying the subject. By contrast I should like to

quote from Mr. Daniel Loomis, speaking on behalf of the Association of American Railroads:

> The situation today and in the last 10 years has been the worst in history since the first attempt of Congress to deal with railway labor disputes. The railroad industry approaches the proposition of compulsory arbitration with considerable reluctance, but based upon the experience of the last 10 years we do not see any other solution to the problems * * * If we could see any other way out than the adoption of the final and binding effect of the awards of Presidential Boards we would accept it * * * The railroads believe, as I have already indicated, that the present Act should be amended to make the reports of Presidential fact finding boards in disputes concerning rates of pay, rules or working conditions, final and binding. We believe that strikes and lockouts in the railroad industry should be outlawed * * *

That is the railroad industry's view. But what I want to stress is that it is not a new view. Mr. Loomis made that statement to a Senate committee on July 25, 1950. That was almost 17 years ago.

In other words, the railroads were making the same kind of argument to Congress in 1950 about the "intolerable situation" that they are back here making to you today. Just how "intolerable" to the public interest has the railway brotherhoods' conduct been in the years since 1950? That brings me to my fourth and last topic—what is the background of labor-management relations in this industry, against which you should judge House Joint Resolution 559?

As to the industry itself, the railroads haul over 43 percent of the Nation's intercity freight traffic. Their gross revenues last year were $10.7 billion. Roughly, half their revenues go for labor costs.

In terms of carload freight haulage, about 90 percent of their business, the railroads are now making an effort to retain and recapture some of this business; but most railroads treat their passengers and their less-than-carload freight as unwanted stepchildren. There are 76 class I railroads and several hundred other railroads, including switching and terminal companies. There are about 630,000 current railroad employees.

On the labor side, the industry is organized on craft lines into 24 standard railway labor organizations. There is a considerable amount of joint bargaining by groups of unions, especially among the "nonoperating" organizations.

The practice of national handling, or industrywide bargaining, began in 1932 at the request of the railroads. Most of the unions also follow this practice on wage-and-fringe movements (as we call our requests for improvements).

However, the Locomotive Engineers and the Trainmen have begun to move away from national handling. In some cases, other unions also have found that the best way to achieve innovations in the way of employee benefits was to progress our movements first on individual railroads.

A notable example of that occurred in the field of job security.

Clearly the railroads are an industry affected with a public interest. The Railway Labor Act, and especially its section 10, recognizes that fact. We in railway labor recognize it also, and we have tried to cooperate in fulfilling the purposes of the Railway Labor Act.

What has developed in this industry, under constant use of section 10 of the act, is this: Collective bargaining has in most cases vanished, until after the appointment of an Emergency Board. Long delays are

common. Even after the Emergency Board reports, there is usually only a modest amount of real bargaining; the Board's recommendations, or something close to them, are usually the basis for settlement. I agree with the CED committee that this system has become far too rigid.

However, under our present system there do remain two areas of flexibility—and these are quite vital to any kind of social justice in this industry's labor relations. First, railroaders still have the legal right to engage in a national strike.

Of course, we are quite aware that the President and Congress have not allowed a national railroad strike to proceed at any time since 1922. But so long as we have the legal right to call a national strike, after authorization by our members, we have what amounts to a right of appeal against Emergency Board recommendations that are wholly inadequate and unacceptable. That is what has happened in the current shopcraft dispute.

In effect, this is a right to supermediation. Just how important this is, those of you who are lawyers can certainly recognize: How much justice would there be in our courts, without a right of appeal?

Of course, the railroaders' right of national appeal is not to some court or to compulsory arbitration; it is to higher level mediation; and so long as we retain our freedom, that is how it will remain. And considering the number of national labor disputes in this industry, I don't believe any fairminded person would say the railway labor organizations have abused this right of appeal.

We use it only rarely: only when an Emergency Board's recommendations, or the interpretation given them by the railroad negotiators, are grossly unacceptable.

Secondly, railway labor up to now has had both the legal and the practical right to strike one or a few railroads. We have used this right also only rarely. But it is essential to winning advances, and to preventing a breakdown of standard pay rates and working conditions, in the railroad industry.

In specific terms, how have we used these rights in the years since the Korean war seizure of the railroads ended? In those 15 years, as well as I can check, there have been 42 national movements for improvements initiated by the five operating organizations and the 11 principal nonoperating organizations, counting joint movements as one single movement.

Of those national movements, 39 were settled without a strike and without the kind of "crisis" that brings Congress into the picture.

Three movements remain unsettled today, including the present shopcraft movement. The one major national movement initiated by the railroads during these 15 years—to slash the pay and gut the working rules of their operating men—did bring Congress into the picture; it resulted in part in the 1963 compulsory arbitration law and in part in a negotiated settlement at the White House on June 25, 1964.

During these same 15 years, hundreds if not thousands of notices for improvements have been served on individual railroads by individual unions. In practically every case, these have been settled without disruption of service.

In the past 15 years there have been only five railroad strikes of any real importance—or possibly six, if you count the 4-day strike by the

Fireman and Enginemen last year on eight railroads. Three of those strikes were provoked by railroads resisting Emergency Board recommendations: The 1955 strike on the Louisville & Nashville, the 1962 strike on the Chicago & Northwestern, and the 1963 strike on the Florida East Coast, which still continues.

The Fireman and Enginemen's strike last year was provoked by the carriers' refusal to bargain. The two other strikes, on the Pennsylvania and the Long Island, both in 1960, were caused by other reasons.

I suggest to you that this 15-year record of the railway labor organizations is a record of extraordinary restraint. And this record has been written in an era of most exasperating delays and entanglements imposed by railroad managements. Now, after 15 years, you have one single dispute—the very first one initiated by railway labor—dumped like an unwanted baby in your laps by the administration. You will hear from Mr. Fox about how this dispute got here to you. You will hear the grim and painful story of what the railroad corporations are up to, on this matter.

Is Congress now, after the record we in railway labor have written for 15 years, going to fall for the railroads' game? Are you going to set a precedent that will destroy, in practical effect, our right of appeal from unfair and unjust Emergency Board recommendations?

Because that is the result that House Joint Resolution 559 or anything like it will have. Congress made one precedent for compulsory arbitration in 1963. If you make another one now, you will rob the national handling of railway labor disputes of most of the little flexibility that remains in it.

In future, the railroads will simply dig their heels in. Whatever "give" there is in these national disputes, whatever small amount of collective bargaining remains, depends wholly and solely on our legal right to strike. That is the only way we get to what I've called supermediation. That is what the railroads want to destroy.

If Congress twice enacts compulsory arbitration, the next time an Emergency Board in a national dispute is unfair to the employees, or vague, or simply tells the parties to negotiate on certain general lines (as often happens), the railroads will try to force that dispute back up to Congress. And they will do it the next time after that. And however many times are needed to make you throw up your hands in despair and enact the law they really want—a law depriving their employees forever of any right to strike over any dispute whatever.

Gentlemen, I have held you a long time. I can only plead, in excuse, the immense importance of this matter to the nation's railroad workers. I do suggest, again, that the best way to proceed is to implement our proposal for moving essential shipments.

Since the railroads absolutely refuse to cooperate in this approach and if you then feel that some legislation is vital against the shopmen's strike, and evenhanded seizure bill would be, we think, the least destructive approach. We strongly urge that House Joint Resolution 559, and any bill like it, be laid aside.

Thank you very much for your courteous attention.

Mr. Chairman, I would like to say in addition that you have only to examine the record in this industry to find that the organizations have exercised restraint, and the record which I have given you with respect

to strikes in the industry indicates to you how well the organizations have handled this situation.

Compulsory arbitration is something that is like waving a red flag at a group of workers, whether they be railroad workers or other workers. It is compulsion.

We have agreed to voluntary arbitration in many, many cases. But whenever the railroads get to the point where they think that all they have to do is say no, and force us into compulsory arbitration, then the freedom of our men disappears.

We can't do that in a free land such as we have in America. We could expect something like that in a Communist country.

Any action that is taken here to deprive our workers of their right to strike is certainly going to be exploited in every Communist country in the world, because it is going to have a serious and a very material effect.

I would like to say very briefly something about our meeting over in the Pentagon on Tuesday.

We were told at the beginning that they had already made up their minds that our plan was inoperable even before we had the opportunity of explaining how it would be handled.

Based on my experience in the railroad industry, and that is based upon 20 years' experience actually working on the railroads in various capacities which gave me an opportunity to not only observe but participate in many railroad operations, I say that our plan is a plan that can be worked out.

I want to point out to you in 1959 the Air Force did believe our plan would work out, and the railroad management joined with us in saying that we would work out a system. But here we found that the determination had already been made, and regardless of how feasible the operations would be under what we proposed they said, "Well, the decision has been made and we are not going to change it."

That is, in effect, what they said.

With respect to the compulsory arbitration that is now present in the so-called minor disputes, years ago on the railroads when you had a large number of disputes on the railroad a group of organizations would band together, set a strike date, which would immediately result in conferences with the railroad management, and those grievances on the individual railroads—in some instances going up to 100 or more—were settled.

Years and years ago I can only recall one strike in connection with that of any moment, and that was on the Missouri-Pacific Railroad. But generally they resulted in settlement of those disputes.

Then the Supreme Court decided that on minor disputes they must be submitted to the Adjustment Board. Then the backlog on the Adjustment Boards began to rise until today the first division, which handles the operating organization cases, is 8 to 10 years behind in their decisions on disputes.

We are receiving decisions now from the third division to which the clerks, maintenance of way, signalmen, telegraphers, train dispatchers, and other organizations take their cases—we are getting decisions now on cases that were filled 8 to 10 years ago.

That is what happened when the Supreme Court put into effect compulsory arbitration on the Adjustment Boards.

You gentlemen enacted a law last year establishing special boards which we hoped would break up this logjam that resulted. We don't want to see any more of that. It deprives the organizations of collective bargaining, and in cases of this kind the railroads tell the other organizations, "We can't meet with you because we have all these arbitration board proceedings and these matters confronting us. Therefore, we must delay any meetings with you" and all negotiations with railroads reach a standstill.

It is a situation that should not exist.

If the railroads were informed that no legislation would come out of this Congress, as I said before, this dispute would be promptly settled because settlement terms could be arranged that would be equitable to both parties, and would be arranged if the railroads would indicate and actually desire to negotiate. It would be within the framework that has already been discussed.

I want to call your attention to just one more thing. An Emergency Board on the Long Island Rail Road heard a Trainmen case and made recommendations a few days ago for 5 percent beginning October 1 of last year and beginning October 1 of this year, for another 5 percent.

So the so-called pattern of 5 percent for 2 years is not out of the picture, and an additional amount to take care of inequities is also in the picture. In that Long Island case, the Machinist and Electrical Workers were before this same Board, and they pointed out that their rates of pay, based on the quotations that they put into their report, were around 70 cents under what was paid for similar work in that area on the New York Transit Authority, for example, and the Board recommended that negotiations be conducted to give the people on the Long Island similar rates.

They didn't designate any figures, but they indicated quite clearly what their position would be.

They recommended an additional fifth week of vacation for all of these employees, as well as improvement in their health and welfare programs.

This is the recommendation of an Emergency Board on the Long Island Rail Road just a few days ago.

So I say to you gentlemen what would settle this strike would be clearly within the recommendations of what that Board recently presented.

I could talk to you on this subject for hours, but I think I better let you gentlemen ask any questions that you have to ask, and then Mr. Schoene would like to give you considerable additional information with respect to this proposed resolution and the dispute that now confronts the shopcrafts.

(The documents referred to in Mr. Leighty's statement follow:)

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
Washington, D.C., November 10, 1959.

Col. EARL C. HEDLUND, USAF,
Director of Transportation, Office, Deputy Chief of Staff, Materiel, Headquarters, USAF, Washington, D.C.

DEAR COLONEL HEDLUND: You will recall that in recent discussions between representatives of our Association, the Association of American Railroads, Military Traffic Management Agency, and the Air Force concerning the ability of the Railroad Industry to provide uninterrupted service in support of the Air Force MINUTEMAN missile program, I assured you that the members and officers of the Railway Labor Organizations are patriotic and sincerely devoted to the ideals

of our country and could be expected to give paramount consideration to our country's defense needs whatever they might be and under all circumstances. I also pointed out, however that the organizations whose Chief Executives are affiliated with our Association are all autonomous entities and that I had no authority to make commitments for them. I stated that I would present the matter to the members of our Association at their scheduled meeting in Chicago beginning the week of October 26, 1959.

This I have done and the response was unanimous as I had anticipated.

I advised the other Chief Executives that Mr. Loomis had stated on behalf of railroad managements that if the assurances you sought from Railway Labor were given the managements would not, in the event of a strike, use service to the government as a means of impairing the effectiveness of a strike; that if missile train operations and other services in connection therewith were required, employes who would normally perform such services would be used under joint management-union arrangements and the services thus made available to the government would not be utilized by management in efforts to handle other traffic.

In your letter of October 23, 1959, you suggest that an understanding along the following lines might be appropriate.

"Both railroad management and railroad labor units in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force, in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

With the understanding that railroad managements involved will observe the conditions set forth above, as Mr. Loomis in our conference stated they would, the Railway Labor Organizations affiliated with Railway Labor Executives' Association, subscribe to the assurances as you have formulated it.

Sincerely,

G. E. LEIGHTY, *Chairman.*

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., November 4, 1959.

Col. EARL C. HEDLUND, USAF.
Director of Transportation, Office, Deputy Chief of Staff, Materiel, Headquarters, USAF, Washington, D.C.

DEAR COLONEL HEDLUND: Replying to your letter of 23 October 1959, with respect to the ability of the Railroad Industry to provide positive uninterrupted service in support of Air Force *Minuteman* missile program, when and if activated:

You suggest an understanding along the following lines:

"Both railroad management and railroad labor unite in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force, in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

This will advise you that I am authorized by the Board of Directors of the Association of American Railroads to confirm the above quoted understanding on behalf of its member lines.

I assume you will hear from Mr. Leighty as soon as his group has completed consideration of the matter.

Sincerely,

DANIEL P. LOOMIS, *President.*

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS, U.S. AIR FORCE,
Washington, D.C., Oct. 23, 1959.

Mr. DANIEL P. LOOMIS,
President, Association of American Railroads, Transportation Building, Washington 6, D.C.
Mr. G. E. LEIGHTY,
Chairman, Railway Labor Executive Association, Washington, D.C.

GENTLEMEN: In furtherance of recent exchanges of views between representatives of your organizations, Military Traffic Management Agency and the Air Force with respect to the ability of the Railroad Industry to provide positive uninterrupted service in support of Air Force MINUTEMAN missile program when and if activated, it is suggested that an understanding along the following lines might be appropriate.

"Both railroad management and railroad labor unite in their positive assurance that there will be no delay or interruption in the maintenance, scheduling, dispatching and operation of missile trains in support of the mobile or fixed missile weapon systems as programmed and directed by the United States Air Force, in the event that interruptions to civil rail service are impending or should occur as the result of unresolved differences between railroad management and railroad labor."

It should be fully understood that the Air Force must be assured of timely and positive operation of this weapon system under all circumstances other than those attributable to acts of God.

In the event that your organization might wish further information with respect to our MINUTEMAN missile program, we would be happy to arrange such a presentation at the appropriate time.

Your response to the above proposal is requested so that the Air Force may proceed in its assessment of the feasibility of utilizing the nation's railroads as an integral part of a weapon system.

Sincerely,

EARL C. HEDLUND,
Colonel, U.S. Air Force, Director of Transportation.

MEMBERSHIP LIST OF THE RESEARCH AND POLICY COMMITTEE OF THE COMMITTEE FOR ECONOMIC DEVELOPMENT

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Walter Williams, Chairman, Continental, Inc.
Theodore O. Yntema, Chairman, Finance Committee, Ford Motor Company.

Mr. DINGELL (presiding). I think that would be appropriate.

Mr. Friedel.

Mr. FRIEDEL. Mr. Leighty, I would like to make a statement first that I am a great believer in free collective bargaining. I am not fully convinced that House Joint Resolution 559 will be the answer to this problem.

But on the other hand, I am convinced that we cannot have a national railway strike.

Just reading the President's message of what would happen in 1 day, 2 days a week, and 30 days, such a strike would cause havoc. I don't know how long the strike might last.

You mention on page 2 that you wanted to raise four principal questions. In the second question, you said is there a Federal legislative approach to compulsory arbitration. Do you have any suggestion for a better approach than House Joint Resolution 559?

Mr. LEIGHTY. If Congress feels that something of that kind is necessary, an even-handed seizure of the railroads would be the answer, and I base that on what happened in four seizures of the railroads by the Government and what eventually came out of those seizures.

Mr. FRIEDEL. I notice in your statement on page 26 you mentioned there were five or probably six strikes of the railroads but none of them were national.

Mr. LEIGHTY. That is correct.

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[1] Voted to approve the policy statement but submitted memoranda of comment, reservation or dissent, or wished to be associated with memoranda of others.
[2] Did not participate in the voting on this statement because of absence from the country.

Mr. FRIEDEL. Can you now strike on any particular railroad, or two or three, without disrupting the whole service throughout the United States?

Mr. LEIGHTY. Yes.

There isn't any one railroad or two railroads in the Nation that are absolutely essential. There are other means of transportation that can handle the traffic they haul.

If the national railroads were struck, they would all go down at one time.

There would not be, in our opinion, sufficient transportation to carry the goods of the Nation if such a strike should occur.

Mr. FRIEDEL. Mr. Wolfe made a statement that 74 percent have agreed to settlement, leaving around 26 or 27 percent who have not. Is that a correct statement?

Mr. LEIGHTY. No; that is not a correct statement. They have signed agreements, yes, but it isn't on the so-called pattern principle.

There were additional items considered in every one of those settlements. For example, in the Trainmen's settlement, instead of being effective from January 1, 1967, to January 1, 1968, it went back to August 12, 1966, and those employees received an increase of 5 percent from August to January that these other employees did not get.

They also received what amounts to 2 cents an hour increase in their health and welfare benefits. They also received $2,000 life insurance for employees who retire after a certain date.

The Firemen settled on a somewhat similar basis.

In connection with the Railway Clerks, they settled for a 5-percent increase. They also received a commitment from the railroads with respect to away-from-home expenses as well as some other commitments that I am not in a position to discuss here.

Mr. FRIEDEL. They were agreed upon, is that correct?

Mr. LEIGHTY. They were agreed upon settlements, but the point I am making is that they are not pattern settlements. I say there isn't a pattern in this industry at this time.

Mr. FRIEDEL. I am not speaking of any pattern. He made a statement that around 73 or 74 percent have settled.

Mr. LEIGHTY. Yes; that is true.

Mr. FRIEDEL. So it is only around 26 or 27 percent where there is no agreement. How far apart are they? Are they close on this thing?

Mr. LEIGHTY. Officially or unofficially?

Mr. FRIEDEL. Any way you want to give it.

Mr. LEIGHTY. Officially they are quite a ways apart.

Mr. FRIEDEL. Unofficially?

Mr. LEIGHTY. Unofficially they are not too far apart.

You appreciate, Mr. Congressman, that in negotiations neither side makes the disclosures. It is a matter of bargaining. Neither side makes a disclosure of what they would actually settle for because that jeopardizes their position in bargaining. You just approach it gradually.

If you say, "I will take this and nothing else," then the charge is made you have set your feet and you are not negotiating fairly and properly. That isn't done in collective bargaining, and it isn't possible in collective bargaining.

Having participated in collective bargaining on a national basis since 1946, I can tell you that in cases where on the surface they were

miles apart, they were very close together and a settlement was made in less than a week.

Mr. FRIEDEL. When was the last time you had what would be called a free collective bargaining meeting?

Mr. LEIGHTY. Insofar as my particular organization is concerned, we are one of the organizations that disposed of our dispute. I am president of the Transportation Communication Employees Union, which, together with the Maintenance of Way Employees, the Signalmen and the Dining Car Employees settled on January 13, 1967. Our settlement was 5 percent for 1967 and 2½ percent for the first 6 months of 1968.

It was a firm conviction of the organizations involved that the settlement in 1968 would eventually be 5 percent. We also secured an agreement with respect to negotiated away-from-home expenses which is a very important item to us.

We are also free to negotiate on any other subject except wages at any time, and on wages as of July 1, 1968, we can begin our negotiations. That is, we can begin our negotiations 3 months in advance of that date.

Mr. FRIEDEL. That 5 and 2½ percent, how long does that work? Is it for 1 year?

Mr. LEIGHTY. The 5 percent was for 1967. An additional 2½ percent will be applied effective January 1, 1968. We can reopen on July 1, 1968. I will say to you very freely that when we made that settlement of 2½ percent for half a year, we fully expect to get 5 percent for the year.

Mr. FRIEDEL. What would that run over a period of 2 years?

Mr. LEIGHTY. How much money?

Mr. FREIDEL. Not money, percentagewise. You are talking about 5 percent for 1 year and 2½ percent for 6 months. Is it 7½ percent?

Mr. LEIGHTY. It would amout to 7½ percent as of July 1, 1968. But very frankly we hope to make that up in the rates that will eventually become effective July 1, 1968, so our increase for the year would be 5 percent.

Mr. FRIEDEL. I think my time is up.

Mr. DINGELL. You have 1 more minute.

Mr. FRIEDEL. I was told they are not too far apart but because of this 2½ percent that was given to some other unions it will bring a variation down on the 5, 5, and 5. They feel because one settled on 2½ percent they are out of line that much.

Mr. LEIGHTY. If they settle for the 6 percent and the other organizations that are open on January 1, 1968, settled for 5 percent, which in my opinion they certainly will secure, the shopcrafts on July 1, 1968, are not only going to be 1½ percent behind, but they will be 4 percent behind.

Mr. FRIEDEL. That is what I understand. They will be behind.

Mr. LEIGHTY. That is correct.

Mr. DINGELL. Mr. Devine.

Mr. DEVINE. Thank you, Mr. Chairman.

Unfortunately I was detained and didn't have the benefit of your complete statement, Mr. Leighty. I would merely say this to you: Sitting up here we get the impression that management and labor

are acting like a couple of little boys, pointing their fingers at each other saying, "We are the good guys and you are the bad guys."

All of the equities are either on labor's side or management's side. I would say if I read the sense of Congress accurately, we are becoming a bit weary of being put in the position of attempting to mediate labor disputes when collective bargaining should resolve the differences.

As I say, you both point the finger at each other.

It seems to me that unless you can come to some conclusion, the Congress will ultimately pass some restrictive legislation that will not be satisfactory either to labor or management.

I would merely urge upon you and Mr. Wolfe—and, of course, Mr. Fox on behalf of your interests—to try to get this matter settled before Congress has to act.

I don't believe the proposed legislation would be satisfactory to either of the parties concerned.

Mr. LEIGHTY. Congressman, I would like to say that I personally am not involved in the current shopcrafts' dispute.

Mr. DEVINE. I understand; but you are speaking on behalf of the entire group.

Mr. LEIGHTY. That is correct.

But I am interested in anything that I can do to bring about a settlement of the dispute. I can assure you that my efforts are being devoted to that task.

Mr. DEVINE. I would hope that you continue. I don't think any useful purpose is going to be served by you calling the other side all kinds of names nor his calling you all kinds of names.

Mr. LEIGHTY. That is exactly what I pointed out in my statement. When you get to compulsory arbitration, you are really adversaries, you are not trying to evaluate the situation or making a reasonable determination of what the settlement should be.

If you begin calling each other names, you are not going to make a settlement.

Mr. DEVINE. Thank you.

That is all.

Mr. DINGELL. Mr. Satterfield.

Mr. SATTERFIELD. Thank you, Mr. Chairman.

Mr. Leighty, based on your assessment of the situation now, do you feel there is any prospect that free collective bargaining will begin between these parties on their own initiative?

Mr. LEIGHTY. On their own initiative?

Mr. SATTERFIELD. Yes.

Mr. LEIGHTY. Possibly not on their own initiative. I wouldn't paint a poor picture, but I think they could be induced to do some collective bargaining on it.

Mr. SATTERFIELD. I have one other brief question.

I take it from what you have said that the suggestion made to the Secretary of Defense to continue shipments necessary to the war in Vietnam and to public health is now at a standstill, that it is no longer being considered or discussed?

Mr. LEIGHTY. In effect, they told us that they had already made up their minds before they heard us. We explained how the various commodities could be handled, how it wouldn't pose very much of a prob-

lem, how we would open the picket lines to let the men through who were to handle these products.

Mr. SATTERFIELD. My question is: Are there discussions continuing in this area or are they at a standstill?

Mr. LEIGHTY. No; they indicated to us that was all they had to say and didn't want to hear any more from us.

Mr. SATTERFIELD. Am I correct in interpreting the telegram to mean that shipments involved would not necessarily relate solely to Vietnam, but any matter that might produce a public health emergency in this country?

Mr. LEIGHTY. Yes. We explained to them that that would include food products, perishable commodities, the coal necessary to operate essential utilities so that the public would not be deprived of what was needed for their health and comfort.

Mr. SATTERFIELD. Would not this situation be somewhat different from the situation as it pertained to the Minuteman trains?

Mr. LEIGHTY. To some extent it would be different. But you must realize that in connection with the Minuteman trains supplies would constantly be necessary, and goods to manufacture the supplies that the Minuteman trains would need would have to be moved.

There would be a number of things that would have to be done. We would have to arrange for the necessary transportation of individuals to make these Minuteman missiles. There would be a considerable involvement outside of just the actual movement of the trains.

But anything of that kind can be accomplished if the two sides say: "This is something we have to do and we will do it." If one side drags their feet it can't be done.

Mr. SATTERFIELD. Was there any discussion in the meeting you had on Tuesday with respect to what criteria might be employed or considered in terms of arriving at what an essential shipment would be?

Mr. LEIGHTY. As you know, all shipments move on bills of lading. We said that any bill of lading that carried a certificate from the Defense Department that these are essential goods would be accepted and moved without question.

With respect to food, we said that the food products would be moved without question and whatever amount of coal or fuel was necessary would be moved.

Mr. SATTERFIELD. It would be certified by the Defense Department?

Mr. LEIGHTY. No, not all to be certified. Just the war material to be certified.

Mr. SATTERFIELD. Who would do it?

Mr. LEIGHTY. Whoever would be most practical to do it. We would accept certification from them.

Mr. SATTERFIELD. Thank you.

Mr. FRIEDEL. Will the gentleman yield?

Mr. SATTERFIELD. Yes; I will yield.

Mr. FRIEDEL. Mr. Leighty, is there any possible chance to get the parties together to try to negotiate now, or are they waiting for us to pass some legislation. Why aren't they meeting now?

Mr. LEIGHTY. I can't answer that question as I am not one of the negotiators.

Mr. FRIEDEL. What can we do to try to get them together now to try to negotiate before the time expires?

Mr. LEIGHTY. My thought is that if your committee would get both parties not together immediately but get one side before you in executive session and lay the law down to that side and then get the other side before you in executive session and lay the law down to that side——

Mr. FRIEDEL. And they bring them both in together?

Mr. LEIGHTY. No; don't bring them both in together to start with. Bring them in separately to start with. Then let them have a session or two among themselves. Then call them in jointly and see what the situation is.

Mr. BROWN. Will the gentleman yield?

Mr. FRIEDEL. Thank you.

Mr. LEIGHTY. That is my opinion. I can't guarantee results. But based on my experience, that is what my answer is to your question.

Mr. BROWN. Will the gentleman yield?

Mr. SATTERFIELD. Yes; I will yield.

Mr. BROWN. Do I understand, Mr. Leighty, you suggest that we actually serve as arbitrators in this dispute?

Mr. LEIGHTY. He was asking how you could get them back together and I was answering the question. I wasn't making a suggestion.

Mr. DINGELL. Mr. Harvey.

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Leighty, the other night I was watching the news on television and they were showing excerpts of some of the testimony before the Senate committee on this same subject.

One of the labor leaders was testifying, and in fairness to you it was not yourself or a witness with you but the gist of his testimony was this: He said that labor was growing very tired of being victimized by the promanagement mediation boards.

I was quite shocked when I heard that because very frankly I had never thought of President Johnson as being antilabor or promanagement, or I hadn't thought in that same context of Willard Wirtz, Secretary of Labor, nor had I thought the long-time champion of labor in the other body, Senator Morse, was antilabor.

I wondered whether you agreed with the gist of this testimony that I heard, or how you would consider the Boards that have been appointed

Are they promanagement in your judgment?

Mr. LEIGHTY. Are you referring to the emergency boards that are appointed?

Mr. HARVEY. I am referring to the first mediation board, which was headed by Mr. O'Neill; the second one, Emergency Board 169, headed by Mr. Ginsburg; and the final one, headed by Judge Fahy.

Let us start at the end and go backward. That final Board was composed of Judge Fahy, recently retired judge of the U.S. Court of Appeals; John W. Taylor, professor of industry, University of Pennsylvania; and John T. Dunlop, professor of economics at Harvard University.

Would your judgment be that either all or any of these particular members were promanagement or that they were antilabor?

Mr. LEIGHTY. Yes.

Mr. HARVEY. Which one would they be?

Mr. LEIGHTY. It isn't hardly fair to ask me to name them, Mr. Congressman.

Mr. HARVEY. I am sure that the President would be interested in knowing who he is appointing who is antilabor and who is promanagement. I am sure Congress would want to know it and I would want to know it.

Let me ask you this: Do you consider Mr. Ginsburg to be promanagement or antilabor?

Mr. LEIGHTY. I would rather not answer a question of that kind. Suppose I make an answer to that and they are on the next Board before which I appear? What is going to happen to me?

Mr. HARVEY. You have had three Boards here. Are you telling us that you consider the personnel of these three Boards to be promanagement and antilabor?

Mr. LEIGHTY. No, sir.

Mr. HARVEY. You would disagree, then, with the conclusions expressed by the other witness over television before the other body; is that correct?

Mr. LEIGHTY. I didn't see that television performance. As you relate it, I couldn't agree with it entirely; no.

Mr. HARVEY. Let me ask you this: Do you think that the Boards were composed of fair and reasonably minded men who were out to decide this in the interest of the overall public interest?

Mr. LEIGHTY. Most of the men on those Boards, in my opinion, are fair and reasonably minded men. Sometimes there are individuals on the Board who are antilabor or promanagement, who control the thinking of the Board.

Mr. HARVEY. Let us be a little more specific. Do you think that a majority of these Boards are composed of fair and reasonably minded men?

Mr. LEIGHTY. No, I think a majority were fair and even minded men.

Mr. HARVEY. But you think that a majority erred in this case, nevertheless?

Mr. LEIGHTY. My thought is that they arrived at a compromise on what they should do.

Mr. HARVEY. That basically reflects the settlement of disputes, does it not; a compromise?

Mr. LEIGHTY. But a Board shouldn't compromise. A Board should come out with what they actually think the settlement should be, rather than compromising.

Mr. HARVEY. Is that what President Johnson has suggested in this legislation before us, that the Board come out with findings if negotiation cannot be successful?

Mr. LEIGHTY. That is what I understand the legislation to be; yes.

Mr. HARVEY. In other words, that is exactly the specifics of this particular proposal: is that correct?

Mr. LEIGHTY. Yes.

Mr. HARVEY. So do you think that would be a fair solution?

Mr. LEIGHTY. If it wasn't a compulsory solution; yes.

Mr. KUYKENDALL. Will the gentleman yield?

Mr. HARVEY. Yes.

Mr. KUYKENDALL. Am I to understand, sir, that you think than an arbitration board of this type should not arrive at a compromise which would take one or the other of the positions?

Mr. LEIGHTY. No. But I do think this: I personally know that on a three-man board, two of the representatives wanted to recommend one thing and the other one would not go along with that. So to have a unanimous opinion they came up with a compromise. The majority didn't say it was right, but they went along with it.

We did expect a minority opinion on one or two Emergency Boards that were created.

Has there been a minority opinion on any Emergency Board that you know of?

I think there was one once, but I think that is all.

Mr. HARVEY. Could I get to another subject in the mintue I have remaining?

In your telegram to the Defense Department you referred specifically to our Nation's military effort and public health. I wonder about an industry in my district, for example, which depends on either weekly or biweekly shipments of a raw material by rail, or component parts by rail to that particular plant, which employs upward of 2,000 people.

Would that be something that would be expected to continue even if it does not pertain to the national defense or does not pertain to public health, or would the 2,000 employees of that plant be laid off?

Mr. LEIGHTY. Yes; they would. That would not be essential to either the Vietnam effort or to public health.

Mr. HARVEY. So they would be laid off, would they, if a strike were called?

Mr. LEIGHTY. That is correct.

Mr. HARVEY. I would just say to you something along the line of what Mr. Devine said earlier. That is, that I don't think any member of this committee likes the situation in which we find ourselves here.

Very frankly, I wish somehow the process of collective bargaining would be able to continue. We think it could be settled better in that fashion, too. I would say as one member, having been called down to the White House once, and having met with the President, the Secretary of Defense, and so on, sitting there listening to them recite what would happen in the event there was a strike, it is pretty difficult to second judge the Secretary of Defense on a circumstance such as this.

I would certainly urge upon you everything you can possibly do to settle this strike before we have to rule upon it ourselves. If we reach that circumstance, I don't think anybody will like it.

I agree with Mr. Devine wholeheartedly in that regard.

Mr. LEIGHTY. I want to assure you that I will do everything I can to assist in making a settlement of this dispute so it does not come to the strike situation. If that does become imminent, I would like to point out to you again that in our opinion seizure is the answer because you will have no strike in the event of seizure.

Mr. HARVEY. It is pretty obvious that a strike is intolerable when you say since 1922 only one has been permitted to continue. That is

going through eight different Presidents, and no Congress has ever seen fit to have it happen. I am sure this Congress would not see fit to have it happen either.

Mr. LEIGHTY. By the same token, there has only been one law passed by the Congress in connection with compulsory arbitration, and that was in a dispute which the railroads initiated.

The CHAIRMAN. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Leighty, can you give us for the record your estimate of the cost package in terms of dollars and cents, the total to the railroads, of the railroad proposals, the demands by labor, the suggestions of the Fahy Panel, and any other recommendations that have been made by the National Mediation Board?

Would you submit those?

Mr. LEIGHTY. Yes; we will submit that. It will take a little while to develop that information, 2 or 3 days, possibly.

(The information requested follows:)

Submitted herewith by the Railway Labor Executives' Association are approximate estimates of the total cost of various settlement proposals in the railroad shopcraft dispute:

I. Carrier proposal of Mar. 28, 1967:
5-percent general increase for 1 year from Jan. 1, 1967, $39,620,000.
No figure can be assigned for the potential cost from a job evaluation study.

II. Union proposal of Apr. 18, 1967:
6½-percent general increase and 12½-cent inequity adjustment for skilled skilled men for 1 year from Jan. 1, 1967, $76,506,000.
5-percent general increase and 12½-cent inequity adjustment for skilled men for 1 year from Jan. 1, 1968, $68,412,000.

III. Fahy mediation panel proposal of Apr. 21, 1967:
6-percent general increase and three 5-cent inequity adjustments for skilled men (as of Apr. 1, 1967, Oct. 1, 1967 and Apr. 1, 1968) for 18 months from Jan. 1, 1967, $93,816,000.

Mr. DINGELL. I am aware of that. I would like to have it in the record.

Mr. Chairman, it would be highly appropriate to have similar information submitted by the railroads and also by the Department of Labor or the Department of Transportation, so that we can make some judgment as to the relative dollar costs here involved.

Gentlemen, I am curious to know why is it necessary that we have a nationwide railroad strike instead of strikes of individual railroads?

Mr. LEIGHTY. That is a very good question.

Mr. DINGELL. You are aware of the practice in the auto industry where a strike involving contract termination does not necessarily close down all the auto producers. It would close down one and perhaps two.

Mr. LEIGHTY. Let me explain this to you, Congressman.

Mr. DINGELL. Don't forget, I am under the 5-minute rule.

Mr. LEIGHTY. Maybe they will charge the time to me. I won't take that long.

The railroads always serve a number of counterproposals as a strategic move so that if in trying to secure our proposals we should call a strike on individual railroads rather than a nationwide strike, they would place their obnoxious counterproposals in effect on all the other railroads and force us into calling a national strike.

That has been their conception and their purpose in serving counterproposals. That is the situation that is present in the industry today.

It is due completely to the fact that the railroads always submit counterproposals which would crucify our people if put into effect.

Mr. DINGELL. What you are saying, then, is that these counterproposals would be permanent in nature if you did not strike the other roads? Would they become a part of the contract and permanent and lasting, or would they last and exist until such time you would have terminated the first labor dispute and moved on to the second?

Mr. LEIGHTY. That has never occurred, but in my opinion that would be the result.

Mr. DINGELL. It would be permanent or temporary?

Mr. LEIGHTY. It would be temporary.

Mr. DINGELL. What you are saying is you don't work under the old contract but you would be compelled to work under a contract or working conditions entirely proposed by railroads without the protection of a contract between the parties?

Mr. LEIGHTY. Yes.

Mr. DINGELL. Would it be possible for us to legislate the contract into permanent existence even though a strike takes place, to permit the strikes to take place on a railroad-by-railroad basis? Is that possible?

Mr. LEIGHTY. That is a new concept. At first blush it would seem to be possible; yes.

Mr. DINGELL. Let me ask you here: Can you submit to us a comparison of wages in the same crafts with other industries, for example the railroads versus the auto or building trades, the steel trades, the aircraft industry, and some of the other segments of the transportation industry, trucking, or the airlines, where there are appropriate similarities of crafts, remembering that there might be very broad differences from region to region?

Mr. LEIGHTY. Yes, we can supply that information. I am sure the shopcraft unions will cooperate with us in giving that information to you, and we can get it from our records, too.

(The information requested follows:)

Submitted herewith by the Railway Labor Executives' Association are wage comparisons between railroad shopcraft employees and employees in other industries doing work as nearly comparable as possible.

The rates shown for shopcraft employees are present rates. However, rates for other employees are in most cases less than those now current, because of the lag in reporting.

Machinists

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Machinist (number: 20,202)	$3.0475	Jan. 1, 1966	Wage agreements with International Association of Machinists.
OTHER INDUSTRIES			
Building trades	4.8700	July 1965	U.S. Bureau of Labor Statistics.
U.S. Steel Corp	3.5530	Aug. 1, 1966	Union agreements with United Steel Workers.
General Motors: Electro-Motive Division.	[1] 4.0100	September 1966	Wage agreements of United Automobile Workers, Local 719.
Pullman, Inc.: Pullman Standard Division.	3.5530	Jan. 1, 1966	Wage agreements with United Steel Workers.
General American Transportation Corp.	3.5530	Feb. 15, 1966	Do.
Air lines, aircraft mechanic	3.7020 3.887 4.081	1966 Jan. 1, 1967 May 1, 1968	Wage agreements with IAM.
Tennessee Valley Authority	3.5600	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Pacific Coast Shipbuilding, repair work.	3.6000	Jan. 1, 1967	U.S. Bureau of Labor Statistics.
U.S. Naval establishments	3.4400	1966	U.S. Department of Navy, Office of Industrial Relations. Median rate in step 3 of pay level 11. Rates vary among 99 areas.
Union and nonunion combined, all metropolitan areas.[2]		February 1966	U.S. Bureau of Labor Statistics, Bulletin 1465-86, pt. II (forthcoming).

[1] Includes cost-of-living allowance.
[2] Straight-time hourly earnings for maintenance machinist:

	Median [a]	Interquartile range [a]	Size of sample (workers)
All industries [b]	$3.49	$3.19–$3.72	44,576
Manufacturing	3.49	3.19–3.71	42,175
Transportation, communication, and other public utilities	3.60	3.03–3.95	1,898

[a] The median designates position—half of the employees surveyed received more than the rate shown, half received less. The interquartile range is defined by 2 rates of pay—a fourth of the workers earned less than the lower of these rates and a fourth earned more.
[b] Does not include construction, mining, or government institutions.

Electrical trades (journeyman)

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Electrician (number: 11,753)	$3.0475	Jan. 1, 1966	Wage agreements with International Brotherhood of Electrical Workers.
Lineman (number: 2,246, including groundmen).	2.9950	do	
OTHER INDUSTRIES			
Building trades:			
Inside wireman	4.8100	July 1965	U.S. Bureau of Labor Statistics.
Electrician	5.0100	October 1966	Do.
U.S. Steel Corp.: Lineman	3.5530	Aug. 1, 1966	Union Agreements with United Steel Workers.
General Motors: Electro-Motive Division:			
Electrician, maintenance	[1] 3.9400	September 1966	Wage agreements with United Automobile Workers, Local 719.
Electrician, locomotive	[1] 3.3700	September 1966	
Pullman, Inc.: Pullman Standard Division: Electrician, shop	3.5530	Jan. 1, 1966	Wage agreements with United Steel Workers.
General American Transportation Corp.: Electrician	3.5530	Feb. 15, 1966	Do.
Tennessee Valley Authority: Electrician.	3.5600	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Pacific Coast Shipbuilding, repair work: Electricians.	3.6000	Jan. 1, 1967	Union agreements.
U.S. Naval establishment:			
Electrician	3.4400	1966	U.S. Navy Department, Office of Industrial Relations.
Electrician, lineman	3.4400	1966	Median rate in step 3 of pay level 11. Rates vary among 99 areas.
Union and nonunion combined, in metropolitan areas.[2]		Feb. 1966	U.S. Bureau of Labor Statistics, bul. 1465-86; pt. II (forthcoming).

[1] Includes cost-of-living allowance.
[2] Median straight-time hourly earnings for maintenance electricians:

	Median	Interquartile range [a]	Size of sample (workers)
All industries [b]	$3.51	$3.21-3.75	56,034
Manufacturing	3.50	3.22-3.73	49,129
Transportation, communications, and other public utilities	3.75	3.39-4.05	4,025

[a] The median designates position—½ of the employees surveyed received more than the rate shown, ½ received less. The interquartile range is defined by 2 rates of pay—¼ of the workers earned less than the lower of these rates and ¼ earned more.
[b] Does not include construction, mining, or Government institutions.

Sheet metal workers

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Sheet metal worker (Number: 6,174)	$3.0475	Jan. 1, 1966	Wage agreements with Sheet Metal Workers' International Association.
Other industries:			
Building trades	4.6800	July 1965	U.S. Bureau of Labor Statistics.
United States Steel Corp	3.4800	Aug. 1, 1966	Union agreements with United Steel Workers.
Tennessee Valley Authority	3.5600	Dec. 26, 1965	Supplementary Wage Schedule B, Tennessee Valley Trades and Labor Council.
Pacific Coast Shipbuilding, repair work.	3.6000	Jan. 1, 1967	U.S. Bureau of Labor Statistics.
U.S. naval establishments	3.4400	1966	U.S. Navy Department, Office of Industrial Relations. Median rate in step 3 of pay level 11. Rates vary among 99 areas.
Union and nonunion combined, in metropolitan areas.[1]	----------	February 1966	U.S. Bureau of Labor Statistics, Bul. No. 1465-86, pt. II (forthcoming).

[1] Straight-time hourly earnings for maintenance sheet metal workers.

	Median [a]	Interquartile range [b]	Size of sample (workers)
All industries [c]	$3.49	$3.26-3.66	6,142
Manufacturing	3.49	3.29-3.66	5,817

[a] The median designates position—half of the employees surveyed received more than the rate shown; half received less than the rate shown.

[b] The interquartile range is defined by 2 rates of pay; a fourth of the workers earned less than the lower of these rates and a fourth earned more than the higher rate.

[c] Does not include construction, mining, or government institutions.

Blacksmiths and boilermakers

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Blacksmiths (number, 1,758)	$3.0108	Jan. 1, 1966	Wage agreements with International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers.
Boilermakers (number, 1,847)	3.0108	do	
OTHER INDUSTRIES			
Building trades: Boilermakers	4.9000	July 1965	U.S. Bureau of Labor Statistics.
United States Steel Corp.:			
Blacksmiths	3.4800	Aug. 1, 1966	Union agreements with United Steel Workers.
Boilermakers	3.4800	do	
General Motors, Electro-Motive Divison: Blacksmith, general.	[1] 3.3700	September 1966	Wage agreements with United Automobile Workers, Local 719.
Pullman, Inc., Pullman Standard Division:			
Blacksmith	3.4800	Jan. 1, 1966	Wage agreements with United Steel Workers.
Boilermaker	3.4800	do	
General American Transportation Corp.: Blacksmith.	3.4070	Feb. 15, 1966	Do.
Tennessee Valley Authority:			
Blacksmith	3.5600	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Boilermaker	3.5600	----------	
Pacific Coast Shipbuilding, repair work:			
Blacksmiths	3.6000	Jan. 1, 1967	Union agreements.
Boilermakers and iron shipbuilders.	3.6000	do	
U.S. naval establishments:			
Blacksmiths	3.4400	1966	U.S. Navy Department, Office of Industrial Relations.
Boilermakers	3.4400	1966	Median rate in step 3 of level 11. Rates vary among 99 areas.

[1] Includes cost-of-living allowance.

Carman

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
Passenger carmen (number: 13,079)	$3.0108	Jan. 1, 1966	Wage agreements with Brotherhood of Railway Carmen of America.
Other carmen (number: 39,040)	2.9668		
OTHER INDUSTRIES			
Building trades:			
Carpenters	4.5600	July 1965	U.S. Bureau of Labor Statistics.
Painters	4.2800		
Structural ironworkers	4.7400		
United States Steel Corp.:			
Painter	3.188	Aug. 1, 1966	Wage agreements with United Steel Workers.
Carpenter	3.334		
Pipefitter	3.334		
Welder	3.407		
Mechanic, auto	3.407		
General Motors: Electro-Motive Division: [1]			
Welding, combination, maintenance.	4.0100	September 1966	Wage agreements of United Automobile Workers, Local 719.
Carpenter, maintenance	3.8700		
Painter, maintenance	3.8700		
Arc welding and gas burning.	3.3700		
Pipefitter, locomotive	3.3700		
Painter, locomotive	3.3700		
Carpenter, locomotive	3.3700		
Pullman, Inc.: Pullman Standard Division:			
Welder, draft	3.4070	Jan. 1, 1966	Wage agreements with United Steel Workers.
Pipefitter	3.334		
Carpenter	3.334		
General American Transportation Corp.:			
Pipefitter, maintenance	3.3340	Feb. 15, 1966	Wage agreements with United Steel Workers.
Carpenter	3.3340		
Welder, production	3.2610		
Tennessee Valley Authority:			
Structural iron worker	3.5600	Dec. 26, 1965	Supplementary Wage Schedule B, Tennessee Valley Trades and Labor Council.
Welder	3.5600		
Carpenter	3.4700		
Painter	3.4700		
Pacific Coast Shipbuilding, repair work:			
Acetylene burner	3.6000	Jan. 1, 1967	U.S. Bureau of Labor Statistics.
Driller and reamer	3.6000		
Painter	3.6000		
Rigger	3.6000		
Riveter	3.6000		
Welder	3.6000		
U.S. naval establishments:			
Carpenter	3.3400	1966	U.S. Department of the Navy, Office of Industrial Relations. Median wage rates in third step of pay levels 10 and 11. Rates vary among 99 areas.
Painter	3.3400		
Riveter	3.3400		
Railroad car repairman (freight)	3.3400		
Upholsterer	3.3400		
Structural iron worker	3.4400		
Painter (aircraft finish and insignia).	3.4400		
Pipefitter	3.4400		
Heavy duty equipment mechanic.	3.4400		
Welder	3.4400		

[1] Includes cost-of living allowance.

Laborers and coach cleaners

Industry	Average hourly wage	Date effective	Source
RAILWAY SHOPS			
General laborers: Shops, enginehouse, and powerplants (number: 7,623).	[1] $2.5069	Jan. 1, 1966	Wage agreements with various railway unions, and ICC statement M-300.
Classified laborers: shops, enginehouse, and powerplants (number: 5,746).	[1] 2.5522	do	
Coach cleaners (number: 3,791)	[1] 2.5415	do	
OTHER INDUSTRIES			
Building trades: Building laborers	3.5900	Oct. 3, 1966	U.S. Bureau of Labor Statistics.
Industrial chemicals and petroleum refining: Laborers, material handling.	2.6100	November 1965	U.S. Bureau of Labor Statistics. (Special study).
U.S. naval establishments:			
Laborer (pay level 1)	2.4100	1966	U.S. Navy Department, Office of Industrial Relations. Median rates on step 3 of pay levels 1 and 2. Rates vary among 99 areas.
Laborer (pay level 2)	2.4800	1966	
Tennessee Valley Authority: Laborer, unclassified.	2.4400	Dec. 26, 1965	Supplementary wage schedule B, Tennessee Valley Trades and Labor Council.
Pacific coast shipbuilding, repair work: Laborers, production.	3.3000	Jan. 1, 1967	Union agreements.
New York transit system: Car cleaner.	2.8625	Jan. 1, 1966	Agreement with Transport Workers Union.
Union and nonunion combined, in metropolitan areas.[2]		February 1966	U.S. Bureau of Labor Statistics, Bulletin No. 1465-86, pt. II (forthcoming).

[1] Rates shown are average straight-time hourly earnings, January 1966, computed from ICC statement M-300.

[2] Straight-time hourly earnings for laborers, material handling:

	Median [a]	Interquartile range [a]	Size of sample (workers)
All industries [b]	$2.55	$2.03-$2.88	239,026
Manufacturing	2.43	2.03- 2.77	130,862
Transportation, communication, and other public utilities	2.94	2.68- 3.21	48,014

[a] The median designates position—half of the employees surveyed received more than the rate shown; half received less than the rate shown. The interquartile range is defined by 2 rates of pay: a fourth of the workers earned less than the lower of these rates and a fourth earned more than the higher rate.

[b] Does not include construction, mining, or Government institutions.

Mr. DINGELL. With the brief time remaining, can you tell me what will happen to the dispute that was handled in the legislation in 1963? What about the manning rules disputes that exist? Are they going to come back during the pendency of the legislation that the administration has presented to this committee?

Mr. LEIGHTY. Mr. Schoene is going to have considerable to say on that point.

Mr. DINGELL. Very well. I will defer that question until that time.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Chairman, thank you.

Mr. Leighty, I want to apologize for not being here. I think you deserve an explanation. The President had a conference this morning on District of Columbia matters, matters which were urgent.

Mr. Nelsen on my side, and Mr. Adams on the other side, all had to be there and we have been there since 5 minutes to 10.

I hope you will accept our apology for not being here to hear your statement.

Mr. LEIGHTY. Certainly.

Mr. SPRINGER. Mr. Leighty, I think one of the problems before this committee which is most pressing, is that we have a clear understanding from you as to what you understand the differences are between the brotherhoods and management.

Did you hear the testimony of Mr. Wolfe yesterday and the day before?

Mr. LEIGHTY. No; I didn't hear the testimony.

Mr. SPRINGER. I wouldn't try to recollect all of that. I did get, as best I could, the matters that you submitted, as I understand it, as your side of this matter.

Mr. LEIGHTY. Congressman, let me interpose here.

I am the chairman of the RLEA and I am not directly involved in this dispute.

Mr. SPRINGER. Is Mr. Fox going to testify?

Mr. LEIGHTY. Yes.

Mr. SPRINGER. If you have knowledge, may I run through these and you can tell me if you do not have knowledge. We are just trying to pin this down so the committee has no misunderstanding about what the differences are with reference to this entire matter.

I am advised that there were eight matters submitted by labor. I will go in reverse order and get rid of the small ones first.

It is my understanding the paid lunch period was withdrawn.

Mr. LEIGHTY. Right.

Mr. SPRINGER. The second was pay for jury duty. Is that in dispute?

Mr. LEIGHTY. It isn't settled yet.

Mr. SPRINGER. It isn't settled?

Mr. Wolfe, I believe, said it was not in dispute. I don't know just exactly what that involves.

Mr. LEIGHTY. I think he believes that is going to be withdrawn.

Mr. SPRINGER. Then nine guaranteed holidays, as I understand it. Is that in dispute?

Mr. LEIGHTY. I would rather have the shop people answer that.

Mr. SPRINGER. The vacations, which I understand you submitted and both Boards recommended, is that in dispute?

Mr. LEIGHTY. The 3 weeks vacation after 10 years would be accepted as a settlement.

Mr. SPRINGER. The shift differentials which I understood to be 18 cents per hour, 4 to midnight, and 25 cents an hour from 12 to 8 o'clock——

Mr. LEIGHTY. I would ask them to answer that.

Mr. SPRINGER. Overtime would be double time.

Mr. LEIGHTY. I would like to have them testify on that.

Mr. SPRINGER. The cost-of-living increase for each quarter if there was a cost of living in each quarter, is that in dispute?

Mr. LEIGHTY. I am inclined to think that all of the wage issues are in dispute, but I don't think that issue is being pressed.

Mr. SPRINGER. Now I want to come to the eighth one which is, as I understand it, the increase in basic rates or what is called straight time. This is the big issue, is that correct?

Mr. LEIGHTY. That is one of the items. I think there are two big issues. That is one big issue, and then this skill differential is the other big issue. I believe that the shopcraft individuals or organizations feel that one is of equal importance with the other because the one is for the purpose of attempting to keep wage rates up to the increases that have been received in industry generally while the other is to correct an inequity that has grown in the skilled employees wages.

Mr. SPRINGER. I want to read, if I may, from a release which was made by the Special Panel appointed by the President in the railroad shopcraft-carrier dispute. This was released from the White House on April 22. It was the report of the Special Panel.

I want to read this. I want to get your comments.

> Indeed, it is our considered judgment that if the duration and size of the general wage rate increase expressed in percentage terms could be resolved, the amount of the adjustment to correct the wage inequity could readily be resolved. Our mediation has, of course, concerned the issues in the dispute as a whole, but the most intractable problem now concerns, 1, the duration of the agreement; and, second, the amount of the general wage increase.

Would you agree with that statement?

Mr. LEIGHTY. Yes. I wouldn't quarrel with that statement.

Mr. SPRINGER. In other words, these are the two real basic things on which there is a difference. You think the others probably could be resolved if these two things could be resolved?

Mr. LEIGHTY. I think the skill differential—the general wage increase, the skill differential and the duration of the contract. But the general increase and the duration all go together. Both of them go together. Here is the situation with respect to the shopcrafts.

This is May of this year. Any increase they receive should be effective as of January 1, 1967. You have practically a third or a half of the year gone. If you only have a 1-year contract or an 18-month contract, you will have to get back into negotiations again before the ink is dry on this contract.

In serving notices, you have to serve them originally on the original railroad and there has to be negotiation on that level first.

Mr. SPRINGER. You would have to serve that notice on November 1, 1967, is that right, under a 1-year agreement?

Mr. LEIGHTY. September 1 is the date that has been agreed to by these organizations and the carriers that have settled on the 1-year contract.

Mr. SPRINGER. Just the one further point. It is my understanding that thus far the railroads have made an offer of 5 percent plus a job evaluation study. Is that their offer as you understand it?

Mr. LEIGHTY. I think that was their offer at one time. They have indicated since that time that they would give consideration—it wasn't an offer—but they indicated they would give consideration to the 6 percent and on skilled shift differential they might make a slight downpayment, but there would have to be job evaluation.

Job evaluation is a very important issue, and the skilled differential, of course.

Mr. SPRINGER. You have not agreed on the amount to go into escrow in that instance?

Mr. LEIGHTY. No; there has been no agreement on that.

Mr. SPRINGER. I want to see if I can get the brotherhood's offer. If I state this correctly, would you say yes, and if I don't, amend it to correct it?

First, in the first year, if this were a 2-year agreement, it would be 6½ percent across the board plus 12½ cents for 1967. For 1968, 5 percent across the board and 12½ cents for 1968. Have I stated that correctly?

Mr. LEIGHTY. That is correct.

Mr. SPRINGER. Are there any amendments to that or any other conditions?

Mr. LEIGHTY. Any other conditions?

Mr. SPRINGER. Yes.

Mr. LEIGHTY. The only conditions are the same conditions that are in these other contracts, that they are free to negotiate on other issues. But all of the 74 percent which have settled do have that right to negotiate on other issues at any time.

Mr. SPRINGER. I just wanted to be sure that we knew where the respective parties stood.

Thank you, Mr. Leighty.

Mr. DINGELL (presiding). Mr. Rogers.

Mr. ROGERS. I just wish to ask a question or two.

All of us wish the Congress did not have to be involved in this, as you know, and wish the parties would go ahead and settle it.

Mr. LEIGHTY. We wish it would go away.

Mr. ROGERS. As I understand it, it is the position of your people that you feel it would be dreadful to have a nationwide strike.

Mr. LEIGHTY. We don't want a nationwide strike.

Mr. ROGERS. And you agree that this would be so hurtful that we should try to avoid this?

Mr. LEIGHTY. That is right.

Mr. ROGERS. You have gone to the extent of saying that you would deliver necessary services for defense and health.

Mr. LEIGHTY. That is right.

Mr. ROGERS. I think this is well established, that any nationwide strike would be harmful to the welfare of the Nation.

Mr. LEIGHTY. I think so; yes.

Mr. ROGERS. Where two parties cannot agree, since the Nation cannot endure a nationwide strike, what machinery should the Congress set up to help get the parties together? When everything else has failed, when you can't get together, either you won't agree or the other side won't agree, should there be some machinery that the Congress should set up to try to help get the parties together?

Mr. LEIGHTY. The only solution I have at the present time for a situation of that kind to prevent a nationwide strike would be seizure of the railroads on an equitable basis. It is the welfare of the country that is involved. If it gets to the point where it is for the welfare of the country, then we feel that whoever operates the property and receives the profit thereof should be the Government, not a private individual.

If you are going to deprive these people of their right to strike, or if they are going to be deprived of that right for the period of the seizure, which they would be, then the profits during that period should not inure to private corporations. They should go to the Government.

In our opinion, based on the four seizures that we have had, the seizure does provide a method of settlement.

Mr. ROGERS. Suppose the parties don't agree even though they have been seized? Then what? Do you just continue seizure?

Mr. LEIGHTY. Let me say this: On the basis of our experience with seizures, agreements are entered into. That is our experience under seizure. There have been four of them.

Mr. ROGERS. I am just assuming. Suppose the railroads don't agree? Suppose they are the ones who say, "No; we won't agree"?

Mr. LEIGHTY. Then I think at that time we will come to Government ownership and operation of the railroads on a permanent basis.

Mr. ROGERS. You would be willing to have Government ownership?

Mr. LEIGHTY. I suggested that 2 years ago and you should have heard the screaming on the part of the railroads.

Mr. ROGERS. Do you seriously maintain that we should have Government ownership and operation of the railroads?

Mr. LEIGHTY. Yes; Government ownership and operation of railroads; definitely.

Mr. ROGERS. Do you think that is worse than going to an arbitration board?

Mr. LEIGHTY. Do I think it is worse?

Mr. ROGERS. Or better?

Mr. LEIGHTY. Better, much better.

Mr. ROGERS. You think it is better for the Government to get into the running of the railroads' business in this country rather than to allow an arbitration board to try to get the parties together.

Mr. LEIGHTY. Definitely. An arbitration board to get parties together is one thing, but an arbitration board to make an award and enforce that award would be something else. If the arbitration board is——

Mr. ROGERS. This would keep you working under the seizure?

Mr. LEIGHTY. Yes.

Mr. ROGERS. Do you strike against the Government?

Mr. LEIGHTY. No.

Mr. ROGERS. Then you lose the right to strike during the seizure and Government operation?

Mr. LEIGHTY. What about your men in the Army? They can't strike.

Mr. ROGERS. I am just saying, are you willing to give up the right to strike during seizure and let the Government go into this operation like the Army? Is that what you are maintaining to this committee?

Mr. LEIGHTY. I am.

Mr. ROGERS. Well, I am shocked.

Mr. LEIGHTY. I am sorry.

Mr. ROGERS. I think if you reviewed this, I don't believe you really, seriously, would maintain to this committee that you would want to have the Government to go in under seizure and tell a man he can never strike against the railroads, with the Government running the railroads. I don't believe you want that.

Mr. LEIGHTY. I don't want it, but you are asking me for a solution.

Mr. ROGERS. I think you should review your testimony and correct it. I cannot believe this to be a serious proposal.

I do think that, of course, we do want the parties to get together. If everything does not work out, trying to get them together through joint meetings, efforts of Government mediators and emergency boards,

obviously the Congress will have to work out a plan. I don't think you seriously would want us to seize the railroads from now on, to run them, and never allow anybody to strike.

Mr. LEIGHTY. Let me say, Congressman, if you seize the railroads and it is even-handed seizure, the railroads wouldn't be operated very long, possibly a week or 10 days, and you will see a settlement.

Mr. ROGERS. But you think that is better than going to an arbitration board?

Mr. LEIGHTY. Definitely. Everything has already been heard that an arbitration board could hear.

Mr. ROGERS. What about going to a court?

Mr. LEIGHTY. No.

Mr. ROGERS. You would not believe in a labor court?

Mr. LEIGHTY. No; no labor courts.

Mr. ROGERS. You don't have much confidence in the judicial system?

Mr. LEIGHTY. Mr. Schoene will speak to that. If you are asking for my personal opinion, I am very much disappointed in our judicial system.

Mr. ROGERS. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Dr. Carter.

Mr. CARTER. Thank you, Mr. Chairman.

I have been very much impressed by your frankness and sincerity. Certainly, I appreciate the union's willingness to continue the shipment of war materials, missiles, and so on, and the supplies necessary to public health.

I must say that I am in disagreement with Government ownership. Look what Government ownership has done to the Post Office.

I am thankful that our ranking member brought out so succinctly the points of contention. It seems that really there is not too great a variance in what the railroads want and what the unions want. Certainly, I am hopeful that this can be resolved without the necessity of Congress taking action in this field.

Thank you, sir. I yield the balance of my time to Mr. Brown.

Mr. BROWN. On the point Mr. Rogers was discussing with you, I, too, am shocked.

Let us assume we have Government seizure of the railroads and Government ownership of the railroads, and the employees of the railroads are not satisfied with their wages and working conditions.

What recourse then would they have?

Mr. LEIGHTY. The railroads' employees would be performing a public service for a nonprofit organization. Their recourse would be the same recourse that other employees of the Government would and that is to come to Congress with their grievances.

Mr. BROWN. In other words, Congress would be establishing the wage rates and the working conditions of the railroad workers?

Mr. LEIGHTY. That would be the final source of appeal.

I am not advocating in this case that the Government take over the railroads. The only thing I am advocating is that they seize and operate the railroads in the period of the so-called emergency. As I have said before, based on our past experience, it isn't going to last very long.

Mr. BROWN. Then if I understand it correctly, your preference would be for seizure to House Joint Resolution 559?

Mr. LEIGHTY. That is correct.

Mr. BROWN. Where do you put the strike in those three possible choices? Is it the second choice after seizure and preferable to 559?

Mr. LEIGHTY. The second choice is seizure. We are absolutely opposed to any compulsory arbitration.

Mr. BROWN. Where do you put the strike?

Mr. LEIGHTY. First.

Mr. BROWN. That would be your first choice?

Mr. LEIGHTY. First.

Mr. BROWN. For Congress to do nothing?

Mr. LEIGHTY. With our offer to handle essential war material and whatever may be necessary for the health of the Nation.

Mr. BROWN. So your first choice would be for this committee and the Congress to do nothing?

Mr. LEIGHTY. That is right.

Mr. BROWN. Your second choice would be for it to approve seizure?

Mr. LEIGHTY. That is right, even-handed seizure.

Mr. BROWN. Do you feel that a rail strike is not going to be that damaging, then, providing you go ahead and handle the war surplus and public health and public necessity transportation?

Mr. LEIGHTY. Based on my knowledge, of this particular dispute, the amount it would cost the railroads to dispose of this dispute over what they have indicated they would give is so insignificant that they should not even be here with this kind of a proposal. It should have been settled. I heard about what they said, how much a strike would cost and those various things. This should have been settled without even coming before you. But they think that this is an opportunity to get what amounts to compulsory arbitration.

Very frankly, I agree with Mr. Fox, that is why no settlement has been made.

Mr. BROWN. And what about the other working men who are not engaged in either defense work or public health and safety activities, those people that would be put out of business temporarily by a rail strike? What about the damage to them?

Mr. LEIGHTY. I want to reiterate, a reasonable disposition can be made of this dispute if the railroads would really engage in collective bargaining. But they want compulsory arbitration. This is their opportunity to get it. They are not going to give up on it very easily.

The CHAIRMAN. The gentleman's time has expired.

Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. Leighty, I want to know first whether you and your men would be willing to go into around-the-clock negotiation on this matter.

Mr. LEIGHTY. I would have to ask the shopcraft people. They are all here.

I turned to the shopcraft group and there seems to be a divided opinion on that.

Mr. ADAMS. I have asked the same question of management. As I indicated to Mr. Wolfe, when he was here, the basic position that many of us have is that we think the public interest has been involved and we are trying to determine a method to put both parties in the position where the choice of legislation is unpalatable and they will bargain this out.

I apologize for being late, Mr. Leighty, and I am told Mr. Springer explained that we had to be at the White House this morning, that being the reason that we were not here.

I gather from your statement that you are against the compulsory arbitration.

Mr. LEIGHTY. Definitely.

Mr. ADAMS. And you are against then having legislation that prevents you from striking?

Mr. LEIGHTY. That is right.

Mr. ADAMS. With regard to the question asked by Mr. Rogers, and I believe it was asked on the other side, with regard to seizure of the railroads and your not being able to strike, you are not able to strike now, are you?

Mr. LEIGHTY. No. That is right.

Mr. ADAMS. Under House Joint Resolution 559, you would not be allowed to strike, would you?

Mr. LEIGHTY. That is right.

Mr. ADAMS. What some of us are working on is whether or not we should come down on both sides here and maybe say to you, we will go with some type of compulsory arbitration and no right to strike, and on the other hand, we will go to the railroads and seize them.

I will ask you this question: Seizure occurred in 1946 and in 1950, did it not?

Mr. LEIGHTY. That is right.

Mr. ADAMS. Did it have an effect in the collective bargaining process during the 1950's, in terms of pressure on the parties to settle?

Mr. LEIGHTY. Yes; there is no doubt about that.

Mr. ADAMS. In 1963, and in the airline strike, there had been a threat of just compulsory arbitration. Has that had an effect on the collective bargaining process?

Mr. LEIGHTY. It definitely has because that is what is being relied upon, in my opinion, by the railroads now, in their refusal to settle this dispute.

Mr. ADAMS. There have been stated the publicly stated proposals of both the railroad and of labor. I will ask you this question, and I asked Mr. Wolfe the same question—I think we have to take the top off the collective bargaining process because the public interest is involved in this case at this point.

Are you, representing the labor union groups, willing to move from your publicly stated positions and have you so informed the mediators?

Mr. LEIGHTY. Let me clear that up, Congressman.

I am chairman of the Railway Labor Executives Association, speaking for all of the organizations affiliated with us. But I do not speak as a unit or handle the negotiations of the various groups. I handle the negotiations for certain groups. The shopcrafts in this case are handling their own negotiations. That is a question they would have to reply to when they have their witness on the stand.

Mr. ADAMS. Will there be such a witness, Mr. Chairman?

The CHAIRMAN. Yes; next Tuesday.

Mr. ADAMS. You might carry that information to him, that that question will definitely be asked. If these two parties are both standing on fixed positions, then we are going to have to apply some sanctions—

and by "we," I mean the Congress in the public interest—and a number of us, as I indicated to Mr. Wolfe, have been working on proposed forms of legislation to do just that. We wanted to state publicly, so that you were on notice, as well as the railroads, that we don't think either of you are going to like what is going to be proposed. That question will be the first one that I will ask.

I have no further questions.

Mr. DINGELL. Will the gentleman yield?

Mr. ADAMS. Yes.

Mr. DINGELL. It is our expectation to make the alternative legislation equally obnoxious to both, and not unduly unfair to one side or the other.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Mr. Leighty, I would like to get from you, or someone in the shopcraft unions, information on what a rail strike would cost your employees per day, per week, per month, or whatever kind of figure you might give me in terms of wages lost.

Mr. LEIGHTY. Do you want the aggregate amount or amount per employee?

Mr. BROWN. I would like to have the aggregate amount of the employees who would be out on strike, what the cost is to those individual employees in a rail strike.

Mr. LEIGHTY. We will supply that for the record.

(The information requested follows:)

MEMORANDUM SUBMITTED BY THE RAILWAY LABOR EXECUTIVES' ASSOCIATION ON ESTIMATED STRIKE LOSS TO EMPLOYEES

On the basis of the railroad payroll for the year 1966, we estimate that a strike of the shopcraft employees would result in a wage loss to them of about $2,694,000 a day and for all employees, it would be $13,368,000 a day.

If it is assumed that supervisory employees would continue to be paid, the loss for all employees would be $12,788,000 a day.

Mr. BROWN. I would like to pursue for a moment the question Mr. Dingell raised earlier, and that is the possibility of making your wage negotiations or labor negotiations nonnational. Is it practical any place along the line for the unions to negotiate other than on a nationwide basis? Is it practical for the maagement of the railroad industry to negotiate on other than a nationwide basis?

Mr. LEIGHTY. I do not consider it practical. You would have to have 200 to 300 separate negotiations in the railroad industry on each movement. I don't believe it would work out.

After years of experience in trying to handle it on that basis and a regional basis, both sides in the 1930's came to the conclusion that the national basis of handling was the better of the two.

Mr. BROWN. And now we are seeing the demise of collective bargaining.

Mr. LEIGHTY. I think that has come about for a number of reasons.

Mr. BROWN. Unrelated to the fact that we are now bargaining nationally?

Mr. LEIGHTY. Yes.

Mr. BROWN. You think that has nothing to do with it?

Mr. LEIGHTY. I would say very frankly to you that the railroads have seen fit to conduct their negotiations from one focal point, and that there isn't any one man who can handle a situation of that kind.

Mr. BROWN. If it were legislated, however, that this were not within the realm of possibility without being a monopoly on the part of the railroad, would the union be in a position to profit from that kind of regulation or would management be in a position to profit from that kind of regulation?

Mr. LEIGHTY. I don't quite understand your question.

Mr. BROWN. If you made it a monopoly practice to bargain on a nationwide basis rather than railroad by railroad, would the pressure be greater on the management or on the union to settle disputes?

Mr. LEIGHTY. I don't think that makes a great deal of difference. The difficulty with national handling of it, as I see it, is that it does give the railroads an opportunity to refuse to make a settlement and create what may be considered an emergency, a national crisis, and endeavor to force compulsory arbitration upon us, which we certainly cannot willingly accept.

Mr. BROWN. I am not sure that answered my question.

Mr. LEIGHTY. I think insofar as national negotiations are concerned, as they have worked out in the past, it has been advantageous to both of us. I think it has helped us materially; it has helped the carriers materially. It has prevented, in my opinion, a great deal of chaos.

For example, the organizations go on the Santa Fe Railroad and get an increase of 20 cents an hour. Then the employees on the Southern Pacific go in and say, "No, we will not settle for 20. We have to have 22."

Mr. BROWN. Is it possible that there are conditions on one of the railroads that would necessitate 22 rather than 20 cents an hour?

Mr. LEIGHTY. There is a possibility of that kind. I would say that generaly speaking national negotiations are beneficial to both sides.

Mr. BROWN. I would have to differ with you only to the extent that I think national negotiations, the nationwide character of the emergency we now find ourselves in, is a contributing factor to the circumstance. I think we are a bit off the subject.

Let me ask you a question relating specifically to House Joint Resolution 559.

Do you agree with the way the Board is constituted under House Joint Resolution 559, a five-member totally public board, with one member having some background in labor, and one member having some background in management?

The legislation aparently doesn't say railway labor or railway management.

Do you accept that?

Mr. LEIGHTY. I don't think it needs to be railway labor. I think probably it is advisable because we often find that these public boards come up with recommendations which most of us agree would be entirely impractical. By having a labor representative and a manage-

ment representative on the Board we should be able to prevent them from coming up with something completely impractical.

Mr. BROWN. It seems to me in this circumstance that both labor and management are using the Congress, and specifically perhaps this committee, or focusing on this committee, as a tool in negotiation.

From what you have said and what Mr. Wolfe has said, I get this impression, whether it is proper or not. Do you think that is a fair interpretation of the circumstances?

Mr. LEIGHTY. We have no desire to go to the Congress.

Mr. BROWN. Do you think the railroad management does?

Mr. LEIGHTY. Yes, frankly. Yes. They are trying to follow through on what Mr. Loomis said in 1950, which I read in my statement.

In 1950 he advocated compulsory arbitration.

Mr. BROWN. And if we approved House Joint Resolution 559, you would see this as a prorailroad management solution to this problem?

Mr. LEIGHTY. Definitely.

Mr. BROWN. Would you conclude, then, also, that if we advocated House Joint Resolution 559 but seizure, that this would be interpreted by railroad management as accepting labor's viewpoint in this negotiation procedure?

Mr. LEIGHTY. No; I do not think it would be so interpreted. I think an honest analysis would prevent that.

Mr. BROWN. You think that it would indicate——

Mr. LEIGHTY. No; it would not indicate that. It would not indicate it was prolabor. Seizure isn't prolabor. We would be barred from doing a lot of things under the seizure law.

Mr. BROWN. How would you interpret our washing our hands of this thing and taking no action whatsoever?

Mr. LEIGHTY. I think if you washed your hands of the thing and took no action whatever a settlement would be made before the strike, before June 19.

Mr. BROWN. And if there were not a settlement?

Mr. LEIGHTY. There would be a settlement.

Mr. BROWN. You are sure of that?

Mr. LEIGHTY. Well, that is my firm opinion. I hope you would not put me in the electric chair if it did not go that way.

Mr. BROWN. But it is worth our taking that risk?

Mr. LEIGHTY. That is worth your taking that risk; yes.

The CHAIRMAN. That will conclude the questioning, Mr. Leighty.

Mr. LEIGHTY. Thank you, Mr. Chairman. I appreciate the courtesy extended to me by the committee.

The CHAIRMAN. I wish to thank you for coming before us this morning.

This will conclude our hearings for today. We will resume next Tuesday.

I hope next Tuesday we will have a bit of a speedup. We might have some afternoon sessions at that time or maybe in the evening. I don't know.

I think we are now getting the essential information we need in order to make a decision as a committee. We hope if we have some

questions we might need to ask you or management, we can have the opportunity of bringing you back for those questions.

Mr. LEIGHTY. I will make myself available.

Mr. SPRINGER. Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. I think there are many members who are not here today who would like to have your statement in their offices. Could you supply these over the weekend?

Mr. LEIGHTY. I believe a copy was laid at each Congressman's position.

Mr. SPRINGER. I meant to their office.

Mr. LEIGHTY. Yes, we will arrange to do that.

The CHAIRMAN. Again, thank you.

This will conclude our hearings for today, until next Tuesday morning at 10 o'clock.

(Whereupon, at 12:25 p.m., the committee adjourned, to reconvene Tuesday, May 23, 1967, at 10 a.m.)

RAILROAD LABOR DISPUTE

TUESDAY, MAY 23, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We are meeting again this morning in continuation of hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

We have as our witness this morning Mr. Joseph W. Ramsey, general vice president of the International Association of Machinists.

Welcome to the committee, Mr. Ramsey. We are glad to have you. You may proceed with your statement as you see fit.

We would like you to identify the gentlemen who are with you, for the record, before you proceed.

STATEMENT OF JOSEPH W. RAMSEY, GENERAL VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS; ACCOMPANIED BY ANTHONY KRAUSE, ASSISTANT GENERAL PRESIDENT, BROTHERHOOD OF RAILWAY CARMEN; J. W. O'BRIEN, GENERAL VICE PRESIDENT, SHEET METAL WORKERS; THOMAS V. RAMSEY, INTERNATIONAL VICE PRESIDENT, ELECTRICAL WORKERS; EDWARD WOLFE, VICE PRESIDENT, BOILERMAKERS & BLACKSMITHS; AND JAMES ZINK, EXECUTIVE VICE PRESIDENT, FIREMEN & OILERS

Mr. RAMSEY. Mr. Chairman and members of the committee, I will introduce my colleagues of the Executive Council of the Railway Employees Department who are here at the table with me.

On my extreme left, Mr. Anthony Krause, assistant general president, Brotherhood of Railway Carmen.

To my immediate left, Mr. J. W. O'Brien, general vice president of the Sheet Metal Workers.

On my immediate right, Thomas V. Ramsey, international vice president of the Electrical Workers.

Next to him is Mr. Edward Wolfe, vice president, Boilermakers & Blacksmiths.

At the end of the table, Mr. James Zink, executive vice president of the Firemen & Oilers.

Mr. Chairman and members of the committee, my name is Joseph W. Ramsey and I am a vice president of the International Association of Machinists & Aerospace Workers. I am also cochairman, with Mr. Michael Fox, for the handling of the current wage and rules movement of the 137,000 railroad shopmen.

The Executive Council of the AFL–CIO Railway Employees' Department, 220 South State Street, Chicago, Ill., negotiates for the railroad shopcrafts and I appear before you today on their behalf.

The six unions (seven crafts) comprising this executive council are the International Association of Machinists & Aerospace Workers; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers; Sheet Metal Workers' International Association; International Brotherhood of Electrical Workers; Brotherhood Railway Carmen of America; and International Brotherhood of Fireman & Oilers.

I might at this moment call attention to the fact that we have caused the distribution along with our statement to the members of your committee a booklet entitled, "What is Wrong With Job Evaluation," and also a transcript of the minutes taken at a meeting with the two members of the Emergency Board panel that was held shortly after their report and recommendation was made.

We do not intend that this would be incorporated as a part of this record, but we made this distribution for the information of the members of this committee.

On behalf of the members of all these organizations, I wish to express our most vigorous opposition to the administration's bill, House Joint Resolution 559. This bill, if enacted, will rob the railroad shopcraft employees of their right to strike for a period running as long as December 31, 1968, and covering the most basic terms of their pay and working conditions.

At the same time that it robs our members of their only economic weapon—the right to strike, this bill imposes no comparable penalty of any kind on the railroad corporations which have refused for nearly a year now to settle our 1966 requests for better pay and conditions. That is surely not fair and equitable legislation.

Spokesmen for the administration have said this is not a compulsory arbitration bill. As to that assertion, I can only repeat what Mr. Leighty told you last Thursday. He said it is compulsory arbitration; I say it is and the people we represent say it is.

What this bill proposes is a long step toward dictatorship—with the Government using the threat of prison to make the railroad shopmen labor for less pay than they themselves could win by the exercise of their economic strength. And the effect of this is to increase the profits of the private railroad corporations. Is that the American way? It sounds to us more like a slave enterprise system than a free enterprise system.

Let me say that I asked our attorney how this bill, if enacted, would be enforced. He told me it would undoubtedly be enforced by some Federal judge issuing an injunction. And that injunction would be enforced by contempt of court orders, with the judge empowered to throw any strikers into prison or to fine them heavily or both.

Of course, we have had more than a taste already of Government by injunction, in the railway labor movement. In fact, it was an

infamous Federal injunction which broke the great railroad shopmen's strike of 1922. That was the last time the shop crafts struck the Nation's railroads—45 years ago.

I could expand at some length on our views about this bill, House Joint Resolution 559, but I do not want you to have to hear the same story twice.

Mr. Leighty, speaking on behalf of substantially all of the railway labor unions, has given you railway labor's detailed views about this legislation and about the general background from which you may wish to judge it.

I believe I can help you most today by telling you about the dispute which gave rise to the President's message of May 4 and to the present bill. I shall sketch in very briefly the background of the dispute. The more recent events, including the propaganda claims by the railroads, deserve more thorough treatment.

This dispute began on May 17, 1966, when the shop craft organizations served notices on the railroads asking for a 20-percent general pay increase effective January 1, 1967; a cost-of-living escalator clause; increased overtime rates; differentials of 18 cents an hour for the swing shift and 25 cents an hour for the night shift; substantial improvements in the vacation and holiday rules; paid 30-minute lunch periods; and pay for jury duty service.

The railroads in June 1966 served drastic counterproposals. These called for abolishing all craft lines in our work; gutting our national job security agreement of September 25, 1964; slashing by 20 percent the hourly pay of all new employees except journeymen mechanics; and weakening other established rules.

The railroad negotiators found time to hold only 4 days of very limited direct national negotiations with us last year at which they made no real effort to engage in meaningful collective bargaining.

Regular national mediation by the Chairman of the National Mediation Board ended after only seven very brief sessions, during which the railroads again made no real effort to settle.

We have prepared on a one-page sheet a listing that shows the amount of time spent in negotiations and in all kinds of mediation since we began this movement more than a year ago. That sheet is attached to my statement and I ask permission, Mr. Chairman, that it be printed in your hearing record at the end of my statement.

The CHAIRMAN. It will be included at that point.

(See p. 269.)

Mr. RAMSEY. At this time, I might depart from the text for a moment to call your attention to the fact that this chronology of meetings since the 1966 wage rules movement includes in the time designated for each meeting the total time from the time we met until we departed from the meeting or conference.

So, it would include short recesses or even extended recesses when we were in mediation. The total time on direct negotiations, if you care to note it, for the first item, is a total of 4 hours on several days.

Mediation sessions, including recesses, totaled 10 hours and 25 minutes on the several dates. Of course, the Emergency Board hearing included the days of February 1 to 9, inclusive. The total time, as you will note, for our meeting with members of the Ginsburg Board, was 1 hour and 50 minutes.

After the Emergency Board report, meetings with the carrier committee totaled 2 hours. Meetings with the Labor Department officials, including Secretary Wirtz, Under Secretary Reynolds, et cetera, totaled 7 hours and 20 minutes. Meetings with and before the Fahy Panel totaled 23 hours and 40 minutes on the dates of April 14 to 23, inclusive.

The subsequent meetings after the Fahy Panel report with the carriers involved 40 minutes. That was the total time.

To continue with my statement, meanwhile, in late October 1966, our members in every union and every craft had voted overwhelmingly to strike if necessary to achieve a satisfactory agreement. However, contrary to what has been previously testified to you by the carrier witness, no strike date was set by us until months later after exhaustion of all procedures of the Railway Labor Act.

The reason for the overwhelming strike vote lies in our members' lagging pay. The skilled shopmen, who include about three-quarters of our total group, earn less than $3.05 an hour. After deductions, many of them take home less than $100 a week. Yet they see men with comparable skills in other industries earning far, far more, in some cases as much as $1.50 an hour more.

Judge Charles Fahy, chairman of the President's special mediation panel, publicly confirmed this drastic pay lag of the skilled shopmen. He told the Senate Labor Committee on April 24 that these men "are at a lower rate than comparable skills in other industries * * *. The figures we have on the differential range from 40 cents an hour to 60 cents."

The skilled railroad shopmen have been and are being drastically squeezed by lagging pay and rising costs of living; that is why they marked "Yes" so overwhelmingly on their strike ballots.

As for the laborers we represent, their pay is even less. Moreover, the railroad shopmen received a wage last year of only about 3 percent; as you know, consumer prices rose last year by 3.3 percent.

The railroads would like you to think that we who represent the railroad shopcrafts are a handful of stubborn men, bent on making trouble. That is simply not true. There is a wide unrest in this country today.

I know you are conscious of it. And this unrest is not limited to college students, or Negro slumdwellers, or peace marchers. It is very, very widespread among the railroad shopmen who see frustration at every turn in their effort to gain the pay they deserve and need to support their families.

We, their leaders, sincerely want to negotiate a fair settlement of this dispute. We have tried to negotiate one. We are still trying. But the railroads refuse. They seem to think they hold the whip hand—as indeed they will, if you deprive us of our only economic weapon.

The President on January 28, 1967, appointed an Emergency Board in this dispute, which issued its report and recommendations on March 10. The members of that Board were no doubt well-intentioned gentlemen, but their recommendations were inadequate and in important respects impractical.

Probably the worst aspect of those recommendations was the Board's proposal for a "job evaluation study" of a kind which would be long and costly, which would probably take no account of the "custom"

nature of much of our work, and which, we were told, might well result in cutting some of the pay rates.

How could we possibly, after setting out to get a very badly needed pay increase, come back to our people with an agreement cutting some of the rates? We could not go along with that.

After the Emergency Board's report the chief management negotiator told us if we could make him a serious settlement proposal he would give it profound consideration. We responded positively to this request.

We cut back substantially on our original requests and on March 29 submitted our new proposal. It was rejected by management within 5 minutes—that was the amount of "profound consideration" that it got.

Management then promised a counterproposal at the next meeting. At that meeting, held on March 31, they made no specific counterproposal. Nor did they do so on succeeding days.

Meanwhile, as you know, we set a strike date for April 13, Congress forced a postponement for 20 days, and the President appointed three special mediators headed by Judge Fahy.

Between April 14 and April 22 we met every day and sometimes twice a day with these three Presidential mediators, in a prolonged and intensive effort to settle this dispute. During that period we made a second cutback in our original proposals.

At the request of the panel, we modified our proposals and offered to settle for a 6½-percent general pay increase plus 12½ cents inequity increase for the skilled men, both as of January 1, 1967; and a further 5-percent general increase plus a 12½-cent inequity increase for the skilled men, both as of January 1, 1968; plus 3 weeks vacation after 10 years and guaranteed holiday pay for the eight holidays already in our contracts.

At no time have we received from the railroads any firm offer on which to settle this dispute.

The Mediation Panel, to our regret, made a proposal to both sides on April 21 that was substantially less favorable than our own proposal. "We cannot say our proposals contain precisely the correct figures," the Panel conceded, but they affirmed that "our terms are reasonable and not unjust."

Their pay proposal called for a 6-percent general increase to run for 18 months from January 1, 1967, to June 30, 1968, plus a "down payment" on the skilled men's pay inequity of three 5 cents adjustments, as of April 1, 1967, October 1, 1967, and April 1, 1968.

The President's Panel also made two other important recommendations: That the "job evaluation study" idea be dropped out of the settlement, and that we be free to negotiate for improvements on other money items or on rules during the contract period. We were glad to accept these last two recommendations, but we found the Panel's pay proposals inadequate and the 18-month length inadvisable.

The railroads also rejected the Panel's proposals, taken as a whole. When the railroads finally held a bargaining session with us on April 25—the first one since March 31—their chief negotiator told us they would consider a general 6-percent pay increase for 18 months, but he said they would give consideration to only one 5-cent inequity increase for the skilled men and he tied that to further adjustments in the pay rates, upward or downward, based on a job survey.

When we informed the management side that we considered the 6 percent for 18 months inadequate as a general wage increase, they abruptly broke off the talks and they have not renewed them since.

That is the record. Over this whole period of nearly a year, I do not believe the railroads have negotiated with us in good faith. They have wanted to settle on their own terms or not at all. They have tried to provoke a national strike call, hoping that you in Congress would pass a law depriving all railroad workers forever of their right to strike.

I should like now, if I may, to answer some of the carrier propaganda you have been hearing and at the same time explain why the Fahy mediation panel's proposals are not as favorable s they may seem on the surface.

First, the railroads claim that political pressures force them to accept settlements beyond those recommended by emergency boards. But in the present dispute the proposal made by the President's Mediation Panel is, in fact, no escalation at all of the Emergency Board's recommendations.

It may appear to be so on the surface, but it is not. I quote the Mediation Panel's report to the President on April 22: "The Panel believes that this proposed settlement is not inconsistent with the Emergency Board report. . . ." I think that you and we and everyone else can take the word of these three mediators—Judge Fahy and Professors Taylor and Dunlop—that their recommendations, though phrased differently, are in line with what the earlier Emergency Board had in mind.

Now, gentlemen, the railroads said they accepted the Emergency Board recommendations—but then later they rejected the Mediation Panel's recommendations, despite the similarities. Do you call that good faith collective bargaining?

Of course, there was one very significant difference between these two sets of recommendations.

The Emergency Board wanted a "job evaluation study" set up in a way so that the railroads could get some of the pay rates cut. The President's Mediation Panel threw that out.

As Judge Fahy told the Senate Labor Committee:

> . . . the 15 cents which we suggest as a substantial beginning (on closing the skilled shopmen's pay inequity) does not cause the carriers to run any serious risk of having to overpay anyone.

But the carrier negotiators keep insisting on a joint job study that might cut some of the pay rates. Clearly we could never agree to that, as our members deserve and expect a substantial pay increase, not a reduction in their rates. Do you think it is good faith bargaining for the railroads to demand that of us, at this late date?

The railroads have not seriously been trying to settle this dispute. They have been trying to goad us into setting a strike date, and then goad you into passing a law taking away our right to strike.

A significant report on this appeared in the Wall Street Journal for April 6, 1967, as follows:

> Railroad sources in Chicago said carrier officials met yesterday with their lobbyists to form strategy. Their current plan involves introduction of a "finality" bill to abolish strikes under the Railway Labor Act, which covers airlines as well as railroads.

This meeting of the carrier officials and their lobbyists to plan a law took place on April 5—and what happened after that? The railroads refused to make us the counterproposal they had promised on March 29.

Our strike call, set for April 13, was postponed; the Presidential Mediation Panel was appointed; the Panel made its recommendations—and the railroads rejected them, even though these recommendations were so similar to the Emergency Board recommendations they claim to have accepted.

The railroads then held on negotiating session with us, suggested terms they knew we could never accept—and then walked out. The railroads then began publishing big newspaper ads headed "Countdown to Chaos," calling for a compulsory arbitration law. They began flooding Members of Congress with similar propaganda. That is how the railroads have behaved since that April 5 meeting with their lobbyists. The record seems plain: railroad managements have decided they want a law, not a settlement.

A second propaganda claim by the railroads involves the question of "pattern" settlements. They say they have settled on a "pattern" basis with unions representing over 70 percent of their employees; they imply that this "pattern" is a 5 percent 1-year pay increase; and they say, to quote a recent statement by their chief negotiator: "If we violate the tradition that preferential treatment will not be given to any union * * * it will completely destroy collective bargaining."

There are several things wrong with this argument. First, the railroad shopmen are represented by their own organizations; no other labor union speaks for them and none can set a "pattern" for them.

Second, to my knowledge, no other railway labor union objects in any way to the shop craft unions' willing the best possible settlement for the men we represent.

Third, the supposed 1-year 5-percent "pattern" does not exist. Three of the railroad operating unions settled their 1966 movements on a basis of 5-percent retroactive to last August 12 and running through next December 31, plus other improvements. Four nonoperating unions settled on a basis of 5 percent as of last January 1, plus another 2½ percent next January 1 to run through June 30, 1968, plus an inequity adjustment on away-from-home expenses that may bring quite substantial payments.

Another nonoperating union settled on a basis of 5 percent as of last January 1 for 1 year, plus an inequity adjustment on away-from-home expenses. Thus, there is considerable variety in the settlements made; and two unions, in addition to the shop crafts, have not yet settled.

(A third week of paid vacation after 10 years was also won by the unions that settled, and apparently the railroads are willing to grant our members that.)

Both the Emergency Board and the President's Mediation Panel in our dispute gave much weight—far too much weight, we think—to the "pattern" approach.

The Emergency Board proposed a 2-year wage agreement with a 5-percent general increase on January 1, 1967, and a wage reopener on January 1, 1968. The Mediation Panel proposed a 6-percent general increase from last January 1 to run until June 30, 1968.

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The Panel's 6-percent proposal in terms of total money payments over the 18 months comes out to just about the same as the 5 percent plus 2½ percent negotiated by the four nonoperating unions—as the Mediation Panel was well aware.

However, on June 30, 1968, it would leave our members 1½ percent behind the four nonops—and doubtless even further behind the other organizations that will negotiate new increases to take effect next January 1, for they certainly are not going to settle for a 1968 pay increase of 2½ percent.

As I said a few minutes ago, we do not subscribe to the "pattern" approach. But the railroad negotiators most certainly do. It is easy to foresee that if we settle now for the 6 percent 18 month increase proposed by the Presidential mediators, the railroads will raise a great fuss in the summer of 1968 to try to make us settle the next round for the same percentage "pattern" as the other unions then settle for—whereas that would in fact leave our members at least 1½ percent behind the others.

Thus, this 18-month proposal holds the seeds for considerable disagreement in the summer of 1968. We think the mediators made a mistake in proposing this and that a 2-year wage agreement running through the full year 1968 would be preferable. Such an agreement should carry one general increase as of January 1, 1967, and a second general increase as of January 1, 1968.

So far I have focused on the general wage increase, because even the most extreme advocates of the "pattern" approach—even the President's Council of Economic Advisers, who want to impose a single general "pattern" on the whole Nation—conceded that special inequity adjustments fall outside the scope of the "pattern."

The Emergency Board in our current dispute also clearly recognized this, as regards the inequity adjustment for the skilled shopmen. The Emergency Board stated, under the heading "The Wage Compression of Skilled Shop Craft Employees":

> An equitable adjustment beyond the pattern settlement would not violate existing Administration policy against inflationary wage increases because the type of adjustment here sought is compatible with the principles of wage equity stated by the Council of Economic Advisers. (Report, Emergency Board No. 169, page 9.)

Surely, considering that this inequity for the skilled shopmen now admittedly stands between 40 and 60 cents an hour, our proposal for a "downpayment" of 12½ cents in 1967 and 12½ cents in 1968 toward closing the inequity is not unreasonable.

Yet the only hard cash money the railroads have offered to consider on this so far, after nearly a year, is one thin nickel. I suggest to you again that the railroads up to now have not wanted to settle this dispute. They want a law, not a settlement.

I close with one final thought: If the Congress will only make plain to the railroads that their employees still have the fundamental democratic right to strike—if you will only let us keep up our strike notice for 12:01 a.m. on June 19—then the railroad negotiators will finally at long last, come and bargain seriously with us, and we shall soon settle this dispute fairly and no railroad strike will take place.

The way to accomplish this is to reject House Joint Resolution 559 and any similar legislation aimed at abolishing our right to strike.

If you disagee with our plea, however, and do insist on curtailing our right to strike, the only fair way to do so is through Federal seizure of the railroads until this dispute is settled.

Thank you for the privilege of addressing you, and for your kind attention.

(The chronology of meetings referred to follows:)

CHRONOLOGY OF MEETINGS SINCE 1966 WAGE-RULES MOVEMENT REACHED NATIONAL LEVEL, PREPARED BY THE AFL–CIO RAILWAY EMPLOYEES' DEPARTMENT, MAY 19, 1967

DIRECT NEGOTIATIONS

September 28, 1966, Washington, D.C. Met Carriers' Committee for 45 minutes.

September 29, Washington, D.C. Met Carriers' Committee for 40 minutes. Mr. Wolfe was not with the Committee.

October 11, Chicago, Ill. Met Carriers' Committee 1 hour and 55 minutes. Mr. Wolfe was not with the Committee.

October 12, Chicago, Ill. Met Carriers' Committee for 40 minutes.

MEDIATION SESSIONS

October 19, Chicago. Met Mediators O'Neill and Farmer for 1 hour and 55 minutes.

October 20, Chicago. Met Mediators O'Neill and Farmer for 1 hour and 10 minutes.

October 24, Washington. Met Mediators O'Neill and Farmer for 1 hour and 20 minutes.

October 25, Washington. Met Mediators O'Neill, Farmer and MacSwan for 50 minutes.

October 27, Washington. Met Mediators O'Neill, Farmer and MacSwan for 1 hour 45 minutes in the morning and again for 25 minutes in the afternoon.

December 8, Washington. Met Mediators O'Neill and MacSwan for 40 minutes.

December 20, Chicago. Met Mediators O'Neill and MacSwan for 2 hours and 20 minutes.

EMERGENCY BOARD NO. 169

February 1–9, 1967. Hearings in Washington, D.C.

March 15, Washington. Met Board Members Ginsburg and Dugan for 1 hour 50 minutes.

AFTER EMERGENCY BOARD REPORT

March 22, Chicago. Met Carriers' Committee for 40 minutes.

March 28, Washington. Met Carriers' Committee for 55 minutes.

March 29, Washington. Met Carriers' Committee for 15 minutes.

March 31, Washington. Met Carriers' Committee for 10 minutes.

MEETINGS WITH LABOR DEPARTMENT OFFICIALS

April 6, Washington. Met Secretary Wirtz, Reynolds, Donahue and O'Neill for 1 hour and 10 minutes and again that day met Reynolds and O'Neill 1 hour.

April 7, Washington. Met Reynolds and O'Neill for 1 hour and 10 minutes. Met Secy. Wirtz for 1 hour and 15 minutes and later met Secy. Wirtz, Reynolds, Donoahue and O'Neill for 1 hour and 35 minutes.

April 8, Washington. Met Secy. Wirtz, Reynolds, Donahue and O'Neill for 1 hour and 10 minutes.

MEETINGS WITH FAHY PANEL

April 14, Washington. Met Fahy Panel and Carriers' Committee for 15 minutes. Met Fahy Panel separately for 2 hours and 5 minutes.

April 15, Washington. Met Fahy Panel for 1 hour and 20 minutes, and again that same day for 1 hour and 15 minutes.

April 16, Washington. Met Fahy Panel for 2 hours and 10 minutes.

April 17, Washington. Met Fahy Panel for 2 hours and 40 minutes.

April 18, Washington. Met Fahy Panel for 1 hour and 20 minutes and again for 1 hour and 25 minutes.

April 19, Washington, Met Fahy Panel for 2 hours and 50 minutes.

April 20, Washington. Met Fahy Panel for 2 hours and 20 minutes, and again for 20 minutes.
April 21, Washington. Met Fahy Panel for 1 hour and 25 minutes.
April 22, Washington. Met Fahy Panel for 1 hour and 30 minutes, and again for 10 minutes.
April 23, Washington. Met Fahy Panel and Secys. Wirtz and Boyd and O'Neill together with the Carriers' Committee for 25 minutes. Met the Fahy Panel and government officials for 35 minutes. Met the Carriers' Committee for 10 minutes. Met with Fahy Panel and government officials for 1 hour and 25 minutes.

SUBSEQUENT MEETINGS

April 25, Washington. Met Carriers' Committee for 40 minutes.

The CHAIRMAN. Thank you, Mr. Ramsey.

Mr. Friedel?

Mr. FRIEDEL. I want to thank Mr. Ramsey for bringing us up to date on the facts.

Can you tell us now whether you are negotiating at the present time?

Mr. RAMSEY. We are not.

Mr. FRIEDEL. Why not?

Mr. RAMSEY. Our last meeting with the carriers was April 25. I merely suggested to a spokesman for the group that the 6 percent for an 18-month period we considered inadequate.

The chief negotiator for the carriers immediately arose from his chair and stated, "That terminates the conference." He and his colleagues walked out of the room at the Statler Hotel and as far as negotiations are concerned, we have not heard from them since, officially.

Mr. FRIEDEL. Are you willing to sit down and negotiate now?

Mr. RAMSEY. We are always willing to sit down and negotiate and endeavor to reach a settlement. But there has to be, as was said the other day, two to tango.

Mr. FRIEDEL. I know it takes two to tango.

I am not particularly sold on this piece of legislation. On the other hand, we cannot afford to have a national railway strike. I know your economic point of view, that you should have a right to strike.

I am going to call on the railroads, too, and ask them if they won't immediately sit down and try to negotiate so we will not need any legislation, that we will have this settled before the deadline.

That is all I wanted to say, Mr. Chairman.

The CHAIRMAN. Mr. Springer?

Mr. SPRINGER. Mr. Ramsey, I think this is one of the better statements I have seen before this committee from an interested party concerning legislation. I want to see at this time if I can bring out where you think the parties lie now.

When Mr. Wolfe was before this committee a few days ago, I did get from him what he thought the positions of the parties were. What do you consider the railroads' offer to be as you understand it as of today?

Mr. RAMSEY. To the best of my knowledge, I would have to say actually Emergency Board 169's recommendation is the carriers' only solid proposal that we ever received, and that was on the basis that the carriers maintain they will accept that recommendation, whereas, they knew we rejected it.

Mr. SPRINGER. Can you tell me what you think that recommendation is so that we can see it here in dollars and cents?

Mr. RAMSEY. The recommendation insofar as wages are concerned is, of course, a 5-percent increase the first year, a job evaluation study, and they recommend that we withdraw all other proposals with the exception of the vacation proposal, which would be in line with the others, 3 weeks after 10 years.

In that recommendation, of course, Emergency Board 169 made no suggestion of any specific amounts that might be paid to erase the inequity that exists between the unskilled, semiskilled, and the more skilled employees. They merely recommended job evaluation.

Mr. SPRINGER. Substantially, then, if I understand you correctly, the railroads' offer is 5 percent plus job evaluation. I think Mr. Wolfe used the words "plus escrow to be agreed upon."

Would you say that is substantially the situation?

Mr. RAMSEY. Mr. Wolfe informed us when the subject was first discussed, after the Panel recommendation, that there was no reason to establish any escrow fund of any nature until job evaluation had taken place and a determination made as to how much was needed, if anything, and at that time, certainly, they would pay it, but they didn't need any escrow fund.

Mr. SPRINGER. Then it would be your position that it is 5 percent plus job evaluation?

Mr. RAMSEY. With the exception, as I said in my statement, that at our last meeting he said that in light of this 18-month recommendation from the Fahy Panel, they would consider placing in effect for a contract not to exceed 18 months an amount not to exceed 6 percent on the general wage increase, and that they would consider placing in effect the first 5 cents, and during the ensuing 120 days they would cause a job study to be made.

At the end of the 120 days, which the railroads consider adequate time, they would determine whether any more money was needed in connection with these inequities, or not. At that point, I raised a question, "Well, you are still thinking in terms of job evaluation and possibly lowering the rates on some jobs." He agreed that that was their thinking.

Mr. SPRINGER. Could you tell me what you believe is the brotherhoods' offer at this time?

Mr. RAMSEY. At this time our firm offer remains at 6½ percent on the general wage increase to be effective January 1, 1967, and, in addition, 12½ cents toward erasing the inequity and, effective January 1, 1968, an additional 5 percent on the general wage adjustment, the basic wages, with an additional 12½ cents toward erasing the inequity.

Mr. SPRINGER. That is substantially where you are at the present time; is that correct?

Mr. RAMSEY. That is correct.

Mr. SPRINGER. Could you give me this information: I would assume that since you have 5 percent and job evaluation, 5 percent is what they have offered in the way of an increase, outside of job evaluation. So I am taking 5 percent as the only thing that I have firm at this time.

What would your offer be in terms of percentages in the 2-year period over what it is as of January 1, 1967?

Mr. RAMSEY. You are referring specifically to the basic wage adjustment we are seeking?

Mr. SPRINGER. No. I am trying to get the overall percentage you are offering as against your present rate. As an example, and this is why I am trying to find out what your opinion is, Mr. Wolfe said it was 19 percent. Do you have an opinion on that?

Mr. RAMSEY. Over the 2-year period it would be something in that area.

Mr. SPRINGER. Turning to page 6, Mr. Ramsey, at the bottom of the page, you state, "After the Emergency Board's report, the chief management negotiator told us if we would make him a serious settlement proposal, he would give it profound consideration. We responded positively to this request. We cut back substantially on your original requests and on March 29 submitted our new proposal."

Could you tell me what that proposal was?

Mr. RAMSEY. That proposal was, on the basic wage adjustment, 7 percent, effective January 1, 1967, and on that same date, January 1, an additional 15 cents per hour for all skilled employees.

On January 1, 1968, an additional 5 percent on the basic increase for all employees, and on that same date an additional 15 cents per hour for all skilled employees.

Mr. SPRINGER. That is the 2-year period?

Mr. RAMSEY. Yes, sir. We have proposed that all the way.

Mr. SPRINGER. As I understand it, now, it is different.

Mr. RAMSEY. We lowered the 7 percent to 6½ percent on the first basic increase, and lowered the 15 cents to 12½ cents.

On the second proposed increase effective January 1, 1968, 5 percent remains the same, but the 15 cents was again cut to 12½ cents.

Then we also proposed that effective January 1, 1967, the carriers would guarantee to pay for all eight holidays that are presently named in the agreement, and to grant us the 3 weeks vacation after 10 years, which has been obtained by the others.

Mr. SPRINGER. The 15-cent proposal was as of March 29. Then when the second mediation board between April 14 and 22, had you reduced it to 12½ cents and 6 percent?

Mr. RAMSEY. That was before the Fahy Panel.

Mr. SPRINGER. 6½ percent and 12½ cents, and then 5 percent on January 1, 1968, and 12½ cents?

Mr. RAMSEY. Yes, sir.

Mr. SPRINGER. Since that time, has there been any other proposal on either side?

Mr. RAMSEY. Not solid proposals.

Mr. SPRINGER. Nothing that you could say in the nature of just what it would be on either side?

Mr. RAMSEY. No, sir.

Mr. SPRINGER. So this is, in effect, where you are today?

Mr. RAMSEY. Correct.

Mr. SPRINGER. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Macdonald?

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Ramsey, I would like to echo what has already been said. I think this is the most clearcut statement I have seen. I think it is especially interesting and informative.

Very important is the chronology of the meetings you have had with the railroads and the duration of the meetings with them during this period.

As you and I know, in most industries in the country, if one party in a bargaining settlement feels that the other party is not bargaining in good faith, he can then go to an impartial Government board and make a formal declaration that the other party is not bargaining in good faith. If upheld, of course, they can then strike with the approval of the Government.

I was wondering whether or not any such machinery is open to you.

Mr. RAMSEY. Such machinery is not available under the Railway Labor Act. I believe you are referring to outside industry specifically and actions under the Taft-Hartley Act.

Mr. MACDONALD. Right, the National Labor Relations Board being one way. I was thinking if you went to court, for a concrete example, if somebody was looking for an injunction and pleaded that the other party had not bargained in good faith, would this not stay your injunction or the injunction that might be coming against you?

Mr. RAMSEY. I am not an attorney, Mr. Congressman. I am not in a position to pass upon that question.

Mr. MACDONALD. In essence, the thrust of most of your testimony is that the railroads have not bargained in good faith. Am I correct?

Mr. RAMSEY. I think the record proves the fact, the chronology of meetings of short duration. In fact, if I might add this, I have spent 10 years on this executive council and have watched the progress of negotiations both on an expanded basis where there were as many as perhaps 17 organizations all bargaining at the same time, where we have had 11 bargaining at the same time, and now with just the shop-crafts bargaining as the railway employees department, and during that entire period, sir, I have never seen negotiations that even slightly resemble the negotiations that would take place in outside industry where there were actual offers, counteroffers across the table, and re-writing of language right there, and finally an agreement being reached. I have never seen it, sir.

Mr. MACDONALD. I think that is certainly something the committee will take into account.

It seems that the railroads settled with some of the other unions and not the shop unions. Can you tell me if there is any reason for this, that they would settle with the operating unions and yet have not shown any evidence that I can see, anyway, of being willing to come to an agreement with the shop unions?

Mr. RAMSEY. I can best describe it from my experiences in the War Labor Board days of the Second World War, and in my service on the Wage Stabilization Board during the Korean situation, here in Washington.

That was what was then classified a rare and unusual case that we had, where, due to these long years of across-the-board increases—and, again, it takes two to tango—those across-the-board increases destroyed any proper differential that may have existed between the highly skilled and the lesser skilled.

Then we arrived at this plateau of this wide inequity. We feel fully justified, in fact, in seeking the original 20 percent wage adjustment. We would have talked about how it should have been divided up.

Our mechanics today, at $3.05 an hour, and less—why, you can't even hire a good janitor for that today.

Mr. MACDONALD. Thank you very much.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Mr. Ramsey, I would agree with some of my colleagues that this is a fine statement. There is, however, marked similarity between the charges that you make and those that management makes if you just reverse the names in here as to who are the good guys and who are the bad guys. It is hard to tell who is on what side.

Going through this, Mr. Ramsey, I get the impression that you, representing the shopcrafts, are vigorously opposed to the President's bill, or whatever this bill is before us, because it would rob your shopcraft members of the right to strike. That is your basic position.

Mr. RAMSEY. That is correct.

Mr. DEVINE. You say on page 15 of your statement that you are convinced that if the Congress does nothing, if the Congress does nothing, no strike will take place. Can you give us any assurance of that?

Mr. RAMSEY. Well, of course, in bargaining, corporations the size of the railroads make it difficult for a labor representative to say that they would change their position. As I have stated in this statement, in my opinion, and in the opinion of my colleagues here, the railroad corporations feel, that they enjoy the position of holding the whip hand at the present time, and that they will get legislation.

Mr. DEVINE. Your alternative, of course, is Government seizure.

Mr. RAMSEY. That is right. I lived through some of that previously.

Mr. DEVINE. I notice you said this bill of the President is a long step toward dictatorship and is designed to increase the profits of the private railroad corporations.

At the bottom of page 3 you say that the shopcraft organizations are asking for a 20-percent general pay increase effective January 1, 1967; a cost-of-living escalator clause; increased overtime rates; differentials of 18 cents an hour for the swing shift and 25 cents an hour for the night shift; substantial improvements in the vacation and holidays rules; paid 30-minute lunch periods, and pay for jury duty services.

Those are the basic demands of the shopcrafts?

Mr. RAMSEY. Those were the original demands.

Mr. DEVINE. The original demands; yes.

I would ask you this question: In return for what?

Mr. RAMSEY. In return for what?

Mr. DEVINE. Yes.

Mr. RAMSEY. A day's labor, each day that an employee works. That is what we want it for.

Mr. DEVINE. These are asking for additional concessions on the part of railroad management. What is labor going to do in return other than what they are already doing today? Are they going to perform more efficient service? In return for what?

Mr. RAMSEY. I think, Mr. Congressman, the record will definitely convince you that every employee of a railroad, including the shopcrafts, with their reduced forces and with the railroads hauling greater tonnage than they ever hauled before in the history of railroading, that each man's productivity has increased radically and far beyond the general increase in productivity.

Mr. DEVINE. So it is increased productivity?

Mr. RAMSEY. Increased productivity.

Mr. DEVINE. More responsibility?

Mr. RAMSEY. Yes, increased productivity with the diesels and with the equipment that is now used in cars and so forth, roller bearings and so forth, to be repaired. It calls for high precision work over and beyond what it was 40 years ago.

Mr. DEVINE. Do you look upon collective bargaining generally as a one-way street?

Mr. RAMSEY. Never.

Mr. DEVINE. I asked that question because on page 6 of your statement you point out the very strong objections that the shopcraft unions have to the recommendation for a job evaluation study because you say, "It might well result in cutting some of the pay raises."

Mr. RAMSEY. That is an admitted fact. The organizations, all who hold collective-bargaining agreements in outside and diversified industry, have had experience with so-called scientific job evaluation, and always wound up on the short end of the horn.

Mr. DEVINE. But you feel that any negotiations should always result in an increase in pay.

I am fully aware of this particular document put out by the machinists. If it would show a nonpartisan type of a study that certain areas should not receive the pay they are already receiving, you feel that that should not be taken into consideration; is that true?

Mr. RAMSEY. As far as that goes, if you will read Mr. Ginsburg's interpretation of what they were talking about in their Emergency Board report, and I furnished a copy of the transcript of that meeting, which Under Secretary of Labor Reynolds vouches for being very accurate, you will find that Mr. Ginsburg and his colleagues make it very clear that they were merely ducking the question of what should be done in the treatment of this inequity that exists and, therefore, they just adopted a suggestion from the Department of Labor, "Just wish upon them job evaluation."

Sir, the industry does not lend itself to job evaluation as you might know it in the plant, factory, or whatnot, because it is not highly repetitive work. Practically every job performed, whether it be on a diesel locomotive or on a car, or on building maintenance, is actually a custom job from day to day, and changing from hour to hour.

So the industry does not lend itself to job evaluation. They have had the opportunity for 40-some years to do their labor grading in connection with the jobs that develop. We have had our classifications of work for more than 40 years.

Mr. DEVINE. On page 14 of your statement you say:

> Admittedly the inequity for the skilled shopmen stands at between 40 and 60 cents an hour.

That is admitted by whom?

Mr. RAMSEY. By the Fahy Panel. They took their figures I believe from oral conversation with them, from the overall figures from the Department of Labor, which includes anything and everything.

Mr. DEVINE. Thank you very much.

The CHAIRMAN. Mr. Moss?

Mr. MOSS. I have just a very minimum of questions, Mr. Chairman.

I want to compliment you, Mr. Ramsey, for your statement. I find it an important contribution. The supplemental material I think will also be helpful.

Mr. RAMSEY. Thank you.

Mr. MOSS. On the matter of what goes into bargaining between an employee and an employer, one important item of consideration should be the rates of compensation for similar skills in other industries, shouldn't it?

Mr. RAMSEY. I would agree with you, Congressman, that that consideration must be given. Where it is a matter of rates in the transportation industry, then we should look at our competitors in the transportation industry, particularly the interstate operations of airlines, trucking, and so forth.

Mr. MOSS. I had difficulty getting that information. I think, however, with the concentrated energy of my staff, doing much telephoning, we succeeded in developing some information which I placed into the Congressional Record at the time of debate on the proposal to extend for the 47 days the period during which efforts would be made to bring about settlement of this dispute.

You can't take any one industry and break it out of the community and say that it is separate and apart. It competes in the labor market and must avail itself of the services that are in that community. It must pay whatever should be paid for the services.

It is a very complex group of factors that go into determining what rates of compensation should be; isn't it?

Mr. RAMSEY. I would say that would apply to factories, et cetera. I wouldn't say it would specifically apply to transcontinental operations. We have to have, Mr. Congressman, standard rates, very standard rules, or there just wouldn't be room for agreements.

Mr. MOSS. My point is that you can't just look at the increased productivity as the only criterion for wages.

Mr. RAMSEY. No, sir.

Mr. MOSS. For one thing, if we applied that rule, we can look at the increased cost of transport. I don't know whether that means that we get more tons for the tons that we buy. I don't think we do. There is increase in the cost of transportation. There are increases in the cost of everything.

As long as I can remember, costs of most items, and there are few exceptions, have been on a gradual upgrade, whether it is wages, services, or whatever it might be. I think in many instances profits also share that characteristic.

So it isn't a simple matter of defining one thing as being the essential in determining whether or not an increase should be granted.

Mr. RAMSEY. That is correct.

Mr. MOSS. Thank you.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

I would like to again refer to page 6, where you state you could not come back to your people with an agreement cutting some of the rates.

Are you fearful of the reaction of your members rather than merits of the adjustment that is involved?

Mr. RAMSEY. No. 1, Mr. Congressman, we don't believe there is any merit to job evaluation in this particular industry.

No. 2, yes; we would certainly have a reaction from our membership that might destroy the union insofar as this industry is concerned, and these other unions, because the rates are already so low for skilled people that they are absurd in the present age.

Mr. NELSEN. Isn't it possible that a job evaluation would indicate that some of the crafts are below the level that they should be, and some might be adequately compensated, so that if an increase in a new contract were to be negotiated, there might be some who will need to move forward less rapidly than others?

Mr. RAMSEY. It has been my experience, if I may make this comment, Congressman, that corporations, and even small companies, are not willing to go out and pay to these engineers, consulting engineers, for a small company $100,000 and big corporations millions of dollars, to have job evaluation applied to their industry without the full expectation of recovering the money invested five times over, and very rapidly, which has been our experience, whether it is in aircraft—and I am talking about airframe plants—or whether it was in atomic energy, or where it might be.

I have participated in a lot of programs where it was already foisted off on us. All we ever got was reductions.

Mr. NELSEN. The point I would like to make is that without question, in my judgment, some of the machinists are underpaid. I would like to see in a job evaluation some adjustment in that direction. But it is also a possibility that advances in some areas might need to be greater than in others.

Turning to page 9 in your statement, you state:

> First, the railroads claim that political pressures force them to accept settlements beyond those recommended by emergency boards.

I asked Mr. Wolfe if there had been political pressure, recalling what happened in the airline strike, where repeatedly those who appeared before us indicated pressure from high sources. They never named them. Has there been pressure on the railroads by political sources to go higher or lower or move in any direction?

Mr. RAMSEY. That is their statement, Congressman. I don't know. I know what happened in the airline dispute because I was there.

Mr. NELSEN. Yes; I recall.

I would also inquire as to your statement on page 11. You refer to the President's Mediation Panel. Did I understand that the President's Mediation Panel came close to the objectives that you seek?

Mr. RAMSEY. I wouldn't say so, sir.

Mr. NELSEN. You would not say so?

Mr. RAMSEY. No. As an example, what they suggested for an 18-month period was a 6-percent wage adjustment. As I pointed out in my statement here, as far as the overall earnings for the 18-month period, at 6 percent versus the 5 percent that was applied to another group, plus 2½ percent, the aggregate earnings for that period of time would be within shooting range.

But, at the same time, the rate for a mechanic, the hourly rate, would lag 5 cents an hour over what he would have obtained on the 5 and 2½ percent if we were willing to accept anything of that nature.

Mr. NELSEN. I notice that you mentioned that the Emergency Board recommendations and the President's Mediation Panel were close as

far as objectives are concerned. You do, however, feel that the President's Mediation Panel recommendations at the first step had some merit. But you are looking beyond the first step, as I understand it. Is that right?

Mr. RAMSEY. The first step?

Mr. NELSEN. Yes. The first escalation. You are looking ahead to the 18-month period.

Mr. RAMSEY. Do you mean the five, five, and five they recommend?

Mr. NELSEN. Yes.

Mr. RAMSEY. We thought it had some merit; yes, sir.

Mr. NELSEN. Coming to the seizure part of it, this is something I think we all look upon with some fear. If you are to retain your right in the area of collective bargaining, wouldn't you have lost it if there were seizure? Wouldn't everybody have lost their right of negotiation?

Mr. RAMSEY. We would lose it for the period of the seizure; yes, sir.

Mr. FRIEDEL (presiding). The time of the gentleman has expired.

Mr. NELSEN. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Dingell.

Mr. DINGELL. Thank you Mr. Chairman.

I would like you to tell us, Mr. Ramsey, whether the communication received by myself and other members of this committee from the Railway Labor Executives Association, signed by Mr. G. E. Leighty, dated May 19, 1967, represents generally your views and whether the proposal with regard to movement of essential shipments on a voluntary basis by the unions and management represents your viewpoint, and the viewpoint of the organizations you represent.

Mr. RAMSEY. Are you referring to the letter he sent the other day?

Mr. DINGELL. Yes. That was the letter of May 19, enclosing the statement, reiterating it rather substantially. It was the letter addressed to Chairman Staggers, of the House Committee on Interstate and Foreign Commerce.

Mr. RAMSEY. I think Mr. Leighty as chairman of the RLEA presented the views of all of the railway unions in that statement, and his analysis of how it could be accomplished, what could be moved and would be moved.

Mr. DINGELL. In other words, the statement, you believe, would be and could be carried out were the situation to arrive at that point?

Mr. RAMSEY. I would have to admit, of course, that it would take a little work and a little judgment on the part of the responsible parties to work out a complete program.

Mr. DINGELL. Now with regard to some other matters before this committee, I believe Mr. Leighty agreed at the time he was present the other day to submit to this committee statements with regard to the relative wages and wage scales between the various crafts in the railroad industry and similar positions and similar crafts in other industries.

I would assume that there is nothing that you would choose to add or could add to the submissions that he will be making in response to the question by me and other members of the committee?

Mr. RAMSEY. Mr. Dingell, I haven't had access to what Mr. Leighty might intend to furnish to you. We may see it sometime during the day, but I would advise you this, and I think Mr. Leighty made this very clear the other day in his statement, that he, of course, as chair-

man of the RLEA, can and does represent the railway labor movement in many proceedings; that he was not and is not one of the participants in this particular dispute.

Mr. DINGELL. I am aware of that. I just indicate that there is nothing you could add with regard to the submission that he will be making to this committee on those particular points. If there is something you would like to add to what he is submitting, I would like to have it submitted.

Mr. RAMSEY. I don't know. Has he already submitted it?

Mr. DINGELL. To my knowledge, he has not.

Mr. RAMSEY. I didn't think so.

Mr. DINGELL. Now, with regard to the question of seizure, you mentioned this possibility. I wondered what the options before us really are. One is to have a strike. One is to have a limited strike. One is to have seizure. One is to have the administration's proposal. One is to have compulsory arbitration. Are there any other options before this committee that occur to your mind?

Mr. RAMSEY. To place the railroads in a position where they would have to sit down and negotiate as they would in outside industry and try to come to an agreement.

Mr. DINGELL. I am trying to find out what options you feel are before this committee among the various courses that might be available to us. Is there anything else to your mind above and beyond those options I have mentioned?

Mr. RAMSEY. I don't have any at the present time.

Mr. DINGELL. Thank you.

Mr. FRIEDEL. Mr. Keith.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. Ramsey, in your statement, you said that more sophisticated maintenance work is performed by your members on the railroads' new precision equipment. Wouldn't this equipment require less skill on the part of other employees? It doesn't ring true when you say that in this gigantic industry there is no place for job evaluation. It seems to me that statement is outdated.

If you are going to move to more precision equipment, shouldn't there be job evaluation?

Mr. RAMSEY. We don't happen to agree with your way of thinking, Mr. Congressman. We have had a great deal of experience with job evaluation in some highly technical industries. All we as representatives of labor have ever seen is a result that certainly was not in keeping with the wages that were properly necessary for any of those jobs. They downgrade jobs. That is all they do.

Mr. KEITH. I understand that some jobs have to be downgraded occasionally. If you had a girl who did her bookkeeping by hand and you no longer needed that girl because you had more sophisticated equipment, you would say, "Look, I am sorry, but you are not contributing as much as you did. Either learn some new skills or you will have to stand still for a while."

It seems to me that in connection with earlier railroad negotiations, the railroads have agreed to pay the penalty to keep these people on at the present wages or with modest increases.

It seems to me that in this mechanized society in which we live, there must be a lot of jobs requiring less skill rather than greater skill.

Mr. RAMSEY. That is where you think in terms of production shops.

Mr. KEITH. I can think of it in connection with my office, in connection with what I read in the press concerning the railroads. I think the public, generally speaking, feels that you have made some mistakes in the past when you have insisted on certain numbers of firemen, certain hours of work, certain conditions, certain pay. I think you have discredited the other merits to your argument by sticking to such old-fashioned ideas that a job evaluation isn't a sensible part of this whole problem.

I might say that in your statement you make reference to the congressional offices having been flooded by propaganda from management. I have yet to have the first railroad executive or representative of railroad executives call on me in my office in connection with this whole matter. I have had in my office visits from, and very effective presentations on the part of the shop unions, and I am very friendly to the trade unions in my district.

As you probably know, I supported the repeal of 14(b) and other progressive legislation at the State and National level. But this, it seems to me, is exactly the situation faced the Governor of Massachusetts when the labor unions were demanding this, that, and the other thing. He said, "None of it until you clean house in these abuses."

It would seem to me that there should be some kind of an arbitration panel that would take this chore away from management and away from labor, and truly arbitrate on the question of job evaluation.

Mr. RAMSEY. Mr. Congressman, I will tell you this, that as far as mechanics are concerned in the railroad industry, I would voice this opinion: If job evaluation by law or otherwise is ever foisted off on the mechanics in the railroad industry, if they can't strike you will have mass resignation. Nobody can stop that.

Mr. KEITH. I think you can show some leadership here and point out to your membership that these panels have the kind of people that will defend the contribution that these mechanics make to the overall operation of the railroads. I would think you can do it. I know how expensive mechanics are, and I am willing to pay them if they can do a good job on the equipment that I use in my home and in my business, in my personal life. I expect to pay for it in increased costs of transportation as I do in increased costs for improved services in other sectors of our economy.

Mr. RAMSEY. Don't you think, Mr. Congressman, that where the railroads did not seek job evaluation and where we did not seek it, that the Emergency Board went a little bit off the beam when they decided it?

Mr. KEITH. No. I think, that in the public interest, they are seeking some new ground that both of you can buy.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Van Deerlin.

Mr. VAN DEERLIN. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Cunningham.

Mr. CUNNINGHAM. Mr. Ramsey, I have one thing that keeps moving through my mind. I heard it when we had the first railroad case a few years ago, and I heard it in the airlines case, and now I hear it again, this phrase about bargaining in good faith.

I am no expert in this field, but you are. Management also has its experts in this field. The thing that keeps bothering me, that causes

me to lie awake nights thinking about it, is this "bargaining in good faith" business. Just what do you mean, and the other people who have testified in other disputes mean when they say one party is not bargaining in good faith?

Mr. RAMSEY. Mr. Congressman, have you had the opportunity to glance at this chronology?

Mr. CUNNINGHAM. Yes.

Mr. RAMSEY. Of course, you will notice there was only a total of four dates on which we met the carriers in direct negotiations, alleged direct negotiations, I might say, for a total of 4 hours for the purpose of discussing our proposal and their counterproposal. We talked about bargaining in good faith, but even their chief negotiator failed on two out of the four meetings to even be present.

Do you think they had any intention of settling anything? No; they had no intention until after they had established what they maintain is a pattern. Then, as in a previous move, after they had an agreement with one of the smallest organizations of the nonoperating, then they insisted that was the pattern and that everyone had to take that.

As Senator Morse so graphically portrayed to the carriers, "You are saying that when one individual organization, regardless of how small it is, makes a settlement, he has negotiated for all of the organizations, all 23 or 24 organizations?" He pointed that question.

"Well, yes, as far as the railroads are concerned, that is what it adds up to in substance."

So, they got away with a 5-percent deal with somebody and everybody else is supposed to take it, regardless of how rare and how unusual your situation is. We can't buy that as good faith bargaining.

Mr. CUNNINGHAM. I want you to know that I have an open mind. I wanted to know what you had in mind and what the other people had in mind when they used this phrase.

It would indicate to me, and if this is not your feeling I would like to have you say so, that in this instance the issues are so fundamental to you and to management that you are steadfast in each of your positions. Therefore, would that be a reason why you might meet for a few moments and you can see that neither side is going to give, the issues are so fundamental, so basic, that the meetings terminate within a short period of time?

Mr. RAMSEY. The unions never terminated a conference.

Mr. CUNNINGHAM. I didn't say that you did, sir

Mr. RAMSEY. As we said here earlier, it takes two to tango. When they got up and left the ballroom, there wasn't anybody to tango with.

Mr. CUNNINGHAM. We have this list of meetings and I do see that some of them were very short. I am wondering if this dispute is more than the matter of wages. There is a basic principle involved as far as your union is concerned and as far as management is concerned, is there not? You may come together for 10 minutes and you see that neither one of you are going to give, so the meeting is broken off. Whether that is not bargaining in good faith, I will leave to somebody else's judgment. I am just trying to find out more of what is meant by the term "bargaining in good faith."

I think both sides are sincere and honest people. I think they must want to bargain in good faith, but maybe the issues are just too basic, so that neither will budge.

Mr. RAMSEY. I don't think that. I think that bargaining in good faith calls for offers and counteroffers, back and forth, as earlier described, until you reach that agreement round. Then you are in agreement and it is finalized, and that is it.

But when you approach the bargaining table and find the other party has their feet firmly set in concrete—take it or leave it—you can't do much bargaining.

Mr. CUNNINGHAM. Thank you very much, sir.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Ramsey, I have not read or at least I am not familiar with the specific names of the unions or crafts involved in this particular strike. For the record, I wish that you would submit to this committee the names of the unions, the crafts, the employees involved in the railroads, which would be included for the record. I note that you represent the executive council of a number of the railroad unions which negotiates the railroad shop crafts. You appear in their behalf.

Mr. RAMSEY. That is the entire group, sir.

Mr. PICKLE. The specific names of the specific unions involved?

I will ask that the information be submitted for the record.

Mr. RAMSEY. The names are set forth on the first page of my statement.

Mr. PICKLE. Does this include such information as the names and numbers of employees?

Mr. RAMSEY. Not the number of employees. We can furnish that. There are 137,000 all told involved.

Mr. PICKLE. This is part of the information that I think should be included in the record.

If I may, Mr. Chairman, I would like to ask that it be included in the record. It is pertinent information pertaining to the number in the specific shops involved, and the number of employees, as well as the railroads involved.

The CHAIRMAN. What you specifically want are all of the shop craft unions mentioned here?

Mr. RAMSEY. We can give that to you right now, sir, for the record.

Mr. PICKLE. I don't want to use up all my time on the submission of information.

The CHAIRMAN. Will you read it for the record?

Mr. RAMSEY. This is as of January 1966. We obtain our information from the ICC, the Interstate Commerce Commission, the M–300 records.

Linemen and groundmen, 2,168 represented; blacksmiths, 1,759 represented through the boilermakers and blacksmiths; 1,136 boilermakers; 13,069 carmen, A and B; 39,159 carmen, C and D; 11,567 electrical workers A; 1,326 electrical workers B; 193 electrical workers C; 19,945 machinists; 50 molders represented through the sheet metal workers; 6,284 sheet metal workers; total mechanics, 97,353.

Skilled trades helpers, 10,756. They are divided between all these crafts. I don't have the breakdown for each individual craft on helpers.

There are 206 helper apprentices. Those are apprentices who have been drawn from the helpers' ranks that had two or more years' experience as a helper.

There are 3,417 regular apprentices.

There are 3,815 coach cleaners; 5,847 classified laborers; 7,577 general laborers; 738 stationary engineers; and 554 stationary firemen.

So the total at that time, January 1966, was 130,263.

During the year they have increased in number to where there are 137,000, approximately.

Mr. PICKLE. Mr. Ramsey, are you saying, then, that the total number of employees you have just mentioned are those involved in this specific strike? Are these memberships nationally or are these just in this particular industry?

Mr. RAMSEY. Just in this industry, sir.

Mr. PICKLE. I understand the industry. But these are national figures?

Mr. RAMSEY. These are the national figures.

Mr. PICKLE. Will you tell me the number involved in the specific strike that we are referring to today? Just on the shop crafts.

Mr. RAMSEY. I didn't get the question. The buzzer was going.

Mr. PICKLE. All I was trying to establish is the actual number of employees involved in the particular and specific dispute under consideration now, not the national memberships in these particular six unions, but the ones involved in this particular localized or regional strike.

Mr. RAMSEY. 137,000 is the total.

Mr. PICKLE. How many?

Mr. RAMSEY. 137,000 is the total. Our organization alone has 980,000 and the electrical workers have 870,000.

Mr. PICKLE. In the dispute that is currently underway, just as a matter of general reaction do you think the parties involved in the dispute, whether union or railroad employees, should have the authority to make a decision themselves, or should they be able to go back to either management or their crafts for a further vote?

Mr. RAMSEY. We are talking about a referendum vote, I presume?

Mr. PICKLE. Referendum, or should the parties involved have plenary powers to actually make an agreement that is a contract.

Mr. RAMSEY. I think a referendum vote in this industry on a national basis is just completely out of the question. It shouldn't take place. I would assure you right now when we talk about, perhaps, the vote taken in the airline dispute, where it went about 3 to 1 the first time against the proposal, which was a fairly reasonable proposal, this would go 9 to 1 against.

Mr. PICKLE. In your testimony, I think you said on page 6, that the unions could not allow any cut in pay rates. As I recall, a representative of management the other day said that any cut, if at all, would not apply to any present workers but only with respect to the new workers. Am I correct in that statement?

Mr. RAMSEY. No, because they would provide what is termed under job evaluation red circle rates, and the present incumbent would no doubt continue to receive that rate until such time as he vacated the job, through a quit, bidding, or some other method. But we are in the same position when we talk about that as you Members of the Congress are. We don't look at only the guy who is living today. We have to think about the one who is growing up, and the one to come into this world, and to protect their future.

Mr. PICKLE. Mr. Ramsey, it is difficult for any member of this committee to know which side is right. We have spent 3 weeks trying to determine who is giving us the best information, not as a matter of choice but because we have been given this problem. We are trying to arrive at these figures. If nothing is done, if we take no action on the bill before us, then we have a strike in the United States. Both parties have been in negotiation for at least 18 months. What assurance can we have, if we take no action, that you will get together?

Mr. RAMSEY. We can't give you any positive guarantee or bond, because you have to have two to make an agreement.

Mr. PICKLE. If that happened, then all we have is seizure or we have to try to take some action like this legislation before us. That is our choice, is it not?

Mr. RAMSEY. We prefer seizure, if it comes to that point.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. In addition to the efforts of Francis O'Neill, the National Mediation Board Chairman, you have had some distinguished boards and panels listening to your testimony to try to resolve difficulties between labor and management. One was Emergency Board 169, headed by David Ginsburg, and the Fahy Panel, headed by Judge Fahy.

Emergency Board 169 held 7 days of public hearings, and the Fahy Panel, itself, while it may not have lasted very long, had 28 different meetings.

Have you felt that before both of these boards you have had adequate time to present your argument and to present your views as you have here this morning? Have you in any way had your efforts curtailed by lack of time or anything? Have you felt that the boards have given you adequate time?

Mr. RAMSEY. They gave us adequate time, but the Fahy Panel took no testimony or evidence. They were mediating and attempting to bring the parties off of dead center.

Mr. HARVEY. But the Ginsburg Board or the Emergency Board 169 did take testimony?

Mr. RAMSEY. Yes.

Mr. HARVEY. That testimony was valuable to the Fahy Panel, was it?

What I am trying to get at is: Is there any question in your mind but what the Fahy Panel was properly apprised of your views?

Mr. RAMSEY. They were properly apprised of our views, very emphatically, sir. But they were also apprised of the fact that we thought they were being guided more by the Economic Advisers over at the White House than anything else.

Mr. HARVEY. As I understand it, both of these boards, then, heard your views, both of them heard them completely. There is no question about that. And both of them rejected those views and came out with other findings. Is that correct?

Mr. RAMSEY. I would say they were governed and made reference to it on many occasions, by the Economic Advisers, Gardner Ackley, or whatever his name is.

Mr. HARVEY. I think it is fair to say that they rejected your particular views, did they not? In other words, they did not, in their findings, grant what you requested; is that correct?

Mr. RAMSEY. We rejected their views as far as that goes because we know that our people are——

Mr. HARVEY. Just a moment, Mr. Witness. I am not trying to embarrass you in anyway whatsoever. I am just trying to get information. I think it is a fair thing to ask you whether or not they granted your requests or whether they rejected them and came out with other findings.

Mr. RAMSEY. They came out with other findings, recommendations.

Mr. HARVEY. Now let's go on from there. They did not accede to your requests. We have that.

Either they decided that these requests were unreasonable or these men themselves were anti labor, pro management, whatever you want to say. It seems to me it comes down to that conclusion, does it not?

Mr. RAMSEY. I wouldn't say so. I think they were governed by the Advisers, the Economic Advisers.

Mr. HARVEY. The Economic Advisers where?

Mr. RAMSEY. To the President.

Mr. HARVEY. The Economic Advisers to the President?

Mr. RAMSEY. The same group that set the 3.2.

Mr. HARVEY. And you think that these people were, in effect, antilabor?

Mr. RAMSEY. I didn't say that, sir.

Mr. HARVEY. They certainly weren't prolabor, were they?

Mr. RAMSEY. I didn't say they were.

Mr. HARVEY. Someone on television the other night made the statement that they were getting a little tired of these antilabor-promanagement boards, and this was one of the labor leaders for the railroads. Would you say that you were in accord with that statement?

Mr. RAMSEY. I didn't hear the statement. I know that it didn't emanate from any of my colleagues at this table.

Mr. HARVEY. I know it didn't either.

I will ask you that question: Do you think that these boards were antilabor and promanagement?

Mr. RAMSEY. I think these boards under the present circumstances are guided by the whims of the Council of Economic Advisers, regardless of the justification or the merits that might be disclosed for adjustments far in excess of what they have determined, the so-called guideposts, guidelines, or whatnot.

Mr. HARVEY. In other words, you believe that the boards do not exercise their own independent judgment but that they take their orders from the Economic Advisers; is that correct?

Mr. RAMSEY. I am well convinced of that fact, after going through the airline dispute and going through this one.

Mr. HARVEY. I have just one other question, Mr. Chairman.

As a practical matter, Mr. Ramsey, you have not had the right to strike the railways since 1922; isn't that correct?

Mr. RAMSEY. We have had the right to strike, yes; except that the railroads always rush into court and get an injunction in about 5 minutes.

Mr. HARVEY. You don't think that here today, with this committee hearing the President and the Secretary of Defense telling us that chaos would come to this country and we couldn't tolerate a strike for 24 hours, that you really have the right, do you?

Mr. RAMSEY. We have the right to do that.

Mr. HARVEY. You may have the right on paper, but let me say this, that in the tenure of eight Presidents of the United States since 1922, in the tenure of 23 different Congresses, all of them have seen fit to prevent a railroad strike.

I say to you right now that I don't think any Congressman here today is going to permit a railroad strike, either. It doesn't seem to me that that is an alternative that we live with. You mention that in your statement, but I say to you that I, for one, am not going to second-guess either the President or the Secretary of Defense, whether they be of my party or somebody else's party. When they take this attitude, I think we have to agree with them.

The CHAIRMAN. Mr. Adams.

Mr. ADAMS. Mr. Ramsey, who requested that the groups bargain in national units? Was this done by the carriers or was this done by the unions individually or by some agreement?

Mr. RAMSEY. I think it originated back in 1930, in the 1930's, perhaps as early as 1932. It was decided and understood, and agreed, that the best way to handle the negotiations in the railroad industry was on a national basis.

Mr. ADAMS. That leads me to the question that you started to allude to but didn't finish with one of the other members. That is, are the union negotiators—and I believe you have all the gentlemen here—authorized now to settle this matter without—and I will ask it in two parts—first, referendum to the membership, or, second, referral to the national organizations' regional chiefs?

Mr. RAMSEY. We are fully authorized any time we reach an agreement that we believe to be reasonable, to settle and sign, and it becomes effective.

Mr. ADAMS. You mention in your chronology that April 25 was the last carrier meeting. I would ask you this, and you can confer with the other members of your group if necessary—though I assume you probably have before—have you indicated to the mediators in this matter that you are willing to move from the established position of your last stated public offer, to some other position in order to obtain settlement? I won't ask you what specific position you would have to move to, but have you so indicated this?

Mr. RAMSEY. Indirectly; yes, sir.

Mr. ADAMS. This becomes important. I want to limit this just to the national strike situation and the national emergency which we have here. Is that clear? The reason I ask you publicly today is that I think it is important to the type of legislation that we frame. Has it been clear that you have indicated a willingness to mediate or to settle this, that you are not frozen on your last public offer?

Mr. RAMSEY. We are never frozen as long as negotiations can take place and there is good-faith bargaining, exchanges of proposals and counterproposals. We are never frozen.

Mr. ADAMS. You have so indicated this to the mediators. You mentioned that you have had most recently with you the Fahy Panel, and Secretary Wirtz, Secretary Boyd, and Mr. O'Neill. They were all together on the 23d of April.

Mr. RAMSEY. I think Under Secretary of Labor Reynolds and Secretary Wirtz are familiar with the fact that we are ready, willing, and able to negotiate at any time. We are not frozen.

Mr. ADAMS. The reason I ask you this is because I have asked the same thing exactly of management and I got an answer that I wasn't satisfied with. We went back and forth on that several times.

So I don't want there to be any question on your side that if we make a proposal which, in effect, is unpalatable to both sides, that we can get some movement in this matter. If it is your publicly stated position that you are of the mind that you are able to move, then I think the sanctions which have been perhaps applied to your membership, which are the injunction and some type of final settlement of wages and conditions for a fixed period, are perhaps sufficient, and that we need to apply some equal sanctions to the other side to compel this negotiation.

Taking that position, I would like to ask you this: Do you have a position if a receiver is appointed, or if there is a type of seizure, whether seizure or appointment should be a Cabinet member, an appointee of the President, or a judicial receiver to be appointed by a court—do you have a position on it? If you do, fine; I would like to hear it.

Mr. RAMSEY. I am not the last word on law, but we would prefer the appointee of the President, such as occurred during the First World War.

Mr. ADAMS. I would like to know what your position is if there are to be these sanctions applied during this period of continuing mediation—I think you may have stated this before—what is your position on requiring at a point in this statement of public position by you as negotiators for the unions and by management in their position as negotiators for all the carriers?

Mr. RAMSEY. A declaration to the public?

Mr. ADAMS. A public statement of your unions. We would envision something like this: The requirement that management submit an offer, and that it be accepted or rejected by your side and then if it were rejected, a statement of counteroffer by your side to be combined with the panel recommendations in terms of a final solution to the matter.

By "final solution" I mean an establishment of conditions during the period of time when management would be held and you would be held.

Mr. RAMSEY. I haven't had time to study the more recent bill that I believe you have sponsored——

Mr. ADAMS. Several of us have introduced an additional bill.

Mr. RAMSEY. We, of course, feel that unless there was very elaborate machinery, No. 1, you could never take a vote of the membership. It would be a delaying tactic that would bring no results; that is, toward a settlement.

Mr. ADAMS. We can reconsider that provision. It was based on the airline strike experience. I am now taking your publicly stated position that you gentlemen sitting at this table have full authority, with no question, to settle this without having to go to anybody else.

Thank you, Mr. Chairman.

The CHAIRMAN. Dr. Carter?

Mr. CARTER. Thank you, Mr. Chairman.

Mr. SPRINGER. Will the gentleman yield?

Mr. CARTER. Yes, sir.

Mr. SPRINGER. You have raised something new, Mr. Ramsey, which

I didn't know about until this point, but which I raised in the airline strike. That was whether or not there were pressures being exerted by somebody at the administrative level to keep them from going beyond a certain figure. Is that what you are talking about?

Mr. RAMSEY. I think that is very true.

Mr. SPRINGER. As I understand it, your thinking at this time is that the Economic Advisers are either bringing pressure or suggesting that any increase not go beyond certain guidelines.

Is that correct?

Mr. RAMSEY. That is correct.

Mr. SPRINGER. Your thinking, then, is that these two Boards are not going beyond those guidelines?

Mr. RAMSEY. I feel reasonably sure that is true.

Mr. SPRINGER. Now, is it your thinking further, on this second question, that this guideline which they are talking about now may be also proposel as a guideline, as I understand it, in the summer and fall, there being a number of negotiations on some large contracts between management and labor, that this guideline would more or less follow that and that is the reason the Economic Advisers at this point do not want them to go beyond a certain figure or a certain percentage? Is that your thought?

Mr. RAMSEY. I think they recognized the settlement in the airlines and other matters raised the ante from 3.2 to 5 percent, as their guideline for settlement of contracts.

Mr. SPRINGER. Their thought was 3½ percent at the time of the airline strike, but approximately a year later it is 5 percent. Roughly, that is their position?

Mr. RAMSEY. Yes, sir.

Mr. SPRINGER. I thank the gentleman.

Mr. CARTER. Mr. Ramsey, is it your view that the railroads will not bargain because they think the Government will outlaw strikes under House Joint Resolution 559? Is that the reason why the railroads will not bargain in good faith?

Mr. RAMSEY. I feel that the railroads are at the present time firmly embedded in concrete and depending upon the Congress to save them from a fate worse than death.

Mr. CARTER. Thank you.

I yield back the balance of my time.

The CHAIRMAN. Mr. Blanton.

Mr. BLANTON. I have no questions.

The CHAIRMAN. Mr. Watkins?

Mr. WATKINS. Mr. Ramsey, I would like to call this to your attention: You say in 1967 you asked for a 6½-percent increase.

Mr. RAMSEY. That was our final offer up to the present time to settle this dispute, 6½ percent on the base wages, and then an additional 12½ cents to be awarded to the more skilled men.

Mr. WATKINS. Six and one-half percent and 12½ cents in 1967?

Mr. RAMSEY. 12½ cents in 1967.

Mr. WATKINS. We go from percentage to cents.

I would like to suggest to you that in 1968 you are asking for 5 percent and 12½ percent; is that right?

Mr. RAMSEY. 12½ cents.

Mr. WATKINS. And 5 percent is to make up the base pay?

Mr. RAMSEY. The regular wage adjustment we are seeking.

Mr. WATKINS. And 12½ cents is to make up the base pay?

Mr. RAMSEY. That is for the mechanics.

Mr. WATKINS. I would like to say this to you, and I will be very short because some of the other members are certainly entitled to speak to this subject today.

I think a big mistake is made in your bargaining. I think for anyone to sit back and depend on House Joint Resolution 559 is wrong. I think management and labor should be having this settled today.

Once such a bill is passed, and there is a seizure bill, or whatever happens, there is going to be a great setback to bargaining in this country, and I am in favor of free bargaining in this country.

I am going to suggest to you that I don't think you are too far off line. I may call to your attention another national contract with men who are comparable to yours. Perhaps you should start talking of a 3-year term. I know of a contract, with which I am very familiar, where it was 7½ percent the first year. The lowest base pay I know is $3.41 at the present time.

In the second year it will be 4 percent and in the third year it will be 4 percent.

I am not going to try to tell you how to bargain. You gentlemen know what you are doing. You have my sympathy. I like to see labor rewarded in these days of inflation and the high cost of living. It becomes a little amazing to me that on page 5 of your statement you say some of your men take home $100 a week, and if you cut it down to 40 hours it means $2.50 an hour. But you do say the average pay is $3.05. I don't want them to cut it back to $2.50.

Mr. RAMSEY. Sir, if I may interrupt you, I didn't say the average pay was $3.05. That is $3.0475, practically $3.05, is the highest rate.

Mr. WATKINS. But you say after deductions, many of them take home less than $100 a week. If you break $100 a week down into 40 hours, you have $2.50 an hour.

Mr. RAMSEY. Agreed.

Mr. WATKINS. That is a rather low wage.

Mr. RAMSEY. It is rather low; it is very low.

Mr. WATKINS. Very low for mechanics and men of your type.

I am going to suggest that you go back to bargaining. I don't want to have to vote on this bill. I don't want to vote on this bill, and I think you have a responsibility, along with management, both of you, to keep these railroads running.

Where you are now, you will get nowhere. You will only drive this committee into making a decision which I don't want to have to make, as I told you before. You are losing time and you should be talking. I suggest that to you.

I want to thank you for your testimony. I assure you that I will study it carefully further.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Brown?

Mr. BROWN. Thank you, Mr. Chairman.

May I clarify a point on page 3 of your statement? You list the initial proposals of the unions. As I understand it, they are for a 20-percent general wage increase on January 1, 1967, for 2 years; is that right?

Mr. RAMSEY. One year. Of course, our original proposal had no time limitation on it, Mr. Congressman. We served a normal section 6 notice, as it is known under the Railway Labor Act. Normally and historically,

there wasn't any termination date of the contract. It just continues and continues on. You serve a section 6 notice whenever you get ready to make a proposed change.

Mr. BROWN. But you selected the 20 percent; is that right?

Mr. RAMSEY. We arrived at 20 percent in connection with the mechanics' rate, which would have taken it up by 60 cents an hour.

Mr. BROWN. Did this include, then, the skill differentials?

Mr. RAMSEY. It wasn't in the picture. That was one of the modifications that developed. We knew that certainly under the present circumstances we couldn't expect in one lump sum to correct the wages by a full 20 percent. So we started making modifications and asking for a 2-year contract.

Congressman Watkins mentioned a 3-year agreement. We wouldn't be adverse to a 3-year agreement under proper terms.

Mr. BROWN. Do I understand that the 20 percent included the skill differential thought, then?

Mr. RAMSEY. Yes.

Mr. BROWN. If I understand also, the 6½ percent increase for 1 year and the 5 percent increase for the succeeding year amounts to about 11.8 percent and 12½ cents—12½ cents makes up the difference between that and what you said was 19 percent total wage increase?

Mr. RAMSEY. It only applies, of course, to three-quarters of the people, because the unskilled laborers wouldn't share in the skill differential.

Mr. BROWN. Yes, I understand.

If House Joint Resolution 559 passed, will there be an end to railway management-labor negotiations until January 1, 1969, or are there other unions involved here with which railroad management has not settled which will present a problem in negotiation between now and then?

Mr. RAMSEY. I am not absolutely familiar with their status. The conductors, I believe, have taken a strike vote, and there is every expectation there will be an emergency board appointed to that dispute.

I understand from, let's say, authentic sources that Board will be appointed by June 2 or 3. That is for the conductors.

Mr. BROWN. The terminal date is not until after the 19th of June, which is the present ending date of the continuation which Congress passed by resolution, under which you are operating; is that correct?

Mr. RAMSEY. I have told you the information I have with regard to the conductors.

Mr. BROWN. When is the date at which the conductors' strike is a possibility?

Mr. RAMSEY. I don't know, sir. I don't know whether they have actually set a date. The continuation time under the Railway Labor Act will not apply to them.

Mr. BROWN. My question still is: You don't know the date?

Mr. RAMSEY. No, sir.

Mr. BROWN. Do you think it is before or after the 19th of June? Have you any idea?

Mr. RAMSEY. Maybe there is somebody in the audience who can answer.

Here is the conductors' representative, one of them.

I am informed by a representative of the conductors that the Emergency Board must be appointed before June 2.

Mr. BROWN. In response to a question asked by Mr. Devine, you cited the productivity of the employees and the volume of railroad business increasing as the reason for the wage increase. If the volume of business declines, is it your opinion that the wages should be cut?

Mr. RAMSEY. Mr. Congressman, that doesn't happen in the railroad industry. They immediately get out the knife if they even project a reduction in traffic and start whacking them off at about 10 percent per clip.

Mr. BROWN. On the basis of seniority?

Mr. RAMSEY. Yes, sir. They don't waste very much time doing it. In fact, we have only about 50 percent of the employees employed by the railroads today that we had at the peak of employment.

Mr. BROWN. You also were talking to Mr. Harvey about the Presidential boards and inferred that they might be limited by the Presidential economic advisers in what they would permit in the way of settlement.

Are you suggesting that the boards themselves were not meeting with you and judging this matter on the basis of good faith?

Mr. RAMSEY. I am not accusing them of anything. They are appointed by the President, and they are given to understand what the policy of the administration is in regard to, as they term it, the inflationary trend, and cautioned to see to it that the recommendation doesn't exceed certain figures, I imagine.

I don't know. They don't let me sit on their sessions at the White House.

Mr. BROWN. Is this made part of the rules of the game to management and labor representatives; that when these boards meet there is a limitation?

Mr. RAMSEY. They don't tell you that except indirectly. They keep bringing to your attention the fact that the message of the President stated so-and-so and, therefore, of course, they intend to be conservative about what they do, which loses sight of the justification and merits of the case. But this is all you get.

Mr. BROWN. Mr. Chairman, you have been very patient. I would like to ask one more question, if I may.

When we had Mr. Leighty before us, he suggested that he would be willing to have Government ownership of the railroads. Would you share that view?

Mr. RAMSEY. If that is the only answer.

Mr. BROWN. What happens to the possibility of collective bargaining at that point?

Mr. RAMSEY. Then we would have to come down to the Congress and put the heat on, like the postal employees do.

Mr. BROWN. Is that much different than where we are now?

Mr. RAMSEY. Well, let us say the guillotine is there, of course. It is all according to whether you lower it on our neck or not.

Mr. BROWN. Would you prefer permanent Government ownership to House Joint Resolution 559?

Mr. RAMSEY. Personally, no.

Mr. BROWN. Would you prefer a strike to the possibility of seizure?

Mr. RAMSEY. Would I? No. We never prefer a strike, if we can bring about a reasonable settlement without it.

Mr. BROWN. Do you think seizure would bring about such a settlement?

Mr. RAMSEY. I think so.

Mr. BROWN. That is all, Mr. Chairman.

Mr. SPRINGER. Mr. Chairman, may I ask one more question?

The CHAIRMAN. Yes.

Mr. SPRINGER. I was much interested in what you said about Government ownership. The only real, solid complaints that I have heard during the 17 years I have been here have come from labor groups or brotherhoods of any kind who are under Government control. They get the worst deal, in my opinion, of any labor group that I know of, at least the ones that have come to me with their problems.

I have been simply astounded, at not only the refusal to bargain under some conditions but also the low wage rates, especially south of the Ohio River. There are some of those unions who are absolutely within Government that have been the worst I have seen.

If you want to get another picture of it, just try France. Here is one of the worst, lowest labor groups in all of that country, those that are completely controlled by the Government. There you have the public utilities and railroads controlled by the Government.

I can understand your feeling. I don't know of a big labor man of your stature who is for Government ownership as a solution to the problem. If you don't believe this, ask the postal workers.

Thank you very much, Mr. Chairman.

May I say, too, that Mr. Ramsey has been a distinguished labor leader not only in my own congressional district of Decatur, but a civic leader in the community, and a man of stature.

Mr. RAMSEY. Thank you.

The CHAIRMAN. I, too, thank you, Mr. Ramsey, and I thank those who attended with you. I join with my colleagues in saying that I think you have made a very fine statement of the facts as you see them. I think you answered the questions of the committee very well.

This ends our committee hearings for today.

I might make this statement for the benefit of those present: If the House were in general debate we would continue hearings this afternoon, but the House is proceeding under the 5-minute rule and we are prohibited. I would set hearings for tonight, but I don't know when we will be through on the floor tonight. It might be 8, 9, or 10 o'clock.

I think we will be in the same situation tomorrow. In order to expedite this hearing, the committee will resume tomorrow morning at 9 o'clock. The House might come in at 10 or 11. I hope to get the witnesses scheduled for tomorrow completed.

We are in a rather difficult situation. As I understand it, the House intends to recess for 1 week after tomorrow. There will be a decision made tomorrow as to whether we can hold hearings during that period.

We must expedite these hearings and get something resolved in some way. We will do the very best we can.

The committee will adjourn until tomorrow morning at 9 o'clock.

(Whereupon, at 12:25 p.m., the committee adjourned, to reconvene at 9 a.m., Wednesday, May 24, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 24, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 9 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order, please.

We are continuing the hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

We have this morning Mr. Lester P. Schoene, counsel for the Railway Labor Executives' Association.

Mr. Schoene, I notice you have with you this morning Mr. Leighty.

STATEMENT OF LESTER P. SCHOENE, GENERAL COUNSEL, RAILWAY LABOR EXECUTIVES' ASSOCIATION; ACCOMPANIED BY G. E. LEIGHTY, CHAIRMAN, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. SCHOENE. Yes, Mr. Leighty is appearing with me, as I did with him when he testified last week.

Mr. Chairman and members of the committee, my name is Lester P. Schoene. I am a lawyer, a member of the firm of Schoene & Kramer, with offices at 1625 K Street NW., Washington, D.C.

I appear here this morning as counsel for the Railway Labor Executives' Association, which is the same organization whose chairman, Mr. Leighty, testified last Thursday. My firm has acted as counsel for the association in various matters for in excess of 20 years.

I have filed a statement in accordance with the rules, but with the committee's permission, I would like to discuss the issues that have sharpened up since that statement was prepared. In the course of my remarks, however, I will cover the subject matter contained in the statement.

The first issue that I would like to discuss——

The CHAIRMAN. Your entire statement will be included in the record at this point, Mr. Schoene.

Mr. SCHOENE. Thank you very much, Mr. Chairman.

(Mr. Schoene's prepared statement follows:)

STATEMENT OF LESTER P. SCHOENE, GENERAL COUNSEL, RAILWAY LABOR EXECUTIVES' ASSOCIATION

Mr. Chairman and members of the Committee, my name is Lester P. Schoene. I am a partner in the law firm of Schoene and Kramer, 1625 K Street, N.W., Washington, D.C. and I appear before you today as general counsel to the Railway Labor Executives' Association. In this statement on H.J. Res. 559, I intend to discuss first of all some of the results of the previous compulsory arbitration law enacted by Congress in a national railroad dispute, namely Public Law 88–108.

The report of the Senate Committee on Commerce that accompanied the Joint Resolution which became Public Law 88–108 providing for compulsory arbitration of the work rules dispute in 1963, referred to the fear expressed on behalf of labor interests that a bill for arbitration would provide a precedent which might have far reaching and unfortunate effects. The report sought to allay such fears stating that the proposal "is not and cannot conceivably be considered as a precedent for the railroad industry" and that it was what it purported to be, "a one shot solution."

The introduction of House Joint Resolution No. 559 to bring to a termination the current dispute between the railroads and the six shopcraft labor organizations through the process of compulsory arbitration, coming less than four years since the enactment of Public Law 88–108, has vindicated the apprehension expressed by the labor interests in 1963 that Public Law 88–108 would become a precedent in future attempts to resolve labor-management disputes.

The proponents of the measure disclaim any intent or desire to impose compulsory arbitration on the parties, and characterize the proposal with such terms as "mediation with finality." The appellation attached to a particular proposed course of conduct is, of course, not the governing consideration. The relevant consideration is its practical consequences. There can be no question that what has been proposed here has pronouncedly all the objectionable features of compulsory arbitration.

The objections which have been voiced in the past by representatives of labor, and indeed by most informed persons, is to the establishment of a procedure whereby a third party is interposed into a labor-management dispute and dictates the terms and conditions to the parties, instead of leaving the parties in interest to resolve the dispute between themselves through the processes of collective bargaining. The procedure set forth in Section 5 of the proposed resolution is to have the terms and conditions established by a third party, and referring to the procedure as "mediation with finality" means no more than there now is a synonym for compulsory arbitration.

It has been suggested that the Joint Resolution is not really arbitration since the parties were close to reaching agreement through collective bargaining and all that now is required is a procedure to bridge the remaining gap which bargaining has not closed. The term "arbitration" is not appropriate, the suggestion concludes, because the third party is charged with resolving the dispute on the basis of what already had been accomplished in collective bargaining.

The parallel between the proposed resolution and the admittedly compulsory arbitration under Public Law 88–108, however, is striking in this very respect, among others. Thus, Public Law 88–108, in its preamble referred specifically to the fact that collective bargaining has resulted in "tentative agreement," and Section 3 of Public Law 88–108 charged the board of arbitration with the duty "to incorporate in such decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement."

Clearly, Congress was then of the view that the procedure it was establishing was not stripped of its nature of being an involuntary arbitration simply because the board of arbitration was required to fill in gaps. Incidentally, it should be noted that notwithstanding the mandate of Congress that the board of arbitration "shall incorporate in such decision any matters on which it finds the parties were in agreement," the board of arbitration did not do so, and the District Court for the District of Columbia, in which suit was brought to impeach the award, held that the board of arbitration was not required to incorporate such agreements in its award. The Court stated:

"Obviously, the purpose of the clause was to point the attention of the board to any agreements reached in order that the board might give them due weight,

but not to limit its discretion in arriving at a final decision." *Bro. of Locomotive Firemen & Enginemen, et al.* v. *Chicago, Burlington & Quincy RR, et al.*, 225 F. Supp. 11 at 19 (D.D.C., 1964).

The proopsed Joint Resolution provides the Special Board with even greater latitude in fashioning its own brand of industrial justice than that provided the board of arbitration under Public Law 88–108.

It is entirely clear that in considering S.J. Res. No. 81 and H.J. Res. No. 559 Congress cannot evade the responsibility of determining whether it will impose compulsory arbitration upon the parties as it did only three and one-half years ago in enacting Public Law 88–108. It likewise is clear that in considering the impact of Public Law 88–108 upon collective bargaining in the railroad industry, the only conclusion which reasonably can be drawn is that such legislation was a mistake which should not be repeated. The compulsory arbitration under Public Law 88–108 not only failed to resolve effectively the rules disputes at which it was aimed, but also created an atmosphere which has permeated railroad labor-management disputes since the enactment and which, in no small measure, is responsible for the situation which has brought us here today.

The failure of Public Law 88–108 to resolve the dispute at which it was pointed is evident from the fact that even at this late date, more than three and one-half years since its enactment, and more than 15 months after the expiration of the award of the arbitration board, there are a couple of dozen cases involving the arbitration award now pending in the Court of Appeals for the District of Columbia Circuit, and some which still have not even been argued before that tribunal as of this date, and some still pending in the District Court. Dozens more were brought in the District Court and decided without an appeal being taken. The arbitration of the rules dispute has resulted in a situation where the parties are in total disagreement on such a fundamental issue as which rules have been in effect since January 25, 1966, the date the award expired. The parties cannot even agree on the method and manner in which they are required now to bargain about the subject. Collective bargaining has come to a complete standstill on that issue and even now, the railroads are once more seeking to establish a national crisis with respect to the rules dispute in the hope that Congress will again step into the dispute and again require compulsory arbitration as it did in 1963.

The impact of Public Law 88–108, however, has extended far beyond the confines of the dispute with which it was concerned. Indeed, its specter is present in this room today. The failure of the parties to reach agreement on the dispute involved here, at this stage of the negotiations, certainly does not present a unique situation. There have been many such instances. Yet never before Public Law 88–108 has any one felt the need to propose legislation to deal with such a dispute. The reason for this is obvious. In the past, prior to Public Law 88–108, each side was aware that the dispute could be settled only across the bargaining table, and with such knowledge, engaged in sincere and meaningful negotiations to resolve the dispute before either side would find it necessary to resort to self help. And agreements were reached. The undeniable fact is that the last "national" strike in the railroad industry occurred more than 20 years ago, and that strike lasted only for a few days at which time agreement was reached. Public Law 88–108, however, has thrown a pall over the continued effectiveness of collective bargaining. The railroads believe that there no longer is any necessity to reach agreement except on their own terms. If agreement is not reached, the railroads assume, Congress will step in and require compulsory arbitration before any economic pressure can be brought to bear by the employees in an attempt to reach agreement.

Congress recognized the inherent danger to the future of collective bargaining in the enactment of Public Law 88–108 and it went to great lengths in the committee reports, and in the Act, to make it clear that Public Law 88–108 was not to be taken as a precedent, that it was a "one shot solution", and that the enactment was in no way to be taken as an indication that Congress no longer believed that the settlement of disputes is to be reached in any manner other than "in a manner which preserves and prefers solutions reached through collective bargaining." To enact this proposed resolution requiring compulsory arbitration, within such a short period following the enactment of Public Law 88–108, and indeed, at the very first opportunity to do so following that enactment, will be taken by the railroads as establishing a last ditch of compulsory arbitration which Congress would afford them (and which they have long sought) if agreement was not reached. This will encourage the railroads to be uncon-

cerned with meaningful negotiations in the future in the expectation that the Congress will not permit the railroads' employees to exercise their economic strength to bring about a fair and just agreement through collective bargaining.

The attempt to obfuscate the arbitrative nature of the Resolution has resulted in the inclusion in the proposal of a provision entirely inappropriate under the circumstances and in the failure to include even the most elementary safeguards to protect the rights of the parties to the arbitrative procedure against the arbitration tribunal exceeding its jurisdiction, and even against corruption. Even Public Law 88–108 furnished such minimal safeguards, or at least tried to do so.

Thus, in conjunction with the insistence that the Resolution prescribes mediation and not arbitration, Sections 5 and 6 of the Resolution would require that the parties engage in negotiations for 30 days following the determination of the Special Board. It is impossible to conceive of an atmosphere less conducive to the settlement of this dispute than that which will prevail during such 30-day period. What inducement or incentive would the railroads have to bargain with their employees during this period when they are aware that the maximum they will be required to offer already has been decided and, within 30 days, will have to be accepted by their employees pursuant to an Act of Congress? There is no purpose served by the requirement of 30 days further negotiation of an issue, which has become non-negotiable, except to lend to the aura that what is involved is mediation and not arbitration, which of course, is not the case at all.

The proposed Joint Resolution's most serious defect, also no doubt due to the attempt to disguise the legislation as mediation and not compulsory arbitration, is its failure to provide even elementary safeguards in connection with the arbitration of the dispute and the resulting award. Thus, Congress in enacting Public Law 88–108, facing up to the fact that it was requiring compulsory arbitration, provided safeguards by requiring that the arbitration be conducted pursuant to Sections 7 and 8 of the Railway Labor Act, and that the arbitration award be subject to Section 9 of the Railway Labor Act.

Sections 7 and 8 of the Act set forth the procedures a board of arbitration is to follow. They include the basic requirements that the parties be afforded an opportunity to present evidence in support of their claims, either in person, by counsel, or other representatives of their own choosing; that the arbitration board could be required to reconvene to pass upon any controversy over the meaning or application of the award after the award issues; and that the arbitration board file a copy of its award with a federal district court in the district wherein the controversy arose or the arbitration was entered into.

Section 9 of the Railway Labor Act provides the grounds for impeachment of an award of an arbitration board. The grounds for impeachment include the failure of the award to conform to the substantive or procedural requirements of Sections 7 and 8; its failure to conform or confine itself to the stipulation or agreement to arbitrate; or that one of the members of the arbitration board rendering the award was guilty of fraud or corruption.

The arbitration board convened under Public Law 88–108 held hearings as required by Sections 7 and 8 of the Railway Labor Act and the award was entered in the District Court for the District of Columbia as provided in Public Law 88–108. The District Court upheld the validity of the award in a suit brought to impeach the award under Section 9 of the Railway Labor Act and judgment was entered on the award. During the period of the award, numerous questions arose concerning the meaning and application of the award. Pursuant to Sections 7 and 8 of the Railway Labor Act, these questions, propounded in some instances by the railroads and in others by the employees, were submitted to the reconvened arbitration board for determination. The answers of the arbitration board likewise were filed with the District Court and each of the parties were afforded an opportunity in that forum to seek to impeach the interpretations. A number of such impeachment suits were filed.

Early in the period of the award, one of the labor organizations involved threatened to strike because of action threatened by some of the railroads allegedly in violation of the terms of the arbitration award. The District Court in which the award was filed, enjoined the strike but left open the decree for the purpose of permitting either of the parties to return to the court for supplemental relief if either believed the terms of the award were being violated. *In Re Certain Carriers, Etc.*, 229 F. Supp. 259 (D.D.C., 1964). A number of motions for supplemental relief were filed, by both sides.

There is no provision in the Joint Resolution affording any of the procedural or substantive safeguards contained in Sections 7, 8, and 9 of the Railway Labor Act. There is no provision for the Special Board to reconvene to resolve disputes

arising over the meaning or application of the award should any arise. There is no provision setting forth the grounds, if any, upon which the award could be impeached. There is no procedure for resolving disputes over interpretations or applications of the award, or "mediation with finality." Could the parties go to the National Railroad Adjustment Board? Could they go back to the Special Board with such disputes? Could the parties resort to self help over such disputes, as distinguished from disputes over the original notices? The proposed legislation does not tell us. Could the parties, within the two-year period, serve new Section 6 proposals to become effective at the end of the two years, and would bargaining be required on such proposals? The proposed resolution does not tell us. Under Public Law 88–108 it was held that bargaining was not required until after the two years expired. That question is now pending on appeal. Do we want such turmoil again?

The failure of the proposed resolution to deal with any of these matters results in the denial to the parties involved in this dispute of any effective recourse even should the Special Board render an award which goes far beyond the scope of the issues assigned to it for determination, or render an award which is utterly without foundation or even corrupt. There is no recourse to a party even if it could be shown that one of the members of the Special Board rendering the award was guilty of fraud or corruption.

I do not imply that furnishing the safeguards of Public Law 88–108 would solve the problems,—it would only make this legislation no worse than Public Law 88–108. Arbitration Board No. 282, convened under Public Law 88–108, had submitted to it something like 437 requests for interpretations of its Award,—more than ten times as many as the preceding 281 arbitration boards combined were asked to make under their voluntary arbitrations. And the litigation that has resulted from that arbitration is incalculable and apparently interminable,—so courts are not the satisfactory answer to these problems. The only answer is collective bargaining to an agreement, prodded perhaps by resort to or the imminence of self-help and accompanying temporary public inconvenience.

The Congress and the President are understandably trying to avoid "the paralysis of our economy"—the fact is it has never yet happened from a strike. Left alone, the parties have always ultimately agreed. But the repetition of compulsory arbitration will lead to paralysis—not of the economy, but of collective bargaining in the railroad industry.

The railroads will feel secure in their confidence that Congress will always provide them with the last ditch of compulsory arbitration, a trench they have long sought and one which enables them to shirk their obligation, if they are so inclined, to make agreements.

I urge that legislation is not the solution. But if there is to be legislation, for a remedy in perspective of the future of collective bargaining, if it is to include procedures that are anathema to the employees, it must include also provisions that are anathema to the railroads.

Mr. SCHOENE. The first issue that I would like to discuss is whether the bill under consideration, House Joint Resolution 559, does or does not provide for compulsory arbitration.

You will recall when the Secretary of Labor appeared at the outset of the hearings, he was quite insistent that the bill did not, in fact, provide for compulsory arbitration but, rather, what he called mediation to finality. The distinction which he drew was that this bill proposes to build onto what the parties have achieved through direct collective bargaining.

He says the parties have built the arch and this bill aims only to place the keystone of the arch into position.

I would remind you that on the previous occasion when the Congress enacted compulsory arbitration, the same thing was true.

I will discuss more fully the experiences under Public Law 88–108, but I draw your attention at this time to the fact that that, too, was supposed to build upon what the parties had accomplished by collective bargaining, and very narrowly defined the issue to be arbitrated, just as this bill does.

Yet there is no question about the fact, and the Secretary of Labor now admits that that turned out to be compulsory arbitration.

Furthermore, the fact of definition of the issue in narrow terms is not a distinguishing characteristic of this bill. Arbitration generally occurs according to defined issues, and very frequently the issue to be arbitrated is very narrowly defined.

In fact, most arbitration in which I have participated came at the end of a long process of collective bargaining when only a few issues were left to be resolved, and only narrowly defined issues were submitted to arbitration, just as this bill proposes to do.

On the Senate side, Senator Morse has placed into the record his distinction between this bill and compulsory arbitration. Senator Morse says that arbitration follows a strictly judicial procedure, with the burden of proof and weight of the evidence to govern. The arbitrators do not mediate or seek to compromise, but must follow a strictly judicial procedure.

Of course, Senator Morse is a distinguished authority in this field, and I wouldn't for a moment question his right to set up his own definition of arbitration, but the fact is that the characteristics which he describes do not, in fact, prevail in a great many arbitrations; that is, things which are called arbitration, whether Senator Morse would so denominate them or not.

In fact, taking the matter of mediation and compromise, it has been my experience that particularly in tripartite boards, where there are party representatives and neutral representatives, the neutral representatives will seek compromise, will seek to mediate the dispute.

In fact, I have known arbitrators under those circumstances to shop for concurrence among their colleagues on the arbitration board. In other words, the arbitrator will say to one of his colleagues, "This far I can go with you, if you will join me in making such an award. If you don't join me in that, I will have to rewrite my decision so that I can get an acceptance from the other side."

This very commonly occurs, whether it is proper arbitration or not. And, of course, since the development of pretrial procedures, the judicial function also seeks compromise and settlement in advance of trial.

It is perfectly true that if the pretrial conference doesn't result in a compromise, a strictly judicial proceeding ensues. But I do call attention to the fact that preliminarily in most trial courts today, compromise and settlement is also sought by judges.

There seems also to be some sentiment that the magnitude of the differences between the parties has something to do with whether or not this is, in fact, compulsory arbitration. I have heard the sentiment expressed that since the parties appeared to be very close together, somehow or other that justifies the kind of action proposed in the bill.

I would readily agree that if the parties are close together, and the remaining issues are narrow, this might be a reason why they would voluntarily agree to arbitrate, or it might be a reason why you should expect that they would be able to settle the remaining differences without congressional interference.

But the fact remains that the procedures by which this bill proposes, as a last resort, to resolve those differences is by legislating into the

hands of people other than the parties the power to make a binding decision of the issues. So long as that method of resolution is there, I respectfully submit that it is compulsory arbitration no matter how it is dressed up.

Further, it holds a potentiality of compelling parties, private parties, to work for other private parties at rates of pay that are not acceptable to them, and for private profit. That is another characteristic of compulsory arbitration.

I think it is a particularly destructive element to collective bargaining, that is destructive of collective bargaining. That is true as to this particular case. Congressmen here have expressed regret that bargaining is not going on while this bill is under consideration. I think that is regrettable, too. Yet it should not surprise anyone, because if this bill is enacted, as the carriers obviously hope and expect it will be, then the worst thing that can happen to the carriers is exactly what they want.

You have heard others testify that throughout the bargaining in this case the carriers have wanted a law rather than a settlement. They have been seeking compulsory arbitration as a general rule since 1950. That has been their declared position. If they can't get compulsory arbitration as a general rule, they seek its imposition by Congress in individual cases, just as they did in 1963 with the enactment of Public Law 88–108.

But its adverse effect goes beyond this particular case. I think it is very interesting in this connection to call your attention to a case that is pending in the U.S. Court of Appeals for the District of Columbia right now. It was argued a week ago Monday and is awaiting decision.

In that case, the Brotherhood of Railroad Trainmen, in connection with the same dispute that was the subject of Public Law 88–108, after the Presidential Railroad Commission and the Emergency Board and the Compulsory Arbitration Board had all said that the crew consist does not lend itself to national handling and should be handled on a local basis——

Mr. SPRINGER. I didn't get the first part of your statement. Would you repeat that, please?

Mr. SCHOENE. The Presidential Railroad Commission, the Emergency Board and the Arbitration Board that was set up by Public Law 88–108 all had found that the issue of train crew consist, the manning of trains, did not lend itself well to national handling, because there was such a variety of requirements varying from one railroad to another.

So the Brotherhood of Railroad Trainmen, in its present pursuit of further rules, has attempted to handle it on an individual railroad basis. The railroads have refused to bargain on an individual railroad basis and have insisted that it be handled on a national basis.

They went to the U.S. District Court for the District of Columbia and got an injunction requiring the Brotherhood of Railroad Trainmen to bargain nationally on that issue.

Why did they do that? For the obvious reason that they want a national crisis in case the dispute is not resolved by bargaining. They want a situation in which the trainmen will have to strike nationally instead of locally, just so that they can again come to Congress and say, "This is a national catastrophe. Congress must intervene to provide compulsory arbitration to settle the strike."

This is currently going on. We are waiting now for the court of appeals to decide the issue. I hope and expect that the district court will be reversed. But whether or not the carriers prevail in the court, this demonstrates their attitude of seeking crisis rather than indulging in the kind of bargaining that would be calculated to avoid a national issue.

Finally, I want to point out to you that the administration spokesmen who have supported this bill have said, "Well, it doesn't really make any difference what you call it. What difference does it make what label is attached? The question is, does it make sense?"

Basically, I agree with that. Names aren't particularly important. But I ask the question: Who introduced the matter of names?

Let me remind you that before this bill emerged from the White House, the President held a press conference and he said that one of the things that was being considered at the White House level was some sort of device that would not be either seizure or compulsory arbitration.

We waited with great interest to see what this interesting device might be and then it emerged. The press reported that both Senator Morse and Secretary Wirtz had said it was not compulsory arbitration. George Meany, on the other hand, was quoted as saying, "It is, too, compulsory arbitration."

I don't think we would have had any controversy about what labels to put on it if there had not been this studied attempt on the part of the White House to label it noncompulsory arbitration in the hope that it would thereby apparently become more palatable. However, I think at this stage we must recognize it for what it is. It has all the elements of compulsory arbitration that are repugnant to labor.

If the White House had said to us at the beginning, "The only thing that this has in common with compulsory arbitration is that element which labor has always found odious," then we would never have had any controversy about what label to attach to it.

Now I want to turn to a more detailed consideration of the parallels between what is proposed to the Congress now and what happened in 1963 when Congress enacted Public Law 88–108.

There, too, as I have already pointed out, the issues were narrowly drawn. In fact, the parties had agreed in that case to the principle of arbitration. They had, however, fallen apart when it came to drafting the arbitration agreement and the issues to be arbitrated. So the bill that became Public Law 88–108 was presented to Congress as having this very benign purpose of just helping the parties define the issues that they had been unable, themselves, to define.

There, too, it was represented that this merely built upon what the parties had achieved in collective bargaining. In fact, the fifth recital in the bill said, "Whereas, it is desirable to achieve the above objectives in a manner which preserves and prefers solutions reached through collective bargaining"—that sounds familiar, doesn't it? That is just what you have been hearing here.

Furthermore, you speak of narrow definition of the issue. It is almost impossible to conceive of issues more narrowly defined than the issues to be arbitrated in that case.

Section 3 of that bill said:

Promptly upon the completion of the manning of the Arbitration Board, the Secretary of Labor shall furnish to the Board and to the parties to the dispute copies of his statement to the parties of August 2, 1963, and the papers therewith submitted to the parties, together with memorandums and such other data as the Board may request, setting forth the matters with respect to which the parties were in tentative agreement, and the extent of disagreement, with respect to matters on which the parties were not in tentative agreement.

The Arbitration Board shall make a decision pursuant to the procedures hereinafter set forth as to what disposition shall be made of those portions of the carriers notices of November 2, 1959, identified as "use of firemen helpers on other than steam power and consist of road and yard crews"—

A very narrowly defined issue: It picked out the general dispute—

and that portion of the organization's notices of September 7, 1960 identified as "minimum safe crew consist," and implementing proposals pertaining thereto

Note this:

The Arbitration Board shall incorporate in such decision any matter on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement. Such awards shall be be binding on both the carrier and the organizations, parties to the dispute, and constitute a complete and final disposition of the aforesaid issues covered by the decision.

Further, in section 7, the Board was again admonished to give due consideration to the narrowing of the areas of disagreement which has been accomplished in bargaining and mediation.

By contrast, the bill that you now have under consideration is wide open. The Board, it is true, is admonished to start with the Fahy Panel recommendations; but then in its final determination it is authorized to modify those recommendations according to four standards which seem to me to be as broad as all outdoors. The standards are—

(1) That it shall be in the public interest.

What variety of notions can various people have as to what is in the public interest?

(2) It is to achieve a fair and equitable extensison of the collective bargaining in this case.

(3) It is to protect the collective bargaining process.

(4) Fulfill the purposes of the Railway Labor Act.

I submit to you gentlemen that there can be as many different notions of how those standards apply as there are people in the world.

Mr. FRIEDEL. Do you have any amendments to offer to this section?

Mr. SCHOENE. No, Mr. Friedel. I think the history of Public Law 88–108 demonstrates that no matter how narrowly you define the issues, what standards you set up, it still isn't going to work.

Public Law 88–108 did provide that the award was subject to impeachment if the standards set forth in the legislation were not followed. Even that safeguard is lacking in this case.

But what happened? The Arbitration Board, in fact, utterly disregarded the standards that I have read to you. The Secretary of Labor now admits that that Board set up its own standards of reference for resolving the dispute in spite of the fact that Congress had admonished the Board to incorporate in its award the matters on which the parties were in tentative agreement.

Mr. SPRINGER. Did you say that they disregarded that? I want to be sure that I got your language.

Mr. SCHOENE. Yes.

Mr. SPRINGER. They did disregard it?

Mr. SCHOENE. Yes.

Mr. SPRINGER. Do you have proof of that, or is that your belief?

Mr. SCHOENE. I think the award speaks for itself in that respect. They came forth with an award which in no way followed the tentative agreements of the parties. We did bring proceedings to impeach that award, as the law provided we could do.

Mr. SPRINGER. Was this the March board or was this the Fahy Panel? Are you talking about 1963?

Mr. SCHOENE. Yes.

Mr. SPRINGER. I misunderstood you. I am glad I asked the question. Thank you.

Mr. SCHOENE. I am very glad to have the opportunity to straighten that out. I am talking now only about the experience which we have had under Public Law 88–108.

So we came to court and sought to impeach the award for failure to follow the standards imposed by the statute. What did the court say about that?

With respect to the language that I have quoted to you from section 3, the court said, and I am now quoting from 225 Fed. Supp. 11, at page 19:

> Obviously the purpose of the clause was to point the attention of the Board to any agreements reached in order that the Board might give them due weight, but not to limit its discretion in arriving at a final decision.

The language I have quoted is from the district court. If that had been simply an errant district judge who so held, you would expect it would be reversed on appeal. It was appealed and the court of appeals affirmed, and the Supreme Court denied certiorari.

Why did we have that experience in the courts? I don't know. I can surmise, and I will give you my best estimate as to why it happened.

If that award had been invalidated, probably a national strike would have ensued and no court in the country was going to take the responsibility for saying, "This award is invalid; it did not follow the standards set up by Congress," and take upon itself the responsibility of bringing on a national strike.

So even if you have most carefully defined standards, you nevertheless can expect that once the award is made, once the determination is made, the parties will be stuck with it.

There were various other legal questions that arose under that award which have been the subject of litigation ever since. There are literally dozens of cases still pending in the courts over that award. What has been the nature of these disputes?

There was a very important decision by the court of appeals a week ago last Friday which passed on some 10 appeals and addressed itself to some of the very important issues. One of the issues that arose was, in the event the parties did not agree on further rules to govern after the expiration of the award, which was limited to 2 years, then what rules would be in effect?

I thought it was fairly plain that since the award simply superseded agreed upon rules for the period of its duration, then upon the expira-

tion of the award, in the absence of some agreement of the parties, the former rules would become operative again. But the carriers said, "No, that isn't the situation. They go on unless agreement is made to change it."

In other words, although the award had a specific expiration date of not more than 2 years from the time it was made, according to the carrier contentions it would, nevertheless, go on until agreement was reached to change it. In this respect they have prevailed in the district court and in the court of appeals.

In that respect, the court of appeals decision of a week ago Friday affirmed the district court.

There were other very important questions where again I thought on the face of the statute, the intent of Congress was perfectly plain. One of these concerned what was the duty of the parties with respect to bargaining during this period that the award was in effect.

At the time the bill was under consideration, Mr. Wolfe testified before the Senate committee saying—quoting from page 20 of the court of appeals decision:

> A chief spokesman for the carriers, Mr. J. E. Wolfe, assured the Senate committee that the carriers understood that the Administration's bill "imposes a duty on the parties to attempt to settle their differences, and would protect the public interest as a result of the establishment of these interim rules for a period of two years or less, while the parties undertake, through collective bargaining, to bring about a more permanent solution of the problems."

If that sounds familiar, it is probably because it is very much like the testimony Mr. Wolfe was giving here to this committee about this bill. Nevertheless, after so testifying to Congress during its consideration of Public Law 88–108, Mr. Wolfe and his associates took the position that there was absolutely no obligation to bargain about rules to come into effect after the expiration of the award until the award had expired.

The district court again agreed with him. By injunction, it prohibited the brotherhoods from imposing on the carriers any obligation to bargain about new rules during the entire period of the award.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. I want to be certain the committee keeps this straight. As a lawyer, I think I understand it.

Is it your feeling that this House Joint Resolution 559 does not contain any compulsory language on the carriers to negotiate if this were passed in the intervening 2-year period? Is that your thought? I think you said this other award apparently didn't have that conclusive language in it. Is it your thought that this bill does not contain that either?

Mr. SCHOENE. My thought is that this does contain such language, and the bill that became 88–108 also did. Nevertheless, in spite of this testimony—and this is what Mr. Wolfe said about that bill when it was under consideration. He said:

> It imposes a duty on the parties to attempt to settle their differences and protects the public interest as a result of the establishment of these interim rules for a period of two years or less, while the parties undertake, through collective bargaining, to bring about a more permanent solution of the problems.

Nevertheless, he changed his mind after so describing the bill, and the district court agreed that there was no duty to bargain in the interim.

Mr. SPRINGER. May I ask you, Counselor—you are making a very fine presentation here—what language would you incorporate in this to make it specific that there is a duty in the intervening 2-year period, should this become law? You do not advocate the bill, I understand, but I am trying to get whatever language you may suggest.

Mr. SCHOENE. I do not think there is any language you can put in there that will adequately enforce the obligation to bargain. I don't think you could make it any plainer than Congress made it under Public Law 88–108, that there was the obligation to bargain during the interim.

The court of appeals reversed the district court on this point. It is now established by the court of appeals that there was this duty to bargain in the interim.

Mr. SPRINGER. In other words, what is the effect as of this minute today? Is it, unless they go to the Supreme Court, they do have a duty to bargain in the 2-year period?

Mr. SCHOENE. That is right.

Mr. SPRINGER. That is the law today?

Mr. SCHOENE. That is the law today. One year after the award has expired we are finally told by the court of appeals that all during the 2-year period that the award was in effect they had the duty to bargain. A lot of good that does us now.

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. SCHOENE. There is another interesting issue in this decision of the court of appeals that was handed down a week ago Friday. The district court had even held that the effect of the law was to limit the nature of the proposals that the Brotherhood of Locomotive Firemen and Enginemen might be able to make with reference to employment of firemen on diesels after the award had expired.

The district court found in the law a new standard of what kind of proposals could be the subject of collective bargaining, and said that the brotherhood could not even propose, in collective bargaining, new rules that would restore some of the firemen that had been taken off.

Here again the court of appeals reversed the district court, but in a year after the expiration of the award the firemen are told that they can validly propose a restora ion of the jobs.

Gentlemen, this shows you what you can get into when you propose or enact compulsory arbitration. In my judgment, there could not have been framed a more carefully drafted law imposing compulsory arbitration than the one that was enacted in 1963, and yet its effect has been disastrous, extending way beyond the contemplated period of the award.

Now I want to turn to another subject, the alternative of seizure which previous union witnesses have advocated as an alternative if you feel that some congressional intervention is indeed necessary.

So far, however, we have not had much discussion as to what elements of seizure should go into a seizure bill if that alternative were to be adopted.

It appears that there are many different kinds of possibilities with respect to seizure. I would like to discuss some of those very briefly with you.

First, however, I should like to point out that seizure should not be regarded as a punitive action. I don't think we should view this whole

situation as one in which either the carriers or the unions have done something wrong and deserve to be punished.

They simply haven't been able to agree. Punitive consequences should not attach to being unable to agree.

However, at this point a very important factor enters the picture. If Congress decides that the risk of a strike actually occurring is too great and that some legislative action must be taken, then I submit to you that the appropriate action has to be action which avoids requiring unwilling employees to work at rates of pay not acceptable to them for the private profit of corporations.

If congressional action is necessary to keep the railroads running, it seems to me that the only way in which the objective that I have just stated can be fulfilled is by some form of seizure.

This raises a question of what should be the instrumentality of seizure. Various approaches have been suggested and are embodied in various bills pending in the Congress. One is receivership in the courts rather than through the executive branch. That approach is embodied in a bill recently introduced by members of this committee—Congressman Adams for one, House Joint Resolution 585.

On the Senate side, Senator Javits has advocated that approach, and this approach is also to be found in a bill that Senator Morse introduced at the time of the airline strike. That was in the previous Congress, Senate Joint Resolution 180.

On the other hand, there is a different approach; namely, seizure by the Executive pursuant to congressional authorization. I think all seizures in the past, either in the railroad industry or of other industries at the time seizure was authorized during the war, took the form of Executive seizure. So far as I know, there is no precedent for the use of receivers in the process of seizure.

I call attention to the fact that the chairman of this committee, Mr. Staggers, in a speech on the floor of the House on the 19th of April, proposed if the seizure alternative were followed that—

> During the period of government control, control should be exercised by a special three-man board appointed by the President, with full power to make all managerial decisions, and, further, that all proceedings relating to the railroads before a government department or agency in which the railroads are applicants be halted until the railroads are returned to private hands; and, further, that all labor organizations be enjoined against issuing any official directive that might cause or tend to cause any cessation in the operations of the railroads.

This question as to the instrumentality of seizure has been given detailed consideration by the chief executives associated in the Railway Labor Executives Association. It is their unanimous belief that the Executive form of seizure is preferable to the use of receivership. There are several reasons for that conclusion.

In the first place, they are apprehensive of the courts. They are what I call court shy. And with good reason. Labor has never fared well in the courts. You are all familiar with the long struggle to enact the Norris-La Guardia Act to prevent the running of labor relations through injunction, and finally a great victory was achieved in 1932 through the enactment of the Norris-La Guardia Act, depriving Federal courts of the jurisdiction to issue injunctions in labor disputes, except under very limited circumstances of violence and public disorder.

I am sorry to report, gentlemen, that in the years following 1932 the Norris-La Guardia Act has practically been erased through judicial decisions.

I recall just a short time ago sitting in a board of directors meeting of the directors of one of these organizations and one of the members of the board made the remark that there ought to be a law which would deprive the courts of jurisdiction to issue injunctions in labor disputes.

I said, "Well, there is such a law on the books now." He looked at me incredulously. I tried to explain what had happened to that law, but I think he still thinks I was pulling his leg. There can't be such a law as I described on the books, or else how would all these injunctions get issued.

Further, and again advertising to what has happened under Public Law 88–108, these brotherhoods are smarting under maladministration of that law in the district courts.

So it is their recommendation, and very strong recommendation, that if you should enact seizure, the instrumentality of seizure would be in the executive branch.

Further, I think it is fair to say that the executive branch is more appropriate to making the kind of decisions that have to be made in running a nationwide railroad system.

Receivership was developed by the courts as an instrumentality largely for dealing with the question of insolvency. If a business became insolvent, but it had a going concern value so that it couldn't practicably be liquidated or shouldn't be liquidated, receivership was a way of administering its affairs for the benefit of creditors. But here we have an entirely different kind of proposition. It is the kind of thing that more appropriately calls for action in the executive field pursuant to congressional authorization.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Counselor, you are distinguishing here, as I understand it, the difference between a going concern and, we will say, the East Coast Railway, is that your thought? The East Coast Railway, as I understand it, has been in receivership for about 30 years, roughly in that neighborhood. You are familiar with it?

Mr. SCHOENE. It was, Mr. Springer, but it has been out of receivership for a while.

Mr. SPRINGER. You are right. But you are talking about that as a receivership where there apparently was insolvency over a long period of time, as distinguished from the problem of a going concern.

Mr. SCHOENE. Yes.

Mr. SPRINGER. It is a distinction of what kind of administration ought to take over in case of seizure. Am I right?

Mr. SCHOENE. That is exactly right, Mr. Springer.

Mr. SPRINGER. Thank you.

Mr. SCHOENE. Another issue which has been discussed in connection with seizure is whether seizure should be complete or partial.

If I may again refer to Senator Javits' bill, his bill, I think, contemplates that it would be possible to operate the railroads only to the extent that is necessary to protect the national defense and the public welfare, and provides for the court, through a receiver, to make the determination of how much operation would be necessary.

In this connection, I would point out to you that if operation only to that extent is desired, then you have before you a plan, a specific offer, by all the railway labor organizations voluntarily to operate the railroads to that extent during a strike.

I do not see the necessity for any congressional action if that kind of operation is deemed satisfactory.

During the discussion of this matter in the Senate an interesting suggestion was made by Senator Pell—I am not saying he proposed this—it was suggested only as a thought for consideration—which he called fiscal seizure. He didn't spell it out and in my description of it I am giving it the attributes which I ascribe to it and not necessarily representing that this is what Senator Pell had in mind, because I am guessing at what he had in mind.

As I understand that proposal, it would leave the management and operation in private hands, in the hands of the railroad corporations, but in order to avoid what I have described as the odious element of compulsory arbitration; namely, that unwilling employees would be compelled to work for the profit of private corporations at rates of pay not acceptable to them, it would provide for appropriating to Government account the net proceeds of operation.

I would suppose that under such a system, under Government supervision, the operating expenses would, of course, be paid out of the proceeds of operation, and, in addition, I suppose provision would have to be made for meeting the fixed charges, taxes, interest, and other items of that kind which would be considered legitimate charges against operating revenue in order to arrive at net revenues from operation.

Then the net revenues would be appropriated to the Government account.

I hadn't thought of that approach until Senator Pell mentioned it, but now that I think of it I am rather fascinated by it. I do commend it to you for your consideration.

You may find bugs in it when you consider it, but I think it is well worth considering that possibility.

There is a third consideration that I believe you must give attention to when you consider seizure. That is how are labor relations to be conducted during the period of seizure. That, I think, falls into two categories: You have on the one hand the employees involved in this dispute. What is to be done about this dispute during the period of seizure? But then in addition you have half a million other employees on the railroads represented by some 17 other unions. Certainly a period of seizure ought not to interrupt the normal conduct of labor relations with those unions. They all have various matters in process, in negotiation, all the time concerning adjustments in their rules, new rules, some of these contemplated changes being of a national scope and others local. And, of course, the handling of employee grievances is something that has to go on daily on every railroad in the country.

So I would most strongly urge upon you that in any seizure bill a provision be made that the Railway Labor Act shall continue to govern the handling of labor relations in all areas except the area of this dispute.

I might mention, by the way, that this is one of the major faults that I find with Mr. Adams' bill, House Joint Resolution 585. He is silent

on that score, and I would recommend that if consideration is given to that proposal this deficiency be remedied.

Next we come to the question as to what do you do with the dispute that is causing all this. That dispute is unsettled. Should the Government, during the period of seizure, leave it in the laps of the parties, leave in effect the rates of pay that are now in existence? Or should it put in some partial change, such as the recommendations of the Fahy Panel, or the recommendations of this special board that is proposed in this bill? Just what should be done in those areas?

Here, again, I refer to House Joint Resolution 585 and point out that, as I understand it, the bill would provide for putting into effect during the interim the results of the findings of this special board, subject to being superseded by any agreement the parties might make.

I might point out that such action in the context of seizure, where there is an incentive on the part of the carriers as well as the unions to make a superseding agreement, loses much of the odiousness that it has in the President's bill by itself.

Nevertheless, I would recommend—and here, again, the chief executives that I represent are in unanimous accord on this—I would suggest that you leave those parties right where they are, leave it to them, through collective bargaining during the period of seizure, to work out an agreement for themselves, and then terminate the seizure upon their making such an agreement.

Mr. SPRINGER. Counselor, you were referring to Mr. Adams' bill which I read the other day.

Did I understand you to say that you would leave the parties on these issues in the case of seizure exactly where they are today to negotiate?

Mr. SCHOENE. Yes. I think that would be the fair thing to do.

Mr. SPRINGER. The reason I asked that was because you mentioned Mr. Adams' bill. As I read Mr. Adams' bill it provided that the second board recommendations would be implemented immediately. Is that correct?

Mr. SCHOENE. That is the way I read it, too, Mr. Springer.

Mr. SPRINGER. You are not advocating that here today, is that correct?

Mr. SCHOENE. No. I think it is preferable to leave it to collective bargaining, although at first blush it might appear that Mr. Adams' proposal is more favorable to the employees because almost certainly they would be working for increased rates of pay during this interim period.

Mr. SPRINGER. I just wanted to be sure that what you were advocating was Mr. Adams' bill.

Mr. SCHOENE. My proposal is that you leave the parties to the dispute just where they are and in no way prejudice their collective bargaining handling of the dispute.

Finally, in connection with seizure, there is a very important consideration of how just compensation to the railroads is to be determined in return for the seizure. In past seizures most often the result has been that the proceeds of operation are simply turned over to the seized company and they settle their claim for just compensation in return for that.

That, it seems to me, defeats the whole purpose of seizure, because the net result is that although during the period of seizure the employees are nominally working for government account, in the end all the profits of that operation, at rates which the employees are unwilling to accept, do accrue to the private corporations.

So what I consider the major objective of seizure is defeated by that process.

A different approach has been suggested. It was contained in Senator Morse's bill last year, Senate Joint Resolution 180. There he provided for the determination of just compensation, taking into consideration the fact that the airlines wouldn't have been operating at all if it hadn't been for Government intervention.

That seems to me to be a sound approach. When it comes to determining just compensation you cannot start with the assumption that the carriers are entitled to compensation as though nothing had happened. There is no profit in a struck railroad, and they should not be compensated as though there was no threat of interruption to their operations.

This same approach is embodied in House Joint Resolution 585, and I think it is the only sound approach to any consideration of seizure.

Details may differ, but the important thing is the principle that compensation should be determined in light of the fact that there would have been very heavy losses and no profits incurred by the railroads if Congress had not stepped in.

That, Mr. Chairman, concludes my statement.

The CHAIRMAN. Thank you very kindly, Mr. Schoene. I have one question that I would like to ask you.

What is to prohibit a small group of railroads being struck, say six across the land, for instance?

Mr. SCHOENE. I really don't know the answer to that question, Mr. Chairman. I thought before the district court decision in the *Brotherhood of Railroad Trainmen* case that I adverted to concerning the national handling— I thought, before the district court decision in that case was made, that the answer would be nothing is to prevent it.

In view of that decision—which I expect will be reversed by the court of Appeals—it hasn't been decided by the court of appeals yet—I think very likely that if the shopcrafts were now to strike some of the railroads, the right to do so would be legally challenged. I think they would probably ultimately prevail against such a challenge, but very definitely the possibility is there.

There is also a very serious practical problem about that. Mr. Leighty testified on this subject. The carriers, for strategic reasons related to just this possibility, make it a point to serve some pretty horrendous counterproposals whenever the unions make a proposal. When the time comes for self-help, if the unions were to strike, say, a half dozen railroads, undoubtedly the carriers would put their counterproposals into effect on all the other railroads and thereby force the spreading of the strike, or else force the employees to live under the working conditions imposed by the counterproposals until they could, in turn, reach those railroads and strike them individually.

The CHAIRMAN. You referred to Public Law 88–108 and talked of what the courts had done. I would like to call your attention to the

Congressional Record for August 28, 1963, in which the then chairman of the committee and I had a colloquy in order to clarify this point especially for the record and for the courts.

I asked the chairman, Mr. Harris:

Mr. Chairman, I would like to again repeat what is in the preamble to this resolution: "Whereas, on August 2, 1963, the Secretary of Labor submitted to the carrier and organization representatives certain suggestions as a basis of negotiation for disposition of the Firemen-Helper and Crew Consist issues in dispute and thereupon through such negotiations tentative agreement was reached with respect to portions of such suggestions."

Mr. HARRIS. As far as issues involved here are concerned, which I insist we keep in mind, there were certain parts of those issues on which agreements had been reached. There were certain parts of them on which tentative agreements had been reached. There were certain parts of them on which no agreement had been reached.

Again I asked the question of Mr. Harris:

In the amendment which has been offered by the gentleman from Arkansas, the following is stated: "The Arbitration Board shall incorporate in such decision any matters on which it finds the parties were in agreement." That means as of that date.

Mr. HARRIS. That is a direction to the Arbitration Board of standards which the Congress establishes for the Board to follow.

Again, another question:

Further, "shall resolve the matters on which the parties were not in agreement"?

Mr. HARRIS. That is the purpose of this resolution, to solve those problems not reached in collective bargaining.

Then I asked Mr. Harris:

One further question with respect to this. There is also the statement "shall in making the award give due consideration to the matters on which the parties were in tentative agreement." That is a direction to the Board.

Again, that would be the intent of this resolution and it should be carried forth?

Mr. HARRIS. Not only a direction, but the Act would so provide.

I was trying to make clear what the act provided, that it should start on the basis of the agreements reached between management and labor, it should incorporate them, and it so states in the act and so stated here as the intent of the chairman and myself in colloquy on the floor at that time.

You say the courts ignored this?

Mr. SCHOENE. They did.

The CHAIRMAN. I don't see how we could make clearer what the intent of the Congress was. I wanted to be sure that this was the intent. I knew the words of the act, but I wanted to be sure that this was the intent and that he was so interpreting it as the intent of the Congress. You say the courts did ignore this?

Mr. SCHOENE. They did.

I thank you for putting this colloquy into the record here. I took a great deal of comfort from it at the time. I quoted it to the arbitration board in the arbitration proceedings as being the standard that should govern them.

I quoted it again in the impeachment proceedings. But the court said:

Obviously, the purpose of the clause was to point the attention of the Board to any agreements reached in order that the Board might give them due weight, but not to limit its discretion in arriving at a final decision.

The CHAIRMAN. I don't think that is what this colloquy points out. It points out these were definite and final, and that this was the intent of this committee and the Congress.

Mr. SCHOENE. That is right.

The CHAIRMAN. That was on the floor before the vote was taken, just before it was taken, as I recall.

I don't see how we could make clearer to the courts of this country that this was the intent of the Congress.

You mentioned the fact about the Fahy proposals, that you did not think that the recommendations of Emergency Board 169 should be put into effect if we pass a law here.

Mr. SCHOENE. That is my feeling; yes.

The CHAIRMAN. But you do feel that if we are going to pass any resolution, it ought to affect both sides to some degree.

Mr. SCHOENE. Yes; I think it should. It should be evenhanded.

The CHAIRMAN. That is what I mean. It should not be punitive in any way, to penalize either one, but to say, "Let's get together."

Mr. SCHOENE. That is right.

I think seizure on the one hand with the provision that until the parties to this dispute agree, the personnel will work at present rates of pay until they arrive at an agreement disposing of the dispute, I think that is fair to both sides.

The CHAIRMAN. I would like to clarify just one more point: Compulsory arbitration and voluntary arbitration. Frequently when two parties do not agree or cannot reach an agreement on an issue, they say, "We will leave it up to a third party," and they pick the party and both agree. That is voluntary arbitration.

Mr. SCHOENE. That is right.

The CHAIRMAN. But when you have an outside force that says "If you don't reach agreement, we will appoint somebody to make the agreement for you," that is compulsory.

Mr. SCHOENE. That is correct.

The CHAIRMAN. Even beyond their wishes, saying, "We will impose something on you as freemen that maybe you won't like, one of you, or either one of you." That is compulsory.

Mr. SCHOENE. That is my understanding.

The CHAIRMAN. There has been some misunderstanding about compulsory and voluntary arbitration. That is why I wanted to clarify it for the record. There is a difference when men voluntarily agree to get outside parties to come in and it makes a finding, if they agree to arbitration it is usually a binding finding.

Mr. SCHOENE. That is correct. I have participated in many such arbitrations. I think voluntary arbitration is a very useful instrumentality in labor relations. But compulsory arbitration is just as bad as voluntary arbitration is good.

The CHAIRMAN. Mr. Friedel.

Mr. FRIEDEL. Mr. Schoene, it was stated that you both disagreed with the last Fahy report. Management said they agreed in part, and I understand the unions disagreed with the report. Let's see how far we are apart on the Fahy report.

I think the last counterproposal made by the unions was 6½ percent and 12½ cents for the first year and 12½ cents for the second year.

Is that correct?

Mr. SCHOENE. As I understand it also, a general increase of 5 percent for the second year.

Mr. FRIEDEL. And 5 percent for the second year?

Mr. SCHOENE. That is my understanding. I will say, Mr. Friedel——

Mr. FRIEDEL. No, your proposal, not the Fahy report. Your last proposal was for 6½ percent and 12½ cents for the first year, and then 5 percent and 12½ cents for the second year.

Mr. SCHOENE. That is my understanding. But I will say that I did not represent the shop crafts in these negotiations. I am really talking by hearsay, really the same hearsay that you have.

Mr. FRIEDEL. I am just trying to get down to the basics.

The Fahy report recommended 6 percent instead of 6½ percent, and 5 cents, 5 cents, and 5 cents for each succeeding 6 months, for 18 months. Suppose they made it another 5 percent for the other 6 months, making it 20 cents, you are asking for 12½, and 12½, or 25 cents for the 2-year period, and if they put 5 cents more on for the next 6 months it would be 20 cents instead of 25 cents. It would be done in four quarters instead of 12½ percent 1 year and 12½ percent another year.

Are they too far apart with these figures?

Mr. SCHOENE. Well, I might say——

Mr. FRIEDEL. Excuse me. They also said they would make further study on the inequities after the 18-month period.

Mr. SCHOENE. Now you are within an area that I think only the shop craft representatives can speak to. I am counsel for the Railway Labor Executives' Association, and not counsel for the shop crafts in these negotiations.

Mr. FRIEDEL. Mr. Chairman, I would like to make a suggestion.

I would like to make a suggestion that we stop the hearings for 1 week, postpone them for 1 week, and get the unions and management together and see if they can't work out some kind of arbitration without us passing this legislation.

The CHAIRMAN. Mr. Friedel, I might say in response to that, that the hearings are going to have to be stopped for a week anyhow, whether we want to or not, because the House will be out of session for almost a week. If we can get the two parties together and talking, that will take care of the other part of your suggestion.

Mr. FRIEDEL. I hope they do.

The CHAIRMAN. We will see what can be done.

Mr. FRIEDEL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Schoene, I want to see if I can get your opinion on the distinction between what you have presented here and what Senator Morse is talking about. I am reading from the Congressional Record of May 4 in answer to a Senator who made inquiry about the distinction between compulsory arbitration, between what this fellow understood was compulsory arbitration, and the distinction Senator Morse was trying to make.

I read as follows:

Further, may I say—

And this is from the May 4 Congressional Record, page S6405—

that in arbitration you do not have mediation. In arbitration it is a straight judicial process. When you walk into an arbitration room you walk into a courtroom and the case is decided on the basis of the evidence before the board of

arbitration as before a court, with the proponent of each issue having the burden of proof upon it, and the responsibility of sustaining its burden of proof on that issue. But the procedure involved in this resolution is not arbitration in that sense.

This resolution, may I say, provides basically for a procedure calling for extended collective bargaining and mediation ending up if necessary with a ruling of finality on the part of the Government ordering a continuation of the operation of the railroads on a basis of a reasonable application and adaptation of what would seem to be a fair and equitable compromise of the position taken by the parties in collective bargaining and mediation.

Out of all that speech, I think those are the two pertinent paragraphs. Could you comment on that now, if you would, as a lawyer? I am sure you have had extended experience in this field.

Can you refine this any further, or make any clearer distinction between what he is talking about and what you have in mind?

Mr. SCHOENE. I will be glad to comment on it. As I said in the course of my remarks, I have the greatest respect for Senator Morse. He is an outstanding authority in the whole field of labor relations as well as in arbitration.

Senator Morse has set up a definition of arbitration, and he says that everything that falls outside of that is not arbitration. I also said in the course of my remarks that I have no quarrel with Senator Morse's right to make his own definition of arbitration. But, in my experience——

Mr. SPRINGER. May I just refine this a little further?

I think we make this distinction, counselor. He is talking about arbitration as a judicial process, in which you sustain your own position and you finally arrive at a decision.

He is saying, in effect, as I understand it in some of the other paragraphs, that he is using the word mediation leading to finality. He is talking about mediation leading to finality as different from arbitration.

Do you agree with that distinction?

Mr. SCHOENE. No, I don't. I think arbitration in practice is a much broader term than the term as Senator Morse has defined it.

To me, everything that puts in the hands of third parties the power to make a binding decision, however you call it, is arbitration, and if it is done compulsorily, it is compulsory arbitration.

If it is done by voluntary agreement of the parties, it is voluntary arbitration, as the chairman has pointed out. In practice, arbitrators, in my experience, have departed from the strict procedures that Senator Morse sets up as characteristic of arbitration, and not only engage in mediation but in what I have called concurrence shopping, of trying to effect a compromise through the process of arbitration.

Mr. SPRINGER. In effect, you are saying what is talking about, mediation leading to finality, is arbitration.

Mr. SCHOENE. That is correct.

Mr. SPRINGER. Mediators ordinarily try to settle a matter between two parties. In arbitration, you are talking about where they have the right to make the final decision. All of that is arbitration, reagrdless.

Mr. SCHOENE. That is my position.

Mr. SPRINGER. Now let me read, if I may, from the record of the Committee on Labor and Public Welfare of the U.S. Senate, volume 5, at page 614. This is Senator Morse whom I am quoting:

If you are going to go there by arbitration in this case, their using labels does not make the President's proposal arbitration. It simply shows a complete

lack of comprehension of what arbitration is as a matter of law. If you are going to resort to arbitration, let me say to the carriers, let me say to the brotherhood, you have erased the blackboard and you have to start writing on the blackboard again. But this time the blackboard will be the arbitrator's blackboard and you are going to put your evidence on the blackboard and he will make a summation by way of a judicial decision when he, or the board, go through.

That is all I want to say, but I want to nail it down because in some way, somehow, I hope before we get through with our deliberation of this matter, we can get both the carriers and the brotherhoods to understand what we are talking about when we are talking about arbitration.

What comment have you on that? He is apparently talking in a different language from what you are talking in here today. I want to be sure we don't misunderstand ourselves.

Mr. SCHOENE. I think what you have just read is another way of making the same distinction as the Senator made on the floor in the quotation which you previously read. Unquestionably, he defines arbitration differently from the way I do.

Mr. SPRINGER. Now let me read, if I may, from the same record, volume 5, of Mr. Dunlop. This is a part of his statement I read at page 613.

The point that I think is not adequately clear is that if compulsory arbitration were to be adopted in this case, as traditionally understood, the crucial question would seem to me to be what are the issues to be arbitrated.

I skip a little bit at this point. I go now to line 17.

There are a whole host of these issues which in every technical sense are allied with this case. Somebody would have to hear all those issues. It opens up the possibility of introducing enormous new changes in the industry over some 30 issues which, in the bargaining reality, are not allied, but in the technical sense they would be open for compulsory arbitration and absolutely be subject to litigation in the kind of courtroom fashion which you so well describe, Senator.

What is Mr. Dunlop saying?

Mr. SCHOENE. I think he is saying that he agrees with Senator Morse.

Mr. SPRINGER. In essence, that is what he says.

Mr. SCHOENE. I think so.

Mr. SPRINGER. This is a little hard for me as a lawyer to get, but I wanted to be sure we got into the record as to what had been said on the other side.

I have one further question at this time, Mr. Schoene.

I understand that you would leave the parties free to negotiate while the railroad property was under seizure. But if the Government had stepped in and is managing the property, as was contained in Chairman Staggers suggestions which you read earlier, is it not the Government that will be negotiating over the wage rate?

Mr. SCHOENE. I woud say the Government managers would be conducting labor relations in accordance with the Railway Labor Act as to all the personnel other than those involved in this dispute.

Mr. SPRINGER. We have that distinction clear.

Now, is this what was done when Secretary MacAdoo seized the railroads in World War I?

Mr. SCHOENE. Yes.

Mr. SPRINGER. He had the right to arbitrate all of these issues, including wage rates?

Mr. SCHOENE. He negotiated them. Of course, we didn't have the Railway Labor Act at that time, but he did negotiate rates of pay, rules and working conditions, and many of these unions made very substantial progress in the development of better rates of pay, better rules, and better working conditions during that period. They did it in negotiation with the Director General.

Mr. SPRINGER. But you are not contending, as I understand it, that there would be anything in this dispute that would be subject to negotiation in this procedure?

Mr. SCHOENE. Not with the Government as far as this dispute is concerned. I would say that that was a job for the carrier managements and the unions involved in this dispute to settle by their own bargaining process.

Mr. SPRINGER. Thank you.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

In your discussions with the chairman pertaining to voluntary and compulsory arbitration, I was wondering what was standing in the way presently of voluntary arbitration.

Mr. SCHOENE. I don't know. I just have no information on that subject, Mr. Macdonald.

I am not the proper witness with whom to pursue that question.

Mr. MACDONALD. I see Mr. Ramsey here. He testified yesterday. Perhaps I should have asked the question yesterday.

I quite agree with you, since everyone is discussing their opinion about various definitions, that the mediation with finality seems to me a very fuzzy definition of compulsory arbitration.

But also I would like to have you explain an otherwise very clear statement, this point on page 9 of your statement. You say:

> The only answer is collective bargaining to an agreement, prodded perhaps by resort to, or the imminence of self-help.

I don't understand what that means.

Mr. SCHOENE. That is a euphemism for strike.

Mr. MACDONALD. Thank you.

The CHAIRMAN. Mr. Devine.

Mr. DEVINE. Mr. Schoene, we are happy to have you with us this morning. Your reputation has preceded you as one of the most able lawyers in the labor field.

Mr. SCHOENE. Thank you. I wasn't aware of that.

Mr. DEVINE. I have made inquiry and I understand you are known as a lawyer's lawyer in this field and you know all about the nuts and bolts of the Railway Labor Act, and how it is applied to situations.

I understand you to be here as counsel for Mr. Leighty and the Railway Labor Executives' Association, and you do not represent Mr. Ramsey nor his shopcraft unions.

Is that accurate?

Mr. SCHOENE. That is accurate, except as the shopcraft unions, of course, are associated with the Railway Labor Executives' Association. But it is in a capacity as counsel for the association and not for the shopcraft groups specifically that I appear.

Mr. DEVINE. Do I understand that the brotherhoods under the jurisdiction of the RLEA have settled their differences with railway management and are not directly involved in this dispute?

Mr. SCHOENE. They are not directly involved in this dispute, but there are some other organizations that have not settled their current wage dispute.

Mr. DEVINE. Let us get to a few items at this point.

Yesterday, Mr. Ramsey, in his statement, said:

> On behalf of the members of all the organizations, I wish to express our most vigorous opposition to the administration's bill, H.J. Res. 559.

Do you represent opposition to this bill, too?

Mr. SCHOENE. Yes, sir.

Mr. DEVINE. You also said that this legislation is just what railway management wants.

Mr. SCHOENE. Yes, sir; and I think that is true.

Mr. DEVINE. Prior to this legislation being introduced—and I was amused a little about your comment about the press notices surrounding this particular resolution—a number of us from this committee, and some key Cabinet people were called to the White House—there is no secret about that—prior to this legislation being introduced.

We read about it on the way down there, about what was going to happen. But when you say this is just what railway management wants, do you feel that President Johnson is management-oriented in this picture?

Mr. SCHOENE. No, I don't think it would be fair to characterize the President that way.

Mr. DEVINE. Let us take some more people who were there. Secretary of Labor Wirtz was there, and his right-hand man, Jim Reynolds, was there. Do you think those two genltemen are management-oriented that they would support something that is just what management wants?

Mr. SCHOENE. I don't think there is a promanagement orientation of any of the people who were there. I think they did their best to advise the President of what they thought was right. But what they came up with——

Mr. DEVINE. Let us go just two or three more steps.

Mr. Katzenbach, the former Attorney General, was there. A former Secretary of Labor, a former Justice of the Supreme Court, and now the Ambassador to the United Nations, Mr. Arthur Goldberg was there apparently in support of this.

The Attorney General, Ramsey Clark, who didn't take a position for or against but who did suggest it was constitutional was there.

I find it difficult to believe that these people would all be in support of something that is "Just what railway management wants."

Mr. SCHOENE. I can't escape the conclusion that that is what they came up with, even though I say I do not accuse them of conscious bias. But the record before this committee speaks for itself.

The railroads certainly are advocating the enactment of this bill. Their conduct up to this point, in relation to this dispute, as well as their record since 1950, shows that they are in favor of compulsory arbitration.

It is true, I think that it would be more pleasing to the railroads if they could get a bill that would substitute compulsory arbitration generally for collective bargaining in the handling of railway labor disputes. They would like that even better.

But if they can't get that much at this time, they will be very much pleased to get what the President has recommended.

Mr. DEVINE. Then as I understand it you do not accuse them of conscious bias.

Conversely, I don't think you would want to go on the record as accusing them of unconscious bias.

Mr. SCHOENE. I will let the record stand on what I have already said.

Mr. DEVINE. Thank you.

That is all, Mr. Chairman.

The CHAIRMAN. Mr. Van Deerlin.

Mr. VAN DEERLIN. My colleague from Massachusetts has requested that I yield briefly.

Mr. MACDONALD. And it will be very brief.

Thank you, Mr. Van Deerlin.

When you said, Mr. Schoene, that there were unions which haven't agreed to terms, it brought back, fleetingly, a recollection of an editorial in a sometimes accurate newspaper which I read within the last week or so, which said, I think, the conductors and some other union, unless their terms are met, are going out on strike.

I forget the date. What was it, June 2?

Mr. SCHOENE. I think June 2 was probably the date that was mentioned because it is my understanding that they are free to strike as of that time if an emergency board is not appointed.

Mr. MACDONALD. Would they be covered by the resolution that we are now considering?

Mr. SCHOENE. I do not so understand it.

Mr. MACDONALD. Wouldn't it seem foolish—I don't suppose you can run passenger trains without conductors on them—or wouldn't it seem peculiar for us to go around and around the mulberry bush as we have been going on this particular thing and come out with this resolution that puts the shop craft unions back to work and then have another pair of unions go out on strike on June 2 who are not covered by this resolution?

Wouldn't that bring as much chaos as has been indicated this strike might bring?

Mr. SCHOENE. The procedures of the Railway Labor Act have not been exhausted with respect to the conductors dispute. As I understand it, they are free to go on strike on June 2 if no emergency board is appointed by that time.

Judging from past experience, I would feel fairly certain, and certainly the President has the power to appoint an emergency board and set in motion further procedures of the Railway Labor Act which hopefully will result in the disposition of that dispute, as normally happens.

Mr. MACDONALD. But if it didn't—and I am sure the Board would be appointed—say the bodies couldn't resolve their dispute, the same as the shop craft unions have not been able to, wouldn't that lead to a national strike with no relationship to this joint resolution?

Mr. BROWN. Would the gentleman also ask for the timing on that?

Mr. SCHOENE. There would be a minimum of 60 days following the appointment of the Board in which no strike could legally occur. The Board had 30 days to investigate the dispute and make its report.

Thereafter, there is another 30-day period in which the parties must maintain status quo.

Mr. MACDONALD. My point is, if we go through this rather abrasive type of hearing, isn't it perfectly possible that within a very short period, when these other unions can't get together with the carriers, we will be going back up the same mountain, as they are fond of saying here in the Congress?

Mr. SCHOENE. That is entirely possible, Mr. Macdonald. But it is my most sincere judgment that you would encourage that by the enactment of the President's proposal.

In 1963 the carriers wanted compulsory arbitration. They got it and they have enjoyed the fruits of it very much.

If they again get compulsory arbitration as I pointed out I think they want, in response to Mr. Devine's question, I think you will be encouraging them to be adamant in the conductors dispute and have another crisis, and come back here and say, "You have to bail us out again."

Mr. MACDONALD. With another resolution heading toward another compulsory arbitration?

Mr. SCHOENE. With another resolution. And they will be urging more strongly than ever the time has come for general legislation outlawing strikes and substituting compulsory arbitration generally.

Mr. MACDONALD. Thank you, Mr. Van Deerlin.

Mr. VAN DEERLIN. In the event of Government seizure on those roads where expenses might outrun income, have you done any thinking as to whether the Government would be compelled to make up as the difference, or just what circumstances would prevail on losses as opposed to profits?

Mr. SCHOENE. I have not pursued that very far but I will say, I am not sure whether the New Haven Railroad is in here or not, but it is about the only railroad that I can think of, on which operating expenses exceed operating income.

Mr. VAN DEERLIN. And Central of New Jersey might be in that situation.

Mr. SCHOENE. Central of New Jersey might be in that situation, I don't know.

But I would certainly feel that while the Government might have to meet operating expenses if there is an operating deficit, it might have to meet the operating deficits through general revenues, there would certainly be no obligation to pay other charges than operating charges, such as interest, taxes, and so forth.

I think if you limit your expenses to operating expenses, there would be very little chance of a deficit.

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. Mr. Schoene, in your written statement that you submitted here this morning, you made two points that I think are very, very worthwhile.

On page 6 you pointed out that under House Joint Resolution 559, the final 30-day negotiating period is literally meaningless because actually neither party would negotiate.

I think that is a valid point. The 30-day period is meaningless.

My question is: If the committee should see fit against your recommendation to pass out House Joint Resolution 559, do you feel that it would be helpful to take that 30-day period and insert it before the period of the findings of the Special Mediation Board, in other words, to have 60 days at the beginning and then the hearing and then to put the findings into effect?

Mr. SCHOENE. That might be a more effective utilization of the time, but I think the difficulty that you point to, and which I pointed out in my statement, is more extensive than that. I think the difficulty runs to the whole 2-year period that the determinations by the Board would be in effect, because once those recommendations are put into effect one side or the other is likely to feel that it is a better deal than can be negotiated. You will have a very difficult time getting agreement on any other terms.

I think that will go for the whole 2-year period.

Mr. HARVEY. I would concur with you wholeheartedly.

My question was, Do you think the 30-day period before the Special Board begins to hold hearings is adequate or would that additional 30-day period, making it 60 days before the hearing, be better, in your judgment?

Mr. SCHOENE. I say I think it might be a better utilization of the time.

Mr. HARVEY. In other words, if there is going to be any true negotiation or bargaining, it is going to take place before the hearings occur, under this bill; is that correct?

Mr. SCHOENE. I think so. That is my judgment.

Mr. HARVEY. So in your judgment it might be useful to take the final 30-day period and put it before the hearing, giving greater time for bargaining before the hearings are held.

Mr. SCHOENE. I think that is probably so.

Mr. HARVEY. Thank you.

On page 8 of your statement, Mr. Schoene, you pointed out very validly, I think, that House Joint Resolution 559 fails to set up any procedures for the handling of disputes and in carrying out the findings of the Board under this particular resolution.

I think we would welcome some amendment to that which would provide for the handling of disputes and carrying the findings out. In other words, a continuation of either the ability to negotiation or further arbitration under any circumstances.

Mr. SCHOENE. That was the experience under Public Law 88–108.

Mr. HARVEY. That is the one you said you have just found out now that they should have been negotiating.

Mr. SCHOENE. That is right.

Mr. HARVEY. My question is, You would welcome the Congress spelling out that fact in this particular legislation right now?

Mr. SCHOENE. I think it would be an improvement. There were almost 300 requests for interpretations, as I recall, under Public Law 88–108. There were that many disputes as to what the award meant.

Pursuant to the procedures of the Railway Labor Act that were made applicable to that arbitration, the Board continued to make interpretations of its award. Probably inasmuch as this is a rate-of-pay question, there wouldn't be as many arguments, undoubtedly, about what they meant as there were in that case.

But if there is going to be compulsory arbitration, I should think it would be useful to provide some way of getting the interpretations of the arbitration award in case dispute arises as to what it means.

Mr. HARVEY. I have just one other question. Yesterday when Mr. Ramsey testified, he testified in answer to my question and said he didn't believe any of the past boards or panels had been necessarily prejudiced or biased, antilabor or promanagement, but he said, rather, they were following, in his judgment, the instructions or the advice of the President's Economic Adviser, Mr. Gardner Ackley. Do you concur in that judgment?

Mr. SCHOENE. I have no basis for either concurring or disagreeing. Mr. Ramsey has had the experience of personal contact with these gentlemen in the course of the handling of this dispute, and I have not. However, in my judgment the report of the Council of Economic Advisers in 1966, and the wage-price guidelines it there set forth, have done a great deal of damage in the labor relations field.

During the period of the airline strike, I knew absolutely nothing about what was going on behind the scenes, but I ventured the prediction in a speech that I made to a labor union convention at that time that the possibilities of settlement of that strike were very much embarrassed by the fact that the Council of Economic Advisers had come forth with guidelines which the unions could not accept, and which management, however, would take refuge in, and that this would promote a great deal of labor controversy reaching beyond the strike that was then in process.

I think my prediction proved correct. I think we have had much more labor difficulties in this country, and we probably haven't seen the last of them yet, which have been generated by ill-advised wage-price guidelines coming from the Council of Economic Advisers.

I would like, if I may, to go a bit further in the appraisal of personalities. I have heard you express interest in that subject in questioning other witnesses, both Mr. Leighty and Mr. Ramsey. Basically, I don't think the problem lies in bad people.

To illustrate my point, let us get away from the personalities involved in this particular dispute and let me go back to the operating organizations rules dispute.

There were three public members of that arbitration board. There was Ralph Seward, Ben Aaron, and Jim Healy. I can't think of three more competent, more honest, more dedicated arbitrators than those three.

Mr. HARVEY. Would you let me ask you right there, would you apply the same statement to the Fahy Panel and to Emergency Board 169?

Mr. SCHOENE. I have no reason not to.

I am not acquainted with all of those people, but I have no reason to apply any different appellation to them.

But as to that particular Board, if I could have made the selection myself I would probably have selected one or more of them, and certainly if I had had a veto power, I wouldn't have used it to disqualify any one of them.

Yet they came forth with what I believed was the greatest goof in the history of railroad labor relations. The point is that the problem doesn't revolve around bad men or incompetent men, or biased men.

The very best people in the country do these things to you when you have compulsory arbitration.

Mr. HARVEY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Pickle, do you wish to question now or a little later?

Mr. PICKLE. I would like to defer at this point, Mr. Chairman.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Mr. Schoene, as I understand it, on individual claims you use an arbitration method; is that right, if there is disagreement?

Mr. SCHOENE. On grievances?

Mr. ROGERS. Yes.

Mr. SCHOENE. Yes.

We have compulsory arbitration right along on grievances by virtue of a court decision. After the 1934 amendments to the Railway Labor Act, we did not think we had compulsory arbitration of grievances, but after 20 years the Supreme Court said we did and didn't have a right to strike over grievances.

Mr. ROGERS. Over an individual grievance, I guess?

Mr. SCHOENE. An accumulation of grievances.

Mr. ROGERS. It would all be on an individual basis, though, wouldn't it?

Mr. SCHOENE. No. In the 20-year period that we thought we had the right to strike over grievances, if a carrier was too slow about settling grievances, and you had an accumulation of them where they were misapplying the agreements, in our judgment, it was not uncommon to set a strike date over grievances and then you would get results.

But since the Supreme Court decided in the *Chicago River* case that we don't have the right to strike, we have compulsory arbitration with the accumulation of dockets of grievances that are years behind.

Mr. ROGERS. I understood we passed legislation so that you can pull out cases that are behind and have them taken before special boards.

Mr. SCHOENE. That is right. And while that arrangement has not been in effect long enough to have had its full consequences, the indications are that this will be very helpful in the disposition of grievances.

Mr. ROGERS. So that procedure has been used in grievances.

Why is it that a voluntary arbitration cannot be worked out, where labor selects a member or two of an arbitration board and management selects one or two, and the President appoints public members on a voluntary basis?

Why couldn't this be tried? Would there be anything unfair about that?

Mr. SCHOENE. Not if the parties are agreeable to it.

Mr. Macdonald asked me that question.

Mr. ROGERS. I thought you may have gone into that.

Mr. SCHOENE. My answer to him was the same as I have to make to you, that I don't know why the carriers and the organizations have not been able to work that out. I am not counsel for the shopcraft group.

Mr. ROGERS. Do you think this would perhaps be worth trying to pursue?

Mr. SCHOENE. I would be very much surprised if the National Mediation Board and the Secretary of Labor, and all the other people who have participated in the handling of this dispute, have not tried to work that out. I think they probably have.

They have been unsuccessful.

Mr. ROGERS. Perhaps we ought to find out why they don't want to proceed in this way on a voluntary basis, if they are concerned with maintaining free collective bargaining.

Mr. SHOENE. I think this might be a useful subject to pursue, but I am not the proper witness with whom to pursue it.

Mr. ROGERS. Thank you.

Thank you, Mr. Chairman.

Mr. MACDONALD (presiding). Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Schoene, how many unions are affiliated with the Railway Labor Executives' Association?

Mr. SCHOENE. Twenty-three.

Mr. WATSON. Of those 23 unions, 13 have already agreed voluntarily to a new contract?

Mr. SCHOENE. I think that is probably the correct number. When you say a new contract, I think you should understand this. We do not have term contracts in the railroad industry. Contracts are opened from time to time on various subjects, depending upon what notices are served. So when you are talking about contracts in this context, it is only a wage and vacation question that has been settled.

There are other subjects now open, such as stabilization of employment. In the case of five of the nonoperating unions there is still pending a disposition which arose as part of their wage case as to away from home expenses, traveltime and travel allowances, which is in no danger of becoming a crisis because the parties have already agreed that if they are unable to resolve the differences on that, they will arbitrate.

Mr. WATSON. Although you have not been directly involved in negotiations in this dispute, I am sure your capacity as General Counsel to the Labor Executives' Association causes you to be concerned with this matter and you have been following it very closely, haven't you?

Mr. SCHOENE. I am very much concerned, very deeply concerned. I have been devoting substantially all my time to this.

Mr. WATSON. You are aware of the fact, or at least I have been led to believe, that the average increase has been about 5 percent for the 13 unions that have already voluntarily arbitrated or negotiated a new contract, is that not correct?

Mr. SCHOENE. No; I don't think that is correct.

The settlements vary considerably as both Mr. Leighty and Mr. Ramsey have pointed out. Generally, in the case of the operating brotherhoods, it involved a 5 percent wage increase, but it was retroactive to August of 1966, whereas in the case of the shopcrafts the opening date is January 1, 1967, and that makes a considerable difference.

In the case of four organizations there was involved in the settlement not only a 5-percent increase effective January 1, 1967, but a further 2½-percent increase effective January 1, 1968, and a reopener as of July 1, 1968.

These organizations, in addition, have this pending settlement as to away-from-home expenses, traveltime, and allowances.

So I don't think you can characterize any one thing as being characteristic of all the settlements that have been made. Various unions have succeeded in meeting their most urgent needs in wage terms by the settlements that they have made.

Mr. WATSON. I would like to ask two questions and ask you to restrict your answer as much as you can. Now, we have 13 that have settled voluntarily. With six in dispute now, and five that apparently do not have any negotiations, do you consider these unions as holding off or awaiting the determination of this particular dispute?

Mr. SCHOENE. No. To the best of my knowledge there is no delay in the negotiation of other items awaiting this dispute.

Mr. Leighty reminds me that there may be some delay that is related to this dispute by reason of the fact that the railroads have centralized all their negotiating authority in Mr. J. E. Wolfe, and when he is busy with this dispute he can't meet with other organizations that have disputes pending.

Mr. MACDONALD. I am sorry, the time of the gentleman has expired.

Mr. Pickle.

Mr. PICKLE. I have no questions, Mr. Chairman.

Mr. MACDONALD. Mr. Watkins.

Mr. WATKINS. Thank you, Mr. Chairman.

I would certainly like to compliment the learned gentleman, Mr. Schoene.

It has been very interesting to listen to your recital of the present law. I also notice that you have not participated in the bargaining between the unions and management.

I would like to ask you one question, to get your opinion. Don't you feel as though this is a sad day for collective bargaining?

Mr. SCHOENE. Yes.

Mr. WATKINS. It is not only affecting your industry, but possibly it reaches out over this Nation to agreements which, over a long period of time, have certainly been beneficial to labor and to management. Do you know of any way that you could bring these two groups together, the railroads and the unions, to ward off this legislation?

Mr. SCHOENE. No, I don't.

If I had that kind of influence, I would certainly be exercising it. I would like to see the parties settle. Naturally, my sympathy is with the unions. I hope Congress will see fit to allow them to exercise their collective-bargaining rights.

Mr. WATKINS. That is what I am trying to do, to keep Congress out of this.

It is a sad day, to me. I know a little bit about collective bargaining. I have been dealing with unions personally since 1932. I have been dealing with a big union, not a little one. That is the Teamsters Union. The thing I have found with them over a period of years is that they kept talking, they kept men working, and it has worked out. It has been most successful.

Certainly, you are familiar with the terms of the Teamsters contracts over America. Certainly no one could call it anything but success for the management of unions and the management of employers.

We have truckdrivers averaging $10,000 a year.

I don't know, and I don't want to go into the legal aspects of the law—though you certainly are learned in it, and I respect the way you have presented your views to the Members of this Congress——

Mr. SCHOENE. Thank you, sir.

Mr. WATKINS (continuing). But I am beginning to believe there may be too many rules in collective bargaining. I am begining to believe that love for each other is going out the window in some way. That is bad.

Management must understand labor and labor must understand the trials of management. It is beyond reasoning for me to think that this great business in this country, the railroads, and the members of the union cannot get together.

The sickening thing to me is to think that there is no bargaining. We set up additional time at the request of the President of the United States to continue bargaining and to ward off legislation of this type. It would certainly be my hope that the two—and I am afraid the hour is growing late—somewhere along the line will request additional time, which I am sure would be granted.

I hate to see this thing happen. I hate to see this issue thrown before the Congress. I must feel very sadly, and I do feel sadly about it, because if the biggest percentage of this Nation has been able to operate without bringing the bargaining job that they have to do up to Congress to see that it is done, it is just bad.

Mr. SCHOENE. Mr. Watkins, I think I find myself in agreement with all the sentiments you have expressed. I will make this comment: The chairman of our association, Mr. Leighty, seated beside me, has been very active in trying to promote a settlement of this dispute.

So far he has had no more success than the Government officials who have tried the same. But the effort has been made.

Mr. WATKINS. Who is quitting on this deal? Do you charge the railroads with quitting bargaining with labor?

Mr. LEIGHTY. Yes, I definitely say they are. They have decided what they will do, and that is as far as they will go and that is the end of it.

Mr. WATKINS. The railroads?

Mr. LEIGHTY. Absolutely. And let me say one further thing.

More than 2 years ago, at our request, we had a meeting with the presidents of the railroads and the presidents of the organizations, and at that time we suggested that they set up a committee to meet with a committee of our people to try to work out some of these labor problems.

At the time they thought the idea was a great idea and would go along with it. They set up a committee to meet with our committee. A date was set for the meeting. It developed that two of the presidents on their committee couldn't be there, so they asked us to postpone the meeting.

After two further postponements, it just dropped by the wayside. I said to the administration that we have not been able to set up a committee of that kind; now it is up to you to arrange to set up a committee of that kind.

I think when a committee of that kind is set up and gets into operation, many of the problems that now confront us will be taken care of. They won't disappear; we will have to meet them. But we will be able

to work them out and avoid coming before Congress on many of these problems.

We can agree, in my opinion, on at least 80 percent of our problems and reach almost accord on most of the rest of them.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Brown.

Mr. BROWN. Mr. Leighty, I have before me a memorandum which I guess you put on everybody's desk, about the loss of payroll to railroad employees in the event of a strike.

My question is, does this include or not include the unemployment payments which strikers would receive?

Mr. SCHOENE. Are you referring to the document entitled "Strike Loss to Employees"?

Mr. BROWN. Yes, sir.

Mr. LEIGHTY. That is the actual wage loss. It does not take into account any unemployment benefits.

Mr. BROWN. In other words, the loss would be, in terms of what the employee would wind up with in his pocket, something less than $2,694,000 for the striking employees, and something less than $13,368,000 a day for all railroad employees?

Mr. LEIGHTY. That is right.

Mr. BROWN. I wonder if you could make the difference there between the income which would be received in unemployment benefits so that we could get a figure as to what the actual loss would be of the individual worker.

Mr. LEIGHTY. A number of the unemployed individuals would not be entitled to unemployment insurance because of the qualifications which must be present and which they could not meet. I don't know whether it has been brought into these hearings or not, but the railroads hired around 72,000 new employees in 1965, and 1966 a like number, and many of those would not be entitled to unemployment insurance. So they wouldn't benefit.

Assuming that unemployment insurance would not apply to those individuals, the cost per day would be reduced approximately—these are approximate figures; I can't give you the exact figures—by about $5 million a day, or possibly a little more. That is for the entire group.

For the shopcraft group, I would say you could reduce that by about one-third, or a little more than one-third.

Mr. BROWN. You say assuming. Am I to understand that they would or would not be covered by unemployment compensation? It seems to me if they were hired in 1965 and this is 1967, they would be covered.

Mr. LEIGHTY. I am speaking about the number of new employees. There are a number of employees that have been hired this year who couldn't qualify.

Mr. BROWN. How long do they have to wait to qualify?

Mr. LEIGHTY. It depends on their period of employment and their earnings. There are two formulas involved.

Mr. Schoene would be in a better position to answer that question than I am because he participated in drafting the law.

Mr. SCHOENE. During the benefit year, which is now current, that benefit year began July 1, 1966, and is based on 1965 employment. So anyone who was newly employed since 1965 would not currently be eligible for benefits.

Mr. BROWN. Anybody hired since 1965 or July 1, 1966?

Mr. SCHOENE. Since 1965. The base year is the calendar year. The benefit year begins 6 months after the end of the qualifying year.

Mr. BROWN. Then if someone was employed during 1966, wouldn't he become eligible on July 1, 1967?

Mr. SCHOENE. Yes, if he had sufficient earnings to qualify.

Mr. BROWN. This is essentially what we are talking about.

I wonder if you could be kind enough to revise those figures, taking this into account, for a matter of information? You can do it roughly.

Mr. LEIGHTY. We will be glad to.

(The information requested follows:)

STATEMENT FROM THE RAILWAY LABOR EXECUTIVES' ASSOCIATION CONCERNING ESTIMATED WAGE LOSS OF SHOPCRAFT EMPLOYEES IN EVENT OF STRIKE

On the basis of the railroad payroll for the year 1966, we estimate that a strike of the shopcraft employees would result in a wage loss to them, after offset of the unemployment benefits payable, of about $1,800,000 a day, and for all employees, after offset of the unemployment benefits payable, the wage loss would be about $8,900,000 a day. These are rough approximations and not precise figures.

Mr. BROWN. Mr. Schoene, in view of your concern about the deleterious effects on labor relations given by the Council of Economic Advisers, and Mr. Ramsey's feeling that the hand of the Council of Economic Advisers may be seen in the administration view on this pending dispute, do you think that compulsory arbitration saddles labor with disadvantages going in that management doesn't have?

Mr. SCHOENE. Yes, very definitely. Management in the railroad industry made up its mind as early as 1950 that they would be better off under a system of compulsory arbitration, and they have been advocating that ever since.

Mr. BROWN. Why? That is what I want to know. Why would they be better off than labor? It seems to me that the implication is that a compulsory board making a compulsory arbitration must therefore either be biased against labor or, for some other reason, as you had your exchange with Congressman Devine, if they are honorable men but come up with an antilabor conclusion, why would management feel that they would enjoy an advantage any more than labor would in compulsory arbitration?

That is what I am trying to get clear in my mind.

Mr. SCHOENE. Experience shows that is the result. Labor fares badly under compulsory arbitration. Fortunately, we haven't had much experience with it in this country.

Mr. BROWN. Yes.

Mr. SCHOENE. But there is experience with it in other countries.

Mr. BROWN. You are taking experience in another country and suggesting that that would be the experience here?

Mr. SCHOENE. Plus what experience we have had with compulsory arbitration in this country, in this industry particularly, the one time it has been tried, Public Law 88–108. The experience has been horrible. I understand Mr. Gilbert and Mr. Luna, presidents of the Brotherhood of Locomotive Firemen & Enginemen, and the Brotherhood of Railroad Trainmen, will elaborate further on that.

But our experience in the one time it has been tried is horrible. As I said before, the very best people did it to us.

Mr. BROWN. Do you think this relates to the Council of Economic Advisers necessarily?

Mr. SCHOENE. No, not the experience we have had with compulsory arbitration. I do not attribute that to the Council of Economic Advisers. I do not attribute to them any influence in that regard.

Mr. BROWN. Would you suggest that this bad experience with compulsory arbitration would only apply to the railroad industry, or would it apply to all labor-management disputes in other industries as well.

Mr. SCHOENE. I think its application would be broader, the bad experience would be broader, if it were enacted more broadly. But I must say that my experience has been largely in the railroad field.

Mr. BROWN. Let me go into one other field. We have had considerable strong testimony, I would call it strong testimony, by administration spokesmen relative to the adverse influence of a railway labor strike on the economy.

The suggestion is that this is intolerable and, therefore, we must have House Joint Resolution 559 as an alternative to this because we can't tolerate a strike.

It seems to me this is a relative matter, that if a strike affects the economy a great deal, we have to have compulsory arbitration; if it affects the economy not much, we don't have to have compulsory arbitration.

But there is a line someplace, apparently, between the railroad industry and its effects, the effect of a national railroad strike, and, say, the effects that might be felt on the economy of a communications strike in the telephone industry, for instance, or a strike of steelworkers which could adversely, if it were to extend itself, affect many industries, or a strike of autoworkers, or any one of a number of different industries that have a nationwide impact on the economy.

Do you feel that is the tendency of the administration, to be so dedicated to maintaining a full economy that they would prefer compulsory arbitration to the economic damage a strike might do?

Mr. SCHOENE. Yes, I think that is so. As you point out, certainly a strike in any major industry would adversely affect the economy. It is just a question of degree. Apparently the administration has seen fit to recommend to you that compulsory arbitration is preferable because of the adverse effects of a railroad strike.

Mr. BROWN. This lends credence to Mr. Ramsey's point, that the Council of Economic Advisers may have a hand in this decision, because that is part of their job.

One other question has been mentioned two or three times this morning, and I think it has been mentioned again by Mr. Leighty.

Centralized nationwide bargaining by management of the railroads has been suggested as contributing to strikes of this nature, the monolithic decision by the management. What about centralized labor bargaining? Does that have an influence or not?

Mr. SCHOENE. The experience with collective bargaining in the railroad industry has been that in very many areas, particularly on general movements of wages, general welfare conditions, such as health and welfare, vacation, national bargaining is useful, and it has been the choice of both sides in those areas since 1932.

But it has always been on a consent basis. It has only been engaged in when both sides were willing to participate on that basis.

The first example we had of railroad management attempting to enforce national handling by law is in the Brotherhood of Railroad Trainmen dispute now occurring with respect to crew consists.

Mr. BROWN. I am not trying to turn back the clock to the days before there were unions or when there were more unions, because they have concentrated as the roads have concentrated. But do you think there is any possibility here, if the nationwide character of bargaining can be broken up, both with reference to management and labor—in other words, antimonopoly legislation that would be applicable to both—that these disputes could be taken back to a level that would not result in the national public interest becoming involved to the extent that we are considering compulsory arbitration?

Mr. SCHOENE. I think any such approach would be turning the clock back. It would be very inefficient and would, in my judgment, result in a constant turmoil in labor relations.

I do feel very strongly, however, that the carriers' contention that national bargaining is compulsory is a very bad contention, and I hope that the court of appeals in its decision will state that.

Mr. BROWN. Certainly compulsory arbitration would eliminate the turmoil. It would all be very clean, neat, and sterile, one single act.

Mr. SCHOENE. I am not advocating compulsory arbitration. I know you understand that.

The CHAIRMAN. Mr. Kuykendall.

Mr. KUYKENDALL. There has been all this discussion, but let me preface my remarks. Yesterday, Mr. Ramsey spoke directly as representative of the unions. You are on a relatively broader situation or position here, and I would like to address you on that point.

There has been a great deal of discussion about the problem word, this word compulsion, whether it be arbitration, settlement, and a lot of attempts have been made to define the difference between mediation and arbitration.

Is not your main objection to the word compulsion more so than it is to all these others?

Mr. SCHOENE. Yes.

Mr. KUYKENDALL. Mine, too. There is my objection, and I know it is yours.

Mr. SCHOENE. You are quite right.

Mr. KUYKENDALL. I have been on record for a long time as being adamantly opposed to compulsory arbitration. The 1963 act was compulsory arbitration and there were a lot of promises made that that would be the last one.

If we should, by the force of national interest, get trapped into one now against my will, let's truly hope that this will be the last one.

Earlier in the week, Mr. Wolfe offered us the bitter pill called compulsory arbitration or compulsory settlement, whichever you want to call it. In the end, it was compulsory. That is a very bitter pill.

Since that time the unions have offered us another bitter pill called seizure. I think they are equally bitter, and would you not agree that they are both compulsory?

So we come down to something: Both parties have pointed out—and this is the one area you agreed upon—that these horizontal settle-

ments over the last 30 years have caused this gross inequity in the pay of the skilled people to exist. Both of you have agreed to that. Both of you have agreed that the horizontal settlements have been the cause.

Each of you has blamed the other for it, and I think probably both of you are right.

I coined the term early in the procedure that it took two to tango and Mr. Ramsey admitted that it took two to tango.

I asked Mr. Wolfe if he regretted any of this, and he gave me a succession of wars and emergencies that he said caused each case to happen.

I am looking to the long-range future, not necessarily so much at 559, because just as soon as we get through with 559 one way or the other we will be taking up Mr. Pickle's bill or something similar to it.

Here is something that disturbs me greatly, and that is this question: In the first part of your package you went percentage, which, had you done it so many years ago, you would not have the problem we have today, but in the second part of your package, yes, you broke off the skilled, but you immediately went back to the pennies again.

I know there must be a range of skill within the skill range. There certainly are various skills. You come right back and ask for a pennies settlement from the very most skilled man and the most unskilled skilled man, asking for 12½ cents within that range, or whatever it is. Doesn't that compound the same thing?

Mr. SCHOENE. No, I don't think that is true as to this particular group. There is a great deal of standardization of the skilled crafts in the shop crafts.

Mr. KUYKENDALL. What is the difference between your bottom-pay skilled and top-paid skilled? Would you clarify that?

Mr. SCHOENE. There is none.

Mr. KUYKENDALL. In other words, this whole package of people are all making exactly the same amount per hour?

Mr. JOSEPH RAMSEY. The machinists, electrical workers, and sheet metal workers have a single rate of $3.01475. There is another group of the shop craft, carmen, blacksmiths, and boilermakers, that have a lesser rate, $3.01, and they have various grades, A–B, and C–D, which I mentioned yesterday, the carmen.

The electrical workers have some varying rates that cover linemen and other work that do not receive the one standard rate.

Mr. KUYKENDALL. Do you feel, sir, that this whole skill package in your industry should be making the same amount of money?

Mr. SCHOENE. Not in the entire industry. This is true particularly of the shop crafts. They have a standard rate or almost a standard rate for their mechanics.

Mr. KUYKENDALL. And you feel it should continue?

Mr. SCHOENE. That, I think, should be continued. You see, these people serve an apprenticeship.

Mr. KUYKENDALL. I am not talking about that. I am talking about differentials only. I am not talking about what they are worth. I think they are underpaid. I am talking about differentials within the broad skilled area.

Mr. JOSEPH RAMSEY. Not only do they serve an apprenticeship but they are very versatile, sir, and they may be used for this type of work

this hour and another type of the same craftwork another hour. They must be very versatile and able to do all the work.

Therefore, they are paid as journeymen because they are journeymen. They don't stand in one spot and do this over and over and over and over again. They are all working custom work, whether it is on diesel locomotives, whether it is on cars, passenger cars or freight cars. They do not repeat the job over and over again. They are highly skilled and they are versatile.

That is why they are all paid the same rate. I might suggest to you, sir, that that single rate for the various classifications was the result of Government control and the Director General's negotiations with the organizations back during the First World War.

Mr. KUYKENDALL. Let me ask two things here. You have given me a logical and concise answer to my question, but let me suggest that the very same thing of asking for pennies increases instead of percentage will ultimately end up the same 30 years from now.

Lastly, let me ask you this: Yesterday or the day before yesterday, Mr. Ramsey stated an almost blanket opposal to job evaluation, period. I would suggest that in the long pull you work out as labor unions some sort of acceptable job evaluation program that you can accept.

I can't believe there is not a place for this in your industry.

That is all.

Mr. LEIGHTY. Might I make a comment in connection with that statement?

The CHAIRMAN. Mr. Leighty, you may.

Mr. LEIGHTY. Insofar as this 12½ cents, you appreciate you have a different situation. You have a group of mechanics in the railroad industry earning an average of 60 cents an hour lower than what they are getting in outside industry. The purpose of this additional amount of 12½ cents that they are asking for is to wipe out this specific difference, this 60 cents that is the differential. That can be done just as well through cents per hour, or can be done probably better through cents per hour rather than through a percentage arrangement.

Mr. KUYKENDALL. I just happen to think that some of your men are more underpaid than others.

Mr. LEIGHTY. In the other organizations, a standard rate of that kind does not exist. In other organiaztions and on individual railroads, negotiations are constantly taking place to take care of this situation. You have an unusual situation confronting the shopcrafts and it certainly cries out for the proper solution.

What the shopcrafts have suggested, in my opinion, is a very proper solution.

Mr. SCHOENE. Mr. Chairman, might I make one further observation on the matter of uniform cents per hour increases over the past years which the gentlemen referred to?

I think the record should show how that come about. We had some very low rates in this industry. Twenty or twenty-one years ago, at the time I handled the first national case in my practice, that was in 1946. We had a great many people working for 57 cents an hour at that time. Our main thrust for a period of years had to be to get those low-paid employees to a level that was compatible with a decent living standard.

Our efforts over the years have been directed in that way, except when we went on the 40-hour week and there was a percentage adjust-

ment at that time. But any percentage adjustment, that was possible in 1946 on a 57-cent-an-hour rate, would just have been peanuts for those people.

Mr. KUYKENDALL. I understand. You and Mr. Wolfe did agree on this particular explanation.

Mr. BROWN. This created, however, the compression which you are trying to compensate for now.

Mr. SCHOENE. There is no question about that.

Mr. BROWN. And that was the labor policy at that time, was it not?

Mr. SCHOENE. Yes. We had a difficult choice between having people work at disgracefully low rates or build up compression. We chose to get the minimum rates up first, and now we are seeking to eliminate the compression.

The CHAIRMAN. This will conclude the hearings for today.

I want to thank you, Mr. Schoene, and Mr. Leighty, for coming and giving us the benefit of your views again today. I believe you have helped the committee considerably and certainly have answered many questions that have been asked you in a fine manner.

Mr. SCHOENE. Thank you, Mr. Chairman. It has been a pleasure to appear before you.

The CHAIRMAN. This will conclude the hearings for today. Tomorrow morning we will resume at 10 o'clock with Mr. Andy Biemiller, special representative of the AFL–CIO.

(Whereupon, at 11:55 p.m., the committee adjourned, to reconvene at 10 a.m., Thursday, May 25, 1967.)

79–205—67——22

RAILROAD LABOR DISPUTE

THURSDAY, MAY 25, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

Mr. FRIEDEL (presiding). The committee will come to order.

We will continue hearings on House Joint Resolution 559, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Our first witness will be the Honorable Andrew J. Biemiller, director, Department of Legislation, AFL–CIO.

STATEMENT OF ANDREW J. BIEMILLER, DIRECTOR, DEPARTMENT OF LEGISLATION, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS; ACCOMPANIED BY THOMAS E. HARRIS, ASSOCIATE GENERAL COUNSEL OF THE AFL–CIO

Mr. BIEMILLER. Mr. Chairman, my name is Andrew J. Biemiller. I am legislative director of the AFL–CIO. Accompanying me is Thomas E. Harris, associate general counsel of the AFL–CIO. We appear here on behalf of that organization.

The position of the AFL–CIO on the legislation proposed by the administration was set forth in a statement issued by President Meany on May 4. That statement is as follows:

> In the final analysis, the legislative proposal contained in the President's message on the rail situation terminates in compulsory arbitration. The AFL–CIO is steadfastly opposed to the denial of the right to strike through the imposition of terms and conditions of employment otherwise unacceptable to the parties. We shall therefore vigorously oppose this as well as any other legislative proposal which calls for compulsory arbitration of the issues in dispute.
>
> The workers involved in this dispute are simply seeking to exercise the rights assured them under present law. If there is a paramount public interest in the continued operation of the railroads, sufficient to override the rights and freedoms of the workers employed by these private corporations, then the railroads should be operated for the public interest and not for private profit. We would therefore regard seizure legislation, pending the negotiation of a settlement, as the fairest and least oppressive alternative.
>
> We are convinced that the only thing now standing in the way of an early negotiated settlement of this dispute is the belief of the railroad lobby that compulsory arbitration legislation will be forthcoming to relieve them of the obligation to bargain in good faith.

This statement of President Meany was unanimously endorsed and adopted by the AFL–CIO Executive Council on May 9, 1967.

The AFL–CIO is opposed to the administration's proposal because it takes away the right to strike and substitutes compulsory arbitration.

Secretary Wirtz has made much of the fact that the bill also provides for mediation and collective bargaining.

That is true. Sections 1 and 2 provide for continued collective bargaining, assisted by mediation by a special board.

However, sections 3 and 4 provide that if a settlement is not reached within 30 days the special board shall hold hearings and make a "determination" with respect to the issues in dispute and sections 5 and 6 provide that if the parties have not reached agreement by the 91st day the "determination" of the special board shall take effect, and shall continue in effect until such time as the board decides, though not beyond January 1, 1969.

During all of that period the unions are forbidden to strike. The board's determination is to "have the same effect * * * as though arrived at by agreement of the parties * * *."

That is compulsory arbitration, and we are opposed to it.

The fact that the resolution provides for mediation and collective bargaining and more hearings before a special board does not disguise or sugar coat the facts that the unions are forbidden to strike and that, if no agreement is reached, the board is to render a legally binding settlement. If that isn't compulsory arbitration we don't know what the words mean.

With compulsion thus hovering on the horizon there is little reason to think that the carriers will engage in any real collective bargaining in the meanwhile; and once the special board makes its determination there will not even be a pretense of bargaining by the carriers.

We are opposed to compulsory arbitration because we don't think that the employees of private enterprises should be compelled by the Government to work on terms to which they have not agreed. We are wholly opposed to that sort of Government coercion of workers while the enterprises are being operated for private profit, as in a normal peacetime economy.

We think that it is fundamental to democracy that no such compulsion be placed on workers by the Government in the interest of management.

It is true that this legislation constitutes just a little bit of compulsory arbitration, in that it applies only to a particular dispute. But we do not find much comfort in that, for two reasons.

In the first place, the medicine of compulsory arbitration may be habit forming.

In the second place, a particular dispute cannot be practicably isolated from the continuing course of collective bargaining relationships between the parties. These particular negotiations grow out of a long series of negotiations over the years, and their outcome will affect negotiations between the parties and the terms and conditions of employment of the workers for years to come.

In 1963, Congress provided for the compulsory arbitration of a particular dispute on a one-shot basis. It hasn't worked, and one-shot compulsory arbitration of contract terms won't work here either.

The arbitration award rendered under the 1963 law has been the subject of innumerable disputes, reinterpretations, and lawsuits, and it will embitter relationships between the parties, and among unions, too, for years to come.

It has also led to renewed embitterment of workers at the Federal courts, which had been dying down in recent decades since enactment of the Norris-La Guardia Act.

During the 2-year period before the arbitration panel went out of existence, the panel was asked for and rendered more than 400 interpretations of its award. The Court of Appeals for the District of Columbia has decided eight or nine cases arising out of the award, and about 23 other separate cases have been argued before it and are awaiting decision.

There have been innumerable district court rulings in addition to the 30 appealed to the court of appeals, and six or eight lawsuits in other jurisdictions, all growing out of what was supposed to be a one-shot arbitration award.

Collective bargaining contracts these days are complicated, and the problems with which they deal are complex and interrelated. A single dispute just cannot practicably be isolated for separate handling, as this bill undertakes and as the 1963 act undertook to do.

Once the camel of compulsory settlement gets its nose into this tent, it will be mighty hard to get it out.

To give but one example, the Emergency Board in this dispute recommended a job evaluation program. Do you gentlemen know anything about job evaluating programs? They take years to work out, with the best wills in the world among the parties, and require continuing adjustment thereafter.

That sort of thing can be made workable, if at all, only by long term, continuing, voluntary negotiation. It can't be handled by Government fiat.

So the AFL–CIO is against either a little or a lot of compulsory arbitration, and we are fearful that a little will grow into a lot.

In time of war or other grave national emergency the workers of this country would, of course, be prepared to accept, if the President and Congress thought it necessary, even the restrictions on personal freedom involved in having the Government fix the terms and conditions on which workers must work.

In those circumstances the AFL–CIO would willingly accept any necessary restrictions, but on one condition. That condition is that equality of sacrifice must prevail.

To us that means that if the Government undertakes to fix the wages, hours and working conditions of employees, it must likewise undertake to fix the prices and limit the profits of private enterprises.

During World War II and the Korean war the Government did have a program for stabilizing both wages and prices, and it had an excess profits tax. It has no price stabilization now, and no excess profits tax; and we are unalterably opposed to singling out workers for special sacrifice.

Railroad profits are not regulated at all and railroad rates only nominally. The Interstate Commerce Commission has power to fix rail rates, but in practice most rates are fixed by the railroads themselves, acting together through rate bureaus, which are granted exemptions from the antitrust laws by the ICC. The effectiveness of rate regulation can be judged by the fact that the net profits of class I railroads rose from $651 million in 1963 to $925 million in 1966.

In any event, the Government does not, for the most part, undertake to justify this legislation on the ground that the Nation is in a tem-

porary emergency. What the Government says, and what the carriers say, is that there must never be a nationwide rail strike again.

It is perfectly apparent from the rationale offered by the Government, and by the carriers too, that every time a labor dispute threatens to result in a nationwide rail strike they will be up here asking for legislation to stop the strike.

The AFL–CIO completely rejects the notion, which seems to underlie the administration's bill, that the unions are wholly at fault, and the railroads not at all, so that any legislation should be onerous to the unions but wholly acceptable to the carriers.

Without going into the merits of the dispute, let me point out something. The unions served the statutory notices proposing wage increases and other contract changes more than a year ago, on May 17, 1966.

During all of that period they have been forbidden to strike, first by the Railway Labor Act and subsequently by two special statutes. The unions have scrupulously observed those prohibitions.

But during all of that time there has, as Mr. Fox and Mr. Leighty told you, and as the Emergency Board noted, been very little bargaining.

Why?

Because the railroads were confident that the Government would never permit a nationwide rail strike.

Some people seem to be under the impression that the unions have imposed on the carriers a pattern of nationwide bargaining, with the consequent threat of a nationwide strike. That is not so.

In the crew size dispute—the dispute dealt with by the 1963 Compulsory Arbitration Act—the Brotherhood of Railroad Trainmen sought, following the expiration of the compulsory arbitration award, to bargain with and, if necessary, strike against individual carriers separately.

However, the carriers insisted that bargaining, and, if it came to that, any strike, must be on a nationwide basis; and they secured a court order to that effect from a District judge in the District of Columbia, Judge Holtzoff.

That decision was rendered in January, and an appeal from it was argued before the court of appeals on May 15.

In our view, and in the view of the Department of Justice too, the decision of the district judge was erroneous. In any event, however, it is quite clear that nationwide bargaining is the choice of the carriers, because they believe that Congress will never permit a nationwide strike.

Mr. FRIEDEL. When you speak of May 15, are you speaking of 1967 or 1966?

Mr. BIEMILLER. 1967. May 15, 1967.

What is there in this history that justifies legislation which bears only upon the unions? We urge that the Congress reject this one-sided proposal, so destructive of collective bargaining, and authorize the Government to seize the railroads.

And we ask for real, not token, seizure. The operating profits should be impounded , and any compensation paid should take into account that but for seizure the railroads would not have been operating.

We are confident that if the carriers were faced with legislation

which would be unpalatable to them too, there would be real bargaining and a quick settlement.

Our final suggestion, if the Congress is not willing to seize the railroads, is that the Department of Transportation establish a system for handling essential shipments during any strike shutdowns. The railroad unions are ready to cooperate to the fullest. The railroads and Secretary Boyd say that it can't be done.

However, it does not appear to us that the Secretary has adequately explored or considered the proposition; and we find persuasive the detailed testimony of Messrs. Leighty and Fox that it would be feasible.

We agree that it couldn't be done profitably, and the employees would suffer too because only some of them would be working and then only part time. That would give both sides, and not just the unions, a real incentive to negotiate, and would make collective bargaining really operative.

We thank the committee for this opportunity to appear.

Mr. FRIEDEL. Thank you, Mr. Biemiller, for your very brief but concise statement.

As I gather from your statement, unless we pass seizure along with the administration's bill—to put it another way, would you be in favor of House Joint Resolution 559 along with seizure? Would you be in favor of the administration's bill with the seizure clause included in the bill?

Mr. BIEMILLER. I take it you are referring to House Joint Resolution 585 which does essentially what you are referring to.

Mr. FRIEDEL. I am referring to House Joint Resolution 559.

Mr. BIEMILLER. Plus seizure?

Mr. FRIEDEL. Plus seizure, yes.

Mr. BIEMILLER. House Joint Resolution 585 is an attempt to do that. We think House Joint Resolution 585 has some deficiencies, but it has the value, at least, in the way it would impound the profits under a seizure. It is a forward step.

We think the seizure provision should be of an executive rather than a receivership nature. We have some other points to make.

As far as the seizure aspect is concerned with regard to the impounding of the profits, and if the bill were shifted from a receivership-type of seizure to executive seizure, we think then the bill should be given very serious consideration by this committee.

It has some other deffciencies, such as the attempt to have a ballot on the final offer of the employers, a procedure that has never been used in the railway labor disputes, and, furthermore, a procedure which, under the 80-day clause of Taft-Hartley, proved to be a mere sham.

It would only be a delaying tactic and of no value whatsoever, in our opinion.

But we think this is at least a model on which the committee could work its way.

Mr. FRIEDEL. Thank you.

Mr. Springer.

Mr. SPRINGER. Mr. Biemiller, I think you have made a very explicit statement. I want to say, as I have to some others, that I think the

shorter the statement, the more concise it is, the more effect it has with this committee. I think your statement has that aspect to it.

I want to see if I can clarify in order what you are either for or against, and see if I can reduce it to the irreducible, so to speak.

First, you are against compulsory arbitration and you say this is compulsory arbitration. That is one thing.

Mr. BIEMILLER. Correct.

Mr. SPRINGER. Second, if the committee sees fit in its wisdom to bring out some legislation, you would favor seizure.

Mr. BIEMILLER. Correct.

Mr. SPRINGER. And you would favor that by some Executive order rather than sit through some court in the line of a receivership.

Mr. BIEMILLER. An Executive order authorized by legislation which would be necessary if for no other reason than the steel decision in recent years.

Mr. SPRINGER. Pursuant to this legislation, yes.

The third alternative is that you would have no legislation but would work out some kind of an agreement with the brotherhoods whereby they could carry the Vietnam materials plus essential items for safety and welfare.

Mr. BIEMILLER. That proposal, as I am sure you know, Congressman Springer, has been made by the unions involved, to the Government. The Government had one session with the unions on this matter, but at that session, on the basis of the information available to me, we are convinced that Secretary Boyd and Under Secretary Vance just airily dismissed the matter for all practical purposes and did not give it the thorough consideration and discussion to which we think it is entitled.

We think it is an honest effort on the part of the unions to continue a situation where collective bargaining could work its way and at the same time meet the arguments of the administration that it needs to maintain certain movements of materials, particularly defense materials.

Mr. SPRINGER. I am convinced that the brotherhoods believe it is feasible. I think their testimony here, at least from two witnesses, was very sincere on this point.

The only evidence we have on that point that we have presently, Mr. Biemiller, is that which Secretary Boyd gave, in which he said he had no experience with it but he took only the word of the Department of Defense. He used the word "chaos."

I have asked the chairman would we please bring over somebody who has had some experience with it so that this could be questioned in detail.

I think we probably could get this on top of the record with someone who has had some experience with it.

Your position, then, to bring this to a head, is: (1) that there certainly should be no compulsory arbitration; (2) that there be seizure under an Executive order pursuant to this legislation; and, (3) that nothing be done and allow the railroads to proceed and the brotherhoods to proceed as if they were striking, except to carry Vietnam materials and that which is essential to safety and welfare.

Mr. BIEMILLER. That is precisely our position.

Mr. SPRINGER. Now I think we have your position. It is most important to know what your position is when you come here.

Is this the position of the AFL–CIO, in that order?

Mr. BIEMILLER. Pardon me?

Mr. SPRINGER. Is this the position of the AFL–CIO?

Mr. BIEMILLER. Yes. We are speaking officially for the organization.

Mr. SPRINGER. I wanted to be sure that we had it all on the record.

There was a point raised at the White House by one who is distinguished and respected, I would guess, in the labor circles. Arthur Goldberg was there, and he took about 10 minutes, I would say, to express his opinion on this legislation.

I believe I am stating this accurately, and I want to be just as fair as I can. I doubt that Mr. Goldberg will be summoned to come here to testify. It would certainly be an imposition with all he is faced with now. I think I can state this correctly for the record, and if I misstate it I am sure the chairman will correct me.

He said when the steel industry was threatened to be seized, or maybe it was seized—I don't remember the details in 1949—the steel unions had to decide whether or not to oppose seizure. They thought about this overnight and went into court and opposed seizure. I realize this is 18 years ago and everything changes in 18 years.

His position, he said, essentially was that they were against seizure for the reason that this froze them, more or less, in their position with reference to bargaining. As best he could make it out as a lawyer, they could not thereafter bargain when the property was in the hands of a third party. Apparently under law you would have no right to bargain further. That was one reason.

He said the second reason he thought was the public interest one, in that after this decision in 1949 the Supreme Court handed down a decision, and this, he said, would be the public interest insofar as Members of the Congress and the committee sitting were concerned, that there was no such thing as nominal seizure. He said the Supreme Court decided this just before he went on the Court.

And if you did seize, you were responsible for all the consequences of seizure, pursuant to what they called responsible seizure.

Therefore, you were liable for profits, you were liable for any damage that was done. You would be liable to return the property in exactly the same condition to the owners as when the Government took it over.

Would you care to comment on either one of those points?

Mr. BIEMILLER. I will refer this to our counsel.

Mr. SPRINGER. It may be a legal point.

Mr. HARRIS. Was it 1949?

Mr. SPRINGER. I believe the year was 1949, as I recall.

This was one where President Truman either seized or threatened to seize. But they were in the courts.

Mr. HARRIS. The seizure was not in 1949. I was with Arthur Goldberg as a lawyer at the CIO in those days. The seizure was in a later dispute, perhap 1952 or 1953. It was while President Truman was still President.

As I recall, the participation of Mr. Goldberg in that case was quite limited. Of course, the records will show, but the Steel Workers Union, I believe, did not argue either for or against the power of the Executive to seize the railroads. They simply argued that the existence of the 80-day remedy under Taft-Hartley was not an exclusive remedy and did not preclude the existence of any other remedy.

What the Court held there, of course, was that in the absence of legislation the Executive does not have power to seize the Nation's railroads.

That is a position that might commend itself to many lawyers.

But I believe, in fact, Mr. Goldberg took no position on that point at the time.

As to whether seizure would inhibit bargaining, that would depend on the terms of the seizure. It would be possible to draw seizure legislation that would state that the existing terms and conditions should continue in effect, and that any bargaining should be between the carriers and the unions.

It would be possible to provide that the person taking over the railroads for the Government could negotiate. This could be done either way.

In past seizures, it has been done in different ways.

During World War I, when the railroads were temporarily nationalized, the people running them for the Government did negotiate terms and conditions of employment with the unions and did change the terms and conditions of employment.

As to the possible liability of the Government to the railroads for just compensation, there has never been a bill which provides, as House Joint Resolution 585 does, that in determining just compensation the courts shall take into account the fact the railroads would have been shut down by a strike but for the seizure.

What effect the courts would give to such a provision there is no way of knowing, because there is no precedent on it.

Mr. SPRINGER. I take it, then, that the way you understand it, Mr. Goldberg did not take any position in the 1952 seizure?

Mr. HARRIS. On whether the President had power to seize?

Mr. SPRINGER. No, that isn't the question. I will narrow the question. I want to be sure we stay with it.

His position was, and I am sure these were his words stated at the White House, because they did not have any further right to bargain, they were frozen in their position and this was the reason, he said, that they went into court and opposed seizure. He used the term "opposed seizure." I am positive he did. I listened very closely.

In fact, my ears pricked up at his words of opposed seizure because I was rather shocked. He said, "We took this position because of the fact we would be frozen in our position."

I will have the record searched to see if Arthur Goldberg did take a position. I think it is important to know.

Mr. HARRIS. Mr. Springer, perhaps I can reach an agreement. If I am right in this controversy, you will agree with our position. If I am erroneous, we will recede and agree with yours.

Mr. SPRINGER. Neither one of us know what the record was of 1952, and I am perfectly willing to accept the record, if you are, too.

Mr. HARRIS. The briefs filed in the Supreme Court would show, I am quite certain, that Arthur Goldberg did not take any such position, that he did not take a position either that the President had power to seize or that he did not have power to seize. He simply took a narrow position that the remedy under Taft-Hartley was not exclusive.

Mr. SPRINGER. May I ask you this question, Mr. Biemiller: Yesterday, Mr. Schoene testified, who I believe is the attorney for the brotherhoods, and testified to many legal matters, doing a fine job. There was

one opinion he gave which intrigued me. I want to see if you agree with it.

He said that he felt that the mediators—I believe he used the term "mediators"—everybody connected with this at the White House were using their influence not to go above 5 percent. He uses these words further, that this year the President is trying to keep from going above 5 percent, or set the limits of 5 percent as he set the limits for 2½ percent last year in the airline strike.

To correct my statement, I believe it was three and a half rather than two and a half.

Mr. Biemiller, you were in the airline thing last year, do you have an opinion on this?

May I say that he also told us that the economic advisers in the White House were influencing the administration and everybody connected with this to not go above 5 percent.

Mr. BIEMILLER. I have not been intimately enough concerned with the details of the bargaining, if you can describe it as such, that has gone on. Hence, I am in no position to answer that particular question.

Mr. SPRINGER. May I ask you one further question?

He said, further, that he felt that those at the White House who were working on the economics of this thing, including the economic advisers to the President, were trying to limit this to 5 percent, not more than 5 percent, for the reason that you are going to have other large groups who are going to negotiate later in the year; namely, the United Auto Workers and; second, the Steel Workers.

Do you have an opinion on that?

Mr. BIEMILLER. The only thing that I can possibly think that that would be based upon is the recent speech by Mr. Ackley in which he sort of sounded a general warning to the Council of Economic Advisers that the concept of guidelines for wages was not dead.

The AFL–CIO has always taken the position that we did not agree with the whole theory of guidelines for wages. If this is an issue in this controversy, we would be opposed to the position that allegedly is, according to the testimony you refer to, being taken by White House economic advisers.

Mr. SPRINGER. I have just one thing further to cover, Mr. Chairman. I am trying to get at the major issues, if I can.

You take the position here that this is not compulsory arbitration?

Mr. BIEMILLER. Pardon me?

Mr. SPRINGER. That this is compulsory arbitration. I beg your pardon.

I am much intrigued, may I say, by the distinguished Senator in the other body. I read from the May 4 issue of the Congressional Record, at S6403, where he uses these words——

Mr. BIEMILLER. It so happens we have that here.

Mr. SPRINGER. All right.

In the final draft of the President's proposal for ad hoc emergency legislation which he called for this morning and is now recommending to Congress for consideration, meeting on the legislative front the threat of a nationwide stoppage of the railroad system, I am pleased to see the President has carefully avoided these two extremes—

And he used this statement:

First, this proposal does not seize the railroads. Second, this proposal does not ignore the negotiations which have already taken place. Third, this proposal is not compulsory arbitration.

You don't agree with that, I take it, Mr. Biemiller?

Mr. BIEMILLER. Mr. Harris and I had quite a colloquy with the distinguished senior Senator from Oregon only yesterday morning before the Senate Labor Committee in which we made it clear that we do not agree with him.

We also pointed out to him that he had made some remarks in 1963 that pretty much contradicted his remarks of 1967.

Mr. SPRINGER. This may be more for Mr. Harris than you, Mr. Biemiller, but I think it is important to get it in the record.

He uses these words on page S6405:

> Further, may I say that in arbitration you do not have mediation. Arbitration is a straight judicial process. When you walk into an arbitration room, you walk into a courtroom, and the case is decided on the basis of the evidence before the court, with the proponent of each issue having the burden of proof on it and the responsibility of sustaining the burden of proof on that issue. But the procedure involved in this resolution is not arbitration in that sense.
>
> This resolution, may I say, provides basically for a procedure calling for extensive collective bargaining and mediation ending up, if necessary, with a ruling of finality on the part of the Government ordering a continuation of the railroads on the basis of a reasonable application and adaptation of what would seem to be a fair and equitable compromise of the positions taken by the parties in collective bargaining and mediation.

Mr. Harris, what do you think about the legalities of that? I will admit the distinguished Senator from Oregon is an authority in the field of labor relations and also mediation-arbitration. I am sure you have had some comparable experience to Senator Morse.

Mr. HARRIS. I certainly am aware of Senator Morse's long career in this field. He was with the War Labor Board in World War II, and has done considerable arbitrating since, and is a distinguished lawyer.

However, I don't believe that most lawyers in this field would agree with him as to his definition of compulsory arbitration. I don't agree with him.

The 1963 act provided that the parties should continue to negotiate. If they didn't reach agreement, it provided for the appointment of a Special Board to hand down a binding decision. It provided that the Special Board was to incorporate in its decision any matters on which it found the parties were in agreement before the legislation was passed.

That proposal was roundly and eloquently denounced by Senator Morse as compulsory arbitration. He was one of the two Senators who voted against it.

The only difference in the present bill is that here the Special Board would be authorized to mediate.

Mr. SPRINGER. Would you point out the lines to which you refer so the committee can follow your thought?

Mr. HARRIS. Section 2. It says, "The Special Board shall attempt by mediation to bring about a resolution of this dispute, and thereby to complete the collective bargaining process."

That was not in the 1963 law. The arbitration board there did not have this authorization to mediate, and did not mediate.

To Senator Morse this seems to be sufficient justification for saying that this is not compulsory arbitration. We disagree with him on that.

If you look at section 5, you will see that it provides that if the parties don't reach agreement, the Board shall hand down a determination, and then it state, "The Board's determination shall have

the same effect, including the preclusion of resort to either strike or lockout, as though arrived at by agreement of the parties under the Railway Labor Act."

Mr. SPRINGER. Mr. Harris, may I at this point interrupt for the program of another question? I am almost through.

I quote Senator Morse again on S6405, as follows:

> What we have done in this resolution is really to follow the procedure that was followed in the War Labor Board many, many times during World War II, in which we gave the parties an opportunity to settle their dispute by way of collective bargaining and mediation.
>
> Then we would say, "If you two sides can't settle this dispute now, we are in the midst of war, we will have to settle it in the public interest."

Then:

> There are differences between the War Labor Board procedures and the procedures set forth in this resolution, but the similarities are greater than differences.

Is that a fair statement?

Mr. HARRIS. Yes, I think so. Senator Morse does not consider that what he was doing in World War II, or what the Wage Stabilization Board did for a while in the Korean war, was compulsory arbitration. I consider that it was. I think most people in the field of labor-management relations would agree with me and not with the Senator.

I think his description is quite accurate. Perhaps this is a mere matter of semantics, as to whether you call it compulsory arbitration or not. Certainly the end step in this resolution and the end step under the War Labor Disputes Act was an imposed settlement.

Most people call that compulsory arbitration. Senator Morse seems to think that if some mediation that goes along with it, or that precedes it, and if the imposed settlement is only a last resort, that that takes it out of the category of compulsory arbitration. We don't agree with him on that.

Mr. SPRINGER. I think I have the distinction. I think it has been refined as I would like to have it so that we understand we are talking about the same thing.

We definitely have you on record as to your position on what this is.

Just this one further question: It is my understanding that Senator Morse either wrote this or had considerable to do in the writing of it.

Do you understand that?

Mr. BIEMILLER. All I can say on that, Congressman, is that I know he was in consultation at the White House while this particular piece of proposed legislation was being developed. I don't know to what extent he participated directly in the matter.

Yesterday, however, he made it quite clear that he regarded himself as spokesman for the administration on this matter. So whether he participated in writing the legislation or not is in one sense quite moot because he is defending it more than any other Member of the Senate.

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Moss.

Mr. Moss. Thank you, Mr. Chairman.

I have not had the opportunity to try to follow the dialog or to read the statement of the witness.

I am intrigued by the new term of mediation to finality. I wonder if there is any definition for that.

Mr. BIEMILLER. Our view is it is another way of saying compulsory arbitration. We don't think the phrase has any meaning whatsoever except that.

Mr. MOSS. I am inclined to agree. I tried desperately to find some other meaning and I always end up with compulsory arbitration, or, maybe more precisely, a directed settlement.

Mr. BIEMILLER. By compulsion.

Mr. MOSS. By compulsion, by the force of law. And it is directed quite clearly at the beginning against one party far more than the other.

Mr. BIEMILLER. That is our contention. We agree with you.

Mr. MOSS. We had a little more than an 8-hour day yesterday. As a result, I was somewhat late in arriving for this hearing this morning.

I will forego any further questions at this time, Mr. Chairman.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. I think, Mr. Biemiller, it is useless to deal in semantics on whether it is compulsory arbitration or whether it is mediation to finality. You have made your position clear. I don't think there is much doubt in anyone's mind up here that it is, in fact, some form of compulsory arbitration, no matter what label is put on it.

I will ask you this question, representing the AFL–CIO, and not specifically the shopcrafts or the brotherhoods: Are any efforts at this time being made by any of these people for collective bargaining? Has anyone met since a month ago today?

Mr. BIEMILLER. That is a question you would have to ask the shopcrafts. The AFL–CIO, as such, does not engage in any collective bargaining. Our constituent unions do the bargaining.

Mr. DEVINE. But you are working hand-in-glove with them representing their interests here. I would assume you would know.

Do you know if any efforts are being made by the shop crafts or the brotherhoods to deal with management on this? Have they invited them to a meeting or suggested a meeting? To the contrary, have the railroads suggested further meetings?

Mr. BIEMILLER. I repeat, this is beyond our field. We do not engage in the collective bargaining.

Mr. DEVINE. Do you know if any efforts are being made by either party to the dispute?

Mr. BIEMILLER. I have no evidence whatsoever on the matter.

Mr. DEVINE. I might say this to you, Mr. Biemiller: You, of course, have been quite close to the Secretary of Labor, and probably were aware that this legislation was being drafted. I couldn't presume to suggest to you what this committee will do. I will give you my own personal reading.

I think there are probably at least four, if not more, members who would go the seizure route, and I think there are probably some that might support this bill. I think there are others who will probably support other legislation.

I would also suggest to you that there are quite a number of members, probably on both sides of the aisle, who would just as soon see nothing come out of this committee. That might serve your purposes, too.

The previous witnesses have suggested that if Congress would get out of it, good faith collective bargaining might develop.

In the last part of your statement I notice that if the new Secretary of Transportation would try, he could probably develop a formula

by which the defense interests could be protected during a strike. Maybe some people in the Congress feel, "Let them strike and see what happens."

Mr. BIEMILLER. We feel very strongly that the offer that has been made by the shop crafts to work out an arrangement with the Department of Defense and the Department of Transportation, to keep needed goods running, has been made in very good faith.

We do not think that Secretary Boyd and Under Secretary Vance, at the conference that was held with them, had thoroughly explored this matter. We think they almost cavalierly dismissed it. We think this is a proposal that should be pursued further, and that offers a good solution to the present impasse.

Mr. DEVINE. Let me say this: At the White House, when the President called a number of us down there to discuss the matter, and to ask for the additional 47 days on top of the 20, the purpose, of course, was to consider this legislation and other legislation to resolve the differences.

I would also say that it was presumed that the parties would continue to negotiate and try to bring this to a settlement during that period.

There has been no evidence during 30 days that anyone is making a move. The Congress, I think, is getting weary of having to mediate the disputes between management and union interests.

That is all, Mr. Chairman.

Mr. Moss. Will the gentleman yield?

Mr. DEVINE. I would be happy to.

Mr. Moss. I would like to express my own concern.

I urged very strongly that the Secretary of Transportation and other appropriate officials in the administration explore fully the possibility of some interim arrangement that would definitely balance the security interests of this Nation.

I want to concur most emphatically in your observation that the meeting held showed no evidence of the kind of good-faith effort I had contemplated in urging upon both the Secretary of Transportation and the Secretary of Labor that an effort be made to arrive at an agreement. I was disappointed. I was disgusted.

I think that in view of the fact it was a response to a request from the Congress, it was an action contemptuous of the Congress.

Mr. FRIEDEL. Mr. Satterfield, you are recognized for 5 minutes.

Mr. SATTERFIELD. Thank you, Mr. Chairman. I have no questions at this time.

Mr. FRIEDEL. Mr. Harvey.

Mr. HARVEY. Thank you, Mr. Chairman.

Yesterday, one thing that was pointed out by Mr. Schoene was that in House Joint Resolution 559 the parties would negotiate for 30 days following the determination of a special board.

Yesterday he testified that that was a meaningless requirement. I think he said that industry knew the worst that would happen to it and labor would know the best that could happen to it.

While I knew he did not approve of House Joint Resolution 559 at all, I asked him whether it might be an improvement in that resolution if that 30 days were to be taken and put before the hearing to allow an additional 30 days, so a period of 60 days would exist rather than 30.

I would like your comment on this matter, if I may have it.

Mr. BIEMILLER. Mr. Harris will respond to that.

Mr. HARRIS. I would certainly agree with Mr. Schoene that after the special board has made its determination there is not going to be much bargaining.

The most that could possibly happen would be that the economic package would be rearranged a little bit. There is no conceivable reason that the carriers would agree to any larger package, or the union, for that matter, to any smaller package.

So, basically, I don't see the reason for that 30-day bargaining period after the determination.

Mr. HARVEY. Would it be helpful to have that 30-day period before the determination?

Mr. HARRIS. I think the real difficulty is with the carriers expecting compulsory arbitration, they are not, as long as they have that hope and expectation, going to shift from the positions already taken, or do any further real bargaining.

Mr. HARVEY. Do I take it that you would just as soon see the 30 days eliminated completely and a 60-day resolution? I appreciate you don't want any resolution at all.

Mr. HARRIS. We don't want any resolution at all.

Mr. HARVEY. But considering the merits of the resolution, if this Congress were to pass one, as far as you are concerned a 60-day one would be as good as a 90-day one. Is that accurate or not?

Mr. HARRIS. I certainly think the final 30 days serves no great purpose.

Mr. HARVEY. It serves no useful purpose whatsoever.

Mr. Schoene also pointed out in his testimony that there was no provision providing for continuing disputes after the award had been finally made. He said he thought it would be very helpful, while he did not approve of the resolution, if Congress were even considering the passage of the resolution, it certainly ought to include some provision.

I think I am stating his point accurately. There should be a provision for settlement of continuing disputes, some method of resolving them.

Would you agree with that point?

Mr. HARRIS. I would want to think about that further. The 1963 law did have such a provision and it has not proved workable.

Mr. HARVEY. It has not proven workable?

Mr. HARRIS. No; it has not.

In the prepared statement, we point out that the Panel under that 1963 law was asked for and rendered more than 400 interpretations of its award during the 2-year period that it continued in existence.

At that point, it took the position that it went out of existence and could render no more interpretations.

Within the last few days, that position has been overturned by the court of appeals here, which states that the special Panel should continue to interpret its award, even after the end of the 2-year period.

So apparently that is to be a permanent feature of American labor relations. The members are to continue from now on, on that unfortunate Panel, to render interpretations of the award.

I don't think that is at all a satisfactory resolution.

I think the difficulty is the one pointed out in your statement, that it is almost impossible to pull out one particular negotiation from a long, continuing chain of negotiations which affect not only the unions that are parties to this one, but other unions, and the interrelations between unions and carriers as well, and say that this is going to be decided in a special fashion by a special board.

It is very hard to get into just a little bit of compulsory arbitration or mediation to finality, if you like that better.

Mr. HARVEY. I really have no choice on the words. The administration came up here and used those words.

Mr. HARRIS. For example, going back not to the Panel but to the Emergency Board, it recommended a job evaluation program. As I understand it, neither the unions involved nor the carriers think that is practicable.

But if it were, it wouldn't be something that could possibly be put into effect or supervised, or imposed, by a Government board or panel. That kind of program takes years to work out and requires continuing adjustments thereafter. It just doesn't lend itself to this sort of process.

Mr. HARVEY. I asked the question because I agree to a considerable extent with what Mr. Devine said earlier, that it is hard to tell at this point what Congress should do, whether they should adopt 559.

In my mind is also the question of should it include some provision for resolving continuing disputes. Do I gather you feel it should or should not? Which would you say? You have made it clear that you don't like the resolution. We are aware of that.

You have made clear the problem of pulling out one individual dispute and trying to settle that. But, nevertheless, the committee will be faced with the necessity of making a decision.

Mr. HARRIS. Even assuming this resolution would be adopted, I think I would prefer to see future disputes as to the interpretation or application of the award resolved under the normal procedures of the Railway Labor Act rather than any special provision that the Board hand down interpretations which are then reviewable in the courts.

I think that has worked very badly under the 1963 act.

Mr. HARVEY. Thank you.

Thank you very much, Mr. Chairman.

Mr. Moss (presiding). Mr. Springer.

Mr. SPRINGER. This probably should be directed at Mr. Harris. I think when the committee takes up this resolution for consideration, this point will be very important.

Would you turn to page 4, section 4? Go to line 10, after the comma, "and shall incorporate the proposal of the special mediation panel with such modifications, if any, that the Board finds to be necessary, (1), to be in the public interest; (2), to achieve a fair and equitable extension of collective bargaining; (3), to protect the collective bargaining process; (4), fulfill the purposes of the Railway Labor Act."

I have never seen that in legislation pending here, although we have had it several times. Can you give me an idea of what you think would be included in those four provisions?

Mr. HARRIS. I am afraid, Congressman, that I can't. They seem to me too lacking in concrete content to have any clearly foreseeable significance.

There was a provision somewhat like this in the 1963 statute. It provided, "The arbitration board shall incorporate in such decision any matters on which it finds the parties were in agreement, shall resolve the matters on which the parties were not in agreement, and shall, in making its award, give due consideration to those matters on which the parties were in tentative agreement."

In its attack in the courts on the 1963 award, the unions said that the arbitration board had violated the provision of the statute about incorporating in its decision matters o which the parties were in agreement prior to the legislation.

However, the court said that these were just words and not a legally binding standard and dismissed the unions' contention. I find these four standards to be similar.

It seems to me that they are just window dressing, just words. They don't really mean anything.

Mr. SPRINGER. Now, if we go to section 3 on page 3, I will not read that because I am sure you are acquainted with it, but is it your understanding that this would bind them to the Special Mediation Panel, its report to the President of April 22, 1967, in the same language that you just read from the 1963 act?

Mr. HARRIS. It seems to me comparable to the 1963 act in that respect. Let us suppose, as we hope would not be the case, that the Special Board under this came down with a determination which someone contended did not incorporate the proposal of the Special Mediation Panel.

I don't think anyone can get relief in court on such a claim, because the Board can make such modifications as it finds to be necessary in the public interest. That surely is wide open.

The second standard is to achieve a fair and equitable extension of the collective bargaining in this case. We, of course, think that compulsory arbitration is the very negation of collective bargaining. So we are quite at a loss as to how a determination, which is to be legally binding, is going to achieve an extension of collective bargaining.

To us, this is just some more of this business of saying that this is mediation to finality. It is just an attempt to put some clothes on this body to make it look a little prettier.

Mr. SPRINGER. Now may I ask you, pursuant to section 5 on page 4, this question: I don't remember any provision such as this in any legislation before where, in effect, the Board renders a determination and then you mediate for another 30 days.

Do you ever remember any suggested legislation such as that?

Mr. HARRIS. No, I don't.

Mr. SPRINGER. I have been trying to understand what Senator Morse is talking about. He uses the language, as I understand it, beginning at this point at the end of 60 days when a determination has been rendered, that you continue to mediate during those 30 days.

Do you understand that is what he means also?

Mr. HARRIS. Yes, Congressman, I do.

Mr. SPRINGER. I think this is a practical question, but I want to ask it: Based on your experience in this field, do you think it likely that there would be any mediation for that last 30-day period?

Mr. HARRIS. I can't see that there could be any very significant mediation or any very significant bargaining either. It might be, say, that a penny could be taken off the straight wage increase and put into some kind of inequity program, something like that. But once the determination has been made, it seems to me that the economic package is fixed, that nobody is going to agree to anything that is going to either raise or lower the value of the package.

Mr. SPRINGER. In other words, you think they would pretty well be frozen in their position at the end of 60 days?

Mr. HARRIS. Yes, exactly.

Mr. SPRINGER. This is the thing I didn't know about. I am trying to get some opinions on it. I have been wondering, in view of the fact that a suggestion such as this had never been made before, if there would be any chance to move from a frozen position.

I would take it then it would be your opinion, Mr. Harris, that anyone who got a favorable decision would probably hold onto it without any thought further of negotiation.

Mr. HARRIS. Yes. Either party, whichever one it was.

Mr. SPRINGER. Thank you, Mr. Harris.

Mr. Biemiller, I want to direct this question to you because you are the representative of the largest labor group in this country: You will recall, and I think one member of this committee has introduced such legislation, though I don't know of anyone else who has, in January 1966—though it might have been 1965—the President included a paragraph in his message to the Congress. You are probably familiar with it without my describing it.

But in that paragraph he suggested the possibility of recommending legislation which, I take it, would be compulsory arbitration in the general field of those businesses, industries, whatever you want to call them, which, I understood him to mean, affected the public interest. I take it to deal with health and so on.

Do you recall that particular provision?

Mr. BIEMILLER. There was a sentence in the President's 1965 message, very broad in nature—I do not recall the exact wording—the gist of which was that he would consider sending legislation to the Congress to deal with emergency disputes. I think that was the phrase that was used.

Mr. SPRINGER. In order that this committee might have the benefit of your view—and I might say this as a preliminary, but if I misstate it I hope the chairman corrects me—one member of this delegation asked him at the White House conference with reference to this legislation, if he had any further thinking on sending such legislation down.

I believe the President's reply was in this general way, that he hadn't sent anything down because he could not get what I would assume to be a consensus sufficient to get the legislation passed.

I believe that is the sort of language that he used.

I would like to have your comment in this field because I think this committee ought to have the benefit of where labor would stand should such legislation be proposed.

Mr. BIEMILLER. My understanding of the situation is, first of all, the President has had innumerable people working on the problem but none of them have come up with any answer that he regards as a satisfactory one.

I would say from the standpoint of the labor movement, while we have had all kinds of ideas presented to us, and we have done some thinking of our own, naturally, we have not seen any proposal yet that we considered better than those now in existence.

Mr. SPRINGER. In other words, the free collective bargaining process is to prevail.

Mr. BIEMILLER. Precisely.

May I say further on that point that is to us really the essence of the argument against the pending resolution, House Joint Resolution 559. What you are doing in that resolution, in effect, is taking from a group of American workers the right to strike which is the fundamental right, the fundamental weapon that labor has in any collective-bargaining situation. Deprived of the right to strike, obviously the unions' position as an adversary against employers in collective-bargaining procedures is terribly weakened.

All you are going to do, if you pass House Joint Resolution 559, is deprive a certain group of American workers of the same right that every other worker in private industry in the United States has today. We regard this as discrimination.

We have said in our resolution and in our statement that if the argument is made that there is an overriding public interest, there are two ways you can deal with it: You can handle it on the basis of the proposal that the unions have made themselves, that while they want the right to strike they will guarantee that they can work out with the Government a way of handling emergency freight and other matters on the rails; or, second, if the Congress in its wisdom says there is such an overwhelming public interest, that the only fair thing to do is to stop private profit during the period of seizure and see to it that the rails run, that there is incentive given to management as well as to labor to reach a true solution through collective bargaining.

I might add that some of you will recall that 4 years ago President Meany made the point that if there is going to be a continuing argument here about the public interest, then it is high time to stop private profit entirely in this industry and consider the nationalization of the industry.

Mr. SPRINGER. You mentioned that you and your group had done some thinking in this field.

Do you have any plan to suggest in this field other, we will say, than public ownership?

Mr. BIEMILLER. We have said that is only if the Congress decides that the public interest is overwhelming in this area. We have given you what we think the two things are. We think first of all that the Railway Labor Act does offer the needed machinery for solving disputes. Hundreds and hundreds of disputes have been solved under the Railway Labor Act.

We think in the present situation a good case has been made by the shopcrafts that they have not had bargaining in good faith on the part of the management.

The best way I can say that is to repeat a statement President Meany made in his press conference on the 9th of May. He said, "I am glad I don't have to bargain with Mr. Wolfe."

I think this expresses our attitude on that matter pretty clearly. We say either get the Defense and Transportation Departments to do

what Congressman Moss, we, and many others have suggested—they have suggested it themselves—namely, find a way that you can have a strike and still carry on the needed transportation of goods, or let the Government seize the rails and let management and labor settle this dispute while seizure is on.

The only point I was making about the question of nationalization was I am simply saying that if we are going to have a constant repetition of saying that there is an overwhelming public interest, if this is going to come up time after time after time, we say this is probably the cry that will be raised throughout the country, because we don't think that the Government wants to force people to work for the private profit of others.

Mr. SPRINGER. That is all, Mr. Chairman. Thank you.

The CHAIRMAN. Mr. Friedel.

Mr. FRIEDEL. Mr. Biemiller, in your statement on page 6, you say, "Authorize the Government to seize the railroads, and we ask for real, not token, seizure"

I gather that is your recommendation for seizure. That you are in favor of, is that correct?

Mr. BIEMILLER. As an alternative. We would still prefer to have the right to strike maintained.

Mr. FRIEDEL. I understand in 1952—I may be wrong—not speaking of the steel strike but referring to the railway strike—there was a bill before the Judiciary Committee giving the President authority to run the railroads.

At that hearing, I understand the union bitterly opposed the bill.

Are you familiar with that?

Mr. HARRIS. Mr. Friedel, I am not familiar with that.

Mr. FRIEDEL. That is my understanding, that they opposed it. They said it would affect them, that it would put pressure on the employees.

Mr. HARRIS. I am just not familiar with that history.

Mr. FRIEDEL. That is all, Mr. Chairman.

The CHAIRMAN. Are there any further questions?

Mr. Satterfield, have you any questions?

Mr. SATTERFIELD. No, Mr. Chairman.

The CHAIRMAN. Mr. Pickle, have you any questions?

Mr. PICKLE. Thank you, Mr. Chairman.

I would like to ask the witness if he thinks we should take any action with respect to the legislation before the committee.

Mr. BIEMILLER. As I have said before, we think that the Defense Department and the Transportation Department should endeavor to work out the proposal made by the shopcraft unions to permit a strike would at the same time permit transportation of all needed goods.

Secondly, if that does not work, and if the committee has to report legislation, then we are for seizure legislation.

Mr. PICKLE. I take it that you would be for no legislation, but if you had to have legislation you choose seizure rather than this resolution.

Mr. BIEMILLER. That is correct.

Mr. PICKLE. That is all, Mr. Chairman.

The CHAIRMAN. I want to thank you, Mr. Biemiller, and you, Mr. Harris, for coming and giving us the benefit of your views.

I would like to make one comment. In talking of the numbers of cases that are settled each year under the Railway Labor Act, Mr.

Wirtz, in his testimony, started out with several thousand. Then Mr. Moss reminded him that these were quantitative, not qualitative cases.

Then he comes down and says, "I would consider, probably, 100 to 500 important cases a year, bellwether cases, which includes at least the possibility of broadspread crisis conditions of one kind or another being settled."

When we have one that is not settled, of course, it gets the spotlight, such as this one. It doesn't mean, however, that this legislation hasn't worked in the past.

Mr. BIEMILLER. I concur. As you will recall, I made a similar statement myself a few moments ago. We think the normal processes of the Railway Labor Act have justified that act many times and hundreds of disputes are settled under it.

The CHAIRMAN. There is no need to throw it out.

Mr. BIEMILLER. Indeed not.

The CHAIRMAN. I believe with reasonable men, reasoning together they can sit down and settle this strike.

Mr. BIEMILLER. We quite agree, Mr. Chairman.

The CHAIRMAN. I don't think they can settle it by long distance, being in different towns and cities, but only if they sit down together.

Mr. BIEMILLER. That is right.

The CHAIRMAN. The belief of this committee is that collective bargaining hasn't really been conducted in good faith for some time. Until they do sit down and get to bargaining together, I don't know what this committee can do. It would be just a one-shot proposition.

I think it will come that they will have to get together and bargain and show us that they are bargaining in good faith.

Mr. BIEMILLER. We still like very much the outline of a solution proposed in your speech about a month ago, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Broyhill, have you any questions?

Mr. BROYHILL. I have no questions, Mr. Chairman. I would like to welcome Mr. Biemiller before the committee.

The CHAIRMAN. I might say this will conclude our hearing today. I can't say exactly when we will resume because the Congress will go out until next Wednesday, I understand. Depending upon what the legislation is for next week, and I will have to find out, we may not have our next hearing until June 5. I know there are two groups of Congressmen out over the country on commissions.

If we can come back and hold hearings next Wednesday when the Congress returns, we will. If not, we will resume on June 5.

I am hopeful that the principals in this dispute will get together before that time and settle. I am sure, as I said of the airline strike, neither one of them is going to come out of this without getting hurt. I feel that is the opinion of this committee. I might be reading that opinion wrong, however.

I think if they have good commonsense they will realize this and get together and settle this before we have to come up with something.

I believe your proposition was seizure and not compulsory arbitration, but the fact that they cannot strike, with seizure under a Presidential order.

Mr. BIEMILLER. That is correct.

The CHAIRMAN. Mr. Van Deerlin?

Mr. VAN DEERLIN. No, Mr. Chairman. I just wanted the record to show that I did arrive in time to hear Mr. Biemiller at least in part.

The CHAIRMAN. The committee will adjourn subject to the call of the Chair.

(Whereupon, at 11:25 a.m., the committee adjourned, subject to the call of the Chair.)

RAILROAD LABOR DISPUTE

WEDNESDAY, MAY 31, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

Mr. MACDONALD (presiding). The hearing will come to order. This is a continuation of the hearing on H.J. Res. 559, filed by the chairman of the committee, Mr. Staggers of West Virginia, to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

The first witness to be heard this morning is Mr. H. E. Gilbert, international president of the Brotherhood of Locomotive Firemen and Enginemen.

STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN; ACCOMPANIED BY DONALD BENNETT, COUNSEL

Mr. GILBERT. My name is H. E. Gilbert, I am president of the Brotherhood of Locomotive Firemen and Enginemen, an organization which represents virtually all locomotive helpers (firemen) and hostlers employed on railroads in the United States and a significant number of locomotive engineers.

Since 1947, I have served as a national officer of the Brotherhood of Locomotive Firemen and Enginemen, first as a vice president, and, since 1953, as international president. I occupy that office today.

For the past 20 years I have been directly and actively involved in national railway labor negotiations, particularly those affecting my organization.

In this period I have developed a thorough working knowledge of the provisions of the Railway Labor Act, as well as the procedures of the National Mediation Board. Thus, I feel qualified today to come before this distinguished committee and discuss the current state of labor relations in the railroad industry.

The Brotherhood of Locomotive Firemen and Enginemen was one of the five operating unions subjected to compulsory arbitration by the Congress in 1963. I was one of the seven men appointed to the arbitration board created under the 1963 law—Public Law 88–108.

I, therefore, have had firsthand knowledge of the serious problems associated with compulsory arbitration and its most recent application in the railway industry.

At this point, I want to express my appreciation to the committee for permitting me to appear. I hope my presentation will be helpful to you in solving the difficult problem before you.

I now address myself to the provisions of the joint resolution stemming from the President's message to Congress, dated May 4, 1967. Speaking both as an individual and as the chief executive of the Brotherhood of Locomotive Firemen and Enginemen, I am opposed to House Joint Resolution 559 for these reasons:

1. The settlement process contained in the resolution is compulsory arbitration, although thinly disguised.
2. The legislative solution takes from employees their right to strike but does not impose any meaningful counterrestraint on the carriers involved.
3. It is another step toward the introduction of forced arbitration in the Railway Labor Act—long a goal of railroad management.
4. There is nothing in the resolution that prevents the railroads from continuing the forced settlement beyond the expiration date.
5. While the specific language is missing in the resolution, the pattern is clear—Congress is prohibiting national strikes over wages in the railroad industry.
6. From bitter, personal experience, railway managements do not have the humanity, compassion, or ability to be fair in a situation where employees are compelled to work for them by the Government.
7. Also, from personal experience, compulsory arbitration does not solve the problem; it only postpones it, and escalates the original dispute to a point that almost defies solution.

II. BRIEF HISTORY OF 1963 MANNING DISPUTE, PUBLIC LAW 88–108 AND ARBITRATION BOARD 282

I want to make it clear at the outset that my purpose before you is not to argue the case for employment of diesel locomotive helpers (firemen). We have been pursuing that dispute before the courts, and hopefully soon in collective bargaining, if we can ever get the railroads back to the bargaining table.

My discussion of the fireman's case and the treatment of this craft of employees under the 1963 arbitration law and award is to illustrate for you—as graphically and realistically as possible—the pitfalls of compulsion in labor relations.

I will try to keep my remarks as relevant as possible, but it will be necessary at times to deal specifically with the 1963 dispute, so that you can understand the inherent danger of placing the legislative force of Congress behind a still undetermined solution and subsequent rulings by an arbitration panel and the courts.

Here is a brief chronicle of events concerning the railroad manning dispute.

In November 1959, almost a decade after the National Diesel Agreement was signed, the railroads served notice pursuant to section 6 of the Railway Labor Act to eliminate the requirement that firemen be employed in freight or yard service, and to establish a rule which in

general would leave the employment of firemen completely to managerial discretion, in lieu of any collectively bargained agreement.

In September 1960, various railroad unions, including the B.L.F. & E., served notices under section 6 of the act which dealt with the subject of composition of the train and yard crews in yard and all classes of engine service.

After a succession of steps, including a special Presidential Study Commission, the National Mediation Board, litigation, an emergency board under the Railway Labor Act and the participation of the Secretary of Labor, the disputes remained unresolved.

The railroads announced that they would impose their rules changes unilaterally, effective July 1963, causing the unions to respond that a nationwide strike would be the result of any such action by the railroads.

At this point, on July 22, 1963, President Kennedy sent a special message to Congress, proposing legislation to deal with the dispute on a temporary 2-year basis.

As originally proposed by the President, the legislation assigned to the Interstate Commerce Commission the task of establishing the conditions which would be in force for the interim 2-year period. There being objection to the Interstate Commerce Commission, Congress provided instead for a special Arbitration Board, when it enacted the public law, which was signed by President Kennedy on August 28, 1963.

Arbitration Board 282 issued its award on November 25, 1963. With respect to firemen, the award provided in effect that the railroads could designate, up to a ceiling of 90 percent, certain positions from which firemen could be severed and which were not required to be filled upon being vacated; and that firemen who had less than 2 years of seniority could be severed upon payment of specified severance pay, those with more than 2 years but less than 10 years' service could be offered the option of a comparable job with a minimum of 5 years guarantee of employment therein or severance pay, and that firemen with more than 10 years of seniority could not be severed.

The award provided that it would remain in effect for a period of 2 years, unless the parties agreed on an extension and that all agreements previously applicable to firemen would, except as modified in the award, continue to be in effect. Pursuant to agreement of the parties, the expiration date of the award was fixed at 12:01 a.m., March 31, 1966.

The Chairman of the Arbitration Board, Ralph Seward, said that the Board believed that the number of firemen who would be severed under the award would be 5,000 or 6,000.

At hearings before the Senate Committee on Commerce on "The Administration of Public Law 88–108" during the 89th Congress in 1965, Assistant Secretary of Labor James I. Reynolds, referred to 5,500 jobs in testifying, "I believe that the number of firemen jobs which have been blanked and the number of firemen who have been removed since the period of the arbitration award has been far in excess of anything which we had reason to believe would be the case during the negotiations."

In fact, the railroads severed some 20,000 firemen during the time of the award, approximately half the total number of firemen positions

which had prevously existed; and three times the anticipated number of 6,000.

While the railroads paid separation allowances in the approximate amount of $36 million during the award, they saved $179 million through the removal of firemen up to December 1, 1965. And, as you shall see, these savings have multiplied while the fireman issue remains under the effect of the award, 1 year after its specific date of expiration.

III. LIFE UNDER THE PROVISIONS OF ARBITRATION BOARD AWARD NO. 282

A. The clear intent of Congress was ignored leading to unusually harsh recommendations and continuation of award beyond expiration date

Great similarities exist between the situation that confronted the Congress in 1963 and that of today. True, in 1963, the question was one of rules and today it is one of wages and skill differentials.

However, the Congress was not and is not involved in the merits of either case. Congress was pressed, as it is being pressed today, to legislate a settlement by imposing a third-party solution.

Secretary of Labor Wirtz told this committee, May 9, that the 1963 law, "turned out to be compulsory arbitration."

The Secretary, along with other administration spokesmen, testified nearly 4 years ago that the proposed solution to the manning dispute was not compulsory arbitration.

The Secretary's candid admission illustrates the important point that, in 1963, Congress thought it was doing one thing but caused something worse when its intent was ignored.

Congress believed it was approving legislation to create a special arbitration panel which would recommend a settlement to be binding for no more than 2 years and preserving the solutions already reached through the bargaining process.

Thus it was billed not as compulsory arbitration, but as a continuation of the bargaining process which the parties had already started themselves.

Further, Congress thought it was instructing the Board to protect the interests of the employees, meaning at the very least full attrition. And Congress itself set a time limit of 2 years for the award, during which time the parties were to negotiate on an agreement.

What Congress intended, in every instance, did not happen.

Contrary and opposed to the will of Congress, Arbitration Board No. 282, established under Public Law 88–108, devised its own original solution for the firemen's dispute, which was not the solution developed by the parties in collective bargaining, nor in any way related to them.

As he was required to do by section 3 of the public law, the Secretary of Labor furnished to the Arbitration Board a memorandum and other papers setting forth in detail the solutions or agreements reached by the parties in collective bargaining antedating enactment of the law, and further setting forth in detail the extent of disagreement between the parties.

It necessitates only a cursory comparison of the agreements and solutions reported by the Secretary of Labor with the award and subsequent treatment of locomotive firemen—helpers—by the Nation's

railroads to convince any objective individual that the command of Congress that the "solutions reached through collective bargaining" be adopted as the basis for the Board's award was not obeyed in the award nor in the practice of the railroads following rendition of the award.

It is apparent from the public law that Congress intended, furthermore, to maintain "safe transportation service" and to protect "the interests of * * * employees affected."

Actual resolution of the dispute by the Board and the activities of the railroads indulged in under the guise of authority granted by the arbitration award have resulted in:

(1) A vast and critical reduction in safety of transportation service, as evidenced by the reports of the Interstate Commerce Commission, now the Department of Transportation.

(2) Chaos in the administration of collective bargaining agreements made under the Railway Labor Act.

(3) The discharge of many thousands of railroad employees with long years of service in the industry whose tenure of employment and working conditions Congress had been assured would be preserved under the conditions of the arbitration.

(4) The uprooting of hundreds of locomotive firemen (helpers) from their homes.

(5) Radical reduction in the pay of thousands of locomotive firemen contrary to provisions of their labor contracts, with consequent detrimental economic impact on the communities in which they live.

(6) The denial of seniority rights and job rights to veteran employees.

The record will show that Arbitration Board No. 282 was disobedient to the commands of Congress. The award rendered by it imposed a solution of the dispute completely opposed to the standards created by the public law for guidance of the Board.

It did what Congress wanted to avoid—the rendition of a decision independently of "solutions reached through collective bargaining."

I do not believe that I could overstate the adverse impact on the firemen and the public of what has been done. If the Board had obeyed the congressional command we would not, for example, be witnesses today to the destruction of 55 percent of the firemen's craft in the period of 3 years.

I could spend the rest of the day giving you examples of the unjust treatment given loyal railroad employees who were made victim to the inequities of compulsory arbitration.

I know that you will understand that my failure to do so is not based on lack of information or facts, but my wish to stay with the main issues facing you in 1967.

B. Carrier practice of arbitrary application of award forced every dispute before reconvened board, district court or both

When the 1963 law was being argued before congressional committees, the spokesman for the railroad industry told Congress that the 2-year period of compulsion would be devoted to negotiation, collective bargaining, and so forth.

Allow me to quote Mr. J. E. Wolfe. He stated that the administration's bill "imposes a duty on the parties to attempt to settle their dif-

ferences," and would "protect the public interest as a result of the establishment of these interim rules for a period of 2 years or less while the parties undertake, through collective bargaining, to bring about a more permanent solution of the problems."

The record will show that the railroad industry spent the 2-year period—not bargaining with their employees—but harassing and baiting them as never before. They avoided bargaining in any form.

Once the award was rendered and the carriers had secured an airtight in injunction against any protest, including that of an individual, every minor railroad official in the Nation used his own interpretation of the award in plaguing the ranks of firemen.

I wish that time permitted me to tell you how a huge, impersonal industry zeroed in on unfortunate employees and wiped them out with glee. Those who remained probably had it even rougher. They were not certain one day to the next whether they would work, where they would work, or for how long they would be able to support their families. Many men left the industry in disgust, which was one of the goals of the carriers' harassment tactics. Remember, all this came from a well-meaning Congress trying to avoid the threat of a railroad strike.

Abuses and arbitrary interpretation of the award were widespread and vicious. Only two avenues of relief were open to us: (1) Asking the Board to reconvene and interpret its award, and (2) asking the district court to put a clamp on the railroads' mistreatment of the men.

I recall that at the news conference which introduced the arbitration award to the press, one reporter told Chairman Seward that the award seemed to be an administrative monster. Mr. Seward said it was not, but within a few weeks it indeed had become both an administrative and legal monster.

Arbitration Board 282 had to reconvene 14 times in the 2-year period to answer 454 questions brought before it by the parties. Most were questions posed by the organizations to correct abuses and inequities stemming from the arbitrary acts of railroad officials. I am happy to say that the B.L.F. & E. were upheld in 80 percent of our questions.

By the time we were able to gain relief in the long, involved process of proposing questions to the Board, arguing the merits at reconvened sessions, and then applying them back on the railroads, many men had given up in disgust. To them, justice was not only slow but generally absent.

I have with me a compilation of the questions and answers of Arbitration Board 282. As you can see, it is a large document. I will not involve you with the details, but I would like to give the committee 10 copies—I am unable to supply more at this time—so that you have an idea of what happens when Congress passes an arbitration law and a Board renders a decision.

In the legal arena the story is much the same.

In preparing for my appearance here, I had my staff check our legal expenses stemming from the enactment of Public Law 88–108 and award 282. First, let me tell you that my organization has approximately 36,000 men paying full assessments in the United States. That number is down 12,000 from 1963, because of the award.

You can see we are not the largest union in the Nation. However, our legal expenses may be in that category.

Since September 1963, the month after the public law was enacted we have had to spend $650,000 on legal battles involving problems arising from the public law or the award.

That is a huge, and worrisome and unfair burden imposed on a small organization. It is the same burden you are now considering imposing on the various shopcraft unions.

Here I would like to cite one example for you of a dispute that took us back and forth between the reconvened board and the district court and is still not settled.

The only method by which the employees could enforce the terms of the arbitration award was through the long, formal legal proceedings in the district court.

The brotherhood first attempted to enforce the terms of the arbitration award on February 11, 1965, in the district court by filing a motion for supplemental relief against the Southern Pacific Co. This motion involved nine different kinds of action of the Texas & Louisiana lines of the Southern Pacific Co. and other carriers, which deprived firemen of earnings and jobs in violation of the terms of the award. Some 900 employees' claims were involved.

Certain claims were finally settled after the filing, but on April 5, 1965, the district court declined to rule on the remaining claims until the arbitration board clarified the meaning and application of its award. It was thus necessary to return to the arbitration board to have its award clarified.

The arbitration board made additional rulings on May 6, 1965, pertaining to these claims. It was then back to court to amend our motion for supplemental relief.

At this point the proceedings involved mainly the claims of firemen with less than 10 years' seniority who had been improperly offered comparable jobs.

The district court on June 7, 1965, heard arguments on the matter and requested further interpretations of the award from the arbitration board.

Following further rulings by the board the district court issued its opinion on September 13, 1965, upholding the position of the brotherhood. However, this was not the end of the proceedings.

The carriers refused to make appropriate amends to some of the employees involved, contending that they failed to pursue certain grievance procedures established by collective bargaining agreements.

Notwithstanding the fact that this issue had been decided by the district court on June 7, 1965, it was necessary for the brotherhood to return again to the district court on December 1, 1965, with another motion for supplemental relief.

The court decided the matter on March 28, 1966, and issued its order on April 6, 1966. The carriers requested the court to amend this order on April 18, 1966, and the court denied this request on June 2, 1966. Thereupon, the carriers filed notice June 28, 1966, that this matter was being taken to the U.S. Appeals Court for the District of Columbia.

This appeal is now pending. Thus, the claims of individual firemen growing out of the carriers misapplicaton of the award, which arose a few months after the award went into effect in 1964, have still not been settled.

C. Abuses prompted legislative oversight hearing by Senate Committee on Commerce which then urged collective bargaining

Because of the maladministration of the arbitration board, the onerous burdens and unsafe operating conditions which resulted from the compusory arbitration of Public Law 88–108, and the failure of collective bargaining efforts for a permanent solution to the basic labor dispute, the Senate Committee on Commerce was requested to investigate the matter. The record of that investigation totals more than 1,000 printed pages.

On October 12, 1965, after 17 days of hearings, the Senate Committee on Commerce passed a resolution calling upon the parties to engage in further collective bargaining.

In essence, the resolution was a command to the railroads and the B.L.F. & E. to carry out their responsibilities to realistically and practically undertake collective bargaining in view of the paramount public interest.

The chief spokesman for the railroads called the Senate resolution innocuous, and boldly ignored its clear intent.

The organization, on the other hand, actively sought to initiate collective bargaining. In order to get bargaining underway the B.L.F. & E. served formal notice under section 6 of the Railway Labor Act.

On November 15, 1965, the B.L.F. & E. served three notices; each notice proposed an agreement to be effective at 12:01 a.m. on March 31, 1966, upon the expiration of the award.

Notice No. 1 related to the types of engine services upon which the employment of firemen would be required. The effect of this would be a reduction of approximately 6,000 positions as compared with those which had been required by the national diesel agreement.

Notice No. 2 provided for the compensation to firemen who had been relocated, severed, or otherwise disadvantaged by the operation of the award.

Notice No. 3 set out a training program for apprentices.

The railroads continued their no-bargaining position by describing the notices as premature. The railroad had to meet us because of the act, however, such meetings and conferences were held and completed with each of the railroads refusing to discuss the merits of our notices.

Thereafter, the B.L.F. & E. sought the services of the National Mediation Board with respect to a number of the railroads. The Board docketed a number of cases, appointed a mediator, and scheduled certain mediation conferences, but canceled them when the railroads argued that the B.L.F. & E's notices were the subject of a court suit.

IV. COMPULSORY ARBITRATION HAD A LASTING AND DESTRUCTIVE EFFECT ON COLLECTIVE BARGAINING IN RAILROAD MANNING DISPUTE

A. Carrier legal maneuvers continued effect of award and prevented collective bargaining

I am not a lawyer nor an expert on constitutional law, but it was my belief in 1963, and I hold strongly to that belief today, that Congress intended the arbitration ruling created by Public Law 88–108 to expire in 2 years leaving our agreements in full force and effect, lacking any new agreement in the meantime.

On May 12, 1966, Judge Alexander Holtzoff, the district judge who has handled every case involving award 282, ruled that the award expired in 2 years.

However, he then continued it in effect by ruling that a "new plateau" had been reached. In other words, he gave permanent status to the arbitration award and permitted its destructive effect on firemen's jobs to continue.

Judge Holtzoff went on to say that the brotherhood's section 6 notices, Nos. 1 and 2, were invalid because they would alter the award. Thus, as far as he was concerned, the award was untouchable.

To the carriers, his ruling was better than the original act of Congress or the award itself. Judge Holtzoff in effect told them they did not have to bargain on the fireman issue anymore.

Needless to say, we took the case to the U.S. Court of Appeals for the District of Columbia and received an opinion May 12. I know you understand that there may or may not be appeals involved.

Also, attorneys for the parties have submitted proposed judgments for the court's consideration, and we must wait for the final language of the order.

However, certain language in the opinion stands out as a clear, ringing indictment of the railroad companies that are now before you hoping that Congress will relieve them once more of their responsibility to engage in collective bargaining.

From the briefing I was given on the appellate court opinion, I understand that the court ruled our notice No. 1—concerning jobs for firemen—was both time and bargainable.

Judge Harold Leventhal wrote the opinion and he said this:

> In the case before us the carriers flatly refused to engage in any statutory bargaining whatever prior to the exiration date. Except in the case of objectionable union proposals discussed below, the carriers before us must be held to have breached their statutory duty under the Railway Labor Act to confer and bargain on the merits of proposed changes in work rules.

The appeals court also said—

> We detect no glimmer of an intimation that carriers were authorized to regard this as a two-year hiatus in their obligation to bargain.

Thus, 18 months after we served formal, legal notices for collective bargaining the railroads are finally told they must bargain and that their earlier refusal was a breach of their duty under the act.

But what has happened in the 18-month interim? Have the carriers been injured? Certainly not. They successfully used the courts to carry on the devastating effect of a compulsory arbitration law. They could care less, and all they have to do now is begin bargaining.

For the organization and its members it is a much different story. In the 12-month period since the end of the award, thousands more jobs have been lost; mistreatment of the employees continues unchecked through the denial of job rights and seniority; their earnings remain depressed; and they are denied any element of self-defense in this frustrating, cruel situation.

This organization and its members suffered irreparable damage because of the carriers' refusal to bargain in good faith. We may have to ask Congress to make right the injustice done us, if collective bargaining remains stalled and the courts are unwilling or unable to do so. And, we may be here for that purpose sooner than some may think.

Collective bargaining is the only way to satisfactorily dispose of any issue in controversy. Through that process each party to the agreement has some responsibility in implementing the mutual product.

Before I leave the subject of the court opinion, I want to comment on the newspaper coverage of the case. The Washington Post and one of the wire services reported the case as being a new threat to railroad labor peace and even raised strike possibilities.

Now I know this is standard new coverage procedure, but I protest that it inflames the present situation unfairly. We are not about to set up picket lines. We are trying our best to get Mr. Wolfe away from Congress and to the bargaining table, if such is possible.

Therefore, I want you to know that I am disturbed that news accounts of the recent court ruling would have a poor effect on your deliberations. I hope such is not the case.

V. CONCLUSIONS

A. Compulsory arbitration is never really "one-shot" or temporary

After having to live with compulsory arbitration for 3 years—and it seems more like 30 years—I feel I am entitled to say, respectfully, that I told you so.

In 1963, the Commerce committees of both the Senate and House were considering the administration's proposal for one-shot, temporary compulsory arbitration. I testified before both committees and I want to repeat here a very brief statement I made at that time. This was my statement:

> I suspect that those who support this resolution know that it provides for compulsory arbitration, but they believe it to be just a little bit of compulsory arbitration. But even a little bit will be the hole in the dike. Introduction of compulsory arbitration, so history shows, portends the end of that kind of collective bargaining which government, industry and labor ought to promote—that kind of bargaining which has become associated with and a part of our system of free enterprise.
>
> It marks the beginning of a process wherein one or both parties shuns responsibility and passes the buck to the arbitration tribunal to indicate the terms of the contract. That process, in my opinion, will be pursued in future contract negotiations, if the resolution passes, and Congress again will be confronted with identical problems.

The resolution passed in 1963. In the short span of 4 years, two more critical transportation labor disputes have been brought before Congress, including the present one. It bears out what I said, and what many Members of Congress said would happen.

I am not going to belabor this point, because I know the Congress is fully aware of the pitfalls of becoming a stop along the way in labor relations struggles. Also, it is clear that the railroad industry—which has been here twice in 4 years—is boldly using Congress as a weapon to throttle railroad employees.

Without fear of contradiction, I can say that railroad management will be back before you four, five, six, even 10 times, with labor relations problems until it achieves its professed goal—final and binding arbitration in the Railway Labor Act.

The industry should be told now—in 1967—that Congress will not be part of railroad management's no-bargaining process; that Congress will deal harshly with those who try to use the legislative force

for their own self-interest; and, that Congress will force collective bargaining, but will not force settlements.

B. Pitfalls of compulsory arbitration

We have seen conclusively that there is no such thing as one-shot temporary compulsory arbitration. Its effect is not only sweeping but lasting, and the record shows the railroad industry keeps coming back for more.

Before closing, I would like to list for the record some of the more obvious pitfalls of compulsory arbitration.

1. Rather than promote collective bargaining, compulsory arbitration destroys the climate or atmosphere conducive to meaningful negotiations. Indeed, just the consideration of compulsory arbitration by Congress precludes collective bargaining. It is used as an excuse not to bargain.

2. Compulsory arbitration—bad in itself—can be used or misused to mistreat, harass, and bait employees, and force them out of the industry; all under the guise that the compulsory ruling permits such inhuman and inhumane activities.

3. A "little bit" of compulsory arbitration breeds more. It also does nothing to solve the problem that first set it off. The fireman dispute is an example. After 4 years, the issue is as alive and the dispute as bitter as it was before the temporary settlement was forced by law.

4. In the long-range effect, compulsory arbitration in one industry is easily transferred or widened to include other industries, which are given an "emergency" tag by the public press. Notably, newspaper publishers think compulsory arbitration should prevent strikes in their industry, but Congress has yet to agree.

5. A series of "one-shot" compulsory arbitration resolutions would soon end with final and binding arbitration as part of the labor laws. As in countries that have such laws now, we find workers striking against government, not industry. We do not want our Nation's workers to be placed in the category of criminals if they defend their jobs.

6. Lastly, compulsory arbitration in any industry will eventually cause nationalization of that industry. I cannot believe that the Congress would force a segment of workers to labor at a forced wage scale, under forced working conditions and then let the industry profit and operate as a free enterprise.

While I believe in the right to strike and it should be preserved, if that is to be denied however, as we did in 1963, we have asked Congress to take a hands-off attitude in the manning dispute and serve as a watchdog over the negotiations we hoped would be forthcoming. As you know that did not happen, but I would recommend the same general idea here today.

When a labor relations issue gets to Congress, the role of Congress is circumscribed to forcing a settlement. Although third-party recommendations are employed, it boils down to Congress setting up a compulsory arbitration board, and then putting the force of law behind the board's decisions. That is compulsory arbitration, pure and simple.

Instead of forcing a settlement, why not force collective bargaining? That may sound strange, but I seriously propose that Congress create, by force, an atmosphere for collective bargaining and mediation.

The resolution you have before you is compulsory arbitration. Change it to make it compulsory collective bargaining.

I suggest that you consider the 90-day period contained in the resolution as a "collective bargaining period." In that period, the employees would be restricted from striking and the railroad industry would be restricted from activities before Government Boards in such matters as rates, mergers, abandonments, and so forth.

There would be a balance of economic impact on both parties. Mediation could then begin with both sides knowing that Congress is not going to force a settlement, but instead, is going to force bargaining until the parties reach agreement themselves.

Some may call the restraints placed on the railroad industry a form of seizure. If it is, it is a mild but effective form. And, you must admit that taking away the employees' right to strike is also seizure of their rights.

I think it important that Congress not indicate what would happen if, after the 90-day period, no settlement had been made. That fear of an unknown solution is often the needed impetus to carry the situation to final agreement.

Congress must recognize that the railroad industry saves money every day it delays a wage increase. True, the increase will be generally retroactive, but just like a financial institution, the industry has use of the money to make more money until the wage increase is agreed upon and paid. Delay must be made unprofitable.

Whether or not my suggestion will gain consideration, I ask you not to approve House Joint Resolution 559 in its present form. The inequities of the 1963 law are in the present resolution, and more compulsory arbitration will further erode the bargaining process in the railroad industry.

Once the present dispute is settled, I hope that the White House and the Cabinet members involved will launch an intensive study and seminar among all involved in transportation labor relations.

While great attention is given during a crisis to the final outcome, there is little attention given to the tools with which we work in our day-to-day functions in labor relations. This is an area that needs not only thorough study but frank and open discussion among all parties, neutrals included.

I would hope that such a study or seminar will stop the regular rush to Congress for compulsion and restore the bargaining process to its rightful and useful place in our economy.

Thank you for permitting me to express these views here today. I have done so with a sincere interest in helping preserve and enhance the rights of free collective bargaining and free enterprise which have made this Nation so great. Thank you.

The CHAIRMAN. Thank you, Mr. Gilbert. I think you have given us a very clear and precise statement of your views and those of your organization.

I am sure that the committee will consider them in any final legislation that might be drawn up by this committee.

Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

Obviously, you forthrightly and directly have shown your distaste for compulsory arbitration. It happens to be a case that I share. I was wondering if you knew or what you thought about a voluntary

arbitration and if you thought voluntary arbitration would work, what is standing in the way of voluntary arbitration?

In other words, binding arbitration but arbitration held and done in a way that keeps the Congress or any governmental agencies from becoming an employer or, for that matter, a manager of a railroad.

Mr. GILBERT. We engage in voluntary arbitration from day to day in our usual proceedings with railroad management and in certain respects under the provisions of the Railway Labor Act which provide for the establishment of the divisions of the National Railroad Adjustment Board we have a form of arbitration in relation to the interpretations of existing agreements.

So, voluntary arbitration has its place but there the parties do come to some agreement on what is to be arbitrated and the terms of the situation which is not true in the arbitration that we are still suffering under, I might say.

Mr. MACDONALD. I am now talking about this difficulty that all of us are embroiled in, trying to settle what would appear to be the threat of a nationwide strike under the set of circumstances which has been presented to the committee.

I was wondering what would be wrong in having both sides to agree on binding voluntary arbitration of this dispute as you have done on lesser matters?

Mr. GILBERT. Again, Congressman, that is a situation that involves a free opinion expressed and an agreement reached between the parties which we have always advocated.

There is very little relation, I might hasten to add, between that type of understanding being reached and that which is being proposed to this Congress to enact.

Again, in answer to your question, Congressman Macdonald, that is a matter for the parties themselves to reach. There are many decisions that are an accompaniment to reaching an agreement to arbitrate which must be reached by the parties themselves.

Mr. MACDONALD. That leads to my last question.

Do you know what is standing in the way of an agreement to arbitrate voluntarily?

Mr. GILBERT. I am not in possession of that information, sir.

Mr. MACDONALD. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Gilbert, I think you have made an accurate presentation of your side of this matter. I would like, if I could, to get before the committee where you are at this time with relation to what has previously happened. Now you do have Arbitration Award No. 282. It went to Judge Holtzoff and then up to the circuit court of appeals. The circuit court of appeals has sent it back at this point with a finding, as I understand it, that the railroads are compelled to negotiate with you.

Now, is that correct? Is that where you are now?

Mr. GILBERT. Not quite, Congressman. We are now awaiting an order from the court which will implement their opinion which was rendered May 12.

Mr. SPRINGER. In other words, at the present time you are awaiting an order pursuant to the decision?

Mr. GILBERT. That is correct, sir.

Mr. SPRINGER. But it is your understanding, and as I read it in the newspapers, the general view of this is that they are compelled to arbitrate?

Mr. GILBERT. Not compelled to arbitrate. They have been found derelict in their duty for their failure to negotiate. I think there are members of this committee here that heard Mr. Wolfe in 1963 say that this 2-year period of the arbitration award would provide ample opportunity for the parties to get together and resolve the dispute. That was back in 1962. We haven't been together yet.

Mr. SPRINGER. Mr. Gilbert, I think you have given here where you believe they stand. It would be that they have not negotiated and they now must negotiate. Is that your general understanding?

Mr. GILBERT. If the opinion is implemented they have said that our notices are both timely and bargainable.

Mr. SPRINGER. Now to come to the second point——

Mr. GILBERT. But I might add, too, the railroads are petitioning the court to rehear that provision about the timeliness of the notice.

Mr. SPRINGER. Now they do have a time within which they can appeal to the Supreme Court if they wish.

Mr. GILBERT. I understand that.

Mr. SPRINGER. Now let me find out exactly where you stand today. My understanding from reading the newspaper over the weekend is that the President has now given a notice, is this correct, a 60-day period for cooling off under the Railway Labor Act?

Mr. GILBERT. Congressman Springer, that involves the order for railroad conductors and brakemen in connection with disputes they have over wages and inequities.

Mr. SPRINGER. This does not refer to you?

Mr. GILBERT. No, sir, it does not.

Mr. SPRINGER. Now there is no intervening act which anybody in the Government can file against you at this point, is that correct?

Mr. GILBERT. I am not too sure.

Mr. SPRINGER. Is this your counsel?

Mr. BENNETT. Yes, sir.

Mr. SPRINGER. You are a lawyer?

Mr. BENNETT. Yes, sir.

Mr. SPRINGER. Would you state your name, sir.

Mr. BENNETT. Donald Bennett.

Mr. SPRINGER. Is it your understanding that at this point now, that the President or anyone else could not file some kind of notice which would put this off?

Mr. BENNETT. Yes, sir. I think the point is that the negotiations that Mr. Gilbert is talking about are just starting and the process under the Railway Labor Act are yet to come. You mention the conductors with an emergency board which is the last step under the Railway Labor Act. In the manning issue the organization is just now able to start the negotiations under the Railway Labor Act. So we have mediation to look forward to, sir, and possibly an emergency board.

Mr. SPRINGER. I was under the impression you had already gone through this 2 years ago and were now back to a point where they had to negotiate.

Anyway, it is your opinion that up to this point the whole process has not been exhausted and sometime in the future it would be legally possible for the President to invoke the 60-day clause, is that correct?

Mr. BENNETT. Yes.

Mr. SPRINGER. I am trying to find out where you stand in this thing. That is my purpose in asking the particular question.

Mr. GILBERT. I may have been a little facetious when I said I did not known what has happened, so much has happened that could affect us. That is the reason for the type of answer I gave.

Mr. SPRINGER. Are you in the process of bargaining over wages?

Mr. GILBERT. No, sir.

Mr. SPRINGER. This is altogether a question of working conditions and the number of people who may be retired or laid off, is that the problem?

Mr. GILBERT. At the present time, Congressman, the only thing that is in evidence in relation to the manning issue is our Notice No. 1 which I outlined in here. The court has set aside our Notice No. 2 that was referred to and then we have a Notice No. 3 containing request for training program for apprentice firemen (helpers).

Mr. SPRINGER. Are you a part of the proceeding here for wages and improved conditions? Are you a part of this six or eight brotherhoods?

Mr. GILBERT. No, sir; we are not.

Mr. SPRINGER. You are not involved in that dispute at all?

Mr. GILBERT. We are not.

Mr. SPRINGER. I am trying to limit, to find out where you are as distinguished from the rest. Do you anticipate being in a position to bargain on this later or is that an issue at all?

Mr. GILBERT. Well, we reached a settlement in November concerning wages. Now we are free to initiate a request for changes in rules and in July we will be free, again, to institute another request for wages.

Mr. SPRINGER. In other words, pursuant to the ending date in November pursuant to the act?

Mr. GILBERT. Yes. Pursuant to the negotiations that were initiated in January of last year.

Mr. SPRINGER. You are not testifying as a member involved in this present dispute but based upon your experience of what you believe is in the public interest, is that right?

Mr. GILBERT. That is right.

Mr. SPRINGER. Thank you.

The CHAIRMAN. Mr. Van Deerlin.

Mr. VAN DEERLIN. Mr. Chairman, thank you.

Mr. Gilbert, would you give us an opinion on the Adams-Moss-Dingell substitute resolution that was introduced about 10 days ago in this matter?

Mr. GILBERT. I am sure I am not qualified to give you an opinion about the ramification of that as such. I have read it and there are certain provisions that I see are objectionable because of the manner in which the seizure may take place. If there is a seizure to take place we believe it should be an executive seizure rather than a court seizure and that both sides of the dispute should be treated alike.

If the employees are not free to exercise their self-help, then the same right to operate for profit should be denied their employers.

Mr. VAN DEERLIN. Do you see in this approach the desirable feature of heading off compulsory final arbitration?

Mr. GILBERT. I cannot find in the examination I made of the bill you mentioned the avoidance of that ultimate being brought about. I may be wrong in my impression but that is my impression of it.

Mr. VAN DEERLIN. I think you are not wrong. That is the one thing that I see in it that really does not change things. It may prolong the action a while longer. You, of course, ask the members for a very difficult favor—that we leave completely open the idea of what Congress would be disposed to do, if no settlement is reached by June 19. I think that most members are going to be reluctant to leave the impression, at a time of national emergency, that the railroads are going to be permitted to shut down.

Mr. GILBERT. Of course, I have some views about that. If somebody quit putting their arms around the railroads' shoulder every time they get into trouble they would get down to the bargaining table and settle these issues where they should be. But as long as they wait until these emergencies arise and run to the Congress for help and Congress gives it to them, they are going to keep coming back. That is the prediction I made some time ago.

Here is an issue that the representatives—I am talking about our own issue from our experience—that the representatives of the railroads told Members of Congress, give us this 2-year period and we will negotiate a settlement. They have not sat down with us that first minute yet in an order to implement what they told Congress they would do. As long as they have a place to go to have somebody else to shoulder their responsibilities in collective bargaining that is where they will go, because they will profit by it.

They are relieved of their responsibilities then of the give-and-take that we have come to know in the process of collective bargaining that has made this country great. Once you take your arm from around their shoulder and tell them get on there and shoulder their responsibilities and discharge them and meet with the employees, they won't be coming back.

They won't have the confidence—unfortunately, they are told, you know, this country can't stand a railroad strike. The moment they are told that, they relax. They have nothing more to do. They know then that the employees are helpless to further promote their interest and they know they have nothing more to do because Congress has bailed them out.

I don't know how strong I could suggest it, but as strong as I can I would urge that they be told accept your responsibilities in collective bargaining and don't be trying to pass it off on somebody else.

Mr. VAN DEERLIN. Thank you, Mr. Gilbert.

Mr. Chairman, in Mr. Pickle's absence I have been asked to seek unanimous consent that an analysis of his proposal on railroad strike legislation be included in the record of the hearing, in the event that the hearing terminates before Mr. Pickle is back.

Mr. MACDONALD. Reserving the right to object, Mr. Chairman, I did not quite understand this. His analysis of what?

Mr. VAN DEERLIN. He wishes to include in the transcript of these hearings a presentation on the proposed legislation that he would seek, permanent legislation, to avert problems of this kind.

The CHAIRMAN. Whose analysis?

Mr. VAN DEERLIN. His own analysis. He will have it ready tomorrow. He is fearful that the hearings may end this week.

The CHAIRMAN. We don't mind a bill being put in because it is a matter of record. But I don't want an interpretation that he has not seen, and that he has not prepared, in the record. I will object to it.

Mr. VAN DEERLIN. I can't think of a more formidable objection. I would like the record to show that the request came from Mr. Pickle himself, however.

The CHAIRMAN. Is that all?

Mr. VAN DEERLIN. Yes, sir.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

I want to comment to Mr. Gilbert that the thing that concerns the Members of Congress, including myself, is the tremendous problem that we will be faced with in the event of a nationwide strike in the railroad industry, not only dealing with the problem you cite, but also the other problems immediately in the picture.

Now you indicate a preference of seizure to a strike going into effect, do you not?

I did not put it exactly right. If a strike does not take place, you would suggest, as an alternative, a seizure?

Mr. GILBERT. If they are going to stop the employees from the exercise of their self-help, then they should not be half fair about it. Also, to stop the industry from operating as a free enterprise during the period of time that the employees are denied certain rights as citizens.

Mr. MACDONALD. Now you indicated that the railroads do not think that the country can stand a nationwide strike. Do you think the country can stand it?

Mr. GILBERT. I did not say it was the railroads. Somebody keeps telling them, you know, this country can't stand a railroad strike. I am talking about people in Government who keep saying that. I have heard that too often in the years preceding the compulsory arbitration. Every time it was uttered by a person in Government, then the railroad representatives relax, because they knew they didn't have to do anything and the employees weren't free to do anything either.

Mr. MACDONALD. Do you think the Nation can stand a strike?

Mr. GILBERT. As I understand the situation, Congressman, the organizations involved have offered to carry on the transportation of necessary materials to keep the war effort going and for other matters such as we did, for example, in 1966, which is not an unusual proposal made by the organizations who are to exercise their self-help.

During that time our war effort would not be hampered and some of the freedoms that those boys across there are fighting for might be maintained for them when they return to this country, because there are many of them involved whose organizations are trying to preserve the conditions of employment as well as their wages in their absence.

That is something that was put pretty forcefully to me not long ago at a meeting I attended with some of our veterans who have served in other wars.

Mr. MACDONALD. I have heard the comment by many responsible people that in the event that a nationwide strike did take place, that the public's demand would almost immediately call on Congress to enact some long-term legislative process for settling of the disputes and if this happened, labor and industry would both be controlled by legislative act. This seems to be an inevitable thing which I hope does not have to happen.

But in a strike or in a negotiation of settlement of contract, both sides have the right to have an opinion. Wouldn't it be true that in the possibility of a nationwide strike, somebody will have to buckle under no matter what the elements of this case, it is so serious?

Mr. GILBERT. They have a greater responsibility than just the exercise of an opinion on both sides, in my opinion. They have a responsibility to perform in the process of collective bargaining which one side of this dispute, as I understand, has not been doing. I know from our own experience they have not been doing it.

It seemed to me that somewhere along the line there should be some way to put a stop on putting a premium on failure to bargain.

Mr. MACDONALD. At the time the issue was before us before, I definitely recall persons in leadership positions on not only the railroad side but the labor side who came to us hoping that we would take the cat off your back. I do think coming to Congress has been a deterring effect on proper negotiations, as you have indicated, and I think everybody should bargain in good faith.

I hope that this can be effected and we can avoid any action during the Congress on this whole issue.

I thank the gentleman for his statement. I am hopeful that the settlement can be reached, because the country badly needs it.

Mr. Blanton?

Mr. BLANTON. Thank you, Mr. Chairman. I have no questions.

Mr. MACDONALD (presiding). Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman.

Did I understand you to say that collective bargaining is what has made this country great?

Mr. GILBERT. One of the things; yes.

Mr. KEITH. I would agree, where the collective bargaining is for nonessential goods and services and where there are alternative choices of substitute goods and services, but in this case the bargaining is with a whole industry for the services of which there is no ready substitute. We have special problems here where the public has a very vital interest in essential goods and services.

I was particularly interested in your suggested collective bargaining period during which the employees would be denied the right to strike and industry would be restricted from certain activities such as seeking changes in rates, or approval of mergers and abandonments.

Can you think of any other restrictions upon management or labor which would force the parties to negotiate? I have in mind the suggestion of a Yale professor that certain portions of labor and management salaries be placed in escrow and at the expiration of certain time periods without a settlement these funds be forfeited to the Government. Have you considered that idea?

Mr. GILBERT. I am afraid that is a new one on me. I have not had access to it, at least.

Mr. KEITH. Can you think of any other ways in which management and labor could be forced to bargain?

Mr. GILBERT. Again, I may have to repeat a little in this, Congressman. The benefits that accrue or have accrued on the basis of lack of bargaining should be removed and that has only been a one-way street as far as we can see.

Management says, "Well, we are not going to do it," and they are told, "Well, you know, we can't stand a railroad strike."

If they are uncertain about what the end results would be, as I have seen that occur through the years, they would get to the bargaining table and dispose of these issues where we believe they should be. I know my own experience runs over a period of some 40-odd years, but during that period of time we sat down at the table and regardless of the tremendous size of the problem as it appeared to be, we always found a plateau on which we could have a comman meeting and dispose of it.

But recently the carrier representatives have found it profitable, let us say, to pass the responsibilities that should be on their shoulders to Congress. I can't see it in any other way.

Mr. KEITH. I was impressed by Mr. Macdonald's observations regarding voluntary arbitration. Certainly it is appropriate that certain of the problems could be worked out in this manner. Can you think of any possible ways that you could voluntarily arbitrate the problems?

Mr. GILBERT. Understand, Congressman, I cannot speak of the observations involved. I can only repeat what I told Congressman Macdonald. There are many areas where, through the years, we have agreed——

Mr. KEITH. I heard that. I wondered, is there any possible way in which the unions might accept voluntary arbitration?

Mr. GILBERT. Unfortunately, Mr. Congressman, I can't give you any help on that because I cannot speak for the organizations involved.

Mr. MACDONALD. The time of the gentleman has expired.

Mr. Kyros?

First of all, I would like to welcome Congressman Kyros to the committee. To my knowledge, this is his first appearance on the committee. We welcome you. We are very glad to be able to serve with you.

Mr. KYROS. Thank you very much, Mr. Chairman. I am glad to be with you. I have no questions at this time.

Mr. MACDONALD. Mr. Carter?

Mr. CARTER. Is it your feeling that collective bargaining between the railroad unions and management is not taking place because of the threat of passage of the Staggers bill, 559?

Mr. GILBERT. I think that is the relief that the representatives of the railroads feel gives them comfort. If they can get this, then they are relieved of their responsibilities to negotiate with the employees.

Mr. CARTER. Certainly I think most of us would like to see collective bargaining take place and get this thing settled. However, it puts us

on a hot spot. We certainly would hate to see a strike at the present time because of the national situation. We would like to see something worked out so that we could have free collective bargaining to settle this dispute. Certainly I should like to see that done by collective bargaining.

Thank you, Mr. Chairman.

Mr. MACDONALD. Mr. Brown?

Mr. BROWN. Mr. Gilbert, are there any circumstances under which you might favor compulsory arbitration? For instance, if you were fairly well assured that compulsory arbitration would conclude in favor of the views of the unions, negotiation would be little less——

Mr. GILBERT. There are no circumstances under which I would favor compulsory arbitration. The word "compulsion" is not synonymous with my feeling—not in consonance with my feeling of freedom in this country. It just does not fit our way of life. I cannot think of any circumstances under which I would favor compulsory arbitration.

Mr. BROWN. Would you agree with the conclusion of Mr. Nelsen's suggestion that if there were a rail strike in this country that it would not be very long before the people of the country would demand some kind of action in this case?

Mr. GILBERT. Let me put it this way: I believe that if there was a thought that this railroad strike was going to take place, you would see some exercise of authority on the part of the railroad management to get to the bargaining table and try to find a way to dispose of this. They don't have to do that now because they have the thought that somebody is going to bail them out again. There is nothing to—well, to even give them an idea that they ought to bargain because if they have hopes that this compulsion will be passed, and again I say heaven forbid, they don't have to do anything, you see.

But again, when you take the right of the individual to strike away from him, then you create an imbalance if at the same time you refuse him the right to strike you tell his employer "We are going to compel him to do something." Then the imbalance is created as between the two forces in collective bargaining, the one side loses everything and the other side, with which he must bargain, gains everything because he doesn't have to do anything because he knows the employees can't.

Mr. BROWN. Does the same thing apply the other way if we were to go into seizure or if the piece of legislation we are debating would call for seizure?

Mr. GILBERT. If you get into seizure, then you have created another element not present here yet. There is nothing, as I see it, in the joint resolution that says anything about seizure.

Mr. BROWN. I am suggesting the possibility that we were debating, as our choice, the legislation in front of us, seizure as opposed to compulsory arbitration. Do you think that would make for an imbalance on the other side?

Mr. GILBERT. No, I do not, because it would recreate an imbalance because then there is a threat on both sides. We don't know what is going to happen. You then have placed upon you the full responsibility, any time you take any one of these jobs, as well as management, to fulfill your obligation in collective bargaining because that is exactly what it is. You bargain so much for what you get from the other side. Through the years, we have reached these plateaus through that process until Congress started putting their arms around management.

Mr. BROWN. You suggest Congress placing arms around management. This is not Congress legislation. This legislation comes directly from the administration.

Mr. GILBERT. I understand that it was Congress that passed compulsory arbitration in 1963.

Mr. BROWN. At his suggestion.

Mr. GILBERT. I don't know whose suggestion.

Mr. MACDONALD. The time of the gentleman has expired. We certainly welcome you here, Mr. Gilbert. I think you have made a fine contribution.

There is one more witness, and if we can hear him this morning it would be helpful.

So, on behalf of the committee, our thanks.

Mr. GILBERT. Thank you, sir.

The CHAIRMAN. Mr. Charles Luna, president of the Brotherhood of Railroad Trainmen.

STATEMENT OF CHARLES LUNA, PRESIDENT, BROTHERHOOD OF RAILROAD TRAINMEN; ACCOMPANIED BY A. H. CHESSER, LEGISLATIVE REPRESENTATIVE

Mr. LUNA. Mr. Chairman, I want to thank the members of the committee for allowing me to appear.

My name is Charles Luna. I am president of the Brotherhood of Railroad Trainmen, AFL–CIO.

To my right is Mr. Al Chesser, our national legislative representative in Washington.

I have a prepared statement which is here, but I ask your patience while I speak from notes relating to this statement on House Joint Resolution 559.

Mr. MACDONALD. I think it would be perfectly proper, Mr. Luna, if you wanted to have included in the body of the record your entire statement and then paraphrase it so that the committee members might be able to question you.

Mr. LUNA. I would appreciate that, Mr. Chairman.

Mr. MACDONALD. Without objection, it is so ordered.

(Mr. Luna's prepared statement follows:)

PREPARED STATEMENT OF CHARLES LUNA, PRESIDENT, BROTHERHOOD OF RAILROAD TRAINMEN, AFL–CIO

I want to thank the members of this committee for the opportunity to appear in behalf of the employees I represent.

My name is Charles Luna. I am president of the Brotherhood of Railroad Trainmen, AFL–CIO.

I am appearing today in opposition to the proposed H. J. Resolution 559, placed before the Congress by the President in his May 4, 1967 message. This is the dispute involving the carriers represented by the National Railway Labor Conference and the six shopcraft unions.

On July 31, 1963, I appeared before the Committee on Interstate and Foreign Commerce of the House, 88th Congress, to oppose the enactment of legislation proposed by another President to prevent a nationwide rail tieup threatened by the railroads. (H.J. Resolution 565).

Then, as now, railroad management wanted a crisis in the hope that the Congress would bail them out and give them undue advantage in dealing with their employees by giving them compulsory arbitration. They got it then. I hope and pray that this Congress will not make the same mistake.

Since the enactment of the 1963 compulsory arbitration law, known as Public Law 88–108, the railroad employees in train and yard service have been drastically affected contrary to what Congress intended. The provisions of Public Law 88–108 were only intended to last for a period of 2 years, the same as the provisions of this new legislation. But that is not what happened.

The railroads have obtained court decisions to the effect that the special board decisions constituted a permanent change in our agreements, which change came about strictly by compulsory arbitration! And to make it worse, these railroad employees were required to pay half the cost of these arbitration procedures which were designed for the benefit of management! Thousands of dollars came out of the pockets of railroad brakemen and switchmen to pay for the elimination of their jobs! Some of the very men who lost their jobs helped pay for their own execution!

Now this arbitration procedure which the Congress passed in 1963 provided that the award of the arbitration board expired at the end of two years. Section 4 (of Public Law 88–108) stated in part as follows:

". . . The award shall continue in force for such period as the arbitration board shall determine in its award, but not to exceed two years from the date the award takes effect, unless the parties agree otherwise."

But that provisions didn't mean a thing to the courts, because parts of the award and all of the results of the procedures it established are still in effect by court order, which is under appeal now.

The crew consist dispute, as it developed following the enactment of the 1963 Compulsory Arbitration law, shows what will happen to collective bargaining on the railroads if the Congress continues to intervene in these disputes not because there is an actual emergency but simply because they are afraid there might be one! It also shows you what the railroads are up to.

Congress, in passing the 1963 law, intended for the parties to continue to negotiate in attempts to settle the crew consist issue. All concerned understood that.

Mr. Wolfe, representing the railroads, testified before the House Committee on Interstate and Foreign Commerce, on page 559 of the transcript of hearings on H.J. Res. 565 in 1963, as follows:

". . . Mr. BROYHILL. My final question is, would not the party that would be favored by any ICC interim rule be reluctant to bargain and thus the doors of bargaining would be closed for all practical purposes?"

". . . Mr. WOLFE. I think responsible people to whom this resolution would be applicable must certainly realize that by the end of 2 years they ought to have their problems solved. They are going to have to solve them sometime, and this is the only temporary relief to protect the public interest as we understand it."

". . . Mr. BROYHILL. You are saying that if the railroads were favored by any ICC interim rule that you would still be willing to bargain?"

". . . Mr. WOLFE. We will be willing to bargain under any circumstances. But when I say bargaining, I mean bargaining in its true and accepted sense, that both parties sit down and in a manner that is favorable to both of them. Give and take, as I understand, doesn't mean that one party gives and the party takes. They both give and they both take."

In the hearings before the Senate Committee on Commerce in 1963, Secretary of Labor Wirtz testified and stated as follows:

From page 47, transcript of hearings.

". . . This interim rule would go into effect for a 2-year period or until the parties reached their own settlement by collective bargaining. And it is urged all the way through here that collective bargaining procedure continue and that the final answer be found there."

And Mr. J. E. Wolfe testified before the Senate Committee on Commerce as follows:

From page 364, transcript of hearings.

". . . Senator MONRONEY. Do you take this bill that is before us, with all that is at stake in the shutdown, as being a means of obtaining a compulsory arbitration under another name?"

". . . Mr. WOLFE. No, sir; I do not. I think that I agree with the description of that resolution by Mr. Wirtz, Secretary of Labor, that it does give the Interstate Commerce Commission the authority to establish interim rules. And during that period it contemplates that the parties themselves, as they eventually will have to do sometime or another, will finally dispose of these long, drawnout disputes by collective bargaining."

So what happened during the 2-year period under the arbitration law? Several important things.

I encouraged our representatives on individual railroads to seek out their managements and attempt to make a fair and reasonable settlement. Some few of them were able to do so. Some railroads did not even propose any changes under the arbitration award. But during the period of the arbitration award, from January 25, 1964, until January 25, 1966, the Mediation Board appointed 93 neutrals to serve on special boards under the award. Their decisions, in almost every case, rubber-stamped the compnay's proposals. The result was a mockery, a company-dominated procedure.

In January of 1965, I took a personal hand in the crew consist dispute. I contacted some of the top railroad officials in the East and told them that we could negotiate a settlement. They sat down with me and on January 29, 1965, we wrote an agreement which settled the crew consist dispute on most of the railroads in the East, including such lines as the Pennsylvania and the New York Central. Later, others joined including the Baltimore and Ohio system, until the total reached 32 railroads. And this settlement was for a 5-year period with changes thereafter to be in accordance with the provisions of the Railway Labor Act.

Next, I wrote letters to the Presidents of a number of railroads in the West and Southeast, furnishing them copy of the Eastern Agreement. I ask for a conference at which this problem could be discussed and perhaps settled by mutual agreement. I hoped that the solution to this crew consist dispute had been found.

The replies began coming in and almost every one of them either referred me to their personnel department or advised me that their problems on crew consist would be handled by the National Railway Labor Conference. Not one single railroad in the Southeast or West was willing to settle, or has settled to this day. Those which had previously settled reopened the dispute.

Left with no other choice, I authorized our general chairman on each railroad which had not settled the crew consist dispute to serve formal notice under the Railway Labor Act, in order to initiate conferences to dispose of the matter before the end of the 2-year period. The railroads responded by taking the position that they were not required to bargain until the 2-year period expired! They went to court to avoid the conference table, and they took the position in the courts that the Railway Labor Act required the parties to bargain nationally when the railroads proposed to do so. Judge Holtzoff, in the district court in Washington, upheld them in their contention that if some of the railroads wanted to combine the dispute into a concerted movement, the employees had no choice under the Railway Labor Act but to follow that procedure. He got that support out of some other law, because he could not find it in the Railway Labor Act. Today, the issue is before the Washington Court of Appeals, and I am glad to say that our position is being supported by the Justice Department, which is taking the position that the district court has forced bargaining over crew consist into a national mold—so that unless agreement is reached on that issue, the public may be confronted with another national railroad crisis.

Now that is just what these railroads are up to. If you don't give them what they want in this dispute before you now, and if they have their way in the courts, they will be back before you again begging for compulsory arbitration.

Somewhere along the line, collective bargaining is going to have to be resumed on these railroads if they are to continue to be under private control and ownership.

Our members are writing to me daily and they are plenty sore. They want to know how it is that the courts can disregard the action of the Congress and extend the period of the existing law by extending the terms of the Arbitration Award under PL 88–108. They are not satisfied with any answer I can give them since all I can say is that the thing is still in court—we are still appealing for justice! They are sick of waiting for justice. They want action from their representatives to better their working conditions, and they are fed up to the neck with these pro-management arbitration awards and court judgments.

They want to know why the railroad brotherhoods cannot represent railroad employees like unions in other industries do. They feel that their work is important enough to justify working conditions equal to those enjoyed by other groups of workers, and I agree with them 100 percent. But when I try to help them improve their working conditions, what happens?

The railroad attorneys just go and wake up a judge and get him to write them out an injunction.

When the courts get through kicking it around, months later, and discover that we had the right to bargain collectively all the time, and turns us loose to go ahead with our case, the railroad attorneys simply figure out another angle and go back to another judge or maybe the same one and bingo! We are stopped by another injunction!

The whole picture adds up to this proceeding here, where the railroads are trying to get the Congress to pass a law providing for compulsory arbitration as a permanent change in the Railway Labor Act. They believe that if they come back to the Congress and scream loud enough, they won't have to bargain ever again with their employees because Congress will give them what they want. That will be a sorry day for human liberties when a giant industry can put the yoke of compulsion on their employees with the aid of Congress!

The men who operate the trains of this Nation are demanding that their rights to freedom in collective bargaining without discrimination be preserved and strengthened. I urge you not to forget that these men are not in Government employment. They work for a rich and powerful combine which collectively is using the vital nature of their product to gain an advantage in collective bargaining with their employees! Please don't let that happen in America!

Mr. LUNA. I am appearing in opposition to House Joint Resolution 559, placed before the Congress by the President on May 4. This concerns the dispute of carriers represented by the National Railway Labor Conference and six shopcraft unions.

I have been here before when another President proposed a similar law in another railroad dispute. At that time a nationwide railroad tieup was threatened by the action and attitudes of the carriers. Then, as now, the railroad management wanted a crisis of national importance.

Then, as now, they hoped Congress would bail them out with compulsory arbitration. They got it the first time and I hope this Congress does not make the same mistake.

Since the law was passed, the train and yard service employees have been drastically affected contrary to the intent of Congress. Public Law 88–108 provisions were to last for 2 years. But that is not what happened. The railroads got court decisions stating that Board awards were permanent changes in our agreements, not just for 2 years, as the law intended.

To make it worse, the railroad employees had to pay half the cost of the arbitration procedure, which had been designed for the benefit of the management. Thousands of dollars came from the pockets of brakemen and switchmen to pay for the loss of their own jobs. Some of the men who lost their jobs helped pay for their own execution.

By definition, as stated in the law itself, in section 4, the award of the Arbitration Board expired at the end of the 2 years, quoting from page 4 of my prepared statement. That did not mean a thing to the courts. Parts of the award and all the results of the procedure, the setup, is still in effect by Board order, which, needless to say, is under appeal.

I also, as I said, appeared before the committee on that in 1963. I heard the management testify; I heard the Labor Department testify that if the Congress gives them this law, 88–108, that they felt reasonably sure that we would get to a just settlement between the two parties before the law expired.

In place of the carriers trying to settle—I say the majority of the carriers trying to settle, as was the intent of the law, they took the position that they did not have to negotiate and went to the court-

house and you know and I know that the courts decided the case and we are still in court over it.

The crew consist dispute gives a real example of what happens to collective bargaining under compulsory arbitration and what can happen again if Congress intervenes, because you fear there might be an emergency.

I don't think that Congress understood the last portion of that when they passed the law in 1963. That national crisis was not caused by the unions promulgating their rules. The national crisis was caused by the railroads promulgating their rules and trying to take working conditions away from men that they had had for 30 and 40 years.

As a good example of it, one of the rules was that they would have the sole right to establish where the terminals would be. People had built their homes, helped build the communities, were uprooted overnight and out in the cornfields, or somewhere else.

By doing that, they served notice that at a certain time they would put their rules into effect and it wasn't going to be caused by anything that the unions did; it was something that management was doing.

It can also show you what the railroads are up to. Under Public Law 88–108, Congress intended the parties to continue negotiations. Everybody understood that. I will say this: that Mr. Wolfe testified to that, the chief negotiator for the carriers. Secretary of Labor Wirtz clearly understood the intent of that law.

I refer you to quotes from the record as shown in my prepared statement on pages 4 through 7. But what actually happened during the 2-year period under the law when we tried to negotiate?

I encouraged our representatives to seek out their management and try for a fair and reasonable settlement. Some few of them were able to do so. Ninety-three neutrals were appointed by the Mediation Board during the 2-year period of the law to serve on special boards. Their decision in almost every case rubberstamped the company's proposal.

In January 1965 I took a personal hand in the dispute. I contacted top management officers in the East and told them we could negotiate an agreement. We sat down and wrote an agreement on January 29, 1965. This agreement settled the crew controversy in the East, including such railroads as the New York Central and the Pennsylvania. Others later joined, including the B. & O., until the total had reached 32 railroads. This settlement was for a 5-year period, with changes thereafter to be under the Railway Labor Act.

I next wrote the railroad presidents of the West and Southwest, giving them a copy of the eastern agreement and asking for a similar meeting. I was hopeful we had found the solution to the crew consist problem. Replies told me otherwise. They all referred me to their personnel department or said that the National Labor Conference would handle it. Some of those who had settled reopened the dispute.

I would like to tell you what happened there. In the East I met with Mr. Saunders, president of the Pennsylvania. I met with Mr. Perlman, or his representative, of the New York Central. I met with the late Bill White, president of the Erie & Lackawanna.

They told me that they understood what Public Law 88–108 intended to be and they were willing to sit down and work out an agreement. We worked out this agreement in less than 3 hours. We signed

this agreement to be effective at the expiration of the 2 years, as the law provided.

After we signed this agreement, the railroad negotiating team, Mr. Wolfe & Co., moved in and from that day on I was only able to get one or two other agreements from the railroads. I tried desperately to get the presidents of these railroads to meet with me, like the eastern railroads did, so that we could sit down and they refused to meet with me and said that the Association of American Railroads would handle the negotiatons, and from that day to this we have not been able to get a meeting with them on it.

We also have been in court. We also got a decision that they should have negotiated with us, but that is a year and some odd months after the award runs out. We have been through the court. We have paid the price for it and we are going back in there when we get the order and try to negotiate on the rest of the railroads.

I then authorized the general chairmen to go in and negotiate. They, too, were refused. They said they were not required to bargain until the expiration of the 2-year period.

What makes it worse, they took it to Judge Holtzoff. They agreed with him. He got his quote out of some other law because he could not find it in the Railway Labor Act. The issue is now before the court of appeals and has been decided and they said the carriers did not negotiate in good faith and told them to do so.

Now, on top of that, one of the members asked what we thought of the national railroad crisis. If you will check the history, you will find out that 1946 was the last national railroad strike we had. It lasted 2 days and it was settled. They wrote us a pretty plain letter, that Congress and the American people wouldn't stand for a national railroad strike.

I interpreted that letter to mean they meant what they said. So we started moving on each individual railroad. What happened then? They took us to court and said that we didn't have a right to negotiate on individual railroads; we had to negotiate on a national basis.

We spent 5 or 6 days before Judge Holtzoff and explained to him and proved our case that all they were trying to do was set up a national crisis every time we moved. We felt that we shouldn't be a party to a national crisis, we should be big enough to settle our own differences by direct negotiation.

Judge Holtzoff held with them and told us that we had to bargain nationally. Now that case is on appeal. Thank heavens the Justice Department has filed with us. They, too, see the errors in having to negotiate nationally on everything. That shows very clearly what the railroads are trying to do. They have come to the point that if you don't give it to them now, the court gives it to them their way, they will be back again and the demand will be for compulsory arbitration.

In some way, collective bargaining must be resumed on these railroads if they are continued in private control and ownership. Our members are angry. They write every day asking how the courts can disregard congressional action. They are sick of waiting for justice. They are fed up with pro-management boards and court judgments.

They want their elected representatives to bargain for better conditions. They want to know why the railroad brotherhoods cannot represent their members like industrial unions can.

Every time we try to do that, the railroad attorneys go and wake up the judge and get him to write out an injunction. Now we find the railroads trying to put compulsory arbitration into the Railway Labor Act on a permanent basis. They think if they cry loud enough before Congress they will get what they want.

Our members are asking for their rights without discrimination. Don't forget them. They work for a powerful economic giant which is using the vital nature of its service to gain an advantage in the bargaining procedure. Don't let it happen.

Since I have prepared this statement, another matter has come to my attention on which I would like to comment briefly.

The shopcraft has offered to move all rail shipments essential to the military and public health. The Brotherhood of Railroad Trainmen agree with them and will join in their efforts to help them.

I would like to point out that there has not been a national crisis in recent times in railroad disputes. Public Law 88–108 was enacted out of fear of an emergency. How can anyone know what would happen in any national strike? We offered to move all vital trains, including passengers and commuters, as well as military material and trains for the health and welfare of the people.

Granting the railroads compulsory arbitration is no solution to this crisis. You gave them a taste of it in Public Law 88–108 and they are back again. Do it again and you will set a pattern that will spread like a cancer through all of labor.

You take the power of collective bargaining away from labor with compulsory arbitration, you give all the advantages to management, the next step for the railroads is nationalization.

I warned of this in New York in 1963. There is no such thing as restriction or temporary compulsory arbitration. It becomes a habit, a ready solution. The only trouble is that in the process, it destroys one of our basic freedoms, collective bargaining, a freedom which has helped make our free enterprise system so great.

The CHAIRMAN. Thank you very kindly, Mr. Luna. I know that your testimony will be of help to the committee in making their decision. Although this bill involves a different issue, it is closely related to what you have talked about to some extent. We only can judge the future by the past and this is something that is on the record and which has taken place.

A lot of people are prone to ignore things that have gone on in the past but that is the only way we can tell what the future might hold.

Now I was interested in one thing. You said that in your crew consist situation that you had negotiated with several of the eastern railroads and reached an agreement?

Mr. LUNA. We reached an agreement like the law called for, and the general law called for, with 34 eastern railroads.

Now Mr. Saunders, Mr. Perlman, the late Bill White told me, they understood what the law meant. We sat down and worked out an agreement to be effective at the end of 2 years. We didn't try to make it effective before that.

I am proud to say it has worked marvelously. It has not made any trouble. The men are contented, but the other railroads, we tried to

do the same thing with them and they refused to sit down and talk with us.

The CHAIRMAN. Why did they refuse?

Mr. LUNA. I can't say except that they all wrote back the same letter. It looked like a letter that had come out of the office in Chicago, a form letter, where all of them told me that their personnel office would handle it or they would handle it through the railroad negotiators like they do everything else.

The CHAIRMAN. By railroad negotiators, whom do you mean?

Mr. LUNA. National, Mr. Doc Wolfe and company.

The CHAIRMAN. Did Mr. Wolfe move into the picture then?

Mr. LUNA. No, sir; he never would meet on it.

The CHAIRMAN. Did you have any collective bargaining on it?

Mr. LUNA. No, sir.

The CHAIRMAN. Before this you had had collective bargaining?

Mr. LUNA. Since the law was passed the only place we had collective bargaining was with the eastern presidents. They sent two vice presidents in to consummate this agreement. They understood it. We talked about it and they tried to do what was right.

The next morning after we made this agreement and signed it, I had a call from Mr. Wolfe who asked me had we made this agreement.

The CHAIRMAN. I am trying to read between the lines. You were proceeding all right.

Mr. LUNA. Yes, sir.

The CHAIRMAN. With the railroad presidents as you had to do and as they understood the law.

Mr. LUNA. Yes, sir.

The CHAIRMAN. Passed by this Congress.

Mr. LUNA. Yes, sir.

The CHAIRMAN. Then something fell apart?

Mr. LUNA. When they found out what was going on, in my opinion, from the form letters we got, someone stopped the rest of them from dealing with me and trying to make a settlement.

The CHAIRMAN. I thought that the positive intent of our legislation in 1963 was to insure collective bargaining.

Mr. LUNA. That was the intent.

The CHAIRMAN. That was the mandate of this Congress. You say something stopped it and there were never any more meetings.

Mr. LUNA. Never any more.

The CHAIRMAN. Then the will of Congress was not followed along this line.

Mr. LUNA. Mr. Chairman, it is the same principle, whether you call it a different issue or not. It is a principle of the management people who testified before this committee, testified they would do one thing, and I for one am telling you that these people also testified, never did what they testified they would do.

They said, if you read the testimony, "We can settle this within the 2-year period." They never tried. They even took us to court and after we couldn't get the railroad managements to meet with us we served a section 6 on them, thought we could get them to meet that way; they took us to the court. The court said they didn't have to meet with us until the award expired and we just got that reversed less than 2 weeks ago.

The same thing will happen here; don't kid yourself.

The CHAIRMAN. The understanding when this law was passed in 1963 was that there would be an agreement reached in the 2-year period and everything could be settled.

Mr. LUNA. Yes.

The CHAIRMAN. Since the law was passed nothing was settled through collective bargaining?

Mr. LUNA. Except with the railroads in the East.

The CHAIRMAN. I want to get this for the record, because we are here now asked to pass another law with the same intent of trying to get something done. Under this past law there was no collective bargaining.

Mr. LUNA. That is right.

The CHAIRMAN. Only up to a certain point.

Mr. LUNA. That is right.

The CHAIRMAN. I want this for the record. Now before the court, I understand it has been argued, and I may be wrong on this, that the unions have the right to strike certain railroads if they want to, and this is one of the issues to be decided.

Mr. LUNA. Our position is that the Railroad Labor Act gives us that right. We can serve notice and can move on one railroad and not cause a national crisis. They have taken us to court on that point and Judge Holtzoff held we had to bargain on a national basis, meaning everything we moved on would finally create a crisis. That has been appealed to the court.

The Justice Department has joined with us in this appeal because nowhere in the law does it say that.

The CHAIRMAN. A decision has not been handed down?

Mr. LUNA. The first court handed it down and said we had to bargain on a national basis. Multiple basis, I think is the wording they used.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman. I will keep my questions very brief.

I welcome you here, Mr. Luna, and also Mr. Chesser. Inasmuch as I granted permission that your entire statement go in, I thought I would have to take issue a little bit about one statement you made on page 13.

I agree with your position on compulsory arbitration for employees. Your statement that it will be a "sorry day for human liberties when a giant industry can put a yoke of compulsion on their employees with the aid of Congress."

That is not really exactly true because we didn't do that. Just as in the colloquy you had with the chairman, it was the decision of the court that really put the yoke on you, not Congress.

Mr. LUNA. The law that Congress passed was compulsory arbitration. If it had not been for that law they would not have gotten us into court on it.

Mr. MACDONALD. Yes, but it gave assurance that there would be arbitration between the two parties, mediation and arbitration, and by your own testimony that never happened.

Mr. LUNA. Mediation was over when this all happened, that provision of the Railway Labor Act. I was at the case. What they argued was that the case was not the Railway Labor Act but the intent of Congress. That is what they argued before the judge.

Mr. MACDONALD. But Congress' intent was completely overlooked by the judge.

Mr. LUNA. Mr. Congressman, we tried to get the Secretary of Labor to testify in that case. We tried to get a Congressman to testify in that case. When it is said and done, all those testifying were the railroads and labor. They told the judge that this Public Law 88–108 is what gave them the right to do what they were doing.

Mr. MACDONALD. In my judgment, the judge just misinterpreted the intent of Congress. If you had asked this Congressman to testify about the intent of Congress, I would have been very happy to have done so.

Mr. LUNA. Thank you, sir.

Mr. MACDONALD. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Mr. Luna, I want to be sure that I understand where you are. Are you in the same position as Mr. Gilbert?

Mr. LUNA. Yes, sir. We have settled our wage rounds. This controversy is over. We can go back in September and serve new demands that can't be effective before January 1968. From my reading the testimony before this committee, we were participants in the last one and we know what happened in the last 88–108.

Mr. SPRINGER. Did you hear Mr. Leighty testify?

Mr. LUNA. In this session, no, sir.

Mr. SPRINGER. This question of nationwide bargaining came up. I don't want to misquote Mr. Leighty but he didn't think that in the issue presently involved in this dispute which is pending before this committee that you could have individual bargaining.

Mr. LUNA. I have to agree with you, Mr. Springer. I testified before the court that on wages, vacations, holidays, health and welfare, I think has to be handled on a national basis.

Mr. SPRINGER. I want to be sure, that in this dispute at present that you are recommending nationwide bargaining.

Mr. LUNA. We settled on it. The way we did it was this way: After Public Law 88–108 was passed we served individual notice on each railroad. They handle them according to the Railway Labor Act. We never set up a national committee on this wage raise or the last one.

In other words, we served individual notices. We didn't ask for a national handling on it. When we served those and they had handled them with individual management, Mr. Wolfe and I got together on two or three occasions. He made an offer or two. When he made an offer I thought was worth taking to our general chairman, that is on each individual committee, I called the general chairmen together. I read his proposal. They accepted it but it became a part of each individual railroad. It never was handled like we used to on a national committee on a national basis.

In other words, I was trying to keep out of the box that they got us in before, Mr. Springer.

Mr. SPRINGER. I want to make sure that there is no misunderstanding here in this dispute which is now pending involving just these six or eight brotherhoods.

Mr. LUNA. Six.

Mr. SPRINGER. You are not recommending that they bargain with each individual railroad on those issues, are you?

Mr. LUNA. It is too late along the lines to do it now.

Mr. SPRINGER. As a matter of policy, because I want to get this in the record, pursuant to what I understood Mr. Ramsey and Mr. Leighty to testify that they did not believe that you could negotiate these on an individual railroad basis.

Mr. LUNA. I think you could. As they say, we are trying to do on the crew consists.

Mr. SPRINGER. I don't want to get into the crew consist, I have to stay on the issue. I want to be sure that we don't get this committee wrong. It was my understanding that you said that you testified this ought to be on a national basis. Do you still stay with that?

Mr. LUNA. I say it will have to be settled on a national basis. Now if you serve notice on an individual basis under the Railway Labor Act and you can bring it to a peak on one railroad and keep from having a national crisis and get a settlement on that railroad, it can spread to the other railroads.

Now we are going to have to figure some other way to handle these things to keep from causing a crisis every time we want to do something.

Mr. SPRINGER. Let us get what you are recommending today. Are you recommending that this decision and this dispute be settled on an individual basis?

Mr. LUNA. As I said before, I think they have gone too far to do it on this individually. I think they have a letter which we ran into in the 1960 settlement from the unions agreeing to handle it on a national basis.

Mr. SPRINGER. There is an agreement.

Mr. LUNA. I imagine there is.

Mr. SPRINGER. You don't know this for a fact?

Mr. LUNA. No, I don't know this. But in the other dispute I tried to, after I got mixed up in it, back out and start handling on an individual basis. My predecessor agreed it would be on a national basis.

Mr. SPRINGER. You are talking about the issues.

Mr. LUNA. About the issues. I imagine they agreed to handle it nationally. My position in this dispute is this, Mr. Springer: If the railroads know that they have a chance to get a compulsion they are not going to sit down and bargain with the carriers in the collective bargaining that we have known since 1934 when the Railway Labor Act was passed, because you are giving them the advantage.

If the carrier knows that they can't get that, that there is a possibility of a seizure or a freeze, you can call it either thing you want to, that they can't move on things they want and the unions can't get what they want, I think they would sit down and start bargining like they should.

Mr. SPRINGER. The only thing that I know that Mr. Leighty, Mr. Ramsey, and Mr. Wolfe agreed on in this testimony, and I think it is in here, the only thing that I know that those three agreed on, in their testimony, if there is any other issue I don't know what it is, is that it ought to be done on a national basis.

Mr. LUNA. I think you are right on that.

Mr. SPRINGER. Thank you.

The CHAIRMAN. Mr. Kyros.

Mr. KYROS. Thank you, Mr. Chairman, I have no questions.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

I want to thank Mr. Luna for his very enlightening information relative to this agreement you were able to reach. You mentioned 26 railroads.

Mr. LUNA. Thirty-four.

Mr. NELSEN. That you had contacted?

Mr. LUNA. Yes, sir.

Mr. NELSEN. And reached an agreement?

Mr. LUNA. Yes, sir. Like I was supposed to in the 2-year period.

Mr. NELSEN. What would be the total number that you would have reached had you been able to negotiate everything?

Mr. LUNA. Judging the larger ones, and I would say that most of the smaller ones are on the standby agreement, I would say that is practically one-third of them.

Mr. NELSEN. Would you be willing to furnish information to the committee as to whom you contacted and discussed this problem with so that we might further interrogate?

Mr. LUNA. I will be glad to.

Mr. NELSEN. I think it would be helpful.

Mr. LUNA. We will be glad to.

(The information requested follows:)

(The following correspondence and listings, submitted by the Brotherhood of Railroad Trainmen, is indicative of negotiations entered into by the brotherhood and certain eastern railroads to obtain an agreement on crew consist:)

NEW YORK, N.Y., *January 29, 1965.*

Mr. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Standard Building,
Cleveland, Ohio

DEAR MR. LUNA: This refers to our recent discussions with you concerning crew consist in states comprising the eastern territory and particularly the necessity, in the interest of the railroads, their employees and the public, for repeal of the so-called full crew laws.

During our discussion you indicated there was an area subject to agreement that would provide protection for the employees you represent and thereby eliminate your opposition to repeal of existing full crew laws. In line with this discussion and on behalf of the eastern railroads that are shown on the attached sheet designated as Attachment "A", we offer the following:

1. On all railroads, parties to this Agreement, the provisions of the Award of Arbitration Board 282 will continue to be applicable, including decisions of special boards of adjustments and agreements between the parties arising under the Award's provisions, until the specified termination date of the Award (January 25, 1966), except in states having so-called full crew laws in effect the ground road and yard crew consist provisions of which may be repealed prior to the January 25, 1966 termination date. In the event the ground road and yard crew consist provision of the full crew law is repealed in one or more of the states presently having such laws, in which one or more of the carriers, parties of this Agreement operate, the provisions of this Agreement shall become effective in that State coincident with such repeal or on and after January 25, 1966, whichever date is earlier.

2. On and after January 25, 1966 (or on and after the earlier effective date in a particular state resulting from the repeal of the ground road and yard crew consist portion of the full crew laws in such states having such laws), a rule shall be inserted in the respective agreements between the parties to this Agreement applying to ground road and yard service employees which will provide for a crew consist on all ground road and yard crews in all classes of road and yard service of not less than a conductor (foreman) and two (2) trainmen (helpers), including assistant conductors, ticket collectors, baggagemen, brakemen and flagmen; provided, however, that on railroads which had established crew arrangements prior to January 25, 1964, which permitted crews to be operated with less than two (2) trainmen

(helpers), such crew arrangements shall remain in effect subject to change in accordance with the provisions of paragraph 6 hereof. The aforementioned crew consist rule shall not apply to self-propelled devices, light engine, helper and exchange engine movements, which shall be manned in accordance with existing agreements in effect with the organization signatory hereto.

3. In any case in which the carrier has called or filled a crew in accordance with the foregoing paragraph and the consist of such crew falls below the prescribed minimum by reason of the failure of a crew member to report, or by being separated from the crew after reporting, such crew will function in accordance with existing rules.

4. The carriers shall have the right to discontinue the use of trainmen in excess of the minimum crew consist established by paragraph 2, except that the carriers will comply with the provisions of agreements or full crew laws in effect on the date of this Agreement with respect to the employment of trainmen in excess of the minimum crew consist provided by paragraph 2 so long as it is necessary to do so in order to provide employment for trainmen with seniority dates prior to January 25, 1964, who were not in a furlough status on that date and for whom no other employment in train service on their seniority district is available at his governing terminal (home or away from home as the case may be).

5. Upon acceptance of this Agreement the Brotherhood of Railroad Trainmen will immediately withdraw all opposition to repeal of existing statutory and regulatory minimum crew requirements and from participation in any litigation concerning the legality of such requirements in the states covered by this Agreement. Further, the Brotherhood will not institute or support the adoption of any new minimum crew consist laws or regulations in the states covered by this Agreement while this Agreement is in effect.

6. This Agreement will continue in effect until January 1, 1970, and thereafter until changed in accordance with the provisions of the Railway Labor Act, as amended.

If you are in accord with the foregoing, please indicate your acceptance by affixing your signature in the space provided below.

Very truly yours,

A. E. PERLMAN,
President, New York Central Railroad.
STUART T. SAUNDERS,
Chairman of the Board, Pennsylvania Railroad.
WILLIAM WHITE,
Chairman, Erie-Lackawanna Railroad.

Accepted:

CHARLES LUNA,
President, Brotherhood of Railroad Trainmen.

ATTACHMENT A

The Ann Arbor Railroad Co.
Bessemer and Lake Erie Railroad Co.
Canadian National Railways
Central Vermont Railways, Inc.
The Delaware & Hudson Railroad Corp.
Detroit, Toledo & Ironton Railroad Co.
Erie-Lackawanna Railroad Co.
Grand Trunk Western Railroad Co.
The Lehigh & Hudson River Railway Co.
Lehigh Valley Railroad Co.
The Long Island Rail Road
Monon Railroad Co.
New York Central System:
The New York Central Railroad Co.
Indiana Harbor Belt Railroad Co.
Chicago River & Indiana Railroad Co.
Pittsburgh & Lake Erie Railroad Co.
Lake Erie & Eastern Railroad Co.
The Cleveland Union Terminals Co.
The New York, New Haven & Hartford Railroad Co.
New York, Susquehanna & Western Railroad Co.
The Pennsylvania Railroad Co.: Baltimore & Eastern Railroad Co.

(Applies to all states in which the above railroads operate in the United States.)

(The following eastern railroads accepted the preceding agreement subsequent to January 29, 1965:)

Pittsburgh, Chartiers & Youghiogheny Railway Co.
Montour Railroad
Monongahela Railway
Baltimore & Ohio Railroad Co.
Staten Island Rapid Transit Railway Co.
Curtis Bay Railroad Co.
Pennsylvania-Reading Seashore Lines

(The following eastern railroads declined to sign the January 29 agreement:)

Maine Central Railroad Co.
Washington Terminal Co.

BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, February 1, 1965.

Re agreement of January 29, 1965, between Brotherhood of Railroad Trainmen and certain eastern railroads on subject of crew consist.

Vice Presidents and
Alternate Vice Presidents
Brotherhood of Railroad Trainmen.

DEAR SIRS AND BROTHERS: You will recall our consideration, during the meeting of Grand Lodge officers held January 12, 1965, of a proposed settlement of the crew consist issue under discussion with representatives of the Eastern Railroads Presidents Conference, which would result in the establishment of a uniform rule applicable to the participating railroads whereby the crew consist in both road and yard service would be not less than one conductor and two brakemen. The proposition as explained was unanimously approved by all of you who were present.

After discussing the matter with the carrier representatives on several occasions, I am pleased to report to you that on January 29, 1965, an agreement was reached with 23 Eastern railroads providing for a crew consist rule to be inserted in the respective agreements between the parties on each railroad, party to the settlement, which will establish a crew consist on all ground road and yard crews in all classes of road and yard service of not less than a conductor (foreman) and two (2) trainmen (helpers), effective with the expiration of the Award of Board 282 or earlier in a Full Crew Law state in the Eastern Territory in event such law is repealed.

The terms of the agreement are self-explanatory; however, State Legislative Representatives are being funished copy of this letter and attachment and their attention is particularly called to the provisions of Paragraph 5, Page 3 of the Agreement, wherein the Brotherhood is committed to immediately withdraw all opposition to the repeal of existing statutory and regulatory minimum crew requirements and from participation in any litigation concerning the legality of such requirements in the states covered by the Agreement. The Brotherhood will not institute or support the adoption of any new minimum crew consist laws or regulations *in the states covered by this Agreement while this Agreement is in effect.*

The above commitment applies only to the Eastern states, and has no application whatsoever to our Full Crew Law activities in other states.

State Legislative Representatives in the states comprising the *Eastern Territory* are cautioned to take care that the terms of this Agreement concerning Full Crew Laws are fully compiled with, taking any necessary action in that connection without delay.

General Chairmen on the railroads, parties to this settlement, are likewise being furnished with copy of this letter and the attachment, and should acquaint their committeemen and lodges with this development. Additional copies of the agreement are available upon request. All other U.S. General Chairmen are being furnished copy as information.

All concerned are reminded that under this settlement, any reductions which may be made under the agreement will be made in accordance with the principles of attrition, so that all employees who held seniority dates prior to January 25,

1964 and who were not in furlough status on that date will be protected. In discontinuing the use of trainmen in excess of the minimum crew consist established in the Agreement, the carriers will comply with the provisions of agreements or Full Crew Laws in effect on the date of the Agreement by maintaining the excess crew personnel assignments even if the crew law is repealed, to the extent necessary to provide employment to trainmen and/or yardmen with seniority dates prior to January 25, 1964, who were not in a furlough status on that date, in accordance with the Agreement.

Recent developments concerning Full Crew Law legislation demanded that this Organization give careful consideration to any proposition which will serve to establish and preserve a firm safe crew consist rule. A realistic approach to the problems demanded that we take the necessary steps to ensure that train and yard crews, regardless of the decisions of special boards under Arbitration Board No. 282's Award, shall continue to operate with not less than a conductor and two brakemen in order to provide adequate safety of operation for the good of the public and employees of the railroads alike. It is to the mutual advantage of the parties to preserve a train crew operation which can safely and efficiently perform their duties under the hazardous conditions in the industry. I am pleased that representatives of the Eastern carriers were far-sighted enough to recognize the need for more harmonious relations between railroad management and employees by sitting down at the conference table for the purpose of working out a solution to our most serious point of difference.

What about the other railroads? An early meeting is anticipated with representatives of the remaining railroads to discuss this problem as it will affect them with the expiration of the Award of Arbitration Board No. 282.

Fraternally yours,

CHARLES LUNA, *President.*

(Letters dated March 15, 1965, were addressed to the following western territory railroad presidents. A sample letter, addressed to R. K. Heineman, with several typical replies, follows the listing:)

Robert K. Heineman, president, Alton & Southern Railroad, Post Office Box 270, East St. Louis, Ill.

E. S. Marsh, president, Santa Fe Lines, 80 East Jackson Boulevard, Chicago, Ill.

L. A. Evans, president, The Belt Railway Co. of Chicago, 6900 South Central Avenue, Chicago, Ill.

David O. Mathews, president, Chicago & Eastern Illinois Railroad, 332 South Michigan Avenue, Chicago, Ill.

J. E. Dare, president, Chicago & Illinois Midland Railway Co., 821 Illinois Building, Springfield, Ill.

C. J. Fitzpatrick, president, Chicago & North Western Railway Co., 400 West Madison Street, Chicago, Ill.

David O. Matthews, president, Chicago & Western Indiana Railroad Co., 47 West Polk Street, Chicago, Ill.

H. C. Murphy, president, Burlington Lines, 547 West Jackson Boulevard, Chicago, Ill.

E. T. Reidy, president, Chicago Great Western Railway, 720 Mulberry Street, Kansas City, Mo.

William J. Quinn, president, Chicago, Milwaukee, St. Paul & Pacific Railroad, 516 West Jackson Boulevard, Chicago, Ill.

R. E. Johnson, president, Chicago, Rock Island & Pacific Railroad Co., LaSalle Street Station, Chicago, Ill.

D. S. Day, president, Chicago Short Line Railway Co., 9746 Avenue "N," Chicago, Ill.

J. E. Rice, president, Chicago, West Pullman & Southern Railroad Co., 2728 East 104th Street, Chicago, Ill.

G. B. Aydelott, president, The Denver & Rio Grande Western Railroad Co., 1531 Stout Street, Denver, Colo.

J. F. Nellis, president, Des Moines Union Railway Co., 8 North Jefferson Street, Roanoke, Va.

Gilbert Novotny, president, East St. Louis Junction Railroad Co., National Stock Yards, Ill.

H. E. Smith, president, Galveston, Houston & Henderson Railroad, Post Office Box 28, Galveston, Tex.

H. Weldon McGee, president, Green Bay & Western Railroad Co., Green Bay, Wis.

R. H. Anderson, president, Houston Belt & Terminal Railway Co., Union Station, Houston, Tex.

Wayne A. Johnston, president, Illinois Central Railroad, 135 East 11th Place, Chicago, Ill.

R. D. Shelton, president, Illinois Northern Railway, 80 East Jackson Boulevard, Chicago, Ill.

E. L. Keister, president, Illinois Terminal Railroad Co., 710 North 12th Boulevard, St. Louis, Mo.

W. N. Deramus III, president, Kansas City Southern Lines, 114 West 11th Street, Kansas City, Mo.
D. B. Jenks, president, Missouri Pacific Railroad Co., 210 North 13th Street, St. Louis, Mo.
L. B. Coleman, president, Lake Superior & Ishpeming Railroad Co., Marquette, Mich.
R. W. Schmidt, president, Manufacturers Railway Co., 2927 South Broadway, St. Louis, Mo.
H. E. Pence, president, Minneapolis, Northfield & Southern Railway, 911 Hennepin Avenue, Minneapolis, Minn.
Leonard H. Murray, president, Soo Line Railroad, Soo Line Building, Minneapolis, Minn.
Robert Faegre, president, Minnesota, Dakota & Western Railway Co., Northstar Center, Seventh and Marquette, Minneapolis, Minn.
J. D. Taylor, president, Minnesota Transfer Railway, 175 East Fourth Street, St. Paul, Minn.
Charles T. Williams, president, Missouri - Kansas - Texas Railroad Co., Katy Building, Dallas, Tex.
Robert S. Macfarlane, president, Northern Pacific Railway, Fifth and Jackson Streets, St. Paul, Minn.
D. J. McGanney, president, Northwestern Pacific Railroad Co., 65 Market Street, San Francisco, Calif.
C. A. Eckart, president, Pacific Coast Railroad Co., Great Northern Building, 404 Union Street, Seattle, Wash.
G. J. Willingham, president, Peoria and Pekin Union Railway Co., Peoria, Ill.
L. W. Menk, president, St. Louis-San Francisco Railway Co., 906 Olive Street, St. Louis, Mo.
H. J. McKenzie, president, St. Louis Southwestern Railway Lines, 1517 West Front Street, Tyler, Tex.
B. F. Biaggini, president, Southern Pacific Lines, 65 Market Street, San Francisco, Calif.
William H. Moore, president, Terminal Railroad Association of St. Louis, Union Station, St. Louis, Mo.
J. W. Kraemer, president, The Texas Mexican Railway Co., Laredo, Tex.
J. Russel Coulter, president, Toledo, Peoria & Western Railroad Co., Peoria, Ill.
E. H. Bailey, president, Union Pacific Railroad, 15th and Dodge Streets, Omaha, Nebr.
J. H. Lloyd, president, Union Railway, 210 North 13th Street, St. Louis, Mo.
Frederic B. Whitman, president, The Western Pacific Railroad Co., 526 Mission Street, San Francisco, Calif.

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BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, March 15, 1965.

MR. ROBERT K. HEINEMAN,
President, Alton & Southern Railroad, East St. Louis, Ill.

DEAR SIR: Undoubtedly you have heard about and read the recent agreement between this organization and the representatives of twenty-three Eastern Railroads, (four additional railroads have now become parties to this Agreement), disposing of the crew consist issue in states comprising the Eastern Territory.

The Award of Arbitration Board No. 282 expires under its express terms as of January 25, 1966. This will automatically require the parties to revert to the crew consist agreement rules and practices which were in effect prior to January 25, 1964. It would be necessary at that time for either party desiring to change such crew consist rules or practices to serve new Section 6 notices under the provisions of the Railway Labor Act, as amended and proceed accordingly. When this happens, the parties on each property will be at the crossroads, because the provisions of Public Law 88–108 which created Arbitration Board No. 282 clearly contemplate that, in the interim period of operation of the Arbitration Board and its Award, it is the obligation of the parties to put forth every effort to dispose of the crew consist issue on each individual railroad. It follows that on railroads where this has been done no dispute over crew consist will exist on January 25, 1966.

I have endeavored to arrange a conference with Messrs. E. S. Marsh, President, The Atchison, Topeka and Santa Fe Railway Company, Wayne A. Johnston, President, Illinois Central Railroad and D. B. Jenks, President, Missouri Pacific Railroad Company, for the purpose of discussing a similar agreement on railroads in the Western Territory but have not been successful in such an endeavor.

Believing that you are interested in making a positive approach to this extremely serious problem, the purpose of this letter is to suggest that a con-

ference be arranged between us for the purpose of reaching an agreement covering the railroad properties of which you are President.

It will be appreciated if you will arrange a mutually satisfactory time and place for us to meet and endeavor to reach an agreement covering the railroad properties of which you are President.

Sincerely yours,

CHARLES LUNA, *President.*

ALTON & SOUTHERN RAILROAD,
East St. Louis, Ill., March 18, 1965.

MR. CHARLES LUNA,
President,
Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: I have your letter of March 15 to Mr. Robert K. Heineman, President, Alton and Southern Railroad, suggesting a conference with him.

For the past several months Mr. Heineman has been incapacitated due to illness including a minor heart involvement. However, his recuperation is progressing nicely and even though his work activities may be limited for a time, he now anticipates returning to his office sometime early in April, 1965. You can rest assured that your letter will be brought to his attention as soon as he returns to his office.

Personal regards.

Sincerely,

HENRY R. NEILL,
Vice President, Executive Department.

BURLINGTON LINES,
Chicago, Ill., March 24, 1965.

MR. CHARLES LUNA,
President,
Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: I have before me your letter of March 15 referring to an agreement between your organization and the representatives of twenty-three Eastern Railroads disposing of the crew consist issue in States comprising the Eastern Territory.

If there are any questions pertaining to crew consist on this property they should be handled with Mr. A. E. Egbers, Assistant to Vice-President—Operation, who is the highest designated officer on the Burlington for this purpose.

With kind regards.

Sincerely,

H. C. MURPHY, *President.*

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.,
Chicago, Ill., March 18, 1965.

Mr. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR SIR: Acknowledging yours of March 15, 1965, suggesting a meeting between us with respect to crew consist matters.

Since we have a crew consist rule on the Rock Island and no reductions in the number of brakemen was requested by us or have been made under the provisions of Award of Arbitration Board No. 282, I am at a loss to understand the purpose of a meeting such as proposed by you insofar as the Rock Island is concerned.

In any event, all of our labor matters are under the direction of G. B. Mallery, Vice President—Labor Relations, and any inquiries concerning such matters should be addressed to him.

Yours truly,

R. E. JOHNSON, *President.*

THE DENVER & RIO GRANDE WESTERN RAILROAD CO.,
Denver, Colo., March 18 1965.

Mr. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: This will acknowledge your letter of March 15, suggesting a conference to discuss the crew consist question resulting from the expiration of the terms of Arbitration Award 282 in January 1966.

I do not anticipate that any difficulties will arise on this property regarding this question and believe that it can and will be handled satisfactorily between our Personnel Department and representatives of your organization. For this reason it would not seem that a conference is necessary.

Sincerely,

G. B. AYDELOTT, *President.*

CHICAGO & NORTH WESTERN RAILWAY CO.,
Chicago, Ill., March 18, 1965.

Mr. CHARLES LUNA,
President, Brotherhood of Railroad Trainmen,
Cleveland, Ohio.

DEAR MR. LUNA: Thank you for your letter of March 15th regarding the recent agreement between your organization and the representatives of twenty-three Eastern railroads with regard to Arbitration Award No. 282.

Mr. T. M. Van Patten, Director of Personnel, is in charge of labor relations and labor agreements on this property.

From what little we know about your agreement with the Eastern carriers, we on the North Western are not interested; however, Mr. Van Patten will be very glad to discuss this subject with you or your designated representative at a mutually convenient time and date.

Sincerely yours,

C. J. FITZPATRICK, *President.*

Mr. NELSEN. I have no more questions, but I did agree to yield to Mr. Springer if he needed the rest of my time.

Mr. SPRINGER. I think I have asked all the questions I wished.

The CHAIRMAN. Mr. Blanton.

Mr. BLANTON. Thank you, Mr. Chairman. I have no questions.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. Thank you, Mr. Chairman.

I have enjoyed reading your statement as well as listening to your additional remarks. I thought your comments were very colorful. You mentioned a letter of agreement between the railroads and the unions to the effect that a dispute must be settled on a national basis.

Do you happen to know what the standing of that letter would be in the eyes of the court?

Mr. LUNA. I know what it was in our case, what our attorneys told it to us to be. I think I should explain. The way we have handled these cases through the years, under the Railway Labor Act our interpretation was that you had to serve the notice on each individual railroad. You had to go through the procedures set up by the act on each individual railroad until an agreement was made between the management that you would appoint a national rule committee and they would appoint one.

They got a pair of attorneys from their railroads and we gave them a pair of attorneys from our committee to make a settlement in the 1959 and 1960 case, that finally resulted in the compulsory arbitration Public Law 88–108. When I took over as president on Janu-

ary 1, 1963, I tried to get out of the noose that was going around their neck. I tried to bring it back on the individual railroads. They produced a letter that the president ahead of me had agreed that this would be handled on a national basis.

Our attorneys told us that we couldn't get out of it in court and it was tried and we couldn't get out of it because we had agreed to it. I imagine the same thing has happened in the six non-ops.

Mr. KEITH. It does not seem that such a letter is in the public interest, nor does it seem that it should have such opened-ended authority as to continue to have effect.

I would like to have that letter made a matter of record at this point.

Mr. LUNA. Of course, I wouldn't have it. We are not one of these six, Congressman.

Mr. KEITH. But it was something that was used to block your desire to bargain with the individual railroads.

Mr. LUNA. You mean our letter?

Mr. KEITH. Yes; the letter by your predecessor. I would like to have that a matter of record at this point.

Mr. LUNA. I will be glad to. I can get you that.

The CHAIRMAN. Fine.

(The letter requested follows:)

BROTHERHOOD OF RAILROAD TRAINMEN,
Cleveland, Ohio, December 8, 1959.

Letter No. A–7.

Chairmen, General Grievance Committees,
Brotherhood of Railroad Trainmen,
In the United States.

DEAR SIRS AND BROTHERS: In my letter No. A–5 (corrected), dated November 16, 1959, I stated in part:

> "Until further instructions are received from me you should make no connection with management's request that their rule proposals be handled on a national basis."

Enclosed are copies of a form letter which the General Chairman of each railroad should forward to the General Manager or other appropriate officer of the Company on December 21, 1959. The letter you forward to the General Manager or other appropriate officer may be reproduced on stationery of the General Grievance Committee or the enclosed letter may be used with the name, title and the officer of the company upon whom the letter will be directed to be inserted; also the name of the railroad should be inserted in the place provided in the second paragraph of the letter. Of course, the signature of the General Chairman should be affixed. Under no circumstances should the letter be released before December 21, 1959.

It is important that this communication should be forwarded to your Management's representative on December 21, 1959, *and it should be signed only by the General Chairman of our Brotherhood.*

According to present plans, the General Chairmen of the B. of L. E., B. of L.F. & E. and O.R.C. & B. will forward similar letters to the Management representatives of railroads where they represent employes in the operating groups, but the General Chairmen of each of such organizations will be instructed to forward separate or individual letters. Hence, the necessity for you to forward a separate letter with only your signature affixed. Because the S.U.N.A. had already served counter-proposals, they were not included with the other operating organizations in this procedure.

Strict compliance with these instructions on the part of all concerned is necessary to assure the successful handling of this matter.

Copies of all correspondence passing between General Chairmen and the company officials in regard to this matter must be forwarded promptly to the Presi-

dent of the Brotherhood of Railroad Trainmen, and such correspondence should be sent to 1528 Standard Building, Cleveland 13, Ohio.

Fraternally yours,

W. P. KENNEDY, *President.*

BROTHERHOOD OF RAILROAD TRAINMEN.

---------- December 21, 1959.
(City and State)

(Name of Railroad Official)

(Title)

(Name of Railroad)

(Street Address)

(City and State)

DEAR SIR: This has reference to your request for national handling on the issues that have been raised by the various notices we received from you under date of November 2, 1959.

Inasmuch as no agreement was reached in our conferences on the notices served by you on the General Grievance Committee of the Brotherhood of Railroad Trainmen on the ——— Railroad, dated November 2, 1959, this is to advise *we are willing to refer these matters to a National Conference Committee which will be established in conformity with the laws of the Brotherhood of Railroad Trainmen.* You will be informed of the membership of such committee at an early date.

It is our understanding from the communication which accompanied your notice of November 2, 1959, that you have delegated authority to a National Conference Committee to represent you in future negotiations. *Will you please advise if this is correct?*

It should also be understood that the right is reserved to serve counter-proposals at some future date for national handling.

Very truly yours,

——— ———.
General Chairman.

Mr. KEITH. I asked representatives of management in this dispute as to whether or not there were any lines that could be struck without actually constituting a national emergency.

It was my recollection that their answer was in the negative that there were no rail lines with which they were acquainted which could provide for alternative services that would satisfy the requirements of our national welfare.

Mr. LUNA. Mr. Congressman, that is what we were trying to do in this last dispute, take parallel lines. They took us to the court. That is where they said we had to handle them all. Their position was that we were whipsawing.

Mr. KEITH. Was that where this letter came into prominence?

Mr. LUNA. No, that was the one before this, sir.

Mr. KEITH. But there are in your view many instances of parallel lines where a strike would in no way contribute to a national emergency?

Mr. LUNA. Yes, sir, lots of parallel lines. Lots of industries are served by two and three railroads, big industries.

Mr. KEITH. That is all the questions I have, Mr. Chairman.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. To continue with Mr. Keith's point, would this possibility of striking just one line or two lines at a time then in your opin-

ion by eliminating a nationwide carrier of bargaining also eliminate the national emergency character of any potential strike?

Mr. LUNA. Yes, sir.

Mr. BROWN. Do you think it would be possible for the Congress to write legislation that could eliminate the possibility of this situation coming to such a head that we would get into only choices between a nationwide strike and compulsory arbitration and seizure?

Mr. LUNA. I say it is already in the law. But they got a judge to write it out for them, which they did for us, to keep from having a national emergency in 1963.

Here is what happened, Congressman: When we tried to keep from posing a national crisis, they went the other way to some courthouse, as they just did recently, to say we have to handle the issues nationally, we can't handle them on an individual basis, because if we handle them on an individual basis we are whip-sawing.

The judge goes along with them and says you can't do this. For instance, three railroads were all that we were able to move on that through the Railway Labor Act. We had mediation and the Mediation Board turned them loose and the 30 days had run out.

Now before the 30 days, you know, you can't have a peaceful withdrawal until 30 days after the Mediation Board turns them loose. Before that 30 days ran out they had us in the courthouse. The judge agreed with them that we couldn't strike these railroads. We had to handle them all together in one big bunch. And got injunctions against us from doing it.

Mr. BROWN. This is based on the interpretation of the Railway Labor Act as written out now?

Mr. LUNA. We didn't have laws under the Railway Labor Act. We went to the NLRB to get the law. Under the Railway Labor Act it never happened before. We even have had them get an injunction on us before we even thought of a strike. We had injunctions served on us 4 or 5 o'clock in the morning.

Under our constitution I am the only person that can give them the right to strike. I have had injunctions served on me when the vice president had not even asked me for strike authority.

Mr. BROWN. Has any proposal been made formally or informally by any of the unions in the railroad industry for amendment to the National Railway Labor Act or dealing with this nationwide strike problem to avoid the path in which we find ourselves where we have three bad choices?

Mr. LUNA. Congressman, that law was passed and amended in 1934. From 1934 to 1963, it was intepreted that way. Now since 1963, when these judges started putting their feet into it is when they got it messed up.

Now I think we will win this case in the district court. If we win the case in the district court it will automatically put it back to where it started, in the appellate court.

Mr. BROWN. My question specifically was whether or not there had been any amendment.

Mr. LUNA. No, sir; it would not need an amendment if we win this case.

Mr. BROWN. In any other area have there been amendments proposed recently dealing with the strike problem?

Mr. LUNA. No, sir.

Mr. BROWN. Thank you.

The CHAIRMAN. Mr. Luna, this concludes our hearing for today. We were glad to accommodate you today and have you here. We want to thank you for coming and giving the benefit of your views. This helps to make our record more complete on which to make a decision. It looks like decision day is drawing closer.

Mr. SPRINGER. I think Mr. Luna and Mr. Gilbert have been helpful today.

Mr. LUNA. I want you to know that we appreciate it. We are not an interested party in the six unions, you know. But we have gone through this. We know what they have testified. I am sure that you passed Public Law 88–108 with good intentions. We are sure of that. But we are sure that if you will look at the record and go through what we have been through since it passed, that, as I said, Lord help you, don't do it again.

The CHAIRMAN. Thank you very kindly.

This will conclude our hearings for today.

Mr. LUNA. Thank you, Mr. Chairman.

Mr. CHAIRMAN. The committee will stand adjourned until next Tuesday morning. At that time we hope to have one additional witness, perhaps two.

(Whereupon, at 12:05 p.m., the committee adjourned, to reconvene at 10 a.m., Tuesday, June 6, 1967.)

RAILROAD LABOR DISPUTE

TUESDAY, JUNE 6, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The hearings today will continue on House Joint Resolution 559, dealing with the current threatened railway strike.

Our witness today will be Mr. Paul R. Ignatius, the Assistant Secretary of Defense for Installations and Logistics. He will introduce the gentlemen who are with him.

Mr. Ignatius is appearing in behalf of Secretary Robert McNamara, who could not be here this morning. He is at the White House, I understand, attending a meeting now.

Yesterday when I talked with him, he said he hoped that he still would be able to be here. I can understand why he could not be present.

As I intended to explain to the Secretary, we know that he has no responsibility whatsoever in the matter of composing differences between railroads and their employees. We know this. Labor relations is a problem for a quite different department of the executive branch of our Government.

We did think it desirable, however, to consult with him as to how the present dispute between the railroads and their employees might affect the operations of the Defense Department.

I thought I might first give a little background as to why. Probably we would not have had to have the meeting at all, except to clarify some statements that have been made and issued to the press. We thought we should consult with the Secretary personally. We can understand his not being here, however.

On April 28, Mr. Michael Fox and George Leighty, on behalf of railroad labor, sent to Secretary McNamara a telegram offering to meet to arrange for continued rail transport of all shipments necessary to our Nation's military effort and the public health.

This telegram was acknowledged, but the response in general was that such a meeting was unnecessary.

At the urging of members of this committee, such a meeting was subsequently held in the Secretary's conference room at the Pentagon.

That is the reason for this meeting here this morning, to see if there have been any arrangements made, any plans made whatsoever, or considered, to transport war and health materials in case the railroads do not operate.

But we wanted the Secretary here to tell us if he had considered in any way, or tried to work out with someone the details, in case there was a strike. We don't know. I, for one, as a member of this committee, don't know what the committee will do. I don' know what the Senate committee will do, the Senate, itself, or the House of Representatives.

I think we ought to plan for all eventualities as to what might take place.

That is the reason for asking the Secretary to be here this morning.

If you would proceed, sir, and introduce the gentlemen who are with you in the light of this background, we would be glad to have your testimony this morning.

STATEMENT OF PAUL R. IGNATIUS, ASSISTANT SECRETARY OF DEFENSE (INSTALLATIONS AND LOGISTICS); ACCOMPANIED BY LT. GEN. RICHARD D. MEYER, DIRECTOR FOR LOGISTICS, J-4, JOINT CHIEFS OF STAFF; AND MAJ. GEN. JOHN J. LANE, COMMANDER, MILITARY TRAFFIC MANAGEMENT AND TERMINAL SERVICE

Mr. IGNATIUS. Thank you very much, Mr. Chairman and members of the committee.

I have Secretary McNamara's statement that he would have given had he been here this morning. It is his statement, Mr. Chairman, and not my statement.

He had hoped to be here. He sent word from the White House to my office this morning at about 8 o'clock saying that he would not be able to be here.

He asked me, Mr. Chairman, to convey personally to you and to the members of the committee his regret at not being able to be present. Circumstances have just prevented him from being here. But this is his statement. I will read his statement into the record, if it meets with the approval of the Chair.

The CHAIRMAN. We certainly would be glad to have you do that.

Before you start, I would like to ask you this: When the meeting was held at the Pentagon, the Secretary was not present, as I recall.

Mr. IGNATIUS. The Deputy Secretary, Mr. Vance, was present at the meeting. Secretary McNamara was not.

The CHAIRMAN. The Secretary was in Europe, as I recall.

Mr. IGNATIUS. He was not available at the time.

The CHAIRMAN. In the light of that, you may proceed.

Mr. IGNATIUS. I would like to introduce on my right Lt. Gen. Richard D. Meyer, Director for Logistics, J-4, Joint Chiefs of Staff. He is here representing Gen. Earle G. Wheeler, the Chairman of the Joint Chiefs of Staff, who had intended to accompany Secretary McNamara, and who also had prepared, Mr. Chairman, a brief statement that he would have given had he been here. General Meyer will give General Wheeler's brief statement, if it meets with the permission of the Chair.

On my left is Maj. Gen. John J. Lane, Commander, Military Traffic Management and Terminal Service. He is here representing our people in the Department of Defense who are particularly concerned with rail and other modes of surface transportation.

I will proceed, if I may, reading Secretary McNamara's statement.

The CHAIRMAN. You may proceed.

Mr. IGNATIUS. "Mr. Chairman, members of the committee, I am here today to respond to the committee's questions as to how a rail strike would affect our national security and whether, in the event of such a strike, partial operation of the railroads for the movement of defense-related freight would be practical.

"I am not here as an expert in the complex field of labor-management relations. Because of the predictable and adverse effects of a rail strike on our national security, I shall express on behalf of the Department of Defense our strong support of House Joint Resolution 559, which provides for the settlement of the labor dispute between the rail carriers and certain of their employees.

"House Joint Resolution 559, as you know, reflects the President's legislative recommendation to the Congress in his message on May 4, 1967. Its purpose is to provide to the Nation the continued availability of rail transport and at the same time to afford a means for the settlement of the dispute in a manner fair and equitable to all the interested parties: labor, management, and the public.

"The President in his recent message to Congress and other administration witnesses who have already appeared before this committee have explained the harm to the Nation's health and welfare which would be caused by a strike—the economic paralysis that would set in, the consequent unemployment, and the other damaging effects on the economy and the public health.

"General Wheeler and I would like to describe to you the destructive impact that a rail strike would have on our national defense efforts. Our national rail transportation system is vital to support our current efforts in Southeast Asia and to meet our military commitments worldwide.

"In the light of the current world situation and with new and dangerous unknowns created by the Near East crisis, we believe it is unthinkable that a strike should be permitted to occur in an industry which constitutes one of the basic elements supporting our military posture.

"A great amount of the equipment and material which the Defense Department ships to its installations and to the ports for carriage overseas is carried by the railroads. But it is important to appreciate that a rail strike would not only disrupt those shipments but also the shipments within the general industrial base on which we rely to support our needs. Production of supplies and equipment for the national defense involves nearly every strata of the Nation's economy.

"The production of one major weapon system, for example, depends upon the contribution of literally hundreds of firms located throughout the Nation. These firms range from the prime contractor through his major subcontractors down several tiers to the vendors and suppliers of the many small parts necessary for the production of the end item.

"Much of our concern in the recent past over strikes in the defense industry has been with disputes involving relatively small plants which are key suppliers to larger subcontractors and to our prime contractors.

"It is obvious that a jet aircraft cannot operate without an engine but it is equally true that the jet engine cannot function without a combustion liner and the combustion liner manufacturer cannot produce without the necessary alloy made by his supplier. All these firms in turn are dependent on our basic industries such as steel and power to supply their needs.

"And we must not forget that our basic industries such as steel and power are in turn heavily dependent on rail transportation to obtain the raw materials and fuel with which to operate. In a great many cases this means coal—and 75 percent of the Nation's coal is moved by rail. Without continuous replenishment of this fuel supply, many basic power and production facilities would have to cease operations—and their cessation would be felt throughout our entire economy, including that portion devoted to satisfying defense needs.

"It is the movement of all these items, not just the movement of arms and defense equipment, which is essential to our national defense. The rail carriers play an absolutely essential role in this movement.

"The impact of defense requirements is felt in almost every corner of this country's industrial base. There are over 22,000 Department of Defense prime contractors with thousands upon thousands of subcontractors and vendors at various tiers. Most of these firms are also engaged in commercial production and it is the concurrent operation of their plants for both defense production and commercial production which makes their operation economically viable.

"All of these factors had to be kept in mind when we considered the unions' proposal to attempt to work out an arrangement whereby shipments essential to our military effort and to the public health would continue to be moved by rail in the event of a strike.

"On May 16, representatives of the railroad unions met with Secretary Boyd, Deputy Secretary Vance, Under Secretary Reynolds, and representatives of the Departments of Agriculture and Health, Education, and Welfare. As a result of that meeting and a detailed study of the unions' proposal, we have concluded that the proposal for partial operation of the railroads will not meet our defense requirements.

"The problems of moving only shipments necessary to public health and to our defense effort during a total rail shutdown are of vast complexity—far more so than those presented by the strikes in the maritime industry.

"As you know, the Department of Defense, in connection with some strikes in the maritime industry, has in the past, and with the cooperation of the parties involved, established procedures for the continued handling of defense cargo. However, the unions in that industry had only to agree to continue to handle defense cargo already identified as such and already at the ports.

"This arrangement did not involve the problems of defense cargo identification, its segregation from commercial freight and its transportation from many diverse points. Even more significantly, it did not involve the question of shipments into and from industrial plants which are engaged not only in production essential for the Nation's defense and public health but also in regular commercial production.

"In short, the maritime unions were able to move finished and identified products already at the ports. But maintenance of our national

security demands not only the transportation of finished defense products but also the movement of the many raw materials and supplies essential to the continued operation of plants engaged in the production of vital arms and equipment. Many of these materials are in no way identifiable as defense items nor does it appear remotely practicable to separate, for special transport, such part of these supplies as will insure the uninterrupted manufacture of the items on which our national security is dependent.

"The situation is totally dissimilar from that which permits arrangements with striking longshoremen to load defense cargo for direct transportation to the point of use.

"In our complex economy, the interdependency of one supplier on another is such that it is impossible to predict in advance where and how a rail strike will interfere with needed defense production. All that we can predict is that a rail strike would cause critical and irremediable shortages for essential defense production and that to identify and provide special treatment for the myriad of raw materials and supplies necessary to avoid such shortages would be a hopeless task.

"As I have already indicated, most of our suppliers have a mixture of defense and commercial business. If a rail strike cuts off the flow into their plants of those materials and components which are necessary for commercial production, these suppliers would find it economically infeasible to continue production essential to defense.

"We could not reasonably expect a steel plant to continue to operate on only that small part of its output destined for defense needs. We could not realistically expect a firm making parts for both military and civilian vehicles to produce only those parts destined for defense needs.

"Moreover, if the unions were to agree to move all materials and supplies into any plant engaged even in a limited way in defense work, commercial competitors of such a firm could suffer a permanent loss of market position as their customers turn to those plants still operating as a result of their defense activity.

"Enormous problems would be inherent in establishing a system of administration to identify and to separate from the nonessential all material and products necessary in any manner to uninterrupted defense production.

"Who can determine how much of what trainful of coal is needed by an industrial plant to operate its production line for military but not for commercial civilian needs?

"Even if all fuel supplies were to be moved to all plants, what happens to a trainful of bauxite for aluminum production, or iron ore, or unrefined copper, or the hundreds of other raw materials necessary to the production of processed materials used for all kinds of defense and commercial production?

"What do we do about the many manufactured materials which are not clearly identifiable as defense-related, but which are nonetheless necessary for defense production; in other words, items common to both defense and commercial production?

"Any attempt to solve this problem of identification would require the establishment of a large administrative organization—with no reasonable assurance that it would be successful in its task.

"It must also be recognized that a cessation of all but so-called essential rail traffic would immediately saturate the other modes of transportation. Defense-related freight represents less than 5 percent of total rail traffic. This means that almost all cargo now moved by rail would immediately seek other means of transport—largely the motor carriers. The Department of Defense relies on motor carriers in about the same proportion as it does rail.

"It is probable that an elaborate priorities system would be needed so that essential truck freight would obtain preference, thus further complicating the administrative arrangements which would be necessitated by the unions' proposal.

"In addition, we pointed out to the union representatives certain other circumstances which in our opinion cast grave doubts on the feasibility of their offer.

"The Department of Defense in fiscal year 1966 made 735,400 rail shipments on Government bills of lading comprising approximately 7 million tons of freight. Our study indicated that 84 percent of these shipments moved in less than carload lots.

"If, in order to implement the unions' offer it would be necessary to consolidate these shipments into carload lots, the delay in time would be prohibitive. If these shipments were to move in boxcars which are not fully loaded, the added costs would be substantial.

"Moreover, only one-half of 1 percent of the total national rail movement involves direct shipments by the Department of Defense. The majority of defense-related freight moves on commercial bills of lading but even this is estimated to amount to less than 5 percent of total rail shipments. Moving this amount of freight across the country by itself—without the volume of other rail traffic—would become a very expensive proposition.

"Even if we are to assume that the difficulties I have pointed out with the union proposal can be overcome—and I emphasize again our opinion is that they cannot—who would absorb the cost of such uneconomical transportation? Are we to expect the rail carriers to bear this added cost? Or is the Government along with private shippers to bear it in the form of higher rates, thus subsidizing the continuing refusal of the parties to come to agreement?

"We pointed out all these problems to the union representatives. We discern no practical or sure solutions to them. No matter how diligent the unions' cooperative efforts might be, what is being proposed, in essence, is a reorganization of the Nation's overall production base.

"We think no such proposal is practicable in view of the complex and interrelated nature of our economy. We believe it is totally unworkable.

"At a minimum, it would lead to delays and disruption of vitally needed defense production. And under present world circumstances, we are convinced that it presents an unacceptable risk to national security and welfare.

"In conclusion, it is our opinion that the consequence of a shutdown of our national rail transportation facilities would be such that it cannot be permitted to occur. I say this not only because of the serious threat such a shutdown would pose to our national defense effort but also because of the great harm which it would do to our economic stability, upon which a strong national defense rests.

"We therefore strongly urge the enactment of House Joint Resolution 559."

Mr. Chairman, this completes Secretary McNamara's statement.

There is a statement that Gen. Earle Wheeler would have made had he been here. General Meyer is representing General Wheeler and is prepared to read that statement for the record, should you desire.

The CHAIRMAN. Would you please proceed, General?

General MEYER. Mr. Chairman and members of the committee, this statement is General Wheeler's personal statement.

"I am pleased to have the opportunity to be heard before this committee today. My remarks to you will be brief.

"The Secretary has told you the basic reasons why the Department of Defense urges enactment of the proposed legislation. I subscribe fully to these reasons.

"When General Westmoreland appeared before Congress on April 28 he said 'Our President and the representatives of the people of the United States, the Congress, have seen to it that our troops in the field have been well supplied and equipped. When a field commander does not have to look over his shoulder to see whether he is being supported, he can concentrate on the battlefield with much greater assurance of success. I speak for my troops, when I say we are thankful for this unprecedented material support.'

"It is my belief that we should not, if it is humanly possible to avoid it, do anything which could jeopardize this superlative logistic support for our forces in Southeast Asia.

"Let me be more specific with reference to the railways' part in this support.

"Over 40 percent of the total freight shipped by the Department of Defense, exclusive of those petroleum products transported by pipeline, is moved by the Nation's railroads.

"During the first 9 months of fiscal year 1967, our rail shipments totaled 5.4 million tons. This amounts to 20,000 tons, or approximately 625 carloads, every day.

"For example, during this month of June, 140,000 tons of ammunition are scheduled to move by rail to our ports for shipment overseas. It takes about 150 railcar loads of ammunition to load one ammunition ship. We estimate that 975 carloads of ammunition for Vietnam will be moving this week; next week 900 will move.

"Without this rail transport, our ability to maintain sufficient stocks of ammunition for our troops in Southeast Asia would be seriously impaired.

"The movement of heavy military equipment is especially dependent on rail carriage. Combat vehicles, such as tanks and armored personnel carriers, are being moved daily to and from Vietnam in a program of repair and redistribution.

"During the next 2 weeks, over 3,000 railcars will be needed to transport ammunition, weapons, tactical vehicles, rations, and other combat supplies for Vietnam.

"In summary, the splendid performance of the railways is an essential factor in the Nation's logistic effort in support of the war.

"I believe that a complete stoppage of rail service in this country would have a direct impact on our overall defense activities—and particularly our combat operations in Southeast Asia—which we cannot afford.

"Would partial rail service be a practical solution?

"Secretary McNamara discussed problems we face if arrangements are made to move defense cargoes during a rail stoppage. How can defense and defense-related shipments be identified? The very problem of defining what is defense-related traffic is complex. Many plants make items which, though not classifiable as defense-related, are nonetheless indispensible to the operations of defense suppliers.

"For example, continued production and shipment of cardboard and crates is essential to the proper packaging of munitions. Consignments of even much mundane items as soap, detergents, and wiping cloths would become perplexing problems. These are hardly defense-related supplies in the general sense of the term; yet, they are essential to the effective functioning of the modern factory which produces very critical military items indeed.

"My transportation experts and I believe the interrelationship between 'essential' or 'defense related' shipments and 'nonessential' shipments to be so involved that we cannot effectively define and isolate the one from the other.

"This being so, it follows that our defense effort inevitably will suffer if we attempt to implement such a system.

"I do not personally see how, at a time when our defense needs are greater than they have been at any time since World War II, we can ask anything less than the full and uninterrupted operation of the Nation's railroads."

Mr. Chairman, this concludes General Wheeler's prepared testimony.

Mr. IGNATIUS. This completes the prepared statements of Secretary McNamara and General Wheeler.

General Lane, General Meyer, and I are prepared to answer questions that you may wish to call to our attention, Mr. Chairman, and hear any comments you may wish to make.

The CHAIRMAN. I certainly wish to thank all three of you for being here. I am sorry the Secretary could not be here, because I think he is the gentleman who should attempt to answer some of the questions, or General Wheeler.

As I tried to explain to you before we started, we did not expect you to take part in any labor relations, to indorse a bill, to say it is good or bad, because I don't think you have the knowledge, unless you are an expert in this field, to say what is good or what is bad.

Mr. IGNATIUS. I am not, sir.

The CHAIRMAN. We expected you only to answer the questions for the Secretary. I tried to explain to him by phone yesterday about the fact that if there is a strike—and we hope there is not going to be a strike, and we are going to do everything we can to keep one from occurring, but these things do occur—as to whether he had made any plans or could make any plans.

Mr. IGNATIUS. Mr. Chairman, I have studied the request for the joint resolution. It seems to me that the solution that it offers is an effective and preferable one, and would deal with the problem.

As Secretary McNamara said in his statement which I read, "It is our opinion that the consequence of a shutdown of our national rail transportation facilities would be such that it cannot be permitted to occur."

It is unthinkable to us, sir, that there could be a national rail stoppage at the present time.

The CHAIRMAN. That kind of surprises me, because I have said time and again that we say the same thing. But what if it does occur?

Mr. IGNATIUS. We think it cannot occur, and that the means of preventing it has been requested by the President to the Congress in the form of the request for the joint resolution.

The CHAIRMAN. There are three separate branches of the Government. You know that, don't you?

Mr. IGNATIUS. Yes, sir.

The CHAIRMAN. I remember in 1952 this same argument was being made in the steel strike when the President said there could not be a strike and he seized the steel mills. He came to the Congress and asked for a law permitting seizure, but the Congress did not give him a law.

The strike did go on and went on for 52 days. I didn't hear of anything too much, and I was a Member of Congress. I don't know whether you were with the Defense Department then or not.

They called them into the President's office and they settled on the same basis they could have settled on on the first day before the strike occurred.

What we are trying to do, if there is a strike, to be concerned about it. I heard the words "impossible," in your statement, and "it could not be done," but that surprises me coming from the Defense Department, that there could not be some plans made. We are seeking help here.

We know that this strike should not happen.

Mr. KEITH. Mr. Chairman, would you yield at that point?

The CHAIRMAN. Yes.

Mr. KEITH. I think I have seen in the Pentagon in many offices a slogan to the effect that the difficult can be done today, the impossible take a little longer; that is, Mr. McNamara feels that no problem is insoluble if one analyzes the situation intelligently, applies initiative and imagination and makes a logical effort to solve it.

This, it seems to me, supports the point you are trying to make.

The CHAIRMAN. Thank you for your contribution.

I would like to ask this question: You did have a meeting, finally, in response to the telegram. As I recall, there was a response to the original telegram from Mr. Caputo. He is not here this morning?

Mr. IGNATIUS. He is not in the room, Mr. Chairman.

The CHAIRMAN. He is the Director of Transportation and Warehousing Policy. He said that a meeting did not appear to be necessary, as I recall.

The meeting occurred, and how long did it last?

Mr. IGNATIUS. The meeting was held on the 16th of May. I was present at the meeting, as I testified earlier, Mr. Chairman, and Deputy Secretary Vance was the senior Defense representative, and Secretary Boyd was the senior member of the executive branch at the meeting.

My recollection is that the meeting lasted slightly more than an hour. I would guess perhaps an hour and 15 minutes, something of that order of magnitude.

The CHAIRMAN. Was any representative of the railroads in this meeting at the Pentagon?

Mr. IGNATIUS. There was not. The only representatives that were associated with the railroads, as I recall, were Messrs. Fox and Leighty.

The CHAIRMAN. Who presented the view of the railroads as to what they could do or could not do?

Mr. IGNATIUS. Of the railroads' operating officials?

The CHAIRMAN. Yes.

Mr. IGNATIUS. There was no presentation by railroad operating officials at the meeting.

The CHAIRMAN. I don't see how you as a member of the Defense Department or the unions could say what the railroads could do. Who represented their views?

Mr. IGNATIUS. There was no representation of the railroads, as such. The only people at the meeting associated with the railroads, as I say, were Messrs. Fox and Leighty.

The CHAIRMAN. We have a list of the gentlemen who were there, and the meeting lasted 50 minutes.

Mr. IGNATIUS. I said about an hour to an hour and 15 minutes, that order of magnitude. It may have been 50 minutes, but it was about an hour.

The CHAIRMAN. And we have the ones who were present.

Mr. Leighty has suggested, I believe, in this meeting, and here before the committee, that this is not nearly as complex as you would have it to be; that the same trains would run on the same railroads but there would be fewer cars, taking all the Defense requirements that were needed, that if there was a partial car it would be right through.

Have you heard this suggestion?

Mr. IGNATIUS. Yes. We listened carefully to his views and we raised questions about them.

I must say, as a participant in the meeting, Mr. Chairman, that I do not believe that the proposal that was advanced was a practical or feasible proposal, and to answer questions based upon actual facts by saying, "We don't think that is a problem," I don't believe that that constitutes a workable proposal.

We have very carefully gone over this as have other parts of the Government who have both knowledge and interest in the problem. All of us have concluded that the plan for partial operation advanced by the union representatives is not feasible. Let me say that we welcome their good faith in presenting this plan, and both Secretary Boyd and Secretary Vance commented on this.

But many questions were raised at the meeting which were not satisfactorily answered. We believe that this, together with our own analysis, supports the considered judgment that we have reached: namely, that a plan for partial operation of an industry that undergirds the economy and that is concerned with the process of production as much as it is with transportation, simply is not feasible, and particularly not anything to be considered at a time such as presently confronts us.

The CHAIRMAN. Do you believe in compulsory arbitration?

Mr. IGNATIUS. Sir, I am testifying here, as you suggested, as a representative of the Defense Department, and I am not an expert in the complex labor issues.

The CHAIRMAN. I think you put yourself into it when you endorse this resolution.

Do you believe in compulsory arbitration?

Mr. IGNATIUS. I do not, sir, based on the knowledge I have as a layman. I do not believe in compulsory arbitration. But, again, I am not testifying as an expert on labor relations matters.

The CHAIRMAN. I am sure of that. I am a little bit amazed that you haven't consulted with the railroads and that they don't give you their opinion about what they can do instead of you making a decision as to what they can do on the railroads.

Mr. Friedel.

Mr. FRIEDEL. Mr. Ignatius, we all realize the importance of the effect a national railway strike would have. You brought out very completely what effect it would have. The thing that distresses me is that you endorse the resolution. You do not condemn management or the unions.

We have been going 47 days and they have not sat down once to try to work this out. I am not going to shirk my duty, and I have my responsibility. But I do believe that they have a responsibility, too, for the defense of our country. They could definitely get together now, right now, and try to work this thing out before any legislation may be passed.

I am afraid what legislation might pass. I haven't any prediction. One of the things you stress is that it would be economically a hardship on the railroads. Well, it is a hardship on the unions, too. We know they are both going to be the losers if they go on strike. They should get together now and try to work it out. They are not too far apart, as I understand.

I can't stress any stronger that they should start to meet this afternoon, to try to get together and avoid this thing.

Mr. IGNATIUS. Mr. Friedel, I certainly agree with that. I think the parties have an obligation to attempt to reach agreement. Although I am not informed in detail as to the issues, it is my understanding, as is yours, that are areas of difference are not marked and that great progress has been made in narrowing the differences over the record of this controversy.

Certainly it would be better if the parties could reach agreement. In the absence of that, we must not and cannot have a stoppage of national rail transportation.

Mr. FRIEDEL. What would be better than to try to do it right now? They are going to eventually agree. They can do it now. They are both going to have to give and take. That is how it is supposed to be. I am hoping they do.

I wouldn't want to embarrass you with any questions. Secretary McNamara is not here and I wouldn't want to put you in an awkward position.

The CHAIRMAN. Mr. Springer?

Mr. SPRINGER. Mr. Secretary, I regret that Mr. McNamara was not able to be here because I think the committee was planning on some very pertinent questions insofar as he was concerned.

May I ask, General, are you in charge of logistics?

General LANE. No, sir.

Mr. SPRINGER. What is your position?

General LANE. I command the Military Traffic Management and Terminal Service. It is an operating agency of the Department of Defense.

Mr. SPRINGER. May I ask the General what his job is?

General MEYER. I am Director of Logistics for the Joint Chiefs of Staff.

Mr. SPRINGER. I want to see, Mr. Secretary, if I can put this together in a nutshell so that this committee can understand where you stand as a result of both of these statements. If there is anything you have to add at the end, I hope you will do it.

I have tried to analyze your statement. You have given, as best I can see, four distinct reasons as to why you believe that you have to take this position.

First, that in the ordinary course of business, defense items cannot be made separately from the rest of the rail traffic. Is that one?

Mr. IGNATIUS. Yes, sir; that is one.

Mr. SPRINGER. Now, the second one is that since the carriage of materials used by the Defense Department are approximately 5 percent, that this is not a viable way for the economy to work. In other words, as a result of trying to operate in this manner, with partial carriage, you up the costs of all products, including the Defense Department. Is that true?

Mr. IGNATIUS. I think certainly the cost of the transportation would be far higher because you would be operating essentially the bulk of the railroad system for a very small portion of the normal volume. Therefore, the smaller volume would have to bear that very heavy fixed cost.

Mr. SPRINGER. Now I will go to the third point.

As I understand it, your feeling is that other parts of the economy not occupied with defense would turn to the defense plants themselves for the output of products used in the private economy because they would be the only plants that would be operating.

Mr. IGNATIUS. I think we can say that. I believe that you are quite correct in saying that that is the kind of problem that would immediately arise.

The difficulty is that there are very few contractors who are wholly or solely defense contractors. They will range from less than 1 percent of their total volume on behalf of the Defense Department to, in the case of a few companies, a very substantial portion of their total volume.

An example might be a company making, let's say, transistors that we would use on military electronics but, let's say, might be used also in commercial television. Presumably the transistors used on military electronics would be essential; the ones on television would not be.

The company that makes them may be four or five tiers down the contracting structure. He may sell his transistor to a company who makes what the military call a black box. That black box, in turn, may be sold to a larger company that assembles several of these into a system who, in turn, may provide it to an aircraft manufacturer who puts it in, let's say, the F–4 fighter.

Knowledge of all of these relationships among companies down the various tiers is extremely difficult to obtain in any either central or regional way.

Mr. SPRINGER. Mr. Secretary, I only have 5 minutes.

Mr. IGNATIUS. I don't mean to take your time.

Mr. SPRINGER. The fourth point you have made, if I analyze this correctly, is that you use the truck freight in about the same proportion that you use rail. Is that approximately correct?

Mr. IGNATIUS. That is correct.

Mr. SPRINGER. What you are saying, in effect, as I understand it, is that if you are denied rail or any portion of rail, you will then turn to trucks which would further complicate the question of administration as well as the hauling of other goods by truck. Is that right?

Mr. IGNATIUS. That is correct. However, some of our shipments cannot be shifted from rail to truck.

Mr. SPRINGER. Those are the four I have analyzed.

Have any one of you three gentlemen any other points?

Mr. IGNATIUS. I would like to add one to the four you have mentioned, if I might. That would be to complete the example I was giving a moment ago of this manufacturer of transistors.

If only 5 percent of his volume is on behalf of the national defense, his ability to continue operating with only 5 percent of his normal volume would be very unlikely. Therefore, obtaining the 5 percent output, which is essential to the national defense, would be placed in jeopardy.

So I think this is a point, sir, that must be borne in mind, the inability to separate out from a total economy and to segregate within an industry that undergirds it, namely, the railroad industry, that part which is essential for defense. And even if one could do that, the inability then of a company to operate at the very limited volume levels that would be required if it were only operated for the national defense.

Mr. SPRINGER. Is there any other point?

Do you other gentlemen have any other points to make in addition to what the Secretary has given?

General LANE. I would add one point, Mr. Springer, only, and this relates to what the Secretary said about the subcontractors. I think it would be infeasible, administratively, to give clearance for the movement of those cargoes that go into the production of defense products.

It is administratively impossible to do it because the Department of Defense does not know who all the subcontractors are. The union has said that it will accept a Government clearance. So at this point in time there is no way of giving clearance to all these subcontractors who are actually in support of defense.

Mr. SPRINGER. General Meyer?

There are six points now. Before you leave here, do we have all of them?

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

Mr. Secretary, do you know who put out the invitations to that meeting held on May 16?

Mr. IGNATIUS. In respect to Mr. Fox and Mr. Leighty, I put out the invitations, and I put them out by telephone, first informing them of the day and the approximate hour, and, secondly, in a second call, informing them precisely of the time and place of the meeting.

The invitations to the other participants, and they were people from the Government, were made in a number of ways. I think I may have, for example, been responsible for telephoning the Department of Health, Education, and Welfare, Assistant Secretary Lee being the representative from there.

Mr. MACDONALD. In general, you are the gentleman who issued the invitation, so I am talking to the correct person.

Mr. IGNATIUS. Yes, sir.

Mr. MACDONALD. Inasmuch as we on the committee received the telegram sent to the Department of Transportation, and I think the record will show that it went out on the 8th, and I questioned the Secretary of Transportation, Mr. Boyd, and in response to a question to me, he said, "No, there wasn't going to be a meeting because * * *" he didn't think a meeting was necessary, that the job, as you have indicated, was just too tough to be done and, therefore, nothing would be served if such a meeting were held—and I think I paraphrase his testimony correctly.

Let me mention this to you: I went into the same matter, subsequently, with the Secretary of Labor, Mr. Wirtz. While I was questioning Mr. Wirtz, sometime later he sent somebody out on the phone and when he came back he indicated that he had talked with someone at the Department of Defense and they had indicated the fact that, yes, they would hold the meeting.

Doesn't it seem to you that if there are two people to a dispute, and one of the parties says that it is possible to move goods that are essential to defense and national health and welfare, and the other party says no, the other party being the railroads, that they say no, it is impossible, wouldn't you think it would be a good move to get them in the same room to find out why one says that it is possible, the people who work the trains, and have the people who own the freight cars, who say no, it is not possible?

Wouldn't it be reasonable to have them in the same room to hear both sides of the story?

Mr. IGNATIUS. We were informed by Messrs. Fox and Leighty——

Mr. MACDONALD. Since my time is limited, I will ask the same question in a different way. Since I believe it is very reasonable, why didn't the Defense Department think it reasonable? Why didn't they have the railroads there to defend their point of view?

Mr. IGNATIUS. We felt that the purpose of the meeting was to hear the proposal that Messrs. Fox and Leighty had offered to present, and that under those circumstances it would be appropriate to meet with them.

Mr. MACDONALD. In other words, the Pentagon, I know, has many more problems than just moving trains. Therefore, I would think the people who would know the most about moving the trains, outside of the people who work on the trains, are the people who operate the trains in the sense of owning them.

I just can't understand why they weren't invited to this meeting unless the Department of Transportation was joined by the Department of Defense in having a preconceived notion that nothing would come of this meeting. Fifty minutes, with one side not even represented, doesn't seem to me to be a very thoroughgoing back-and-forth of the subject. I quite frankly don't understand it.

Mr. IGNATIUS. We had given, of course, a great deal of thought and time to this matter before the meeting, as well as subsequent to the meeting. The meeting itself did take approximately an hour, although perhaps 50 minutes is the exact time.

I might mention, Mr. Macdonald, in addition to the telephone calls that I made, there was a telegram sent by Secretary Vance, signed by Secretary Vance, on the 13th of May to Mr. Fox and Mr. Leighty advising them of the meeting. My phone calls were in connection with that.

Mr. MACDONALD. That still doesn't get around the point as to why, if there is a dispute, and one side is to be heard with a proposal, why the other side is not there to say why they think it can't be done.

By your very figures you say that of all the railroad traffic, only 5 percent is defense related. I was very surprised to hear that figure. If only 5 percent of the rail traffic of this Nation is defense related, I don't see why it couldn't be possible to accept the idea put forth by the Brotherhoods that they could say, "If this is needed, we will let it go through."

Mr. IGNATIUS. They certainly offered to be cooperative and we thanked them for that. The problems in accomplishing this, I think, Mr. Macdonald, were adressed in Secretary McNamara's statement, which I read.

We gave serious and careful thought to their proposal, examined it in detail, and concluded that it was not feasible.

Mr. MACDONALD. My last question, Mr. Chairman.

When did you turn down the proposition—at the end of the 50 minutes?

Mr. IGNATIUS. Mr. Vance, at the end of the meeting, stated that in his judgment—and Secretary Boyd also made a similar statement——

Mr. MACDONALD. He had made the same statement here to questions I asked a week beforehand, and he hadn't seen the proposal at that time.

Mr. IGNATIUS. Secretary Vance stated at the conclusion of the meeting that the proposal did appear to be infeasible and not a practical solution to the problem which faced us. He so informed them.

Mr. MACDONALD. This is based, by the Defense Department on 50 minutes of conversation with just one side to the dispute?

Mr. IGNATIUS. Sir, the meeting that you referred to was of approximately that length, but a great deal of work went on prior to the meeting to consider the proposal that had been described and its implications.

Mr. MACDONALD. I have said before, and I will say again, that I don't think that the brotherhoods' proposal to move these goods in a time of emergency has been given thorough consideration.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Mr. Chairman, I was unavoidably detained this morning. I would like to reserve my right to question at a later point.

The CHAIRMAN. Mr. Jarman?

Mr. JARMAN. Mr. Chairman, I have no questions at this time, but I will state for the record that I think the McNamara-Wheeler statements that have been read this morning are clear, effective, and compelling logic on this problem that we all face.

Thank you.

The CHAIRMAN. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman?

I don't have any specific questions. The testimony that has been developed here, particularly under the questioning of Mr. Springer, is quite enlightening as to the difficulty faced by the Defense Department.

I would like to know what contingency plans exist. Are there any plans such as those that existed in 1952 pertaining to the steel industry?

Mr. IGNATIUS. Mr. Keith, I can only repeat what Secretary McNamara said in his statement: That the consequences of a shutdown of the national rail transportation at this time are such that it simply can't be permitted to occur.

Once again, I must say that I believe a means of preventing this, in the absence of the parties coming into agreement in the manner Mr. Friedel earlier mentioned, could be achieved by the joint resolution which the President has requested of the Congress.

Mr. KEITH. Our chairman has indicated that we are a separate branch of Government and we may not concur.

The other observation that I would make is that it would appear that the Defense Department is getting quite realistic as to the problems involved in this dispute—this attitude may have a subduing effect on other operations which they contemplate from their high and lofty position.

That is all I have, Mr. Chairman.

The CHAIRMAN. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

I read your statement with great interest, General. I am wondering about two points.

One is: Is there authority in the hands of the President at this time to promulgate appropriate regulations for the movement of defense-oriented cargo and cargo on the railroads which is essential to the national defense?

Mr. IGNATIUS. This is on the assumption the railroads were operating?

Mr. DINGELL. Assuming the railroads would stop operating, is there such authority in the President?

Mr. IGNATIUS. I don't believe such authority exists if, by your question, Mr. Dingell, you are referring to seizure, that is, to compel operation. I do not believe such authority exists.

Mr. DINGELL. I don't have the citation of the statute before me, but as I understand it, the President has authority to deal with matters of this kind through the establishing of priorities.

Are you telling me that that legislation does not afford him the power to move cargo and shipments which are essential to the national defense on the railroads?

Mr. IGNATIUS. Sir, this is why I asked the assumption underlying your question. On the assumption that the railroads are operating, the President does have authority under the Defense Production Act with respect to the establishment of priorities in behalf of the national defense, both with respect to manufactured articles as well as transportation.

Mr. DINGELL. You are saying there is no statutory authority for him to move essential shipments in the event of a nationwide railroad strike?

Mr. IGNATIUS. It is my understanding that the legal situation is that if the railroads are operating and it is necessary to assure the movement of goods in support of the national defense, that the Defense Production Act and the Interstate Commerce Act empowers the President with that authority.

If the railroads are not operating, I do not believe that these acts give the President the authority to make them operate. I would like to check with legal counsel on that, if I may.

Mr. DINGELL. I think it would be appropriate, if you choose, to make such comment.

Mr. IGNATIUS. Mr. Nash, Assistant General Counsel of the Defense Department, who is behind me, stated that my general statement was a correct statement of the situation, in general lay terms.

Mr. DINGELL. And there is no authority in the President to require movement of defense shipments under any existing Federal statutes?

Mr. IGNATIUS. Only insofar as the above acts apply and in the manner I described in my response.

Mr. DINGELL. If this committee were to vest in the President the power to require movement of shipments essential to national defense, would it be possible for your agency to administer such a requirement and to issue regulations for the movement of such essential shipments?

Mr. IGNATIUS. Mr. Dingell——

Mr. DINGELL. I read your statement that the plan submitted to you by the unions was not workable. I read your statement on that point. But my question is a very different one. That is whether or not, if this committee and the Congress were to vest the President with the power to issue regulations for the movement of shipments essential to the national defense, would it be possible for your agency to do so?

Mr. IGNATIUS. I think that from our standpoint in the Defense Department, we believe that a stoppage of the national rail transportation system at the present time is something that is unthinkable.

As to how that should be dealt with, the committee has before it the request of the President to handle it by means of the mechanism in the joint resolution.

If there are other means that the Congress wants to consider as it reviews the problem, this would be for the committee and the Congress to decide. We support the administration position strongly.

Mr. DINGELL. That is very clear to me. But I am asking you a very different question.

I am asking your help. Our problem here is to try to save collective bargaining and protect the national interest, preserve the health, education, welfare, the defense of the Nation, but at the same time to allow the parties to bargain collectively.

I am asking you if it would be possible, if we were to vest in the Department of Defense appropriate authority to issue regulations to this end, and to require the movement of essential defense shipments, could you do so by regulation?

Mr. IGNATIUS. Sir, if your question means that only limited operation of the railroads would be involved, that is to say, confined to essential defense shipments, and presumably shipments for the national health along with the national defense, I think you would have a situation similar to what the union proposal was in respect to partial operation.

I think the administrative, the technical, the financial problems, management problems, overall, of managing a limited operation renders such a plan infeasible.

Therefore, if the purport of your comment is that power would be vested to operate the railroads on a partial basis, I would say that there would be difficult problems in the extreme in insuring that this could be done and that the national defense needs could be met.

Mr. DINGELL. The purport of my question is, if we gave you power to move essential shipments, could you do it?

Mr. IGNATIUS. The problem we would have is identifying what is essential to the national defense and then insuring the movement of those goods.

Mr. DINGELL. I would assume that the power to order movement of essential shipments would also include the power to identify essential shipments.

Mr. IGNATIUS. Yes, sir; that power would have to exist. But having been vested with that power, the problem of carrying it out in a meaningful way——

Mr. DINGELL. If you have authority to issue regulations to do two things, one, to identify, and, two, to move, could you do the job?

Mr. IGNATIUS. The problem we would face would be the problem of identifying. Although the power was vested, how would we identify a particular shipment of cardboard that represented cardboard associated with packaging munitions as opposed to cardboard that wasn't?

This is an extremely different job and would take a long period of time to effect.

Mr. DINGELL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Broyhill.

Mr. BROYHILL. Thank you, Mr. Chairman.

I just wanted to thank the Secretary and General Meyer and General Lane for bringing the statements of Secretary McNamara and General Wheeler to the attention of the committee.

I think they have been forthright statements, bringing vital information that the committee needs.

I believe this information is based upon your experience and judgment, and have stated the facts that you feel the committee should have.

Thank you.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Secretary, I, too, feel that the statement you read for Secretary McNamara is very clear. I don't know why anyone has difficulty in understanding the problem you would have in trying to separate defense-oriented and nondefense. I think it is very clear.

Tell me this: Has the Middle East situation which has developed put any greater urgency on the fact that we should not have a national strike?

Mr. IGNATIUS. Mr. Rogers, I am sure you appreciate my inability to comment on the Middle Eastern situation in any detail.

I would simply say that the unknowns associated with the situation in the Middle East, certainly adds a dimension to the problem.

In short, our situation is different in the sense that there are some unknowns created by the current situation in the Middle East.

Mr. ROGERS. If we were called upon to participate in any manner in the Middle East, in a military way, would this affect this situation any more?

Mr. IGNATIUS. Again, I don't want to get into matters dealing with the situation in the Middle East. The railroads now carry a substantial portion of our total traffic. If more traffic were required that should be moved by rail, then we would become more dependent upon the railroad industry.

But I don't wish to speculate on the Middle East situation, per se.

Mr. ROGERS. I realize that, I am simply saying that to close our eyes to it would be absurd, wouldn't it, Mr. Secretary?

Mr. IGNATIUS. I think so. Referring to Secretary McNamara's statement at the top of page 2:

> In the light of the current world situation, and with new and dangerous unknowns created by the Near East crisis, we believe it is unthinkable that a strike should be permitted to occur in the industry which constitutes one of the basic elements supporting our military posture.

Mr. ROGERS. Thank you. I think that clearly puts it in a proper light.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Secretary, I should like to join with the others in thanking you for your contribution. Certainly we understand why Secretary McNamara is unable to be here.

I would like to believe that your multitudinous problems that you would have on a partial operation are well beyond any that you have even described in your statement. I think if you tried to solve one, you would have 15 others crop up.

Be that as it may, apparently there has been a concern on the part of some of the committee members about the mechanics of this meeting with the unions. I have had difficulty in fully understanding what contribution the carriers could have made if you had invited all of them to this meeting.

If I can recount this, the unions made this offer of partial operation to serve the defense needs, is that not correct?

Mr. IGNATIUS. That is correct.

Mr. WATSON. And they appeared before you and, as I understood it, you determined after hearing them that it would be impracticable and unwise to undergo such an operation.

Mr. IGNATIUS. We had given their proposal a great deal of thought prior to the meeting, and a great deal of study. There was nothing that occurred during the meeting that caused us to believe that this would be a feasible solution to the problem.

Mr. WATSON. Mr. Secretary, of course you are aware of the fact that the carriers had taken the position before this committee in testimony that such a plan would not work, that it was impractical. You were aware of that, weren't you?

Mr. IGNATIUS. I was aware of testimony before the Senate committee by, I believe, the president of one of the carriers. I did not have an opportunity to read the hearings that may have been conducted in which carriers addressed the problem before this committee.

But I had heard, yes, sir; as to their views on this, and had read, as I say, the testimony of one of the railroad presidents in connection

with the question of limited operation before Senator Morse's committee.

Mr. WATSON. Then if you had had every carriers comment, all it would have done is resulted in a reinforcement of your decision that the plan was impractical and unwise?

Mr. IGNATIUS. We certainly believe, based on every bit of evidence that we could obtain, that the plan was not a feasible one.

Mr. WATSON. And if you were to bring them in, it would have just been an exercise in futility.

I want to conclude, Mr. Chairman, with this statement: We have the Middle East burning up and we have a lot of boys in Vietnam sacrificing and making a lot of concessions. Apparently 75 percent of these workers have made some concessions. It distresses me that we are piddling around here and messing around with this thing when the parties who should really be interested are not willing to make any concessions. These boys are making a lot of sacrifices. I think somebody on this side of the ocean ought to make some sacrifices.

Thank you very much.

The CHAIRMAN. Mr. Kornegay.

Mr. KORNEGAY. Thank you, Mr. Chairman.

I have no questions of the Secretary. I would like to thank you for coming, Mr. Secretary, and presenting the views of the Department to us on this occasion.

Thank you very much.

Mr. IGNATIUS. Thank you, sir.

The CHAIRMAN. Dr. Carter.

Mr. CARTER. I want to compliment the Secretary on this excellent presentation.

We are happy to have you with us.

I have no questions, Mr. Chairman.

The CHAIRMAN. Mr. Van Deerlin.

Mr. VAN DEERLIN. I have no questions, Mr. Chairman.

The CHAIRMAN. Mr. Brotzman.

Mr. BROTZMAN. Mr. Secretary, I understand from your testimony that there has been a meeting on May 16 with an indefinite running time, something between 50 minutes and 75 minutes.

From Secretary McNamara's statement, I also know that there were in attendance representatives from the Departments of Agriculture and Health, Education, and Welfare.

Realizing in a sense that this is hearsay testimony, do you recall any indication on the part of representatives from HEW as to what effect or what impact a strike would have on the public health of this country?

Mr. IGNATIUS. The representative from HEW at the meeting on May 16 was Dr. Philip Lee, Assistant Secretary for Health and Scientific Affairs.

To the best of my knowledge, Dr. Lee did not comment at the meeting in respect to the question of essential medical or health supplies. I do not recall a comment by Dr. Lee at the meeting.

Mr. BROTZMAN. Do you recall any other contributions by the members present at the May 16 meeting?

Mr. IGNATIUS. There was a general viewpoint expressed, Mr. Brotzman, at the conclusion of the meeting that the major subject under

discussion; namely, was it feasible to have a plan of partial operation, was not, in fact, a practical or feasible solution to the problem. Viewpoints on this were expressed by Secretary Vance; Secretary Boyd made a comment to this effect; Under Secretary of Labor Reynolds, who was at the meeting, raised a number of questions which brought out the inability to differentiate between what is essential to the defense and what isn't.

There was one series of questions I recall Mr. Reynolds raising in connection with this. I would certainly say that it was the sense of the meeting that a plan of partial operation of an industry so closely integrated with the national economy, particularly at a time such as the present, was not feasible.

Mr. BROTZMAN. At this meeting, since time has been raised as an issue, was anyone foreclosed from presenting anything they had to say relative to this proposal?

Mr. IGNATIUS. Not to my knowledge. It seemed to me that anyone who wanted to say something was free to do so. I spoke up several times, and others did.

The meeting, it seemed to me, lasted as long as it was necessary to last. All of the people there, including the union representatives, were busy people, but I think all of us were prepared to spend as much time as was needed.

In fact, only 50 minutes to an hour was spent. But, as I recall, sir, there was no desire or, in fact, any effort made to keep anybody from saying whatever he wanted to say. There was quite good, general discussion.

Mr. BROTZMAN. It would be your position that there was a full presentation of the proposition?

Mr. IGNATIUS. First, we had had some idea of what was involved prior to the meeting and had devoted considerable time to analyzing this prior to the meeting.

At the meeting itself, Mr. Vance stated some views, the union representatives commented on them, we raised a number of discerning questions as to how this would work, they responded, and it seemed to me on the basis of the work we had already done, buttressed by the discussions we had had and the opportunity to hear in person from Messrs. Fox and Leighty, that we had sufficient information in order to form the judgment that we did; namely, that this was not a feasible or practical solution to the problem.

Mr. BROTZMAN. Did you so state at that particular time or was your answer delayed?

Mr. IGNATIUS. Mr. Vance pointed out at the meeting that he did not regard the plan as being feasible. He stated that it had a number of unknowns associated with it, and that certainly he could not chance the risk to the Nation's defense and welfare if the proposal didn't work out. This was stated by Mr. Vance at the meeting.

It is my recollection that similar statements in respect to the judgment that the plan was impractical were made by Secretary Boyd.

Mr. BROTZMAN. I thank you, Mr. Secretary.

I have no further questions.

The CHAIRMAN. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Secretary, the gist of the questioning this morning seems to me to revolve around the question of whether the railroads had sat in on

the meeting and had offered testimony. To me this doesn't quite go to the point. I can't see the great emergency of that because the statement has been made over and over again that the plan would not work.

Have you or the Department ever asked the railroad people if such a plan would be workable?

Mr. IGNATIUS. I have read the testimony, as I stated earlier, of one of the railroad presidents. I don't recall whether I spoke personally to anyone else associated with the management of the railroads. I do not believe I have.

I recall one telephone conversation with a member of the staff of the Association of American Railroads. But I do not believe, based on my recollection of that, that we discussed the plan of partial operation.

Mr. PICKLE. Mr. Secretary, as one member, I don't know why you don't officially ask the railroads for their position on such a plan as was offered.

This committee and this country is facing a time crisis and in approximately 12 days we are going to have a strike or else we are going to have some kind of legislation to head it off. Time is of the essence.

I don't know why you don't get the official statement of such a group, and if there is any question that needs to be pursued that you would pursue it, while these hearings are going on. I think we ought to do that as a matter of completing the record.

Mr. IGNATIUS. Yes, sir; I think we could do that. I think also, and I will need to check with the Department of Transportation, I suspect they may have done that. I am not certain of that, but they have certainly been involved. I will check with them.

That is something we can do. But I don't think we will learn anything new from it, sir.

Mr. PICKLE. The real question is, on the testimony before us: Is such a plan in your opinion workable, the separation of the transportation of defense-essential goods? You, Mr. Secretary, that is, the Secretary of Defense, the Secretary of Transportation, and, I assume, all related officials in these departments have said it was unthinkable, that you could not do it.

Mr. IGNATIUS. That is correct, that is not a feasible solution to the problem.

Mr. PICKLE. We in this committee must either say that you are right or you are wrong. It behooves us, and none of us on this committee are experts, to say that you do not know what you are talking about. I am compelled to think that your testimony is logical. As distasteful as the legislation may be, we face the decision of taking some kind of action that is best for the country.

Thank you.

The CHAIRMAN. Mr. Watkins?

Mr. WATKINS. Thank you, Mr. Chairman.

I would like to ask one question: You made the statement, Mr. Sectary, that you are opposed to compulsory arbitration. Is that the thinking of your department or of yourself?

Mr. IGNATIUS. I must be very explicit on this point. The chairman characterized my appearance at the outset as one not having to do with labor-management issues. I do not appear before this committee as an expert on labor-management relations.

Mr. WATKINS. Are you in favor of it, or is it your view or the Department's, or Mr. McNamara's view?

Mr. IGNATIUS. I cannot speak for Mr. McNamara on this point. I did state as my personal view that I would be opposed to compulsory arbitration, but that is not necessarily a departmental position.

Mr. WATKINS. Do you have any other view, in view of that, that you could get the railroads and the labor unions together?

Mr. IGNATIUS. In the absence of an agreement such as Mr. Friedel mentioned earlier, it would seem to me that the best solution I am aware of is the request that the President has made for the joint resolution that lies before the committee.

Mr. WATKINS. I am aware of where you stand on the President's recommendation.

You also made the statement that you didn't think the traffic could be handled where 5 percent of it is covered by the rails. It is about 12 days away, but have you gone into the common carriage vehicles to be used for this? The trucks are regulated, of course. They can only go on certain roads and certain highways. But has that been checked through the Interstate Commerce Commission to handle the Government shipments?

Mr. IGNATIUS. I am not sure I understand the question. Perhaps General Lane understands it.

General LANE. Yes, I understand the question.

Nothing specific has been done. This, of course, is an ICC prerogative.

Mr. WATKINS. Why haven't steps been taken, assuming that there will be a strike? The way it looks here, if there is no legislation there will be a strike.

General LANE. Because the capacity of the trucking industry cannot take care of the load that would be thrust upon it by the stoppage of the rails.

Mr. WATKINS. I don't agree with you on that. Have you figures to back that up?

General LANE. Roughly 50 percent of the carriage in the country is truck, and 50 percent is rail. Neither can carry the load of the other.

Mr. WATKINS. I disagree with you. I think they could. But you would have to release the regulations so that a carrier, perhaps, would only run from Boston to Alexandria, Va., and he would be allowed to go to Miami and California. I think you should look into that, General.

General LANE. This would be done in specific instances. We work very closely with the ICC.

Mr. WATKINS. Let's not wait until the last day.

General LANE. Correct.

Mr. WATKINS. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Ottinger?

Mr. OTTINGER. Thank you, Mr. Chairman.

Mr. Secretary, I can understand fully your coming before us and expressing your opinion as to the drastic effects on our defense posture and our defense organization if a nationwide railway strike occurred.

I cannot see, however, how you can maintain a position supporting the particular solution represented in the bill. You say you are not going to take a position with respect to labor-management disputes. Do you have anything against our resolving this by providing for seizure of the railroads?

Mr. IGNATIUS. The issue must resolved. Seizure would be an alternative. In my judgment, it is not as satisfactory an alternative as that which has been proposed under the joint resolution.

Mr. OTTINGER. Does it not equally solve your military problems?

Mr. IGNATIUS. Our interest, of course, is in insuring that our supplies are moved. But I would think that the resolution of the issue, either through completion of the collective bargaining, as Congressman Friedel said, or by means of the joint resolution, would be preferable to seizure. I think there are other problems associated with seizure that are not present if the joint resolution is passed.

Mr. OTTINGER. Do those problems relate to the movement of military goods?

Mr. IGNATIUS. I haven't addressed in detail that question, Mr. Ottinger. But I am of the opinion that there would be new problems associated with seizure that would not be present under the joint resolution. I fully support that as the preferred means as opposed to seizure.

Mr. OTTINGER. I think it inappropriate, unless you are coming here to testify on the labor issues, that you extend yourself beyond the question of the movement of military goods and the necessity of our defense posture. It seems to me that otherwise you are getting clearly into another area with which we are charged, but which you say you want to avoid.

Mr. IGNATIUS. I think I understand the point you are making. There was a seizure some years ago and it is an alternative. Although I was not in the Department at the time, there was a period of operation under those conditions.

Mr. OTTINGER. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Brown?

Mr. BROWN. As a newspaperman, you realize if I were editing your statement, Mr. Secretary, I would leave it as it is up until the last line. I think Mr. Ottinger has put his finger on the problem.

If you are not testifying on labor-management negotiations but merely on whether or not the country can afford a strike in these perilous times from the standpoint of the Defense Department, then I would have left off that last sentence of this statement, perhaps.

Let me ask you, then, with reference to whether or not the country can tolerate a strike at this time—and I want to be perfectly clear on your viewpoint—any conclusion on the part of this committee or on the part of the Congress to take a strike, I gather, damages our defense posture in Vietnam and our maneuverability with reference to any action this country might wish to take in the Mideast; is that correct?

Mr. IGNATIUS. I think given the current circumstances, we cannot have a national rail stoppage.

Mr. BROWN. Would you go so far as to call such an eventuality irresponsible?

Mr. IGNATIUS. I would say that the parties certainly have an obligation to attempt to reach agreement. If that doesn't occur, there must be found some other means of insuring a continuation of national rail service.

Mr. BROWN. Can I conclude from what you just said that any unwillingness to negotiate or to meet together on the part of management

and labor is inimical to the interests of our young men, 500,000 of them, serving in Vietnam?

Mr. IGNATIUS. Certainly, Mr. Brown, I think any parties to a labor dispute, and particularly in an industry as important as this, and at a time such as the present, have an obligation to attempt to seek agreement.

I have been most impressed in past circumstances that have come to my attention with the ability of the parties to compose their differences. I have seen situations——

Mr. BROWN. You are aware, are you not, Mr. Secretary, that the parties haven't met in this instance since the 25th of April?

Mr. IGNATIUS. I checked this morning, before coming to the committee, with the Labor Department and was advised that there has not been any negotiation in the recent past.

Mr. BROWN. Would you consider this lack of willingness to meet on the part of management and on the part of labor as inimical to our foreign interests?

Mr. IGNATIUS. It is just very clear to me that we must have rail transportation, the national system, at the present time.

Mr. BROWN. Mr. Secretary——

Mr. IGNATIUS. I am answering your question. I would like to think that the parties would make every effort and every last effort in order to reach agreement. The issues, I am told, that separate them are not large, and much progress was made.

Mr. BROWN. Now, the answer to the question: Would you consider the failure to meet inimical to our interests in Vietnam, the interests of the 500,000 young men fighting there, in a position that the President has put them in?

Mr. IGNATIUS. I think they should meet; yes, sir.

Mr. BROWN. Let me switch to another level of questions since I don't feel that is a very direct answer to my question, frankly.

Mr. IGNATIUS. I meant it to be.

Mr. BROWN. You meant it to be direct?

Mr. IGNATIUS. I meant it to be direct.

Mr. BROWN. You think it is inimical to the interests of these young men and to our foreign policy that they are not meeting?

Mr. IGNATIUS. I stated before that the circumstances require a solution to the problem, and the best solution would be for the parties to come into agreement.

Therefore, it would seem to me they should make every effort to do so and if they are not meeting, I would think that they ought to give it another effort and see if they can't come into agreement.

Mr. BROWN. You apparently put the Defense Department in a position of saying that we cannot afford a strike. I am trying to determine whether the fact that the parties are not meeting is irresponsible, because apparently if the parties will not meet and the only way to resolve this problem is through seizure or compulsory arbitration, then I presume, from your statement, that it would be irresponsible if the Congress did not take one action or another, or some action, to avoid a strike.

That is the position that the administration has put the Congress in. I would like to put the rail management and the rail unions in the same position. Is that correct?

Mr. IGNATIUS. Yes, I understand that.

Mr. BROWN. Let me ask one other question, if I may.

The arguments you have advanced for the inability of the country at this time, in such a position as we find ourselves with regard to Vietnam and the concern over the events in the Mideast, with reference to the rail situation, might also be applicable to other labor-management disputes in other industries.

Mr. IGNATIUS. We don't have any situation on the horizon that I am familiar with that poses the kind of problem that a national stoppage of the rail system would pose.

Mr. BROWN. Would a maritime strike pose a problem as it relates to the rail?

Mr. IGNATIUS. That would be a very serious problem, Mr. Brown. But we believe that in a maritime strike it might be feasible to insure the partial operations, so to speak, in order to insure the movement of defense cargoes. We have had experiences of that kind in the past with the maritime unions and they have agreed to move essential defense cargoes. Secretary McNamara's statement which I read addressed this point. The problem is a lot simpler in that case than in the partial operation of the railroads.

Mr. BROWN. If I may put one final thought or question, it seems to me that it is only a relative matter when you suggest the country's defense posture cannot take a rail strike, both because of its effect on the economy and its effect on our national defense, related to the possibility of a maritime strike, a steel strike, something that would affect the power resources of our country or communications.

I make this point because we have had earlier testimony that we can't afford to take this strike because it would have an adverse effect on our national economy.

All of these other industries that I mentioned would have some degree of an adverse effect on our national economy and I gather some degree of an adverse effect on our national defense posture. It seems to me that we are getting ourselves into the position: that is, the administration is getting itself into a position, of saying that we cannot afford strikes in a rather wide number of industries.

Therefore, we have, I think, an obligation, the administration does, and perhaps the Congress does, to try to find some means of resolving these nationwide strikes that are so critical both to our economy and our defense posture.

The CHAIRMAN. Mr. Blanton?

Mr. BLANTON. I have no questions, Mr. Chairman.

The CHAIRMAN. Mr. Kuykendall?

Mr. KUYKENDALL. Mr. Secretary, I want to thank you for an excellent statement as to the effect a strike would have on the national defense effort.

To prevent this, I know, is the reason that you are here. I would like to take most of my time, since I hope this is one of the last of the many hearings that will be required to come to some kind of conclusion, in joining with Mr. Friedel and Mr. Watson in expressing very deep displeasure and resentment at the inactivity of both parties since April 25.

In the face of the world conditions as they are today, I do not believe that the two parties in this strike have any right to expect the Congress to save collective bargaining. But only they can save collective bargaining.

I just wonder if the learned gentlemen on both sides of this dispute since April 25, instead of having us sit here for 24 hours since that time, doing their job for them, if they had to forfeit their pay to this committee during that time, if they wouldn't get down to business. I am talking to both parties now.

I think it is tme for both parties to start thinking about these men in Vietnam, to quit wondering about who is the biggest villain on the other side, and maybe one of them try to be a hero, for a change, to the American people.

If we are to believe each side's opinion of himself, as we have heard through 24 hours of listening, both sides are perfect. If we are to believe each party's opinion of the other side, there is no virtue on either side. I assume that somewhere in between lies the truth. It is their job to settle that and not ours.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Stuckey?

Mr. STUCKEY. No questions.

The CHAIRMAN. Mr. Kyros?

Mr. KYROS. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. I have no questions, Mr. Chairman.

The CHAIRMAN. This will conclude our session with you gentlemen. We want to thank you for coming over to give us your views. I am sorry Secretary McNamara could not be here. We appreciate the fact that you have been with us.

Thank you again.

The next witness we will have this morning is Mr. W. T. Rice, president, Atlantic Coast Line Railroad, Jacksonville, Fla.

I want to thank you, Mr. Rice, for being so patient this morning. We hope that we can finish with your testimony today. I understand you have some other commitments. That is the reason we are hoping to get through.

You may proceed with your testimony.

STATEMENT OF W. THOMAS RICE, PRESIDENT, ATLANTIC COAST LINE RAILROAD CO.

Mr. RICE. Thank you, Mr. Chairman and gentlemen of the committee.

My name is W. Thomas Rice. I am president of the Atlantic Coast Line Railroad Co., with general headquarters in Jacksonville, Fla.

I started railroading after I graduated from college in civil engineering in 1934. I worked for the Pennsylvania on seven different divisions until I was called on active duty during World War II in 1942. I served in the Army for 4 years, 3 of which was overseas.

I was in railroad operations a good portion of this time on the railroad running from the Persian Gulf to the Caspian Sea, serving ourselves and our allies, the Russians.

Subsequent to that, I was in the Philippines and later in Japan. I returned to civilian railroading in April of 1946. I went to work then for the Richmond, Fredericksburg & Potomac Railroad, which is the one that operates between Washington and Richmond, as a track supervisor at Fredericksburg.

Subsequently I was made superintendent of this yard across the river that you gentlemen can probably see from your windows, the Potomac yards. I was the operating head of it for 3 years.

I then went to Richmond as superintendent of the main line, and later general superintendent, and in 1955 I was elected as president. I remained in that job until 1957 when I was elected president of the Atlantic Coast Line Railroad, the job I am still in.

I continued my relationships with the Department of Defense in the Reserve Corps, and I am now a major general. Up until about a year ago I commanded the Transportation Railway Service, which is the headquarters of the Military Railway Service, in the theater of operations.

The Atlantic Coast Line Railroad Co., with some 5,700 miles of track, the northern terminus in Richmond, Va., runs through Virginia, the Carolinas, Georgia, Florida, and Alabama. Our western termini are in South Carolina, Augusta, Atlanta, Birmingham, Montgomery, and, of course, we run on down through the peninsula of Florida.

I am here today at the invitation of your chairman to discuss with you my interpretations of the practicability of the implementation of the movement of war material and other materials essential to the general welfare of the public in time of a rail strike.

In my opinion, gentlemen, the implementation of such a policy is extremely difficult, if not impossible. I would like to give my reasons.

No. 1: How do we determine what these materials are that would fall in the exempt category?

As many of you know, Government bills of lading are prepared on shipments moving from a military installation to another one. That is no problem. But there are thousands of carloads of very highly essential commodities that move on a normal bill of lading.

To try to pick out from the hundreds of bills of lading at any large yard those materials that fall in this exempt category would be both laborious, time consuming, and at times impossible.

We have an ammunition port on our railroad in South Carolina where we are loading a tremendous amount of ammunition destined to Vietnam. We load as many as six vessels at a time at that port. These cars come to us in lots of maybe 15 one day and 150 the next day. They may come through this Potomac yard, Birmingham, Montgomery, Spartansburg, Columbia, Augusta, at any junction point that we meet other railroads.

That is no problem. But we also move into that port carloads of lumber that must be used as dunnage in loading these ships. It is just as important to get the job done to have the dunnage as it is the ammunition.

At Mullins, S.C., there is an organization that is packaging these little packages of what we would call in World War II "K" rations. They get sugar, coffee, cigarettes, various foodstuffs, and they package them and ship them out on Government bills of lading to the ports for export to Vietnam. They move in on a normal bill of lading. To try to find those cars and separate them from the others would be a physical impossibility, even if you had the time to do it.

There are many other places on our railroad where we move parts into an assembly point where the entire product is put together, and the whole then would be moved to the port.

In my opinion, gentlemen, there is no way of determining what is what. Cotton to the textile mills to the South to make cloth from which the uniforms are made that the lads are wearing—how can you determine what cotton goes into uniforms and what cotton goes into the normal economy of the land?

I wasn't here, but I understand during World War II we did have priorities, and it was extremely difficult to control. We saw it overseas in trying to move goods under priorities, with all of the people we needed to try to work it out. It wasn't simple.

If you would let me, I would like to take you over to the Potomac yards and give you my understanding of what would happen at the time of a work stoppage. This yard is used by five railroads, the Pennsylvania and the B. & O. from the north; the C. & O., the Southern, and the R.R. & P. from the south.

At any time, day or night, she could have anywhere from 2,000 to 3,000 cars sitting in the two receiving yards and the two classification yards.

Suppose at midnight, 8 a.m., 4 p.m., or any other time of the day a picket line is thrown up over the entrance. What happens? Nobody reports for work. How do we find out what these exempt cars are? Somebody would have to go through the bill of lading on every car in the yard to pick it out. Who would that somebody be?

Let's assume, then, that the supervision would do this, that they had a list to go by. I don't think any list would suffice. They find out where the cars are and what cars need to be cut out of these multitudes of tracks to be dispatched onto the important areas that they are destined to.

Then what do they do? They have to call all of the crafts to come there and perhaps switch every track in that yard, both in the classifiction yard and in the receiving yard, because they all will have some of these cars.

How do they get these men? Let me tell you what they need. No. 1, they need trainmen, they need engineers, they need fireman, they need operators, clerks, yardmasters, car inspectors, car repairmen, maintenance-of-way people if they have a broken rail or a broken switch. They need everybody who works on the problem.

Who is going to tell them to come to work? That is the question of communications. These gentlemen are not going to cross that picket line, in my humble opinion, unless someone representing their brotherhoods is there to tell them they can go in and go to work. Who will make the decision as to whether or not these cars should move? Will the general chairman do it? Will the local chairman do it? Will the yardmaster do it?

I am sure you visualize the confusion that would exist in trying to get enough people there. The communications would be practically unbelievable confusion. And this is just one yard. You can reproduce that time and time again.

If you have to repair any of the cars you would need shop employees. These cars could be ammunition that I spoke of earlier, destined to Sunny Point. Suppose after a period of several days, and believe me, gentlemen, I sincerely believe it would take it, we get these cars separated out of the tracks, the ones that are exempt. There may be 10 cars for one railroad, 150 for another, and 75 for another.

Is this railroad with only 10 cars going to operate the train or is it going to wait until it can get a trainload?

These are some of the operating problems that we can well see. The schedules would be broken. These trains move in. You know, freight trains in this highly classified area operate on a schedule very similar to a passenger train. These trains from the North arrive at a certain time and they are humped over the humps and then the southbound trains move out on a schedule. These ports are moving the ships in to meet the schedules. The schedules are gone. The trains from the North would not come on schedule. They would have to wait for the traffic to move, I would presume.

Of course, you realize that to run a 5- or 10-car train, as compared to the normal size, with the power we have, while it takes the same number of employees to run it, it is quite expensive, relatively speaking.

Look at the problem that would exist now in dispatching this train. We have to get a road crew. The road crew would perhaps want to talk with the general chairman to be sure that these are exempt cars before they crossed the picket line.

We have to have diesel employees to get the engines ready. We have to have a train dispatcher located at the division headquarters. We have to have block operators in every one of the towers.

Whether there is one train or 60, you have to have those people. That is the way you run a railroad. So then we get the train run to Richmond and you have to interchange it with another railroad. You have no communication, no telephone operators, with this other railroad. There you are faced with the train arriving to get car inspectors out to reproduce this same confusion that I tried to speak of. The delay is enough to stagger the imagination, in my opinion.

What about the car supply? You gentlemen are quite familiar with the so-called critical shortage of railroad equipment that was suffered earlier in the year. Legislation was passed that gave the Interstate Commerce Commission certain authority in helping us control our equipment.

How do we get these empty cars back to the depots to load this same ammunition I referred to? Will we run an empty train back under the rules? Certain cars will move back empty, but they are specially equipped cars. Will we be authorized to run these trains empty? Who will pay for them? We can't afford to pay for them. We would be using a tremendous force to move a very small portion of our normal business.

The schedules would not operate, so the empty cars would pile up at the ports. Your inland spots, where you need them for reloading, would be short of cars. They are short now at times with the constant movement of cars in the normal commerce.

I might say on our railroad alone we have 26 military installations throughout the Southeast. This Sunny Point, to which I have referred, has ammunition moved into it from 28 States and from 39 loading points. How do we get those empty cars back to those points?

I think this car supply would be the most choatic thing we could imagine. You would find all up and down the coast where these cars are being shipped to a great congestion of empty equipment. An empty car takes just as much space as a loaded car. When you get your yards

filled with them, you are paralyzed. You have to have flexibility. You certainly can't operate a yard if you have these cars sitting there, whether they are empty or whether they are not.

On cost, there, again, gentlemen, I have no idea who would pay the bill. I know the railroads wouldn't. If we are working a force of this size and moving 5 percent of our traffic, as I understand the Secretary to say this morning, with all of our fixed charges running, with a great number of employees working to move a small number of cars, I despair at what would happen.

I know that the tariffs that we now charge are approved by the ICC. Somebody above the railroads would have to change them.

What about perishables? Congressman Rogers' State is moving a lot of watermelons right now. They will be up in South Carolina before long. Those things are very important. Potatoes out of Florida are going to the boys overseas. How do we know where they are going when they start shipping in carloads, when we are moving a hundred carloads a day? They are not going to an installation, all of them, but many of them do.

We have had a little experience lately that I would like to cite to you gentlemen. There is a little railroad in Florida known as the Florida East Coast Railroad. They have been on strike for a long time. Not long ago their engineers decided that they would endeavor to stop Coast Line from delivering traffic or receiving traffic from the FEC. In order to do that they came over to our yard and put sings on that said "ACL Unfair," and I may not repeat this exactly, "They deliver cars to FEC scabs and take our jobs."

They obviously, through their channels of communications, asked our people not to receive cars from the FEC nor deliver them. Well, what happened? Our people were completely confused on what to do.

You get to a car from the FEC and maybe the engineer would get off the engine and say, "I can't handle it." The train crew didn't know what to do. They said they would handle it. So we put a supervisor on the engine who knew how to run it and switched that car out.

With an organization represented by the trainmen on the ground and his supervisor on the engine, and the complete disunity of the thinking insofar as our employees are concerned in this little, small yard, as to what they should not be do under these circumstances, to me was a most forceful example of the lack of communications and the fact that you just can't get large groups of men controlled by many chairmen to understand the instructions that are vague and fragmently changing on the hour.

I think discrimination is a big problem, discrimination on the employees. Under the rules of the ICC, we would be calling the senior men in first. What happens to the younger men with children at home? They wouldn't get any work. They wouldn't stand for it.

The same thing would be true of every craft. And the shipper, in the testimony you heard this morning, may be making partly defense and partly nondefense items. What happens to him? Do we deliver coal to a powerplant that is generating electricity that will be used subsequently by some defense plants, and deny it to some other type of facility?

Gentlemen, I don't know. But I foresee a great mass of problems.

How do we collect for the traffic we do move? We won't have any clerical people. This 5 percent that we heard spoken of this morning,

that would cause us to go broke in a few days. We wouldn't have anybody to process the bills or collect the money, or bill the Government. You could dream all day about the problems under such a system of operation. They are realistic and not fantasy.

What about passenger trains? We move young men down to many of these military installations, Parris Island, S.C., the Marine induction center. We move them down to a place where they unload on many trains, little groups, 10 people sometimes, maybe 100, maybe 200, maybe a special train. But they frequently move on our regular passenger trains.

Would we move them, or would we say to the civilians who showed up there at the station, "You can't ride this train."

What about the express? I just can't imagine how such a thing could be done with an semblance of businesslike operation.

Passenger trains? Perhaps we wouldn't run any. I don't know.

I know your time is short and I would like to say this: In our opinion, the railroads of America are geared to mass transportation. That is the only way we know how to operate. The economy of the land—and no land can wage war if its economy falls on its face—is tied in with your basic form of transportation. We think in the railroad business we are the basic form of transportation.

For those reasons, gentlemen, I do not think this suggestion is possible to alleviate the problem that this country faces.

If I may, Mr. Chairman, as a Reserve officer of some 33 years, speaking now not as a railroad executive but just as a person, to let these boys overseas be short of material or supplies because of a stoppage of the railroads of America to me would be a most unthinkable thing.

I might further say I can imagine nothing more receptive in Hanoi, Peking, or Moscow than to see this country, faced with the emergency we are now faced with, let its basic transportation fall on its face.

I thank you.

The CHAIRMAN. Thank you, Mr. Rice.

I don't know how the wires got crossed, but I had hoped that you were going to talk on the complete issues here. We hope there will not be a strike. I wanted you to speak on the whole subject of the railroad emergency matter. Be that as it may, I think you have done well on what you have presented.

Mr. Friedel?

Mr. FRIEDEL. Mr. Rice, there is no question in my mind that you have a wonderful background and know this business from A to Z.

You have painted a very graphic picture of what could happen if there were a national railway strike. What have you done as a president of the Atlantic Coast Line in asking your representative to try to get together to negotiate now while we still have time?

Mr. RICE. I have been in communication with our people, who treat with the National Railway Conference who handle matters of negotiation for the American railroads, constantly in an effort to learn what is being done and what could be done.

Mr. FRIEDEL. As I understand it, there have been no meetings at all. They have not been trying to negotiate.

Mr. RICE. Sir, I am not qualified to speak on that. Mr. J. E. Wolfe is the negotiator for the Railway Labor Conference. He is the one who is eminently qualified to address you gentlemen on this subject. I am not.

Mr. FRIEDEL. I am not questioning that at all. I can't understand why they are not trying to negotiate now. What are they trying to do? To force legislation? Force seizure or force something else where neither of you will be happy?

Why don't you try to get together and negotiate? Maybe you can come up with a contract. If I were president of a railroad, I think I would try to get them to meet this afternoon, immediately, to try to get together. If you don't meet, there is no chance in the world of getting together.

Mr. RICE. Not being fully abreast of what has gone on, I would not be in a position to discuss this.

Mr. FRIEDEL. I am not asking you to give me the inner workings. I am asking you, as president of the railroad. You painted a very, very black picture. You know what can happen if there is a national railway strike, or if we were to pass legislation for just an emergency.

You stressed what would happen, how you would pick out certain cars and so on. But knowing that, knowing the importance of getting together, if I were president, I would stress their trying to get together. Are we too far apart? Can we get together and try to meet? I think you can. If I were president, that is what I would do.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. Are you limiting your testimony to your experience on the railroad?

Mr. RICE. I am limiting my testimony to my experience as a railroad operating officer both in this country and overseas.

Mr. SPRINGER. Are you East Coast?

Mr. RICE. Am I what?

Mr. SPRINGER. You are Atlantic Coast, not the East Coast?

Mr. RICE. The Atlantic Coast Line, sir.

Mr. SPRINGER. I wanted to be sure about who I was talking to.

How much of your total income is traffic on the Atlantic Coast Line?

Mr. RICE. Do you mean how much of our total rail operating income is freight traffic?

Mr. SPRINGER. Yes.

Mr. RICE. Eighty-seven percent.

Mr. SPRINGER. Thirteen percent is passenger?

Mr. RICE. Passenger, mail, express, other types of per diem demurrage.

Mr. SPRINGER. On your line, do you have a substantial number of defense industries?

Mr. RICE. Yes, sir; 26 military installations.

Mr. SPRINGER. That is military installations. What about defense contractors?

Mr. RICE. You never know, sir, whether they are or whether they are not. Many of them are involved in making things for the Government that we are not familiar with.

Mr. SPRINGER. How many?

Mr. RICE. All of the foodstuffs that come out of Florida, much of that goes to the Quartermaster Corps. It goes to canning organizations who can it and ship it. Even the phosphate of Florida used in the production of fertilizer could be construed as a defense item.

We move paper, cardboard boxes, by the thousands of carloads to the various manufacturers in the Southeast, which the Secretary spoke of this morning, needed for the boxing of ammunition.

I would have no guess as to the amount. But paper and paper products are the No. 2 revenue producer.

Mr. SPRINGER. What is your total mileage?

Mr. RICE. 5,700 miles.

Mr. SPRINGER. All along the east coast?

Mr. RICE. Back in as far as Birmingham, Atlanta, Augusta, Spartansburg, Columbia. We go through six States.

Mr. SPRINGER. And your terminus on the south is what?

Mr. RICE. Right down at the tip end of Florida.

Mr. SPRINGER. And your northern terminus is where?

Mr. RICE. Richmond, Va.

Mr. SPRINGER. With due respect, Mr. Rice, I don't believe you are the kind of a person that we ought to hear on this particular problem because I don't think you come from the industrial area of this country where, in my opinion, sufficient carriage of materials of this kind, speaking about the total volume, would affect this particular problem. I would want to hear from someone else besides you.

I think, Mr. Rice, as far as your statement is concerned, you have made a good statement.

Mr. RICE. Mr. Springer, I think you are talking about one of the fastest developing industrial portions of the whole country. Not only have I worked on the Coast Line, but I spent 7 years on the Pennsylvania, in the Pittsburgh and Philadelphia area, the Wilmington, Del., area, and in the steel mill area.

Mr. SPRINGER. I am glad to hear that. I understood you were testifying as the president of the Atlantic Coast Line Railroad and also from your overseas experience. But if you have had other experience, that is all right.

Mr. RICE. We have same very heavy industry around Birmingham.

Mr. SPRINGER. But I think there are railroads in the heart of this country carrying a lot more goods than you are. I would like to speak to them on this question.

Mr. ROGERS. Would the gentleman yield?

Mr. SPRINGER. Yes. I yield to the gentleman who comes from that area.

Mr. ROGERS. I believe the gentleman was out of the room when Mr. Rice gave his background and experience on quite a number of railroads, not only in this part of the country but in the eastern part also, as well as his experience overseas with the military. He is a major general and has had experience in moving military cargo, so I think he is eminently qualified to give testimony, partciularly on this point to which we are addressing ourselves this morning. I understood this was the point of the hearing, to have the Defense Department over here and to have the president of this line testify.

Furthermore, in this area, there are 26 military establishments which are vitally dependent on the railroads and, furthermore, our ports and the industry that is developing down there, being very definitely military-oriented in many ways.

I think the testimony he has given is very helpful in seeing what this proposition would bring about.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Macdonald.

Mr. MACDONALD. Thank you, Mr. Chairman.

I don't have any direct question, sir, but there was one matter that you spoke of which other members of the committee have mentioned. It sort of puts the people who don't believe in compulsory arbitration to appear as if we were not supporting our fighting men in Vietnam, and throughout the world, for that matter.

I would like to point out to those people who have made the statement that obviously, I can say also as a member of the Reserve, having served my time in World War II, I can say that obviously nobody in this room wants to see any military personnel deprived of any material they should have that would hamper our war effort.

On the other hand, I think it is well to bear in mind, and I am sure you will agree with me, that as far as I have been told what we are doing in Vietnam is trying to uphold a democratic form of government. That is what we are told our boys are doing that far away from home. They are fighting in a faraway place so that a democratic form of government will be put into effect.

I, for one, feel very strongly that telling men that they have to work when they have gone through bargaining, at the end of the bargaining for the Government to say, "We don't care what you say, you are going to go to work," doesn't seem to me to be a very democratic form of government.

As a matter of fact, I would think it is one of the least democratic ways that this dispute can be solved. I would repeat to you that I don't understand why the parties to this dispute don't conduct volunteer, binding arbitration and keep the Government where it belongs—out of collective bargaining.

That is an answer not only to what you said, sir, but also members of the committee who intimated that if you weren't for compulsory arbitration you were somewhat of a nonpatriot.

What really surprised me was your saying that as president of a railroad you are so detached from the give and take of this dispute that you do not know what is going on in that field.

Has Mr. Wolfe completely taken over the running of all the railroads that are in this dispute?

Mr. RICE. Mr. Wolfe is the spokesman——

Mr. MACDONALD. I respect Mr. Wolfe and he knows it. He and I sat together and hammered out a bill last year that was satisfactory to the railroads and very helpful to railroad retirement. I know Mr. Wolfe and I respect him. This is not criticism of him.

But it is indirectly a criticism of those presidents who feel so detached from the day in and day out battle that they just turn over these negotiations, even though it is your railroad that will be struck. It is not Mr. Wolfe's.

I don't understand how you can be that detached from the battle.

Mr. RICE. If you gained that impression from what I said, I have misled you badly. I am speaking for the Atlantic Coast Line Railroad and I am not speaking for the railroad industry. I am citing my experiences and my feelings.

Mr. MACDONALD. You said, sir, and I am sure the record will bear me out, in answer to Mr. Springer's remarks, that you didn't know what was going on in the negotiations.

Mr. RICE. I think if you will read the record, sir, it will not so state.

Mr. MACDONALD. All right. Thank you.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. Mr. Rice, thank you for the contribution you have made this morning. I am sure you have had some discourse with other officials of the railroad transportation industry. So far as you have been able to ascertain, do they share your feeling of the magnitude of the problems that would be presented in the event we should attempt to have a partial operation for defense and health needs alone?

Mr. RICE. Yes, sir.

Mr. WATSON. They do share your views in that regard?

Mr. RICE. They certainly do.

Mr. WATSON. Frankly, I think you have made a fine contribution here. As you describe the magnitude of the problem, I think you really haven't scratched the surface of the problems that would arise.

If I may make this one statement, Mr. Chairman, to my esteemed friend and our minority leader on the committee, Mr. Springer, I am familiar with the Atlantic Coast Line Railroad. They have a spendid operation. While we may not have the industrial capacity down in that area, I am sure we do have the strategic military installations which would be directly affected in the transport of commodities from the industrial complex in the Northeast.

We would initially add that so far as textiles are concerned, they are a vitally important part of the defense posture and supply logistics; and probably we have as many spindles in Spartanburg and Greenville County as you will have anywhere in the Nation.

I, for one, want to express the same sentiments as my colleague from Florida in thanking you for the fine contribution you have made this morning.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS. Thank you, Mr. Chairman.

I just want to say that I do hope the railroads would take the position of continuing bargaining. I think this is essential, meaning Mr. Wolfe would continue to try to bargain with the unions in trying to work out this problem.

I would agree with what you have said, that it would be an impossible job to try to administer just taking defense goods. Society is too complex, I think, to try to divide this up. I think you have very forcefully made this point this morning before the committee.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Watkins.

Mr. WATKINS. Mr. Chairman, thank you.

I want to compliment the gentleman on his ability to operate a railroad. But still, I don't see any reason to take the time of the committee.

You haven't answered the $64 question which has been asked you. You don't know whether your company is negotiating with the union at this time. Or do you?

Mr. RICE. I know that the Railway Labor Conference is in constant touch with this situation. I get daily reports on what, if anything, is happening. I refer you to Mr. Wolfe for the details.

Mr. WATKINS Thank you.

As a manager managing railroads as you are, very efficiently, I am sure, and I can agree on your distribution being a tremendous job

don't you think it is a sad day for the railroads and also the labor unions? Do you think you people want the Congress of the United States to have to make the decision? Don't you think it is a sad day for free bargaining?

Mr. RICE. I will agree with that; yes, sir.

Mr. WATKINS. It could lead into other big unions and big management having to go through the same thing. I can't understand, like many members of the committee, why it has not been worked out. I think it is a lack of talking by both parties. I am not going to take sides here with management or with labor. I believe in both.

After listening to many hours of testimony, though not all of it, it seems to me that no effort is being made whatsoever. Everyone has realized the condition this country is in with boys overseas who have to be taken care of. We realize that.

I just want to know why you can't ask your railroad and the others to get together and make a decision before this time expires. I have said it before and I will say it again, that this legislation is very, very bad. I hate to vote either way, or to think that I have to.

If I have to be counted, I will be counted. But I want to remind you that this is a sad, sad day for free bargaining. If it is going to continue this way over the country, there will be no more free bargaining in America. If everybody takes the same attitude as the railroads' management and labor have taken, it is all over. Of course, I realize your position is with the railroads.

I hope you take that message back.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Mr. Rice, you indicated you had 33 years in the Reserves and a number of other responsibilities and honors which obviously qualifies you as a patriotic man.

What have you done, if anything, to urge Mr. Wolfe to negotiate in this circumstance so that we can avoid this strike?

Mr. RICE. To begin with, I gave Mr. Wolfe, as we do in all matters involving labor relations, a power of attorney to act in behalf of our railroad.

I have been in constant touch with him personally and through my representative who serves on his negotiating committee, keeping in constant touch with it and trying wherever we could to make any suggestions that might be helpful.

Mr. BROWN. Have you urged any negotiations since the 25th of April?

Mr. RICE. I have not.

Mr. BROWN. Do you feel it would be desirable?

Mr. RICE. I question that seriously, but Mr. Wolfe could answer that more factually than I.

Mr. BROWN. Do you mean Mr. Wolfe could answer whether you think it would be desirable?

Mr. RICE. It is desirable is my answer directly to you.

Mr. BROWN. That is my question. Do you think it would be desirable if railroad management and railroad labor were negotiating at this moment?

Mr. RICE. I think it is always desirable that people talk. But to meet just for the sake of meeting, when an irresistible force hits an immovable object, serves very little purpose.

Mr. BROWN. In other words, you would feel there is no purpose to be served by railroad management and labor sitting down at this point?

Mr. RICE. At the present posture, as I understand it, there would be no useful purpose in such a meeting.

Mr. BROWN. Do you have any preference of order between compulsory arbitration, seizure, or a strike, Mr. Rice?

Mr. RICE. My personal feeling, and again I want to emphasize, Mr. Brown, that I am not speaking for the industry but I am speaking as an individual, where collective bargaining has run its course and there has been a failure to reach an agreement——

Mr. BROWN. Do you feel collective bargaining——

Mr. RICE. I say where it has, in answering your question.

Mr. BROWN. In this case it has?

Mr. RICE. I think it has; yes, sir. Then I believe an impartial panel appointed by the President of the United States to hear the dispute and to move on it is the only way to settle interests that are as great as these to the public.

I, for one, speaking for one railroad, would be perfectly willing to take my day in court before that panel and abide by their decision.

Mr. BROWN. What would be your second choice, Mr. Rice?

Mr. RICE. I am speaking of the finality bill as my No. 1. I have no second.

Mr. BROWN. May I ask you if one of the critical phases of this problem is the nationwide nature of this kind of strike? Do you have any suggestions for permanent legislation which might avoid the nationwide character of strikes in the rail industry? Do you think this would help resolve the problem which we face?

Mr. RICE. Mr. Brown, I certainly do not. I have no thoughts on that. Mr. Wolfe is sitting on my left and if you want to be brought up to date on these negotiations I am sure he will be glad to do it.

Mr. BROWN. I have had my opportunity to question Mr. Wolfe. This is the first opportunity I have had to question the president of an individual railroad.

It seems to me that part of the problem that we face is because there has been a conclusion that we must all hang together lest we hang separately in some way. If this were a strike on the Atlantic Coast Line Railroad only, I am not sure that I would be called upon as a Member of Congress to serve as a labor negotiator in this instance. But it is not. It is a strike of all the railroads in the country.

We have had testimony from the Defense Department and others to indicate that for that reason it is a matter of national consequence.

My question is: Do you think there is any way we can avoid the nationwide character of rail strikes in the future?

Mr. RICE. I know of none.

Mr. BROWN. Which leaves us, then, as I gather from your testimony, with the choice between compulsory arbitration, seizure, or the strike?

Mr. RICE. I would much prefer the finality bill. Seizure, in my opinion, would accomplish little to dispose of the issue. A strike would be a national catastrophe.

Mr. BROWN. But avoiding any of these is not worth negotiating?

Mr. RICE. That was never said by me.

Mr. BROWN. You said that there is no point in now negotiating.

Mr. RICE. I believe I said that where nothing could be accomplished——

Mr. BROWN. You are assured of that?

Mr. RICE (continuing). There was no point in negotiating.

Mr. BROWN. Are you assured that nothing could be accomplished by the two parties in this dispute?

Mr. RICE. I did not so say. I said where nothing could be. I was making a hypothetical statement. Mr. Wolfe can speak to whether something can be accomplished or not.

Mr. BROWN. You don't consider it desirable to urge Mr. Wolfe to meet again with the railroad unions?

Mr. RICE. Will you repeat the question?

Mr. BROWN. You don't consider it desirable to urge Mr. Wolfe to meet again with the unions?

Mr. RICE. I consider it highly desirable wherever there is the slightest opportunity of any type of breakthrough, and Mr. Wolfe knows that. He knows it from every railroad president that he represents. His committee is made up of representatives of the various railroads of this country who treat with him and confer with him daily as to the posture of this problem.

Mr. BROWN. Is there anything that can be accomplished by such a meeting now?

Mr. RICE. Again, I refer that question to Mr. Wolfe.

Mr. BROWN. Thank you, Mr. Chairman.

Mr. SPRINGER. Mr. Chairman, might I ask a question in view of this colloquy?

The CHAIRMAN. Yes.

Mr. SPRINGER. Everybody here has been sympathizing with both parties about sitting down. If there is anybody more in favor of that than I, I don't think there is anyone on this committee.

I may be misquoting, but it was my understanding from Mr. Wolfe, that the present posture and the conditions on which they were bargaining were so far apart that it was not felt that there was anything that could be accomplished by either side. I think I state this correctly. I don't want the record to go on with people on the committee on both sides to keep talking about this question of talking. These people are in the neighborhood of 14 percent apart on a total of 2 years, as I understand it.

One is talking about 5 or 6½ percent, according to which side you hear, and the other is talking, as I understand it, in the neighborhood of a 2-year period at 19 or 20 percent.

I believe this is what Mr. Ramsey and Mr. Wolfe are fairly well agreed upon, that this is where they stand. Now the question is, Do you accomplish anything with these people sitting down with this posture at this time?

If they can sit down under these circumstances and talk, I sure want them to do it. But I don't think this record ought to deal with a lot of moralizing that this is somewhere near the position of talking at the present time.

Mr. Brown, am I stating this about the way you heard the testimony? This wasn't said for your benefit. There has been a lot said here this morning. I don't want to get the issues confused that these people are anywhere near any probability of settling.

Mr. BROWN. Will the gentleman yield?

Mr. SPRINGER. Yes. The gentleman has brought a point out and he feels strong about it. I respect him for it. I do hope the record stays clear on this particular point.

Mr. BROWN. My questions made no effort to moralize on the one question of whether anything could be accomplished by the two parties sitting down together to discuss the differences they now have. That is what I was trying to draw from Mr. Rice, whether he feels there is anything to be gained from such discussion. But it was suggested by the previous witness, the Assistant Secretary of Defense, that he would prefer that we have no strike, and then his conclusion was that he would prefer House Joint Resolution 559.

He suggested that it would be desirable, if the strike could be resolved without the necessity for passage of House Joint Resolution 559, seizure or some other compulsion, that this would resolve the issue as far as he was concerned.

He also commented, as a result of my questioning and the questioning of others, with reference to what this does to our national posture in defense and foreign affairs. This obviously cuts to the patriotism of the members of this committee, I presume, and the decision we will have to reach.

I drew from Mr. Rice as to whether or not they were really willing to resolve this problem as important as it was to this Nation. This was the nature of my inquiry to Mr. Rice as to whether or not he urged further discussions on this subject and thought there would be any value in it.

Mr. SPRINGER. May I say I want to urge Mr. Wolfe and labor to sit down if there is the possibility of anything being done to bring this thing closer together. I would make myself clear on that point. But I do think we ought to have reality, of course, at the same time we are talking about what ought to be done.

Mr. BROWN. If the gentleman will yield, I would agree thoroughly that this involves not only this committee of the Congress and the situation in which we find ourselves in the country, and management, but certainly also includes labor in this suggestion, that we would all be better served if some negotiation were possible that would reach a valid conclusion, which would avoid the necessity of some action on the part of this committee.

The CHAIRMAN. Mr. Rice, we want to thank you for coming and giving us the benefit of your views.

I would like to make the comment that we spend a lot of time, and the United Nations are now spending a lot of time trying to get those who don't agree to a bargaining table. That seems to be their effort. We are trying to get the unions and the railroads to the bargaining table.

I believe you can stop wars and strikes and so on if we can get men talking. So there is, in my opinion, a moral issue. I would take issue with Mr. Springer on that. I think there is a moral issue here as strong as anything we have ever been fighting for in the freedom of this land. That is to get men talking and not fighting. That is exactly what we have the United Nations for. That is what we are trying to do in this committee.

I think it is our job. I think it is appropriate that we get men to talk to try to settle this thing.

Again, I want to thank you.

Mr. RICE. Thank you, sir.

The CHAIRMAN. I listened to your background and it is a tremendous background. You are a great American. We want to thank you for coming before the committee.

This will conclude our hearing for today.

Tomorrow morning we will reconvene at 9:30.

(Whereupon, at 12:35 p.m., the committee adjourned, to reconvene at 9:30 a.m., Wednesday, June 7, 1967.)

RAILROAD LABOR DISPUTE

WEDNESDAY, JUNE 7, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman) presiding.

The CHAIRMAN. The committee will please come to order.

This morning we have a continuation of the hearings on House Joint Resolution 559.

We have as our first witness Mr. A. J. Greenough, president of the Pennsylvania Railroad Co., Transportation Center, Philadelphia.

You may proceed as you wish.

STATEMENT OF A. J. GREENOUGH, PRESIDENT, PENNSYLVANIA RAILROAD CO.; ACCOMPANIED BY GREGORY PRINCE, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, ASSOCIATION OF AMERICAN RAILROADS; AND J. E. WOLFE, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE

Mr. GREENOUGH. Thank you, Mr. Chairman.

I have with me today Mr. Prince of the Association of American Railroads, and Mr. Wolfe of the National Railway Labor Conference. I think these two gentlemen need no further introduction to the members of the committee.

By way of qualifying myself, I might say that as of the first of next month I will start my 40th year of service in the railroad industry, all of it with the Pennsylvania. For the past 7 years I have been president and chief administrative officer of the company. Thirty-two years prior to that was all spent in the operating department in various capacities—superintendent, general superintendent, general manager, vice president of operations, and so forth.

It was my understanding that the committee wanted a railroad president with operating background to discuss primarily the proposal made by railroad union representatives Michael Fox and George Leighty, in a telegram to the Secretary of Defense, offering to move all rail shipments essential to the Nation's military effort and the public health in the event of a national railroad strike by the shopcraft unions.

I was informed late yesterday afternoon that the chairman was desirous of having me discuss somewhat broader aspects of the problem.

Let me make it clear that I am not conversant with the detailed situation with respect to the current dispute with the shopcraft unions and that I was asked to make this presentation before your committee

primarily because of my long background and experience in railroad operations with one of the major railroads of the country.

However, in an attempt to comply with the request of the chairman, I would like to point out to you very briefly how the situation appears to me and what I think this committee should do about it.

In general, the situation is as follows:

The negotiations on behalf of about 200 railroads are conducted by the National Railway Labor Conference, headed by Mr. J. E. Wolfe, and the negotiating committees to whom powers of attorney have been given by those railroads.

In the series of 1966–67 demands of the railroad unions, collective bargaining between the parties brought about settlements with unions representing over three-quarters of the railroad employees. However, the railroads' representatives have been unable to arrive at a settlement with the representatives of the shopcraft unions.

The full and complete background of these negotiations and the efforts of settlement were presented to this committee by Mr. Wolfe. I do not have the detailed knowledge or background to deal further with this aspect of the problem.

I do know, however, that the same offer that was accepted by three-quarters of our employees was made to the shopcraft unions and rejected by them. I know also that the proposal of the mediation board for voluntary arbitration to settle the dispute was accepted by the railroads and rejected by the employees.

I know further that following this rejection, an Emergency Board was appointed by the President and the recommendations of that Board were also accepted by the railroads and rejected by the unions.

Yesterday, Congressman Macdonald stated that the perfect solution of this perplexing problem is for the parties to voluntarily agree to submit the unresolved issues to final and binding arbitration. Mr. Wolfe informed me this morning that he will enter into such an arbitration agreement on behalf of the carriers, and if the unions will likewise agree, the procedure for final disposition of all such unresolved issues can be disposed of in 30 minutes.

So much for the background of the current dispute.

The President of the United States, the Secretary of Defense, the Secretary of Transportation, and the Secretary of Labor have all said that the national health, welfare, and security, particularly under today's conditions, cannot tolerate a cessation of railroad service. With this I fully agree.

Under these circumstances, you come down to a question of what the Congress of the United States should do about the situation to insure continued operation in the broad public interest, together with justice and fair treatment of the parties involved.

As I understand it, there have been three proposals as to what Congress might do. The first is that the Congress do nothing on the assumption that the public interest would be protected through the offer made by the union leaders to handle all rail shipments essential to the Nation's military effort and the public health.

In my judgment, based upon my long years of operating experience, this proposal is completely unrealistic and impractical. I am prepared to go into this question in considerable detail if it should be the desire of the committee that I do so.

The second proposal that I have heard mentioned is some sort of seizure by the Government under which operations would be continued. As a permanent measure, this does not seem to me to offer a reasonable solution for it provides no means of settling the dispute that led to the seizure.

In addition, seizure is one sided in that all the presures are brought to bear against management. Railroads are deprived of control of their properties and the only way in which they can get back that control is by reaching a settlement. This would merely tend to make the position of the unions more adamant and unyielding.

The employees, on the other hand, would probably lose nothing except the immediate availability of the increase in their wages because of the practice of making settlements retroactive.

In addition, most of the seizure proposals that have come to my attention contain a provision that makes it even more one sided against the railroads. The provision I refer to is one that says in determining just compensation to the owners of the carriers, due consideration should be given to the fact that the United States took possession of the carrier when its operation had been interrupted by a work stoppage or that a work stoppage was imminent.

In my judgment, such a proposal is like placing a loaded gun at the head of the carriers and the public. The purpose of such legislation is to compel capitulation on the part of the carriers to the unreasonable demands of the unions. A settlement brought about in this way would not be a settlement in the public interest.

A settlement in the public interest means a fair and just settlement, not just a settlement. Sight should not be lost of the fact that the shippers and the patrons of the services of the railroads are the ones who, in the long run, will bear the cost of a settlement if the railroad industry is to remain solvent.

The third approach to this problem is to provide for a binding determination by a neutral board appointed by the President of the United States after collective bargaining has failed to achieve a settlement. Preferably, I think this should be provided for on a permanent basis so as to avoid laying these problems in the doorstep of Congress repeatedly.

In our judgment, such a provision of law would not interfere or hinder free collective bargaining but, rather, it would encourage it. We are satisfied that if at the end of the road the parties know that failure of collective bargaining will result in a third party making a decision that will be binding upon them, they will go to greater lengths to achieve a settlement through collective bargaining.

If such a permanent provision of law is not in the picture at this late date, I feel that the proposal represented by House Joint Resolution 559 offers the most reasonable solution of the various alternatives presented to the Congress.

Before concluding, I want to address myself to what appears to me to be a patient misconception by the railroad brotherhoods of the President's proposal and of any proposal that calls for a fair and equitable determination by a neutral board when collective bargaining has failed.

The union representatives take the position that this is one-sided in favor of the railroads. A binding determination by a neutral board can be just as distasteful in result for railroad management as for the

railroad unions. We have no way of knowing what the result will be, any more than do the unions.

We, too, find it distasteful to have to subject to the determination of a third party decisions over what we shall pay in the way of wages and fringe benefits to our employees. The presumption is that the result will be fair and the only basis for the position taken by the railroad unions is that a fair settlement is, per se, an unfair settlement. In our viewpoint, such a position is untenable.

Under all the circumstances, we recommend to you at this juncture support for House Joint Resolution 559.

Mr. Chairman, that completes my statement.

The CHAIRMAN. Thank you very much, Mr. Greenough.

Mr. Friedel?

Mr. FRIEDEL. Mr. Greenough, it is always a pleasure to see the president of the Pennsylvania Railroad. I ride it almost every day.

Mr. GREENOUGH. Thank you, Mr. Friedel.

Mr. FRIEDEL. I see in the audience my good friend Bill Tinney, who keeps me well informed of your situation.

I am going to ask you a question I have every other witness we have had.

Why aren't they negotiating now? Why aren't they trying to get together without causing us to pass legislation that might be both distasteful to the management and to the unions?

Mr. GREENOUGH. I might say, Mr. Friedel—and Mr. Wolfe, who is here with me, can corroborate what I say in answer to that question—that management is willing at any time and at all times to sit down with representatives of the unions if there is any chance whatever of making any progress.

We hold ourselves open to continual negotiations on that basis.

Through our carriers' conference committee, the presidents of the Eastern railroads, I know—and I can't speak for the others—they have continually pressed our representatives that we want a settlement, that we would much rather have a negotiated settlement than we would have Congress take any action.

Mr. FRIEDEL. You would be willing for them to meet this afternoon if we can arrange it?

Mr. GREENOUGH. Yes, sir.

Mr. FRIEDEL. And to try to continue to work it out.

Mr. GREENOUGH. If there is any prospect of making any progress whatever, we are agreeable to that course.

Are we not, Mr. Wolfe?

Mr. WOLFE. Absolutely, and we have been since the very beginning.

Mr. FRIEDEL. I want to ask a question about a statement on page 2. You mentioned in three instances that the railroads have accepted the proposal and the unions have rejected the proposal.

As I understand, you say that an Emergency Board was appointed by the President and the recommendations of that Board were rejected by the unions and accepted by the railroads. I understood that both parties turned it down.

Mr. GREENOUGH. No, sir; that is not correct. The railroads accepted the proposal.

Mr. FRIEDEL. What was the last one?

Mr. GREENOUGH. That was a Mediation Panel appointed subsequent to the Emergency Board.

Mr. FRIEDEL. I thought that was the one they both declined.

Mr. GREENOUGH. I referred to the Emergency Board which took 60 days and which investigated the problem on the basis of the merits. They recommended settlement.

Mr. FRIEDEL. I want to thank you again, Mr. Greenough.

Mr. GREENOUGH. Thank you, Mr. Friedel.

The CHAIRMAN. Mr. Springer?

Mr. SPRINGER. Thank you, Mr. Chairman.

Mr. Greenough, perhaps a few are acquainted with the breadth and scope of the Pennsylvania Railroad, but some on this committee would not be. Would you tell me what States you operate in?

Mr. GREENOUGH. The Pennsylvania Railroad operates basically in the 13 States east of the Mississippi and north of the Ohio River, excluding New England.

Mr. SPRINGER. You go through New York to St. Louis?

Mr. GREENOUGH. New York to Chicago, New York to St. Louis, via Pittsburgh, where our main lines diverge.

Mr. SPRINGER. How many divisions do you have in your railroad besides the two main lines?

Mr. GREENOUGH. We have many, many branches, Mr. Springer; countless branches.

Mr. SPRINGER. Is it two, 20, or 50?

Mr. GREENOUGH. It is over 50.

Mr. SPRINGER. Then you do have connections, I take it, with every industrial area between New York and St. Louis.

Mr. GREENOUGH. Well, that wouldn't be strictly accurate. We don't get into upper New York State, such as Albany and Syracuse.

Mr. SPRINGER. I am talking about New York west and south.

Mr. GREENOUGH. Yes, sir. Basically, we serve the eastern part of the United States, including New York, Philadelphia, Baltimore, and Washington.

Mr. SPRINGER. Let me ask you this: Do you connect with as much as 75 percent of the industrial area between St. Louis and New York?

Mr. GREENOUGH. I think that might be a little high.

Mr. SPRINGER. In the neighborhood of that area?

Mr. GREENOUGH. In the neighborhood of 50 to 60, perhaps.

Mr. SPRINGER. In those industrial areas which you do connect with, how extensive are the defense areas within that greater area?

Mr. GREENOUGH. We serve directly 33 major defense bases, and we serve, of course, all of the principal heavy industry that provides the arsenal of our weaponry, including the steel industry, basically.

Mr. SPRINGER. Do you have any idea how much defense work you carried in 1966?

Mr. GREENOUGH. Mr. Springer, that is a very hard question to answer without some further definition as to what defense material is. If you speak simply of Defense Department-Government bills of lading, it would not be a large percentage, something probably less than five. However, if you are speaking in a broader sense of the basic——

Mr. SPRINGER. I am talking about defense in that area. How much are you carrying of that—10 percent, 20 percent, 50 percent?

Mr. GREENOUGH. Of the area? I would say we are carrying probably 30 to 40 percent.

Mr. SPRINGER. Of the defense materials manufactured in the area you serve?

Mr. GREENOUGH. Yes.

Mr. SPRINGER. I think one of the problems which this committee will certainly go into for discussion—and the reason I qualify you, Mr. Greenough, so that the committee can understand who you serve, the extent of the service that you render, and also within the service that you render the extent that you serve defense areas, speaking of those communities which provide the defense effort of this country, and trying to get a qualification now so that you can get an opinion—concerns the transportation of defense goods.

Yesterday the Under Secretary, or the Secretary by letter, or at least he stated this in a White House briefing some weeks ago, stated he had about 22,000 defense businesses or concerns that he could identify, and has a list of those in his office. But he says this is only 5 to 9 percent which the Defense Department has of the total carriage of railroads.

Well, this 22,000 is only 1 percent. This means there is 4 percent or 9 percent which he cannot identify. He doesn't even know who they are.

Now I come to this particular question to find out whether or not you and the brotherhoods could, if called upon, identify the defense shipments.

Mr. GREENOUGH. I am sure we could not.

Mr. SPRINGER. How sure are you?

Mr. GREENOUGH. I am reasonably sure.

Mr. SPRINGER. That you would have no way of recording those that are defense shipments separately from those which are nondefense?

Mr. GREENOUGH. Yes, sir.

Mr. SPRINGER. This is only an opinion, but do you believe that the brotherhoods by some method could identify them?

Mr. GREENOUGH. I do not.

Mr. SPRINGER. Why do you believe they could not?

Mr. GREENOUGH. Because I don't believe anybody can identify the background commodities going into our defense effort. I have with me a handful of waybills picked at random out of our waybill file describing types of commodities.

Mr. SPRINGER. How many waybills have you there in your hands? Identify that for the record.

Mr. GREENOUGH. I can't identify for sure more than one or two of them.

Mr. SPRINGER. Out of how many?

Mr. GREENOUGH. Out of 50 or 60.

Mr. SPRINGER. Do you mean you can't identify whether they are defense?

Mr. GREENOUGH. Whether they are connected with our defense effort, related to our defense effort. I can offer these waybills to the committee, if you wish them.

Mr. SPRINGER. Mr. Chairman, do you think that will be necessary?

Mr. FRIEDEL (presiding). No, I think the testimony will be sufficient.

Mr. SPRINGER. I didn't think we wanted to burden the record with all of them.

Do you know anyway, if this were put in the bill, whereby you could set up any agency or bureau upon which management and labor would both serve by which you could properly identify the defense matters carried by your railroad?

Mr. GREENOUGH. No, I don't.

Mr. SPRINGER. The brotherhoods offered testimony here, and I don't know that they pinned it down, but I believe there was testimony from two witnesses, that they felt they could do this, or at least they were willing to do it, so they said.

I think the Secretary of Defense has said that they had a meeting on this in the Pentagon. They said they were willing to do it. I am sure they are offering to do it in good faith.

What I am trying to get here today is the problem of whether or not this can be done. I think the record somewhere ought to show the problem involved. I don't think that has been developed enough.

Mr. GREENOUGH. I would be happy to develop that at considerable length if this committee wants me to. I think the definitions of what the unions have offered to do are so vague and so loose, and so indefinite, that implementation would be impossible. It would result in utter confusion, congestion, delay, interminable negotiations to establish guidelines, certifications, quotas, and many other decisions that would have to be made.

The result would be simply a chaotic and impossible administrative task.

Mr. SPRINGER. Let me ask you a second question, because this is the second part of the question.

The brotherhoods have offered not only to carry defense equipment, but they have offered to carry—and I believe this is the term—that which is needed in the general welfare. I would take it that this includes food, hospital supplies, all of those things which would be, as I understand it, absolute necessities for the population of this country to exist in reasonable comfort.

Mr. GREENOUGH. I think that would magnify the problem beyond any possibility of a determination. There are over 24,000 items of commerce. I think every one would have to be examined.

Mr. SPRINGER. Every one would have to what?

Mr. GREENOUGH. There are 24,000 different items of commerce in our tariffs, with separate rates. I think it would be an impossible task to determine not only how many of those items would come under the brotherhoods' offer, but in what amount each one of them would.

Mr. SPRINGER. Mr. Chairman, I have had my 5 minutes. Thank you.

Mr. FRIEDEL. Mr. Kornegay.

Mr. KORNEGAY. Thank you very much, Mr. Chairman.

Mr. Greenough, it is nice to see you and we appreciate your appearance here this morning. I have just two or three questions I would like to put to you.

No. 1, on page 2 of your statement you state that an offer was accepted by three-fourths of the employees but was turned down by the shopcraft unions. One of the main areas of dispute, as I understand it, between management and the shopcraft unions, is that involved in the equities as to the rates of pay for the skilled crafts. Is that not true?

Mr. GREENOUGH. Yes, sir.

Mr. KORNEGAY. Does that same area of dispute lie in the negotiations where three-fourths of the unions accepted the offer?

Mr. GREENOUGH. The same situation existed. I am not familiar with the degree to which it was pressed in the negotiations.

Mr. KORNEGAY. What I am really getting at is were the issues the same?

Mr. GREENOUGH. I would say basically the same. We have other skilled crafts. We have certainly train dispatchers, block operators, all of the crafts that are represented on my railroad by the Transport Workers Union having skilled crafts in them. While this issue was perhaps discussed—and Mr. Wolfe could comment on that——

Mr. KORNEGAY. In other words, settlement was reached on the question of the issue of inequities as well as the issue of the pay scales?

Mr. GREENOUGH. That is correct.

Mr. KORNEGAY. I note with a great deal of interest that as a result of Mr. Macdonald's suggestion yesterday that the parties voluntarily agree to submit the unresolved issues to final and binding arbitration, that Mr. Wolfe, representing the railroads, has agreed to that suggestion by Mr. Macdonald.

Mr. GREENOUGH. That is correct.

Mr. KORNEGAY. Have you heard anything from the unions as to what their position would be on such an arrangement?

Mr. GREENOUGH. I have heard nothing this morning.

Mr. KORNEGAY. Do you know whether or not the suggestion or idea has been transmitted to the unions?

Mr. GREENOUGH. I think the issue has been discussed many, many times. To the best of my knowledge, the unions have never been agreeable to it.

Mr. KORNEGAY. In this suggestion, I assume that it means a new arbitration board; in other words, new personnel on the board as opposed to those who have been working on this problem for some time. Is that correct?

Mr. GREENOUGH. I would assume that.

Mr. KORNEGAY. In your statement you have set out the proposals or alternatives which have been discussed, and I think two will be considered by the committee in executive session: No. 1, doing nothing and seeing what happens; and No. 2, the seizure.

No. 3 is the resolution which we have before us which would continue collective bargaining to provide for an agreement, and that would be a binding arbitration on both parties at the end of 2 years.

On the second proposal, that of seizure which has been suggested by certain members of this committee, and which has been suggested by certain witnesses, you feel that that would not be an appropriate procedure.

One of the reasons I note that causes you to disagree with this is that it would weigh more heavily upon management than the unions inasmuch as the only sacrifice that the unions would be making under such an arrangement would be the delay in receiving the increased wages. You go on to say that such practice usually makes settlements retroactive.

I would like to put out this hypothetical for you: In the event seizure seems to be the course of action, what would your feelings be if it were spelled out in a bill to that effect, that the settlements or the

increases in wages would not be retroactive but be effective as of the date of the agreement?

Do you feel that that would be equalizing the two pressures that would be put on each of the parties?

Mr. GREENOUGH. I had not previously considered that, but I think that would make it less onerous, less burdensome to the management.

Mr. KORNEGAY. I am not by any means suggesting that that is the course we ought to follow.

Mr. GREENOUGH. I understand.

Mr. KORNEGAY. I am trying to get your opinion as to what the situation would be if that were spelled out in any bill requiring seizure.

Mr. GREENOUGH. I think it would make seizure more palatable.

Mr. KORNEGAY. Would it create an atmosphere of conditions that would make a settlement come about quicker?

Mr. GREENOUGH. Under the circumstances, depending upon the other provisions of the bill, I would think that it would.

Mr. KORNEGAY. I see my time is up. Thank you very much.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. Mr. Greenough, I appreciate your coming here this morning. Your views do not come as any great surprise as regards culling out defense-related materials. I wonder, however, if you think it is a healthy situation in this country that neither the railroads nor the unions have made any effort to even discuss this matter since April 25?

Mr. GREENOUGH. As I can only repeat, Mr. Devine, we are ready, willing, and able to discuss with the unions any time there appears to be any chance whatever of reaching a settlement.

Mr. DEVINE. Have either side said to the other, "Let's sit down and see if there is anything to talk about"?

Those of us in Congress are getting weary of the fact that someone, apparently, is willing to sit out this 47 days and se whether or not the Congress does anything. The union says management will be bailed out if we pass this bill, and the management says they are opposed to compulsory arbitartion and seizure, yet no effort apparently is being made by anyone to resolve this short of action by Congress.

The thing I presume will happen, and I can't speak for anyone else on the committee, is that Congress will probably be crowded into a position of passing some type of restrictive legislation that will not be satisfactory to either side.

Mr. GREENOUGH. I think in that connection our record speaks for itself with respect to our willingness to sit down and make a fair and equitable agreement with labor. We have been successful in concluding negotiations with 16 or 17 of the organizations, and I dare say that they feel they are fair and equitable. I am sure we do.

Mr. DEVINE. Mr. Wolfe testified before on this matter as to the willingness. He said that 76 or 77 percent of the brotherhoods have already collectively bargained in good faith and have arrived at a conclusion that is apparently acceptable to that segment. But that does not include shopcrafts.

Mr. GREENOUGH. That is right.

Mr. DEVINE. Ever since our meeting at the White House, and since this 47-day period was granted by the Congress, everyone assumed

or hoped that some effort would be made by the parties during this interim period which would negate the necessity of our having to pass legislation. But apparently no effort has been made by either party.

That is all I have.

Mr. FRIEDEL. Mr. Rogers?

Mr. ROGERS. Is voluntary arbitration a proceeding in collective bargaining contracts?

Mr. GREENOUGH. In many contracts it is. I would say it is not at all out of the ordinary.

Mr. ROGERS. It is one of the accepted procedures in what we think of as collective bargaining, is it not?

Mr. GREENOUGH. Yes.

Mr. ROGERS. As a matter of fact, it is my understanding that in handling many individual disputed claims this procedure is used now.

Mr. GREENOUGH. I think it was contemplated in the Railway Labor Act. The Congress recognized a complete difference in the railroad industry than in other industries in this country, and for that reason the Railway Labor Act was established, which, in effect, provided for what I think Congress intended to be some sort of arbitration with the force of public opinion forcing the parties to agree to the findings.

Mr. ROGERS. It is one of the last steps that you would take.

Mr. GREENOUGH. It was the last step; yes, sir.

Mr. ROGERS. I have heard a lot of people say we have to protect collective bargaining, which this committee wants to do. But I don't see the parties doing too much about protecting collective bargaining when they won't even go into voluntary arbitration.

There is no coercion there. Each side picks a man, as I understand it, and then the President, or by agreement of the parties, someone picks the third, or they agree on the third.

Mr. GREENOUGH. I have indicated this morning that we are ready and willing.

Mr. ROGERS. I would like to hear from the other side, then, why they wouldn't be agreeable to a recognized step in collective bargaining when it can be settled, as you say, in 30 minutes. It is absurd to take up the time of this Congress and to put this Nation in a position of having to go through all this problem time after time, when going through a procedure that is an accepted collective bargaining procedure could bring about a result to bring this disagreement to a conclusion.

I would hope that the other party can be heard from to see why they won't go into a voluntary procedure, which is their own selection of their own person to represent them on this board.

Mr. GREENOUGH. I couldn't agree with you more, Mr. Rogers.

Mr. ROGERS. Thank you.

Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Broyhill?

Mr. BROYHILL. I think these last few minutes with Mr. Devine and Mr. Rogers they have certainly gone to the heart of this issue. I would hope that both sides would pay attention to what they have said in these last few minutes in regard to this dispute.

It is regrettable that this situation has come before the Congress, taking up the time of the Congress which could be spent on many other serious problems facing us, international and otherwise.

I would hope in the few days remaining that this thing could be settled on a private, negotiated basis.

Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Rogers?

Mr. ROGERS. Mr. Chairman, may I ask a question of the Chair?

I wonder if the Chair could instruct our staff to either contact the Secretary of Labor or those representing labor and find out in writing if they will or will not submit to voluntary arbitration. If they will, when, and if they won't, why not. I think this committee is entitled to know.

Mr. FRIEDEL. Your suggestion is well taken. I will discuss it with the chairman.

Mr. ROGERS. Could the Chair do that, instruct the committee staff to do that?

Mr. FRIEDEL. I think Mr. Staggers will do it today.

Mr. ROGERS. If not, I would like to make a motion to that effect if the Chair is not willing to do it.

Mr. FRIEDEL. I am not unwilling to do it.

Mr. WATSON. Will the gentleman yield on that point?

Mr. BROYHILL. Yes; I yield.

Mr. WATSON. I certainly think that the suggestion which has been made is a good one. But why all the correspondence? I would assume we have the representatives from the other side here. Why not have them take a public stand, and we will ask them their position on this matter at this time so that everyone would know.

Mr. ROGERS. I think it should be on the record in public.

Mr. WATSON. Mr. Chairman, at the conclusion of the testimony of this witness, would it be in order that we call a representative of one of the disputing unions and ask his opinion?

Mr. FRIEDEL. I would rather await the return of Chairman Staggers, of the full committee. If he does not return, then I will do it.

Mr. BROTZMAN. Will the gentleman yield?

Mr. BROYHILL. Yes.

Mr. BROTZMAN. Mr. Chairman, I have heard representatives of the carriers state that they would meet any time, any place, to discuss this issue. This is what you, Mr. Chairman, have been talking about, and we all have for a long time.

As a prelude to the arbitration possibilities suggested by the gentleman from Florida, I wonder if there is need to provide a place or some opportunity for discussions to begin forthwith. I know there are representatives of the union here. I have heard the position of the carriers. This country is in bad shape. We have all heard the briefings this morning about the mideastern crisis.

I think it is time to get on with this business, not in a day or two, but I mean forthwith, and that means today. If it is a question of providing an office or a place for these parties to sit down and to resume collective bargaining, I would propose 1330 Longworth Building is open, and if that isn't open, perhaps we can find another place.

Mr. FRIEDEL. I have already said I asked Mr. Wolfe whether he would be willing to meet at 2 o'clock today, and he said yes. We will talk to the chairman of the full committee about your suggestion.

Mr. BROTZMAN. Can we proceed to nail this thing down today? I want to get the people bargaining today.

Mr. FRIEDEL. I suggested that, but we only have one side present.

Mr. BROWN. Mr. Chairman, as a matter of inquiry to the Chair, do I understand that it is your plan, Mr. Chairman, to contact the chairman of the full committee prior to the termination of this hearing this morning to see if something can be worked out, as has been suggested here, and failing to accomplish this, then Mr. Rogers will put a formal motion so that we can vote on it, or do I understand that we will have consideration of this sometime today and then Mr. Rogers will put his motion at some future meeting of this committee?

Mr. FRIEDEL. Sometime today.

Mr. BROWN. It would have to be during a committee meeting.

Mr. ROGERS. Will the gentleman yield?

Mr. FRIEDEL. The gentleman's time has expired.

Mr. DINGELL. I am willing to yield my time to Mr. Rogers.

Mr. ROGERS. I thank the gentleman. I won't take 5 minutes.

I would hope that we can do this this morning before we adjourn. Perhaps if there are representatives of those negotiating for labor who could commit to this, maybe they could come forward shortly and give us their agreement to enter into voluntary arbitration.

If not, I think we ought to take whatever steps are necessary to get whoever can speak for them to let this committee know if they can agree. Here one side says they are willing to go into voluntary arbitration. It has been suggested by members of the committee, such as Congressman Macdonald and others on the committee, perhaps Congressman Dingell would also agree along with other members who have already stated their approval, that this would be a good move to make, to get them in voluntary arbitration to settle this thing, which it has been indicated could be settled very shortly if they go into voluntary arbitration.

Mr. ADAMS. Will the gentleman yield for a question?

Mr. ROGERS. Yes.

Mr. ADAMS. Are you referring to voluntary arbitration or are you referring to, in effect, compulsory negotiation, the parties sitting down to try to reach a settlement, or voluntary arbitration which is, in effect, a giving to a third party to make the decision?

Mr. ROGERS. As I understand voluntary arbitration, and I may misunderstand it, each side voluntarily agrees to submit the issues they themselves cannot agree upon to a third party. That third party is picked by letting each side pick a member of a panel of three, with the third person either picked by the agreement of the parties or by the President of the United States, or by the Secretary of Labor.

Mr. ADAMS. In other words, what you have, though, is a difference between bargaining and having a third-party settlement. That is what I am trying to get at. That is what the President has suggested: that if they can't agree, a third party will settle it.

Mr. ROGERS. But this is voluntary and not by law. I hope the gentleman distinguishes that. There is the fact that this is presently used to settle many of the problems under the present procedures now used by the two parties for different disagreements. I am sure the gentleman realizes that.

Mr. ADAMS. Correct. It has been, as I understand it, offered and rejected in February of this year in this matter.

Mr. ROGERS. But now one party says they will agree. Why won't the other party agree to voluntary arbitration, if they want to keep col-

lective bargaining out of the Congress of the United States, to keep the Congress from changing it?

Mr. BROWN. Do I understand that you have a motion, however, to put at a later time?

Mr. ROGERS. I will, if it is necessary. I don't think it is necessary. I think the chairman would go along with this. Certainly this committee would be interested in getting the parties together on a voluntary basis to settle this. I would hope a motion would not be necessary.

I thank the gentleman for yielding.

Mr. FRIEDEL. Mr. Harvey?

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Greenough, I share the enthusiasm for settling this by voluntary arbitration, but I don't want to get carried away by it at this early hour of the morning.

Let me direct a question to you, or perhaps to Mr. Wolfe, with regard to House Joint Resolution 559.

First of all, that resolution, as I understand it, is divided into three basic increments of 30 days each. My question is, do you feel that the final 30-day period serves any useful purpose after the determination has been made at the end of the 60-day period?

Mr. GREENOUGH. May I ask Mr. Wolfe to answer that?

Mr. HARVEY. Yes.

Mr. WOLFE. Yes, I think it does serve a useful purpose. As I understand, the resolution that is now before Congress contemplates intensive negotiations with the assistance of the panel that is contemplated by the resolution.

Mr. HARVEY. Right there, if I may interrupt, what incentive would there be for you to negotiate if you knew the worst that would happen to the railroads?

Mr. WOLFE. I think the same incentive is spread over both of the parties. If I understand the resolution correctly, there will be a member of that five-man panel with management background and a member of the panel with a labor background.

There will be further discussion. The parties realize, or should realize, that unless they make an agreement, the final decision may be something that will be a burden on one or the other, or perhaps both.

It is my opinion, I think shared entirely by the Secretary of Labor and the Under Secretary of Labor, that an agreement may be reached. Certainly, if the problem is approached in the right way, with a different atmosphere, with representatives of the parties on that panel, I would be hopeful that some constructive result would be obtained.

Mr. HARVEY. This assumes, it seems to me, that there has been some assumption on the part of the parties, both management and labor, to reach a voluntary agreement as to the solution of the problem. So far we, on the committee, have not seen such a feeling to exist.

In the period we have been holding these hearings, there have been no negotiations whatever. The conclusion is that there really isn't much incentive on the part of the parties to get together and negotiate.

I have difficulty, under those circumstances, understanding how, under the procedures set forth in House Joint Resolution 559, once the determination is made at the end of 60 days, how there is going to be any incentive on the part of management, for example, to make any concessions or do anything when they know the worst that can happen.

Mr. WOLFE. There is one thing certain, Mr. Harvey: The resolution imposes, superimposes, a duty to meet as members of the panel and make an effort. Right now, apparently, so far as the other side is concerned, there is no recognition of any such duty.

I have spoken before this committee on numerous occasions, and on each occasion I have indicated a willingness to talk every day and every hour of the day.

Mr. HARVEY. But you talk about something done by law. I shouldn't think that anything more would be required than the events that have been happening here in the past 30 days over in Vietnam and the Mideast, and so forth, to impose a duty and obligation both upon the part of management and on the part of labor to get together and settle this thing right now. Yet I haven't seen any indication of any desire either on the part of management or on the part of labor to do this.

I have difficulty seeing how they would recognize such a duty at the end of 60 days. I think the 30-day period will just go right by and that will be the end of it.

Mr. WOLFE. Mr. Harvey, so far as management is concerned, there is a most sincere recognition of our duties, and we stand willing, ready, and available to fully assume and carry out those responsibilities. The record in this case is perfectly clear in that respect.

Mr. HARVEY. I think that the President of the United States today has problems which are almost insurmountable which greet him each morning when he wakes up. Very frankly, out of sheer patriotism he should not have to face the problem of trying to resolve a dispute such as this that he is faced with today.

Mr. WOLFE. That, Mr. Harvey, is why we set out at the beginning and made an offer that is comparable to any settlements that have been made in our economy to relieve Congress and to relieve the President of burdens that these parties should willingly and cheerfully assume.

The CHAIRMAN. Mr. Van Deerlin?

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

At the risk of sounding anticlimactic, because I realize that my colleagues have this thing practically settled now, I would like to ask Mr. Wolfe if in the protracted discussions that have taken place with labor representatives over the months, has the subject of voluntary arbitration not been explored?

Mr. WOLFE. Yes, it has been. The Railway Labor Act contains a provision which makes the last statutory duty of the National Mediation Board an effort to induce the parties to submit the controversy voluntarily to arbitration.

The National Mediation Board carried out that statutory responsibility. The carriers agreed to voluntarily submit all unresolved issues to final and binding arbitration, the procedures to be those set out in the law. They are substantially the procedures described by Mr. Rogers, from Florida.

The unions rejected the proffer of arbitration. Had the unions accepted that proffer, we would not be here today.

Mr. VAN DEERLIN. At about what stage of the proceedings did this occur, Mr. Wolfe?

Mr. WOLFE. That occurred immediately after the National Mediation Board had stated that it had exhausted its efforts, and in a letter suggested arbitration. I believe that was in February, the latter part

of February. I would have to review my notes, but I am quite certain I am not far off as to the time.

Mr. VAN DEERLIN. Mr. Greenough's statement this morning that the carriers would be willing to enter into voluntary arbitration does not represent the first statement by management that this would be a satisfactory solution from management's standpoint?

Mr. WOLFE. That is not the first statement to that effect. We have never refused to submit any dispute to arbitration because we believe in the final analysis arbitration is a very important step in collective bargaining procedures, and it is the right way to compose such difficulties in the American way and with fairness and equitable results to both parties.

By the way, Mr. Congressman, it was January 6, 1967.

Mr. VAN DEERLIN. Thank you.

Mr. ADAMS. Would the gentleman yield?

Mr. VAN DEERLIN. Yes.

Mr. ADAMS. Mr. Wolfe, we come back to the same point we did when you testified. It has always been the position of the carriers, has it not, that in railway disputes they should be arbitrated rather than bargained to the final conclusion?

Mr. WOLFE. No; it has not been. The industry policy in regard to arbitration is of comparatively recent origin.

Mr. ADAMS. Then I will strike the word "always" and state that it is the position of management, represented by yourself and the other gentleman, and I will inquire further in just a moment, that arbitration is the way that management would like to have this settled?

Mr. WOLFE. Let me answer that this way, if I may, Mr. Adams: So far as the railroad industry is concerned, we have compulsory arbitration now.

Mr. ADAMS. In a major portion or a large portion of the disputes this is correct.

Mr. WOLFE. No; in all disputes.

Mr. ADAMS. In disputes under your contracts. We understand that. But not in this area. You would like to extend it to this area.

Mr. WOLFE. No. So far as the railroads are concerned, we have it in this area because an emergency board recommendation, so far as management is concerned, is tantamount to final and binding arbitration.

You would not permit us, the executive branch of our Government would not permit us, to refuse to accept an Emergency Board report, and I have had that experience.

Mr. ADAMS. All right. Now, Mr. Greenough, on page 3 you state that in addition, seizure is one sided in that all pressures are brought to bear against management. Railroads are deprived of control of their properties and the only way they can get back control is by reaching a settlement, which would merely tend to make the position of the unions more adamant.

Employees, on the other hand, would probably not lose anything except the immediate availability of the increase in their wages because of the practice of making settlements retroactive.

Is it not true, Mr. Greenough, that what we do is take away the only economic weapon that the employees have, which is to strike?

Mr. GREENOUGH. They haven't taken away any economic weapon.

Mr. ADAMS. We have under the present legislation and what we are contemplating now. They have no ability to do anything except, at this point, one of two things, both of which have been discussed this morning: One is to bargain; or the other is to accept the decision of a third party; in other words, arbitration.

They have already rejected the arbitration and stated they would rather bargain than arbitrate. Mr. Wolfe and I have had exchanges before this committee, and from those I am convinced the railroads' position is that they want the dispute arbitrated. The union's position is that they want it bargained.

I ask you which is your position?

Mr. GREENOUGH. My position is that we would far rather bargain this proposition out, as we have done with 75 percent of our employees.

Mr. ADAMS. When was the last time you met in a bargaining session?

Mr. GREENOUGH. I don't attend those sessions.

Mr. ADAMS. Do you know when the last time your representatives did?

Mr. GREENOUGH. Not specifically.

Mr. ADAMS. On page 4 you say this: "Preferably I think this should be provided for on a permanent basis so as to avoid laying these problems on the doorstep of Congress repeatedly."

Just before that, you say the third approach is to provide for a binding determination by a neutral board appointed by the President after collective bargaining has failed to achieve a settlement.

Is that not your statement on page 4, that you favor binding determination and that as long as you take the position, "We are not moving any further with bargaining," then you drive us to the position of having to go to arbitration. Isn't that correct?

Mr. GREENOUGH. Only after all other avenues have failed, Mr. Adams.

Mr. ADAMS. But if you take the position you won't bargain any further, where else do we go?

Mr. GREENOUGH. We have never taken that position. We will bargain now, today, this afternoon.

Mr. ADAMS. Then I would also request the Chair that as this voluntary arbitration matter is considered, it also be stated that the parties meet in a bargaining session and state their offers and why they can't agree so that bargaining would start again as well as possible arbitration.

I thank the gentleman for yielding.

Mr. FRIEDEL (presiding). Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

Frankly, I share the sentiments of the gentleman from California when he states that although we had a little optimistic note a moment ago, I don't think all of us can pack our bags and figure that we are going to escape this responsibility. But hope springs eternal, and I guess I am a natural born optimist.

So that we might lay the groundwork here in the event you do get together on voluntary arbitration, I have a few questions.

In that connection, as I understood it from both parties, bargaining has failed up to this point. Is that your understanding, Mr. Wolfe?

Mr. WOLFE. Yes, sir; and I believe——

Mr. WATSON. In this dispute, bargaining has failed up to this point.

Mr. WOLFE. Yes, sir; it has with these particular unions.

Mr. WATSON. And you have never tried voluntary arbitration as outlined in the Railway Labor Act?

Mr. WOLFE. Not in this case.

Mr. WATSON. That is a procedure established by law. You have been willing to resort to that procedure, as I understand it, but the other side was unwilling to do so.

Mr. WOLFE. That is absolutely correct.

Mr. WATSON. I understand from the testimony of Mr. Greenough, and you have corroborated that, even at this late hour you are willing to follow the procedures outlined in section 7 of the Railway Labor Act, and that is to submit the remaining issues in dispute to final arbitration?

Mr. WOLFE. We agree to do that.

Mr. WATSON. In addition to your willingness to submit the issues to voluntary arbitration are you also willing to apply the procedures as outlined in section 7 of the Railway Labor Act so far as it relates to the appointment of this arbitration committee?

Mr. WOLFE. Yes, sir; we are.

Mr. WATSON. Do you prefer the three- or the six-member Board?

Mr. WOLFE. We have no preference. We would accept the wishes of the unions in that respect. If they want a board of three men, one from each of the parties and a neutral to be selected in conformity with the act, we will go for that.

Mr. WATSON. So as of this point, you are willing to follow the procedures as presently outlined in the Railway Labor Act to try to finally settle this issue in accordance with present law and in accordance with established procedure under the Railway Labor Act?

Mr. WOLFE. I bind the railroads now.

Mr. WATSON. I will forgo any further questions, hoping that the other side would agree to this.

Mr. FRIEDEL. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Greenough, I notice on page 4 of your statement you discuss the three alternatives, but you think House Joint Resolution 559 would be the most reasonable of the three alternatives. You also state, "Preferably, I think this should be provided for on a permanent basis so as to avoid laying these problems on the doorstep of Congress repeatedly."

I agree with you generally speaking, that I think we need improvement in our present procedures. That is one reason why I had earlier this year introduced a bill, H.R. 5638, with respect to permanent improvements in the overall act.

I don't ask your position on that, except I assume, generally speaking, from the statement with your appearance today, you are in favor of some such general approach.

Mr. Chairman, I would ask at this point unanimous consent that I be allowed to submit for the record a statement on the bill H.R. 5638, which I introduced. I do not wish to impose on the committee by appearing as a witness. But if it would be agreeable, I would ask unanimous consent that I be allowed to submit it for the record at this point.

Mr. FRIEDEL. If there is no objection, it is so ordered.

(The statement referred to follows:)

STATEMENT BY CONGRESSMAN J. J. PICKLE—SUMMARY OF H.R. 5638—TO AMEND SECTION 10 OF THE RAILROAD LABOR ACT TO SETTLE EMERGENCY TRANSPORTATION LABOR DISPUTES

This summary of H.R. 5638 is entered in the hearing record for House Joint Resolution 559 because of the similarity of the problems addressed by both bills. H.R. 5638 would create a permanent solution to the question of national transportation strikes; House Joint Resolution 559 is an ad hoc remedy for the national rail strike now pending.

I would like to outline the provisions of H.R. 5638, then show the relevancy certain aspects of that bill have to the issue at hand.

H.R. 5638

H.R. 5638 amends section 10 of the Railway Labor Act. It preserves the present process up to and including the Federal Mediation Board.

As is the case now, the Mediation Board is empowered to give notification to the President if a dispute between a carrier and its employees is not adjusted under earlier provisions of the act, and if, in the judgment of the Board, such a dispute "threatens substantially to interrupt interstate or foreign commerce to such a degree as to deprive any section of the country of essential transportation."

At this point, the bill would add new procedures to deal with whatever problems arise.

After receiving notification from the Mediation Board, the President would have the discretion to take either of two approaches.

He could appoint a nonbinding Emergency Board with powers virtually identical to those given the Emergency Board under present law, or he could announce his intention to establish a binding arbitration board, termed a Special Board.

If, at this stage, the President elects to appoint an Emergency Board, he may appoint as many disinterested individuals to the Emergency Board as he deems desirable and necessary. The President may also, in his discretion, charge the Emergency Board with the responsibility to make a statement of the facts of the dispute and/or recommendations for the settlement of any or all of the matters in dispute.

Within 60 days after the appointment of the Emergency Board, or such later date as he may specify (but not to exceed 60 additional days), if the dispute has not been settled, the Board shall report to the President, and for 30 days after this report is made, there will be a cooling-off period during which there will be no change, except by mutual agreement, in the working conditions out of which the dispute arose.

After this cooling-off period, the President may exercise any or all, or none of three alternatives—

(1) He may transmit the report of the Emergency Board to Congress for such action as he may recommend.

(2) If the report includes recommendations for settlement, the President may provide by Executive order that these recommendations shall serve as the working conditions for a period not to exceed 120 days.

(3) He may notify the parties of this intention to establish a Special Board.

At this point, it may be noted that the Special Board I just mentioned can be initiated by the President immediately after the notification by the Mediation Board or after the Emergency Board procedures have been utilized.

At whichever point the President announces his intent to establish a Special Board (if he ever does decide to do so), the parties have 10 days from the announcement to select members of a Special Board which will have authority to make a final and binding determination of matters in dispute. The parties may also establish procedures for the Board, and ascertain the matters in dispute which shall be determined by the Board.

If the parties fail to establish the Special Board, the President shall appoint three public members of the Board; also, one member shall be appointed by the representatives of the employees and one by the carriers involved. In reaching its determination, the Special Board may, in its discretion, adopt the recommendations of the Emergency Board, and shall take into consideration all relevant information surrounding the dispute.

The Special Board would make and publish its determination within 60 days after its appointment except that the President may extend the period for not more than an additional 60 days. With certain exceptions, the determination of a Special Board would be final and binding upon the parties for the period prescribed by the Special Board, as long as the period does not exceed 2 years. The decision of the Special Board shall be enforceable by proceedings in the U.S. district courts.

The determination of a Special Board may be set aside only by application of a party to the Board proceedings, and only on the grounds that the determination was based on fraud or corruption, or was not in accordance with section 10 of the Act or with the Constitution. In no event would the reviewing court have jurisdiction to review or set aside a determination of a Special Board on the ground that rates of pay, rules, or working conditions prescribed were not just and reasonable.

APPLICATIONS OF H.R. 5638

The major points of H.R. 5638 which should be emphasized in light of the current dispute and the proposed solution to that dispute are several in number.

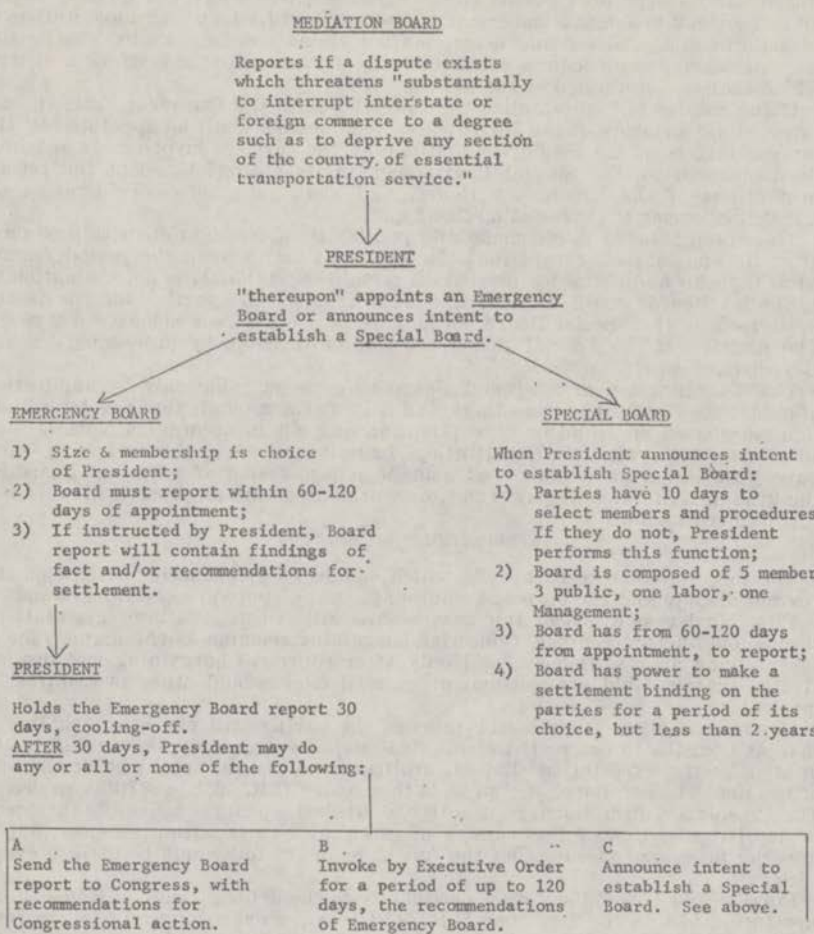
First, under H.R. 5638, the parties are allowed to continue negotiations throughout the proceedings. Collective bargaining remains as the major vehicle for arriving at a settlement, and only after collective bargaining had demonstrated that it could not consummate a settlement would other procedures be invoked.

Further, at every stage of the process, the parties will not know whether a Special Board is to be created at the final step. Consequently, bargaining is not tainted by the expectation that an arbitrated settlement would be at the end of the line. The corollary, of course, is that under H.R. 5638, a strike can occur. The President's discretionary authority is invoked whenever a dispute threatens to deprive a section of the country of essential transportation services, but it does not necessarily follow that the full scope of the bill would be used in every such case.

Finally, and I would say most pertinently to the deliberations on House Joint Resolution 559, is the fact that H.R. 5638 is a permanent remedy to the type of dispute facing us. When the President makes the proper choices under H.R. 5638, the final solution is very similar to that followed in House Joint Resolution 559.

I would agree that there are ways in which my bill could be strengthened, borrowing, in part, from the procedures of House Joint Resolution 559. Still, the important thing is to realize that permanent legislation can be created which will leave enough flexibility to preserve the basic cornerstone of our national labor policy, and at the same time remove Congress from the task of mediating disputes on a case-by-case basis.

PROCEDURES UNDER H. R. 5638



Mr. PICKLE. Mr. Greenough, I know also that these negotiations and bargaining have been going on for some time. We all hoped over the years that section 10 would set up the procedure to settle these disputes. It just hasn't worked that way.

It seems to me that in recent years all the major disputes are being gradually submitted to the Congress. It is my understanding that in the Senate hearings the Department of Labor had submitted a statement showing the history of the various Presidentially appointed emergency boards and what action was taken on those boards, both where the railroads and airlines were able to get together.

Are you familiar with the report that the Department of Labor submitted to the Senate?

Mr. GREENOUGH. I have not seen it.

Mr. PICKLE. I understand that they have submitted it. It is a matter of a chronological statement.

Mr. Chairman, I would ask unanimous consent that our hearings this morning include the statement made by the National Mediation Board representative to the Senate with respect to the general history of the Presidentially appointed emergency boards.

Mr. FRIEDEL. If there is no objection, it is so ordered.

(The information requested by Congressman Pickle follows:)

NATIONAL MEDIATION BOARD,
OFFICE OF THE CHAIRMAN,
Washington, D.C., May 24, 1967.

Hon. RALPH W. YARBOROUGH,
Chairman, Labor Subcommittee,
Committee on Labor and Public Welfare,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: On May 16, 1967, in answer to a request made on the record by Senator Morse, we advised you that we were assembling such information as was available in answer thereto.

Enclosed herewith you will find a compilation of the history of emergency boards created by Executive Order under Section 10 of the Railway Labor Act as they pertain to the railroad industry. We have also included data on strikes on carriers subject to emergency board jurisdiction.

As we previously informed you, parties to a dispute heard by an emergency board are not required to formally accept or reject a board's findings and recommendations. We have, to the best of our ability, ascertained the parties' reaction to each board's findings from such contemporaneous records as were available. Where no information was available to us, we have so stated.

Where emergency board numbers are omitted in this report, it indicates an emergency board in an airline dispute was created.

If we may be of further assistance to you in this matter, please do not hesitate to call upon us.

Sincerely yours,

FRANCIS A. O'NEILL, Jr., *Chairman.*

History of emergency boards created by Executive Order under sec. 10 of the Railway Labor Act

Emergency Board No.	Carrier involved	Organization involved	Date report issued	Strike dates	Duration of strike	Termination brought about
1	Western Pacific RR. Co., Sacramento Northern Ry, and Tidewater Southern Ry.	BLE, B.L.F. & E., ORC; and BRT.	June 15, 1936	No strike reported.		Arbitrated in December, 1936.
2	Chicago Great Western RR. Co	BLE, B.L.F. & E., ORC; and BRT.	Mar. 7, 1937	do		Settled in joint meetings under auspices of the emergency board.
3	Southern Pacific Co. (Pacific Lines) and Northwestern Pacific RR. Co.	BLE, B.L.F. & E., ORC; and BRT.	May 6, 1937	do		30 items settled as a result of emergency board suggestions during the hearings; remaining 11 items settled later by mutual agreement.
4	Pennsylvania RR. Co., Long Island RR. Co., Baltimore & Ohio RR. Co., Reading Co., Central Railroad of New Jersey, Lehigh Valley RR. Co., New York Central RR., Co., New York, New Haven & Hartford RR. Co., Delaware, Lackawanna & Western RR. Co., and Erie Railroad Co.	BRC and ILA	May 26, 1937	do		Emergency board agreements approved by carriers and organizations.
5	Pacific Electric Railway Co	BRT	Nov. 28, 1937	do		Settlement reached in conferences under auspices of emergency board.
6	Atchison, Topeka & Santa Fe Ry. Co., and other class 1 railroads.	18 cooperating railway labor organizations and BRT.	Oct. 29, 1938	do		Recommendations of emergency board accepted.
7	Railway Express Agency, Inc	BRC	Aug. 2, 1940	do		Do.
8	Rutland Railroad Co	15 organizations	Mar. 10, 1941	do		Agreement reached under auspices of emergency board.
9	Duluth, Missabe, & Iron Range Ry. Co., et al.	BRC	June 6, 1941	do		Do.
10	Atlanta, Birmingham & Coast RR. Co	B.L.F. & E. and BRT	do	do		Emergency board conducted conferences following hearings which disposed of all issues in dispute.
11	Certain common carriers by rail	5 transportation brotherhoods and 14 cooperating organizations.	Nov. 5, 1941	do		Emergency board recommendation accepted by carriers but not by organizations. Emergency board reconvened by President to hear reasguments and mediated agreement reached.
12	Railway Express Agency	IBT	Nov. 17, 1941	do		Recommendations of emergency board accepted.

13	Union Railway Co. (Memphis, Tenn.)	B.L.F. & E. and BRT	Sept. 29, 1944	do		Settlement of dispute was effected between parties through the efforts of the emergency board in conferences, following conclusion of hearings.
14	Chicago, North Shore, & Milwaukee RR. Co	B.L.F. & E. and BRT	Oct. 4, 1944	Nov. 10–26, 1944	15 days	Recommendations accepted.
15	Bingham & Garfield Ry. Co	B.L.F. & E	Nov. 25, 1944	No strike reported		Threat of strike; roads placed under Federal control.
16	Steelton & Highspire RR. Co	B.L.F. & E. and BRT	Dec. 30, 1944	do		Recommendation accepted by organizations, applied by carrier.
17	Seaboard Air Line RR. Co	BLE and B.L.F. & E	Jan. 17, 1945	do		Do.
18	Kentucky & Indiana Terminal RR. Co	BRT	Feb. 20, 1945	do		Carrier complied with the adjustment board award.
19	Central of Georgia Ry. Co	BRT	Feb. 24, 1945	do		Dispute mediated by emergency board.
20	Des Moines & Central Iowa RR. Co	BLE and BRT	Mar. 28, 1945	do		Agreement reached in conerfences with emergency board following hearings.
21	Denver & Rio Grande Western RR. Co	BLE, B.L.F. & E., O.R.C. & B., BRT, and SUNA.	Mar. 29, 1945	do		Recommendations accepted by organizations, applied by carrier.
22	Missouri Pacific RR. Co	B.L.F. & E	May 5, 1945	do		Do.
23	Colorado & Wyoming Ry. Co	B.L.F. & E and BRT	June 7, 1945	do		Information not available.
24	River Terminal Ry. Co	BLE and BRT	June 13, 1945	do		Recommendations accepted by organizations, applied by carrier.
25	Illinois Central RR. Co	B.L.F. & E	July 24, 1945	do		Strike threatened, Government seized railroad.
26	Georgia & Florida RR. Co	BLE, B.L.F. & E., ORC, and BRT.	July 7, 1945	Aug. 7–24, 1945	17 days	Direct negotiations.
27	Erie Railroad Co	BRT	July 18, 1945	No strike reported		No information available.
28	Chicago, North Shore & Milwaukee RR. Co	B.L.F. & E. and BRT	July 31, 1945	do		Agreement reached in course of hearings and conferences of emergency board.
29	Railway Express Agency, Inc	IBT	Oct. 31, 1945	do		Wage recommendations accepted by both parties.
30	Texas & New Orleans RR. Co., and Hospital Association of Southern Pacific Lines in Texas and Louisiana.	13 railway labor organizations.	Jan. 5, 1946	do		Information not available.
31	St. Louis-San Francisco Ry. Co. and St. Louis-San Francisco-Texas Ry. Co.	BRT	Jan. 24, 1946	do		Recommendations accepted by the parties.
32	Texas & New Orleans RR. Co	BLE and BRT	Mar. 30, 1946	do		Settled in direct negotiations with assistance from emergency board.
33	Alton RR. and all other class I railroads	BLE and BRT	Apr. 18, 1946	May 23–25, 1946	2 days, nationwide.	Emergency board report rejected; mediation agreement obtained by assistant to President Truman.

Emergency Board No.	Carrier involved	Organization involved	Date report issued	Strike dates	Duration of strike	Termination brought about
34	Chicago, Rock Island & Pacific Ry. Co.	BRT	May 6, 1946	No strike reported.		Information not available.
35	Railway Express Agency, Inc.	BRC, IAM, and International Brotherhood of Blacksmiths, Drop Forgers & Helpers.	May 23, 1946	do		Agreement reached by the parties.
37	Hudson & Manhattan RR. Co.	BLE and BRT	June 20, 1946	May 30 to June 22, 1946.	23 days	Recommendations by emergency board accepted.
39	Denver & Rio Grande Western RR. Co.	BRT	Aug. 14, 1946	No strike reported.		Information not available.
40	Pullman Co.	O.R.C. & B	Aug. 23, 1946	do		Do.
41	Long Island RR. Co.	Railroad Workers Industrial Union, Division 50, UMWA.	Oct. 11, 1946	do		Agreement signed under auspices of the emergency board.
42	Utah Idaho Central RR. Corp.	IAM	do	do		Agreement reached during course of hearings.
43	Atlanta & St. Andrews Bay Ry. Co. and other carriers.	15 cooperating railway labor organizations.	Dec. 4, 1946	do		Emergency board recommendations accepted.
44	Barre & Chelsea RR. Co. and St. Johnsbury & Lake Champlain RR. Co.	BLE, B.L.F. & E, and BRT.	do	Oct. 28 to Nov. 13, 1946.	16 days	Recommendations accepted.
45	Ann Arbor RR. Co., Grand Trunk Western RR. Co., Pere Marquette Ry. Co., and Wabash RR. Co.	National Maritime Union	Apr. 21, 1947	No strike reported.		Agreement reached through mediatory efforts of the emergency board.
46	Bingham & Garfield Ry. Co.	B.L.F. & E. and ORC	July 16, 1947	May 22 to Nov. 5, 1947.	167 days	Emergency board report rejected; settled through efforts of National Mediation Board.
47	Southern Pacific Co. (Pacific Lines), Northwestern Pacific RR. Co., and San Diego & Arizona Eastern Ry. Co.	BLE	July 30, 1947	July 21, 1947	6 hours	Through direct negotiations following report of emergency board.
48	Terminal RR. Association of St. Louis	BRC	Aug. 19, 1947	No strike reported.		Information not available.
49	River Terminal Ry. Co.	BRT	Aug. 20, 1947	do		Direct negotiations resumed under auspices of emergency board.
50	Railway Express Agency, Inc.	IBT	Oct. 13, 1947	do		Emergency board report accepted both sides.
51	Atlanta & West Point RR. Co. and Western Ry. Co. of Alabama.	BLE	Nov. 1, 1947	do		Information not available.
52	Railway Express Agency, Inc.	IBT	Jan. 15, 1948	do		Agreement reached between parties.
53	Georgia RR.	B.L.F. & E.	Jan. 20, 1948	do		Information not available.

54	Alabama, Tennessee & Northern RR. Co. and other carriers.	17 cooperating railway labor organizations.	Jan. 28, 1948	do		Emergency board report accepted both sides.
55	Chicago, North Shore & Milwaukee Ry. Co.	I.U. of A.A. of S.E. Railway & Motor Coach Employees of America.	Feb. 14, 1948	Mar. 27 to June 26, 1948.	91 days	Settled in direct negotiations following report of and in accordance with recommendations of emergency board.
56	Akron & Barberton Belt RR. Co.	BRT	Jan. 29, 1948	Jan. 8–13, 1948	5 days	Men resumed work upon appointment of emergency board; agreement reached under auspices of emergency board.
57	Akron, Canton & Youngstown RR. Co. and other carriers.	BLE, B.L.F. & E., and SUNA.	Mar. 27, 1948	No strike reported		Emergency board report rejected by organizations; agreement reached in mediation under auspices of White House.
58	Terminal RR. Association of St. Louis	BLE, B.L.F. & E., and and BRT.	Apr. 8, 1948	do		Negotiated settlement after emergency board report.
59	Railway Express Agency, Inc.	IBT.	Apr. 30, 1948	do		Do.
60	Aliquippa & Southern RR. Co.	BRT	May 17, 1948	do		Do.
61	Pennsylvania RR. Co.	B.L.F. & E.	June 9, 1948	do		Do.
63	Grand Trunk Western RR. Co., Chesapeake & Ohio Ry. Co., Wabash RR. Co. and Ann Arbor RR. Co.	National Maritime Union of America.	July 20, 1948	do		Do.
64	Pittsburgh & West Virginia Ry. Co.	BRT	Sept. 13, 1948	do		Do.
65	Public Belt RR. Commission of the City of New Orleans.	B.L.F. & E. and BRT	Sept. 18, 1948	do		Do.
66	Akron & Barberton Belt RR. Co. and all class I railroads.	16 cooperating railway labor organizations (nonoperating).	Dec. 17, 1948	September 27 to October 1, 1948.	5 days on 1 road	Settled on the basis of emergency board recommendations.
68	Akron, Canton & Youngstown RR. Co. and other carriers.	BLE	Apr. 11, 1949	No strike reported		Do.
69	Denver & Rio Grande Western RR. Co.	SUNA	Mar. 5, 1949	do		Do.
70	Carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	B.L.F. & E.	Sept. 19, 1949	May 10–16, 1950	6 days	Settled by referring certain issues to voluntary arbitration, after rejection of emergency board report by union.
71	Wabash RR. Co. and Ann Arbor RR. Co.	BLE, B.L.F. & E., ORC, and BRT.	Apr. 6, 1949	Mar. 15–23, 1949	8 days	Direct negotiations following report of and in accordance with recommendations.
72	Southern Pacific Co. (Pacific Lines)	B.L.F. & E.	Apr. 29, 1949	No strike reported		Settled on basis of emergency board recommendations.
73	Railway Express Agency, Inc.	BRC	May 6, 1949	do		Do.
74	Aliquippa & Southern RR. Co.	BRT	May 18, 1949	do		Information not available.
75	Union RR. Co. (Pittsburgh)	BRT	July 29, 1949	do		Do.
76	Missouri Pacific RR. Co.	BLE, B.L.F. & E., ORC, and BRT.	Aug. 2, 1949	Sept. 9 to Oct. 24, 1949.	44 days	Strike over grievances. Through direct negotiations.
77	Southern Pacific Co. (Pacific Lines)	BRT	Sept. 1, 1949	No strike reported		Information not available.
78	Monogahela Connecting RR. Co.	BRT	Oct. 7, 1949	Jan. 21, 1950	1 day	Through direct negotiations.

Emergency Board No.	Carrier involved	Organization involved	Date report issued	Strike dates	Duration of strike	Termination brought about
79	Denver & Rio Grande Western RR. Co.	BRT	Feb. 28, 1950	No strike reported.		Negotiated after issuance of emergency board report.
80	Texas & Pacific Ry. and its subsidiaries, including Fort Worth Belt Ry. Co. and the Texas Pacific-Missouri Pacific Terminal RR. of New Orleans.	BLE, B.L.F. & E., ORC, and BRT.	Mar. 9, 1950	do		Do.
81	Carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	ORC and BRT	June 15, 1950	do		Government seizure of railroads on Aug. 25, 1950.
82	Terminal RR. of St. Louis	BLE and B.L.F. & E.	Apr. 1, 1950	Dec. 13-16, 1950	3 days	Through radio appeal by President Truman.
83	Carriers represented by Western Carriers Conference Committee.	SUNA	Apr. 18, 1950	June 25 to July 6, 1950.	12 days	Termination on all roads but Chicago, Rock Island & Pacific. Government seized C.R.I. & P. July 8.
84	Carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	RYA	June 15, 1950	No strike reported.		Settled on basis of emergency board report.
85	Chicago & Illinois Midland RR. Co.	BRT	May 19, 1950	Apr. 27-29, 1950	2 days	Settled through mediatory efforts of emergency board.
86	Boston & Ibany RR. Co.	BRT	July 6, 1950	No strike reported.		Government seizure on Aug. 25, 1950.
87, 88, 88A	Toledo Lakefront Dock Co. and Toledo, Lorain & Fairport Dock Co.	ILA, Local 158, AFL	Aug. 11, 1950	June 18 to July 13, 1950.	24 days	Agreements negotiated in accordance with emergency board recommendations.
89	Pullman Co.	O. R. C. & B.	Nov. 3, 1950	No strike reported.		Settled on basis of emergency board recommendations.
91	New York Central RR. Co., lines east of Buffalo.	BLE, B.L.F. & E., O.R.C. & B., and BRT.	Sept. 13, 1950	do		Threatened strike over grievances. Emergency board report rejected by unions.
92	Atlantic & East Carolina Ry. Co. and 25 other carriers.	16 cooperating nonoperating labor organizations.	Sept. 9, 1950	Jan. 29 to Mar. 10, 1951.	On 1 carrier out of 25, 44 days.	Agreement obtained by mediation board.
93	Railway Express Agency, Inc.	IBT	Nov. 2, 1950	No strike reported.		Settled on basis of emergency board recommendations.
95	Denver & Rio Grande Western RR. Co., including Denver & Salt Lake RR. Co.	BLE	Sept. 19, 1951	do		Information not available.
96	Pullman Co.	ORC	Oct. 3, 1951	do		Emergency board report accepted.
97	Class I railroads represented by Eastern, Western, and Southeastern Carriers Conference Committees.	B.L.F. & E.	Jan. 25, 1952	Mar. 9-12, 1952	3 days	Restraining order by U.S. District Court at Cleveland, Ohio. Report of emergency board rejected by organization. Seizure of railroads by Government.

98	Akron & Barberton Belt RR. Co. and other carriers (under supervision of the Army).	17 cooperating labor organizations (nonoperating).	Feb. 14, 1952	No strike reported.		Emergency board report accepted by both parties.
104	New York, Chicago & St. Louis RR. Co.	BRT	(1)	do		Issues resolved prior to appointment of emergency board.
105	Railway Express Agency, Inc.	BRC	Feb. 17, 1954	do		Emergency board redommendations accepted by both sides.
106	Akron, Canton & Youngstown RR. Co. and other carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	15 cooperating (nonoperating) railway labor organizations.	May 15, 1954	Mar. 14 to May 10, 1955.	58 days on L. & N.	Emergency board recommendations accepted by all class I railroads except L. & N.
107	Pullman Co.	O.R.C. & B.	Nov. 20, 1954	No strike reported.		Settled on basis of emergency board recommendations.
109	Baltimore & Ohio RR. Co. and certain carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	O.R.C. & B.	Mar. 25, 1955	do		Mediation agreement following recommendation to negotiate.
110	Certain carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	B.L.F. & E.	July 30, 1955	do		Do.
111	Railway Express Agency, Inc.	IBT	Aug. 1, 1955	do		Union rejected emergency board recommendations; settlement reached in mediation.
112	New York Central System, lines east.	O.R.C. & B.	Sept. 14, 1955	do		Emergency board recommendations rejected; settlement reached in mediation.
113	Pennsylvania RR. Co.	TWU	Oct. 26, 1955	do		Compromise settlement reached after emergency board report.
114	Albany Port District RR. and other carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	Cooperating (nonoperating) railway labor organizations.	Dec. 12, 1955	do		Settled on basis of emergency board recommendations.
115	Spokane, Portland & Seattle Ry. Co.	BLE	(1)	Dec. 1 to 6, 1956	6 days	Strike ended by creation of emergency board; agreement reached Jan. 10, 1957.
116	Akron & Barberton Belt RR. Co. and other carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	BRT	Mar. 15, 1957	No strike reported.		Settled on basis of emergency board report.
117	Railway Express Agency, Inc.	IBT	Mar. 21, 1957	Apr. 22 to July 18, 1957.	88 days	Union rejected emergency board report; settlement reached in mediation.
118	Toledo, Lorain & Fairport Dock Co., Toledo Lakefront Dock Co., and Cleveland Stevedore Co.	District 50, U.M.W. of A. (Indiana).	June 7, 1957	July 7 to Sept. 13, 1957.	62 days	Emergency board report rejected; NMB obtained mediation agreement.

See footnote at end of table.

Emergency Board No.	Carrier involved	Organization involved	Date report issued	Strike dates	Duration of strike	Termination brought about
119	General Managers' Association of New York representing New York Central RR. Co., New York, New Haven & Hartford RR., Brooklyn Eastern District Terminal (Jay St.), Connecticut RR., New York Dock Ry., Bush Terminal RR., Baltimore & Ohio RR. Co., Pennsylvania RR., Erie RR. Co., Reading Co., Delaware, Lackawanna & Western RR., and Central RR. Co. of New Jersey.	I.O.M.M. & P.	Sept. 20, 1957	No strike reported.		Emergency board recommendations accepted by both sides.
126	Atchison, Topeka & Santa Fe Ry. Co.	BLE	July 15, 1960	do		Emergency board recommendations rejected by union but case settled in mediation.
127	New York Central System	O.R.C. & B.	June 20, 1960	do		Emergency board recommendations rejected by union. NMB mediation agreement avoided strike.
129	Long Island RR. Co.	BRT	May 18, 1960	July 10 to Aug. 4, 1960.	26 days	Emergency board recommendations rejected by union. NMB mediated agreement ending strike.
130	Akron & Barberton Belt RR. Co. and other carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	11 cooperative (nonoperating) railway labor organizations.	June 8, 1960	No strike reported.		Emergency board recommendations accepted by both sides.
131	Chicago, Rock Island & Pacific RR. Co. represented by Western Carriers' Conference Committee.	SUNA	July 8, 1960	do		Do.
132	Pennsylvania RR. Co.	T.W.U. of A., RR. Division, and RED, AFL–CIO, System Federal No. 152.	June 24, 1960	Sept. 1–12, 1960	12 days	Emergency board recommendations rejected; NMB obtained mediation agreement settling.
133	New York Harbor Carriers Conference Committee.	Employers represented by labor organizations, members of RR., Marine Harbor Council.	Dec. 10, 1960	Jan. 10–23, 1961	14 days	Emergency board recommendations rejected by union; agreement reached in mediation.

134	....do....	Lighter Captains Union, Local 996, ILA.	Mar. 6, 1961	No strike reported.	....	Emergency board recommendations rejected by union; agreement reached in mediation by National Mediation Board.
137	Baltimore & Ohio RR. Co. and other carriers represented by Eastern, Western and Southeastern Carriers Conference Committees.	RYA....	July 10, 1961	....do....	....	Emergency board recommendations accepted by both sides.
138	Southern Pacific Co. (Pacific Lines)....	ORT....	Sept. 15, 1961	....do....	....	Emergency board recommendations rejected by union; NMB obtained mediation agreement.
139	Pullman Co. and Chicago, Milwaukee, St. Paul & Pacific RR. Co.	O.R.C. & B....	Dec. 11, 1961	....do....	....	Do.
141	Reading Co....	Local No. 14, I.O.M.M. & P.	Dec. 5, 1961	....do....	....	Emergency board mediated a settlement.
145	Akron & Barberton Belt RR. and other carriers represented by Eastern, Western and Southeastern Carriers Conference Committees.	11 cooperating railway labor organizations.	May 3, 1962	....do....	....	Agreement reached on basis of emergency board report.
147	Chicago & North Western Ry. Co....	ORT....	June 14, 1962	Aug. 30 to Sept. 28, 1962.	29 days....	Emergency board recommendations rejected by union; strike ended pursuant to NMB mediation agreement.
148	New York Central RR. Co. System and Pittsburgh & Lake Erie RR. Co.	ORT....	Aug. 30, 1962	No strike reported.	....	Emergency board recommendations rejected; NMB obtained mediation agreement averting strike.
150	Belt Ry. Co. of Chicago....	BLE....	Mar. 4, 1963	....do....	....	Emergency board obtained settlement before report.
151	Southern Pacific Co. (Pacific Lines)....	BRC....	Dec. 31, 1962	....do....	....	Emergency board recommendations rejected; NMB obtained mediation agreement before strike.
153	REA Express....	IBT....	Nov. 10, 1962	....do....	....	Agreement reached on basis of emergency board report.
154	Eastern, Western and Southeastern Carreri Conference Committees.	BLE, B.L.F. & E., O.R.C. & B., BRT, and SUNA.	May 13, 1963	....do....	....	Emergency board recommendations rejected by union; 2 issues disposed of by Public Law 88-108, balance settled at White House.
155	Pullman Co., Chicago, Rock Island & Pacific RR. Co., New York Central System, and Soo Line RR. Co.	BSCP....	Nov. 2, 1963	....do....	....	Emergency board recommendations accepted by both sides.
157	Florida East Coast Ry....	11 cooperating railway labor organizations.	Dec. 23, 1963	Jan. 23, 1963, to present.	....	Emergency board recommendations accepted by union, rejected by carrier.

Emergency Board No.	Carrier involved	Organization involved	Date report issued	Strike dates	Duration of strike	Termination brought about
159	Eastern, Western and Southeastern Carreri Conference Committees.	BRS	Apr. 3, 1964	No strike reported		Emergency board recommendations accepted by both sides.
160	National Railway Labor Conference	RED	Aug. 7, 1964	do		Although emergency board recommendations not fully accepted by parties, agreement was reached through efforts of NMB.
161	do	RED	Oct. 20, 1964	do		3 unions accepted, 3 unions threatened strike; settlements eventually reached in mediation.
162	do	11 cooperating railway labor organizations.	do	do	do	Emergency board recommendations accepted by both sides.
163	do	5 cooperating railway labor organizations.	do	do	do	Unions did not accept but agreement finally reached Feb. 7, 1965, through mediation.
164	do	B.L.F. & E	Nov. 5, 1964	do		Emergency board recommendations accepted by both sides.
165	Atchison, Topeka & Santa Fe Ry. Co., lines east and west.	BRT	(1)	Sept. 13, 1965	12 hours	Case settled before emergency board appointed by the President.
169	National Railway Labor Conference	RED (6 organizations)	Mar. 10, 1967	No strike reported		Emergency board report rejected by unions.
170	Long Island RR	BRT-IBEW-I.A.M. & A.W.	May 12, 1967	do		Pending.

[1] No report issued.

Mr. PICKLE. That is all. Thank you.

Mr. FRIEDEL. Dr. Carter.

Mr. CARTER. Thank you, Mr. Chairman.

I am sorry I was not here to hear the complete statement of the distinguished gentleman, but certainly I should like to see arbitration settle this affair if it is at all possible. I am very much in favor of it. It would certainly take the bitter cup from the lips of the Congress. That is my only comment.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. FRIEDEL. Mr. Murphy?

Mr. MURPHY. No questions, Mr. Chairman.

Mr. FRIEDEL. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman.

Is there any area where something could be injected into this difficult situation which might give both parties some reason for agreeing on voluntary arbitration?

You may have heard the previous questions of this sort that I have asked. What I have in mind is some kind of a penalty which because of its increasingly adverse effect on both sides, would cause them to voluntarily arbitrate or reach a settlement.

Mr. GREENOUGH. Mr. Keith, I know of no such conditions. I have never considered it. I would not ignore the possibility that there might be some manner of encouraging an agreement through that sort of procedure.

Mr. KEITH. The public is going to be penalized tremendously if a strike occurs.

Mr. GREENOUGH. That is correct.

Mr. KEITH. Nobody is going to win if a strike is called.

The unions, as I understand, reject the possibility of job evaluation, which was recommended by the panel.

Mr. GREENOUGH. The Presidential Emergency Board, yes.

Mr. KEITH. Can you comment as to how significant this may be? Should this committee recommend that job evaluation be a point of bargaining?

Mr. GREENOUGH. I can only comment to the extent that management accepted those recommendations which were contained in the Presidential Emergency Board report.

Mr. KEITH. I have no further questions.

Mr. FRIEDEL. Mr. Satterfield?

Mr. SATTERFIELD. Thank you, Mr. Chairman.

First, I would like to say that I hope we will seriously consider the suggestions that have been made here this morning. If we do, it seems to me that this might be a good time to ask Mr. Wolfe a question.

If we seriously consider voluntary arbitration, I would like to know what your opinion is of the issues that should be considered.

Mr. WOLFE. I think, Mr. Satterfield, that in our collective bargaining efforts the issues have been rather finely drawn. It would be my opinion that the interest of the parties would best be served if we submitted to arbitration the unresolved issues in their present posture, which would basically eliminate everything except the across-the-board wage increase and the correction of alleged inequities.

The latter, of course, can be disposed of through job evaluation.

Mr. SATTERFIELD. Thank you.

Mr. FRIEDEL. Mr. Watkins?

Mr. WATKINS. Mr. Chairman, thank you.

I would like to welcome a fellow Pennsylvanian, Mr. Greenough. In Pennsylvania we respect him as a very fine executive, a man who really knows how to operate a railroad.

I have listened with great interest. I notice that you have taken no part in the bargaining but that Mr. Wolfe has, representing the railroads. I listened with great interest to my colleagues, Mr. Devine, Mr. Rogers, and the others.

Many of the things I would think would be repetitious. I would like to say this: I don't believe personally if you used two Georgia mules that you would get back to talking.

The thing that is amazing to me is this: That all of these days have gone by and you have completely disregarded the last act that we passed. Now we only have a few days to go.

I understand the Senate has already come to some conclusion on a bill. We have pleaded all along to go back to bargaining. I don't think if you put Georgia mules pulling each side that we would get you back.

I recall in 1943 the railroads were seized. Three years later, in 1946, they were seized. In 1948, 2 years later, and in 1950 they were seized. Of course, I realize under the law we can't force you back to the bargaining table. You make the boys in the union look bad today because it is your day to testify. They had their day.

But I just can't believe that you didn't mean to disregard the act that we passed here. I would like to ask you a question.

In your statement, you have said that you are not familiar with the negotiations.

Mr. Wolfe, I will ask you this: Is there any way that the Labor Department might have helped in this passage of time? Have you been called and asked to sit down and discuss your differences? Is this something that we are wasting time on?

I remember being called at my home by the committee to make sure that I would be here at 9 o'clock on a Monday morning. I live pretty close, 1 hour and 45 minutes from the Capitol.

I would like to know, have you been instructed? Has anybody with the powers of the Labor Department or the great White House taken any interest in the public, other than asking us to pass a bill? Have they talked to you at all about this thing to try to get you together?

Mr. WOLFE. Shall I answer your question?

Mr. WATKINS. Yes.

Mr. WOLFE. Yes. We have had frequent discussions with Members of Congress——

Mr. WATKINS. Mr. Wolfe——

Mr. WOLFE. I will answer your question, Mr. Watkins, if you permit me to.

We have talked, we have been in constant touch, with the Department of Labor, particularly with the Under Secretary, Mr. Reynolds.

We have not had direct contact with the White House.

Mr. WATKINS. Has the Department of Labor asked you to go back to talking?

Mr. WOLFE. They have not asked for the full committees to meet. They have not.

Mr. WATKINS. Here we find ourselves getting very close to it where we will have to be counted. We are Congressmen and run every 2 years, not every 4. We have friends in management, and we have friends in labor. At least I hope we do. I have always thought I did.

Now we have to make a decision where no agency in this great Government of ours has done a thing but sit still. They kick it back into the laps of every Member of the Congress.

Don't you agree with me that collective bargaining may be kicked out the window by your actions?

Mr. WOLFE. Sir, I do not believe that we have had anything to do with kicking collective bargaining out of the window. As a matter of fact, I think we did everything that any reasonable person could ask us to do to close the windows so that collective bargaining would not disappear.

Mr. WATKINS. Would you agree with this: Would you agree that our great Government has failed—and I don't mean the Congress. Let us forget about the Congress. We will be the fall guy. Don't worry about that. We will have to be counted, and very shortly we will have to be counted. I can see that.

Don't you think our great Government has failed in these bureaus in not getting you fellows together? What was the idea of us extending this time if you weren't going to talk?

Mr. WOLFE. I think it would be very presumptuous on my part to say that our Government has failed. I think the Department of Labor has worked diligently in this case and in the other cases which we settled, to do everything that could possibly be done to bring the parties together.

I am particularly grateful to the Chairman of the National Mediation Board for the long hours, all night long, all day long, that he devoted to this.

I think I should mention the capable work of Mr. Reynolds, the Under Secretary of Labor, who, in my opinion, is one of the most competent mediators I have ever known.

If I recall correctly, and I am sure I do, the Secretary of Labor testified as to what had taken place, and in answer to a question from the chairman of this committee——

Mr. WATKINS. I wish you would answer my question and not the chairman's. I just want to know what you have done since we passed the last bill.

Mr. WOLFE. Yes, we have. If you mean confrontation of the full committee, about 15 men on our side and I don't know how many on the other, we have not had that. Your question was——

Mr. WATKINS. Then you disregarded the last act that we passed giving you 47 days to talk this thing over. In 47 days you have done nothing. But we have been here working.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WATKINS. Mr. Chairman, could I have another minute? I have sat here and heard other members on the other side use up 10 minutes yielding back and forth.

The CHAIRMAN. You may proceed.

Mr. WATKINS. You have heard all of us speaking about your not doing anything for 47 days. Perhaps you can get back and go back to talking.

You know under the law we cannot force you to do that, don't you?

Mr. WOLFE. I do not believe that there is a statutory authority to force us. I can say this, that your wishes will be given most profound consideration by those people who represent the railroad industry.

Mr. WATKINS. I would hope that you could.

Mr. WOLFE. We will do that, Mr. Watkins, and we have done it all the way through.

Mr. WATKINS. As I say, I don't think two Georgia mules could pull you back together.

Mr. WOLFE. I am more acquainted with Missouri mules.

Mr. WATKINS. I think you have failed. I don't think you are lily white in this thing. I think both of you have failed. You are dropping this ball in our laps.

I want to say this, too, that I think our Government has failed. You can take that from the White House on down. They permitted you 47 days to do nothing. I am ready to assume my responsibility when the time comes. But I want it known that I think other people will have failed, the higher ups have failed.

I think it is being dumped back into the lap of every Member of this Congress who has to run next year, too.

The CHAIRMAN. Mr. Ottinger.

Mr. OTTINGER. Assuming we don't get a settlement of the issues by voluntary aribitration, I would certainly take strong issue with the various alternatives presented to Congress today.

With respect to the so-called "seizure," you say it is one sided and all the pressures are brought to bear against the management, that the purpose of such legislation is to compel capitulation on the part of the carriers to the unreasonable demands of the unions.

That is hardly an impartial statement to start out with. But certainly the chief bargaining tool which the unions have is the right to strike.

It seems to me that the seizure proposals that have been made offer an evenhanded disposition—providing a penalty against the companies by taking away their rights to manage and make changes in operation, and taking away, equally, the unions' right to strike.

It leaves the settlement to be made by collective bargaining. It doesn't impose any kind of settlement upon the management. I would like to know why you think this would force management to capitulate, if seizure is the method that Congress would choose?

Mr. GREENOUGH. Seizure in itself would solve nothing. As you have said, it seizes the rights of management and the rights of labor, but it does not help find a settlement.

Mr. OTTINGER. I think it helps greatly to find a settlement, because it puts increasing pressure on both sides to reach a settlement. Management is deprived of its prerogatives for a longer time, and it would be more and more anxious to settle. As the workers do not receive the benefits of an increase in their wages and living conditions, they are increasingly compelled to settle.

It seems to me it puts equal pressure on the parties to bargain to a settlement.

Mr. GREENOUGH. I don't see it that way, obviously.

It puts no pressure on the labor unions. Whatever settlement they achieve, it has been historical, is retroactive. They lose the use of their money perhaps for a little while, but that is all. They lose nothing under that situation.

Mr. OTTINGER. They lose as their tool in bargaining the right to strike, which is a very essential tool. On the other hand, in appraising the solution which the administration has offered, I don't see that there is any pressure on management. All that has occurred is that you have deprived the unions of the right to strike.

Mr. GREENOUGH. We are subjecting ourselves as management to accepting a settlement mandated by a new commission, which is using as a floor all of the rejected settlements previously.

Mr. OTTINGER. Yes; you are binding yourself equally with the unions to abide by the settlement directed by a third party. But whereas the unions are giving up their most important tool, in that equation you give up nothing. That is what concerns many of us with the solution that the administration has offered.

Mr. GREENOUGH. The most important part, in my judgment, is the public interest. I don't believe in this critical time that public interest would tolerate a stoppage in the railroad industry. I see no other alternative.

Mr. OTTINGER. Either of the alternatives, without a strike without a stoppage?

Mr. KORNEGAY. Under that seizure provision, wouldn't the railroads lose any right they might have to a lockout?

Mr. GREENOUGH. I understand they would.

Mr. KORNEGAY. Does it have the right to lock out under ordinary conditions?

Mr. GREENOUGH. Not from a practical standpoint. Perhaps they could.

Mr. KORNEGAY. Does the railroad have the right of lock out?

Mr. GREENOUGH. I think it is highly questionable, but I am not a lawyer, and I don't believe I could answer that question.

Mr. KORNEGAY. You have a very good one there with you on your right.

That is the point that has occurred to me during the course of this deliberation, and I thought I would inject it as this time.

What is the legal status with reference to the right of the railroads to lock out?

Mr. PRINCE. Would you like me to address myself briefly to that question, sir?

Mr. KORNEGAY. Yes.

Mr. PRINCE. The right to lock out so far as the railroad industry is concerned is certainly not the comparable right to lock out possessed by ordinary industry. Right there we have a very sharp distinction that I think Mr. Ottinger fails to take into account.

The comparable right between management and labor, one has a right to strike and the other has a right to lock out, because of our obligation as common carriers, directed by the Interstate Commerce Act, leaves us without the right to lock out from the beginning.

So if there is an advantage to labor from the right to strike, we are left without the comparable power in our hands of exercising the lock out. The question of the legal right to lock out by the railroad industry is one that is pretty ticklish. It is pretty complex, very difficult to answer in any such meeting as this.

Mr. KORNEGAY. Have there been any court cases on this particular point?

Mr. PRINCE. There are related decisions, Mr. Kornegay, but I couldn't say they deal precisely with this issue.

For instance, the situation that grew out of the Montgomery Ward situation, in which the railroads were prevented as a practical matter from serving Montgomery Ward, there was a strike taking place on their property as a result of a dispute with their employees.

So the difficulty is not quite the same as the one you are addressing yourself to.

But in that situation, the railroads were held to have an obligation to serve, and this strike did not excuse them from that obligation. I don't think the matter is clearly settled as to the extent of any right we have to lock out.

Mr. KORNEGAY. Thank you.

The CHAIRMAN. The gentleman from Colorado, Mr. Brotzman.

Mr. BROTZMAN. Thank you, Mr. Chairman.

Referring to your statement, Mr. Greenough, you state on page 1 and the top of page 2 that negotiations on behalf of about 200 railroads are conducted by the National Railway Labor Conference, headed by Mr. J. E. Wolfe, and the negotiating committees to whom powers of attorney have been given by those railroads.

If I can, I would like to direct a question first of all to Mr. Wolfe.

Is this a true statement, Mr. Wolfe, relative to your authority in these proceedings?

Mr. WOLFE. Yes; that is a correct statement. May I add just a word?

There are members of the carrier conference committees from each of the regions, and we work together.

Mr. BROTZMAN. Would you have authority to proceed to sit down with your counterpart in the shop craft unions today?

Mr. WOLFE. An individual on that side of the table?

Mr. BROTZMAN. Let us say "your counterparts." I will amend my question.

Mr. WOLFE. Yes; we have authority to sit down. I have authority to deal with a spokesman of that union if that seems to be advisable.

Mr. BROTZMAN. Since you are on the stand and I don't have a shop craft official here, I might ask you, from your experience in these negotiations, is there a counterpart representing them that you can negotiate with?

Mr. WOLFE. An individual?

Mr. BROTZMAN. An individual.

Mr. WOLFE. There is not.

Mr. BROTZMAN. What is the structure and how would they proceed to negotiate today?

Mr. WOLFE. Well, an effort was made by a very distinguished Member of the House to bring about a meeting between a spokesman for the unions and myself.

I agreed to do that. That is all during this 49-day period, by the way. But we discovered that the person representing the unions made it clear that he could not discuss anything substantive.

Mr. BROTZMAN. I understand if there are going to be negotiations that are meaningful and in good faith, obviously the people who enter into the negotiations must be cloaked with the proper authority to proceed.

I have listened very carefully to testimony today. As I understand it, you have the authority and you are willing and ready to sit down to resume negotiations forthwith. Is that a correct statement?

Mr. WOLFE. Yes. And we will negotiate as long as we feel there is any possibility of making an agreement. And if it becomes apparent that progress is not being made, we are willing to voluntarily enter into an agreement to arbitrate.

I honestly believe that such an agreement, the procedures all being spelled out in the Railway Labor Act, could be entered into in not to exceed 30 minutes.

Mr. BROTZMAN. You kind of slipped over one question. I think you answered it in part, but I want to be sure I understand it correctly.

Your authority also contains the right for you to enter into the voluntary arbitration agreement we have been talking about here this morning?

Mr. WOLFE. Yes, sir; we do have that authority.

Mr. BROTZMAN. Now the final question.

I have extended the invitation to you, and I would not hesitate to extend it to the duly constituted representatives of the shop craft unions. I do not believe that there are others who are more suitable, perhaps, to extend this invitation to get this on the road. But I don't want it to fail for want of somebody extending the invitation.

Is it your feeling that this should come from the distinguished chairman of this committee, from the Secretary of Labor, from the President of the United States? Could I have you thinking in this regard?

Mr. WOLFE. So far as the carriers are concerned, it doesn't make too much difference who extends the invitation. We accept it now.

Mr. BROTZMAN. As of this moment, I am the only person who has extended one. So you have accepted my invitation. I would like to escalate this just a little bit, if I could, to have someone else do it in the interests of this country and in the interest of collective bargaining.

Continue on with your response.

Mr. WOLFE. I had about concluded, Mr. Brotzman.

I will say this, that it doesn't necessarily have to be an invitation, although perhaps that would be helpful. But however the arrangements are made to get the parties together, it is acceptable to us.

If we just adjourn the hearing and start right now, that would be all right with me. After all, time is running out on us.

Mr. BROTZMAN. I think this is correct. I think we all recognize that time is of the essence. I guess that has been stated about 1,500 different ways by my colleagues and probably by me in the last few days. We would like to see you get to a table and talk, communicate.

I am confident that by proceeding, you can sit down and work out something. You know the old saying that a fair settlement is better than a good lawsuit. I know this from my own legal experience, and I think every lawyer in the Congress realizes this is correct.

I would like to suggest most respectfully, Mr. Chairman, I have extended the invitation but I feel there are others who perhaps could better extend the invitation, to see that such a meeting is effected today. I really say this with all the sincerity that I can muster. I am hopeful, too; I think something good can come of it.

Thank you.

The CHAIRMAN. I might say in response to the gentleman from Colorado that the invitation has not been issued once, but more than once. It will be issued again. I will see what can be done. I think this is the true American way to get these things done.

Mr. Brown?

Mr. BROWN. I have two tacks. I think I will pick up where Mr. Brotzman left off, the tack he was working on.

First, in your testimony, Mr. Greenough, the comment is made on page 2 that Mr. Wolfe informed you this morning that he would enter into such an arbitration agreement on behalf of the carriers and if the unions would also agree, the final disposition of all issues could be disposed of in 30 minutes.

Is that a particularly new position of the rail management?

Mr. GREENOUGH. No; it is not a new position. I think Mr. Wolfe explained that back in January we indicated our agreeableness to enter into voluntary arbitration. At that time the proffer was not acceptable to the organizations, and I think this is perhaps the first mention of it since then, as far as I know.

Mr. BROWN. Mr. Brotzman cited a homily. I would like to cite another. It seems to me that in labor relations, as in politics and love, that time and humor are so important.

I am encouraged by the comment you make, and I hope that the unions will see fit, if not to go into voluntary arbitration, to at least pick up the conversations again.

Mr. Wolfe, has such an invitation as Mr. Brotzman extended, been extended to you by anyone in the administration before?

Mr. WOLFE. An invitation to meet or an invitation to consider voluntary arbitration?

Mr. BROWN. Either one.

Mr. WOLFE. As to voluntary arbitration, the National Mediation Board, through its Chairman, Mr. Francis O'Neill, did proffer arbitration to the parties. That is a proffer which may be accepted or rejected. The carriers did accept it.

To the best of my knowledge, there has been no suggestion, no formal suggestion, of voluntary arbitration since that time.

Mr. BROWN. Has there been any suggestion or any proffer of sitting down with the rail unions, proffered either by the President or by the Secretary of Labor?

Mr. WOLFE. We have had no discussions, Mr. Brown, with the President, nor have we had discussions with any of his assistants.

Mr. BROWN. The reason I asked that question, Mr. Chairman, is that I was a little disturbed yesterday to read a UPI dispatch, No. 65, which came over the ticker, in which these statements were made.

I would like to have the whole dispatch, as I was able to get it from the ticker, included in the record at this point, if I may.

In that statement, according to the dispatch, the President told Democratic congressional leaders today that enactment of legislation to prevent a nationwide rail strike remains a matter of urgent control and the White House said they—presumably meaning the leaders of the Congress—promised to push for its enactment.

It goes on to say that George Christian, the press secretary to the President, said Johnson hailed the Senate Labor Subcommittee's approval of the longrun measure yesterday, but "pointed out that

more than a month has gone by since the bill was submitted on May 4, and that rail legislation was a matter of urgent concern."

(The dispatch referred to by Congressman Brown follows:)

[UPI Bulletin 65]

WASHINGTON, D.C., *June 6, 1967.*

President Johnson told Democratic congressional leaders today that enactment of legislation to prevent a nationwide rail strike remains "a matter of urgent concern" and the White House said they promised to push for its enactment.

Press Secretary George Christian said Johnson told the group the Nation "literally cannot afford a rail strike" when existing legislation runs out on June 19.

Christian said Johnson hailed a Senate labor subcommittee's approval of the long-run measure yesterday but "pointed out that more than a month has gone by since the bill was submitted on May 4 and that rail legislation was a matter of urgent concern."

"The President referred to his statement of May 4 in which he said that a nationwide rail strike would result in intolerable injury to the country," Christian said. "He said that literally, the Nation cannot afford a rail strike."

Christian said that during Johnson's breakfast meeting with the leaders at the White House, Senate Democratic Leader Mike Mansfield "indicated every effort would be made to have early action" by the full Senate Labor Committee. And Christian said House leaders told Johnson they intend to push as hard as they can.

Noting that the deadline is 12:01 a.m., June 19, Christian said: "I would describe it as an urgent situation. Actually, the 18th is that last full day of grace. So that leaves only 12 days."

Mr. BROWN. Frankly, it is a matter of concern to me that the President would try to make this point, that the Congress has not acted with some dispatch and concern in this matter when, according to what you have just said, there has been no real push on the part of the White House or the Department of Labor to get the two parties together for discussions or to get a question asked, as we have had asked here this morning, whether the two parties will voluntarily submit to arbitration.

I would like, if I can, to pick up one other question.

It seems to me, Mr. Greenough, that you have a dichotomy in your testimony. On page 5 of that testimony, you say:

A binding determination by a neutral board can be just as distasteful in results for railroad management as for railroad unions—

A position with which I thoroughly agree. I believe it could be distasteful on both sides.

But on page 4 you say:

A binding determination by a neutral board appointed by the President of the United States, after collective bargaining has failed to achieve a settlement, should be provided for on a permanent basis so as to avoid laying these problems on the doorstep of Congress repeatedly.

My question is: Is it the position of the rail management or your position as the individual president of the Pennsylvania Railroad that we should have compulsory arbitration as a matter of course in the rail industry?

Mr. GREENOUGH. We must have some sort of finality, Mr. Brown, in my opinion, if we are to avoid these recurring emergency situations. Whether it is a labor court or whether it is arbitration, I am not pre-

pared to say. I am not a lawyer. I feel very strongly that there must be some form of agreeable finality.

Mr. BROWN. Even though it is, as you say on page 5, distasteful on both sides?

Mr. GREENOUGH. Even though it may be distasteful.

Mr. BROWN. And apparently distasteful to those of us in the legislative branch of the Government.

Mr. GREENOUGH. Yes.

Mr. BROWN. I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Pickle?

Mr. PICKLE. I would like to ask the gentlemen testifying this morning their opinion on a set of guidelines that they might use, or a special board might use, in the consideration of the final determination.

The reason I ask this is that the measure I have prepared lists guidelines. Under the present Railway Labor Act, there are no specific guidelines. If the chairman would permit, I would like to read these guidelines and ask these gentlemen's opinion or reaction to the guidelines. These would be the guidelines that a special board might follow.

Are you listening, gentlemen?

The CHAIRMAN. I might say to the gentleman, if he can summarize them or put them into the record, it would be better. We have to leave at 12 o'clock.

Mr. PICKLE. These would be some of the guidelines: Equality of treatment of the various classes or crafts of employees, the wages paid generally in the other industries for similar kinds of work, changes in the level of wages paid generally, relationships between wages and the cost of living, the relationship between wages and productivity, hazards of employment, training and skill, responsibility; character, integrity and regularity of the employment; the ability of the carrier to pay existing costs or increased labor costs, technological development; maintenance of a safe and adequate, economic and efficient transportation system; the public interest in price stability with the prevention of inflation.

If these were guidelines established by your group, would you follow them?

Mr. WOLFE. Yes; and we believe, Mr. Pickle, that those are the guidelines or the elements to be considered in all wage negotiations.

Mr. PICKLE. This specifically spells out that you would include equality of treatment, wages paid generally in other industries for similar work, price stability, and so forth. These things would be agreeable to your group?

Mr. WOLFE. Yes. And I studied those very carefully. We believe, and I am repeating, that those are the elements that are generally considered.

The CHAIRMAN. This concludes the hearings on this bill and all other related bills.

Mr. WATSON. Mr. Chairman——

The CHAIRMAN. Mr. Watson?

Mr. WATSON. Can unanimous consent be granted that we continue until we get a reply from the unions on the proposal made here this morning?

The CHAIRMAN. That will be done and reported in the executive session tomorrow.

We will go into executive session tomorrow morning at 10 o'clock on this bill and all other related bills. We are going to try to mark up a bill.

Mr. WATSON. Apparently, then, the answer will be in writing rather than giving us an opportunity to explore the reason behind the decision in the event it would be adverse.

Would you request the parties to give the committee the benefit of their thinking in the event they should decline the offer made by the carriers?

The CHAIRMAN. I will.

This concludes our hearings on this bill and all other related bills. Tomorrow morning the committee will go into executive session for consideration of the bills.

Mr. Greenough, we thank you for coming and giving us the benefit of your views, with the two gentlemen you have with you, Mr. Prince and Mr. Wolfe.

Thank you.

(The following information was submitted for the record:)

THE DEPARTMENT OF LABOR,
Washington, D.C., May 19, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for information on the recent history of national emergency disputes.

I am enclosing with this letter two tables. The first is a listing of all disputes since 1947 which required the appointment of a Board of Inquiry pursuant to the Labor Management Relations Act. This table also includes those situations in which work stoppages occurred following expiration of the injunction period.

The second table contains a listing of all emergency boards appointed pursuant to the Railway Labor Act from 1936 to the present time. This table is supplemented by a listing of those situations in the railroad and airline industries in which work stoppages occured during or subsequent to the period of statutory restraint.

If the committee desires any further information please do not hesitate to call me.

Sincerely,

JAMES J. REYNOLDS,
Under Secretary of Labor.

National emergency disputes under the Labor Management Relations Act (Taft-Hartley Act) 1947–67

Employer	Union	Date of appointment of board of inquiry	Strike following expiration of injunction			
			Date injunction expired	Date strike began	Duration	Maximum number of workers
1. Carbide & Carbon Chemicals Corp	Atomic Trades & Labor Council (AFL)	Mar. 5, 1948				
2. Meatpacking industry	United Packinghouse Workers (CIO)	Mar. 15, 1948				
3. Bituminous coal industry	United Mine Workers (independent)	Mar. 23, 1948				
4. American Telephone & Telegraph Co	American Union of Telephone Workers (CIO)	May 18, 1948				
5. Maritime industry	Maritime unions	June 3, 1948	Sept. 1, 1948 Sept. 2, 1948	Sept. 2, 1948	93 days	28,000
6. Bituminous coal industry	United Mine Workers (independent)	June 19, 1948				
7. Longshore industry	International Longshoremen's Association (AFL)	Aug. 17, 1948	Nov. 9, 1948	Nov. 10, 1948	18 days	45,000
8. Bituminous coal industry	United Mine Workers (independent)	Feb. 6, 1950	(1)			
9. Copper and other nonferrous metals industry	Mine, Mill, & Smelter Workers (independent)	Aug. 30, 1951				
10. American Locomotive Co	United Steelworkers of America (CIO)	Dec. 3, 1952				
11. Longshore industry	ILA (independent) and ILA (AFL)	Oct. 1, 1953	Dec. 24, 1953	Mar. 5, 1954	29 days	30,000
12. Carbide & Carbon Chemicals Co	United Gas, Coke & Chemical Workers (CIO)	July 6, 1954				
13. Do	Atomic Trades & Labor Council (AFL)	do				
14. Longshore industry	International Longshoremen's Association (independent).	Nov. 22, 1956	Feb. 12, 1957	Feb. 12, 1957	11 days	35,000
15. Goodyear Atomic Corp	Oil, Chemical & Atomic Workers (AFL–CIO)	May 14, 1957				
16. Longshore industry	International Longshoremen's Association (AFL–CIO).	Oct. 6, 1959				
17. Basic steel industry	United Steelworkers of America (AFL–CIO)	Oct. 9, 1959				
18. Maritime industry	Maritime unions	June 26, 1961	Sept. 21, 1961	Sept. 28, 1961	14 days	2,700
19. Do	Seafarers' International Union (AFL–CIO)	Apr. 7, 1962				
20. Republic Aviation	International Association of Machinists (AFL–CIO)	June 7, 1962				
21. Longshore industry	International Longshoremen's Association (AFL–CIO).	Oct. 1, 1962	Dec. 23, 1962	Dec. 23, 1962	34 days	50,000
22. Lockheed Aircraft Corp	International Association of Machinists (AFL–CIO).	Nov. 28, 1962				
23. Boeing Co	do	Jan. 23, 1963				
24. Longshore industry	International Longshoremen's Association (AFL–CIO).	Sept. 30, 1964	Dec. 20, 1964	Jan. 11, 1965	61 days	53,000
25. General Electric Co., Evandale, Ohio	United Automobile Workers (AFL–CIO); International Association of Machinists (AFL–CIO).	Oct. 17, 1966				
26. Union Carbide Corp. (Stellite Division), Kokomo, Ind.						
27. Pacific Coast Shipbuilders' Association	International Brotherhood of Electrial workers	Mar. 2 1967				
28. Avco Corp. (Lycoming division)	United Automobile workers (AFL–CIO)	Apr. 15, 1967				

[1] Strike continued despite the issuance of an injunction.

Emergency boards appointed pursuant to the Railway Labor Act, 1936–67

Board No.	Carrier	Organization	Date of order	Members	Date of report	NMB case No.
1	Western Pacific RR. Co.; Sacramento Northern Ry.; Tidewater Southern Ry.	BLE, BLF & E, ORC, BRT.	May 21, 1936	G. Stanleigh Arnold, chairman; Will J. French, Macy Nicholson.	June 15, 1936	A–136, A–189, A–202, A–221.
2	Chicago Great Western RR. Co	BLE, BLF & E, ORT, BRT, SUNA.	Feb. 8, 1937	John P. Devaney, chairman; Walter C. Clephane, Harry A. Millis.	Mar. 7, 1937	
3	Southern Pacific Co. (Pacific Lines); Northwestern Pacific RR. Co.	BLE, BLF & E, ORC, BRT.	Apr. 14, 1937	G. S. Arnold, chairman; Charles Kerr, Dexter M. Keezer.	May 6, 1937	A–336, M–149.
4	Pennsylvania; Long Island; Baltimore & Ohio; Reading; Central RR. of New Jersey; Lehigh Valley; New York Central; New York, New Haven & Hartford; Delaware, Lackawanna & Western; and Erie RR.	BRC, ILA	Apr. 26, 1937	F. M. Swacker, chairman; W. H. Davis, I. L. Sharfman.	May 26, 1937	A–369.
5	Pacific Electric Ry. Co	BRT	Aug. 30, 1937	I. L. Sharfman, Chairman; Dexter M. Keezer, John P. Devaney.	Nov. 28, 1937	A–411.
6	Atchison, Topeka & Santa Fe Ry. and other class I railroads.	18 cooperating labor organizations and BRT.	Sept. 27, 1938	Walter P. Stacey, Chairman; James M. Landis, Harry A. Millis.	Oct. 19, 1938	A–529, A–530.
7	Railway Express Agency, Inc	BRC	July 10, 1940	John P. Devaney, Chairman; Dexter M. Keezer, Harry A Millis.	Aug. 2, 1940	A–801.
8	The Rutland RR. Co	15 organizations	Feb. 14, 1941	I. L. Sharfman, Chairman; Walter C. Clephane, Ordway Tead.	Mar. 10, 1941	A–577.
9	The Duluth, Mesabi & Iron Range Ry. Co. et al.	BRC	May 9, 1941	G. Stanleigh Arnold, Chairman William H. Tschappat, Arthur E. Whittemore.	June 6, 1941;	A–867.
10	The Atlanta, Birmingham & Coast RR. Co.	B.L.F. & E., BRT	May 16, 1941	George W. Stocking, Chairman; Huston Thompson, H. S. Hawkins.	do	A–896.
11	Certain common carriers by rail	5 transportation brotherhoods, 14 cooperating organizations.	Sept. 10, 1941	Wayne L. Morse, chairman; Thomas Reed Powell, James C. Bonbright, Joseph H. Willits, Huston Thompson.	Nov. 5, 1941	A–1000, A–1001.
12	Railway Express Agency	IBT	Nov. 7, 1941	Royal A. Stone, chairman; William H. Tschappat, Matthew Page Andrews.	Nov. 17, 1941	A–1071.
13	Union Ry. Co. (Memphis, Tenn.)	BLF & E, BRT	Sept. 20, 1944	Frank M. Swacker, chairman; Walter C. Clephane, John A. Lapp.	Sept. 29, 1944	
14	Chicago, North Shore & Milwaukee RR. Co. et al.	BLF & E, BRT	Sept. 19, 1944	H. B. Rudolph, chairman; W. H. Spencer, Ernest M. Tipton.	Oct. 4, 1944	
15	Bingham & Garfield Ry	BLF & E	Nov. 14, 1944	Richard F. Mitchell, chairman; Walter C. Clephane, A. G. Crane.	Nov. 25, 1944	
16	Steelton & Highspire RR. Co	BLF & E, BRT	Dec. 12, 1944	I. L. Shariman, chairman; Leif Erickson, Grady Lewis.	Dec. 30, 1944	
17	Seaboard Air Line Ry. Co	BLF & E, BLE	Dec. 15, 1944	Huston Thompson, chairman; David J. Lewis, William H. Tschappat.	Jan. 17, 1945	

Emergency boards appointed pursuant to the Railway Labor Act, 1936–67—Continued

Board No.	Carrier	Organization	Date of order	Members	Date of report	NMB case No.
18	The Kentucky & Indiana Terminal	BRT	Feb. 6, 1945	Ernest M. Tipton, Chairman; H. S. Hawkins, Arthur E. Whittemore.	Feb. 20, 1945	
19	The Central of Georgia Co	BRT	Feb. 8, 1945	H. Nathan Swain, Chairman; Ridgely P. Melvin, Russell Wolfe.	Feb. 24, 1945	
20	Des Moines and Central Iowa	BLE, BRT	Mar. 7, 1945	H. Nathan Swain, Chairman; John W. Yeager, Grady Lewis.	Mar. 28, 1945	
21	The Denver & Rio Grande Western Co.	BLE, BLF & E, ORC, SUNA, BRT.	Mar. 8, 1945	Leif Erickson, Chairman; Ridgely P. Melvin, Russell Wolfe.	Mar. 29, 1945	
22	Missouri Pacific Co	BLF & E	Apr. 7, 1945	H. Nathan Swain, Chairman; Leif Erickson, Robert W. Woolley.	May 5, 1945	
23	Colorado & Wyoming Co	BLF & E, BRT	May 18, 1945	H. Nathan Swain, Chairman; Ridgely P. Melvin, Eugene L. Pudberg.	June 7, 1945	
24	River Terminal Ry. Co	BLE, BRT	May 22, 1945	Richard F. Mitchell, Chairman; Roger I. McDonough, Robert W. Woolley.	June 13, 1945	
25	The Illinois Central RR. Co	BLF & E	May 25, 1945	Huston Thompson, Chairman; Grady Lewis, Curtis G. Shake.	July 24, 1945	
26	Georgia & Florida RR	BLE, BLF & E, ORC of America, BRT.	June 16, 1945	James P. Hughes, Chairman; Russell Wolfe, Eugene L. Padberg.	July 7, 1945	
27	The Erie RR. Co	BRT	June 28, 1945	Leif Erickson, Chairman; Ridgely P. Melvin, Robert G. Simmons.	July 18, 1945	
28	Chicago, North Shore & Milwaukee RR. Co. et al.	BLF & E, BRT	July 10, 1945	Roger I. McDonough, Chairman; John W. Yeager, Robert W. Woolley.	July 31, 1945	
29	Railway Express Agency, Inc	IBT	Oct. 10, 1945	H. Nathan Swain, Chairman; Eugene L. Padberg, Henri Burque.	Oct. 31, 1945	
30	Texas & New Orleans RR. Co. and Hospital Association of the Southern Pacific Lines in Texas and Louisiana.	13 railway labor organizations.	Dec. 4, 1945	Richard F. Mitchell, Chairman; Ernest M. Tipton, John W. Yeager.	Jan. 5, 1946	
31	St. Louis-San Francisco Ry. Co. and St. Louis, San Francisco & Texas Ry. Co.	BRT	Jan. 5, 1946	Robert G. Simmons, Chairman; Henri A. Burque, Luther W. Youngdahl.	Jan. 24, 1946	
32	Texas & New Orleans RR. Co	BLE, BRT	Mar. 2, 1946	H. Nathan Swain, Chairman; Eugene L. Padberg, Grady Lewis.	Mar. 30, 1946 (extended time to Apr. 10, 1946).	
33	The Alton RR. and other carriers	BLE, BRT	Mar. 8, 1946	Leif Erickson, Chairman; Frank M. Swacker, Gordon S. Watkins.	Apr. 18, 1946	
34	The Chicago, Rock Island & Pacific Ry. Co.	BRT	Apr. 19, 1946	Henri A. Burque, Roger I. McDonough, Grady Lewis, Chairman.	May 6, 1946	
35	Railway Express Agency, Inc	BRC, IAM, International Brotherhood Blacksmiths, Drop Forgers & Helpers.	Apr. 24, 1946 (E.O. 9716).	Robert W. Woolley, Chairman; I. L. Sharfman, Leverett Edwards.	May 23, 1946	

36	Transcontinental & Western Air, Inc., and other carriers.	ALPA, Intl	May 7, 1946	George E. Bushnell, chairman, William M. Leiserson, John A. Lapp.	July 8, 1946 (extension of time to July 7, 1946).	A-2219, A-2231, A-2241, through 2251.
37	Hudson & Manhattan RR. Co	BLE, BRT	May 29, 1946 (E.O. 9731).	John A. Fitch, chairman, Arthur E. Whittemore, Russell Wolfe.	June 20, 1946	
38	Northwest Airlines, Inc	IAM	July 3, 1946	Frank H. Swacker, chairman, Lewis Grady, John A. Lapp.	Aug. 7, 1946 (extended 10 days to Aug. 12, 1946).	
39	Denver & Rio Grande Western RR. Co.	BRT	July 10, 1946	John W. Yeager, chairman, Roger I. McDonough, Floyd McGown.	Aug. 14, 1946 (extension of time made between the parties).	A-2350.
40	The Pullman Co	ORC	July 27, 1946	I. L. Sharfman, chairman, Robert G. Simmons, Walton H. Hamilton.	Aug. 23, 1946	
41	The Long Island RR. Co	Railroad Workers Industrial Union Division 50, United Mine Workers of America	Sept. 5, 1946 (E.O. 9770).	Frank M. Swacker, chairman; H. Nathan Swain, Leverett Edwards.	Oct. 11, 1946 (extension of time to Oct. 21, 1946).	
42	Utah Idaho Central RR. Corp	IAM	Sept. 23, 1946	Richard F. Mitchell, chairman; Norris C. Bakke, Otto S. Beyer.	Oct. 11, 1946	A-2276.
43	The Atlanta & St. Andrews Bay Ry. Co. and other carriers.	15 cooperating railway labor organizations.	Oct. 29, 1946	James H. Wolfe, chairman; Robert E. Stone, Floyd McGown.	Dec. 4, 1946 (extension of time granted to Dec. 24, 1946).	
44	The Barre & Chelsea RR. Co. and the St. Johnsbury & Lake Champlain RR. Co.	BLE, BLF & E, BRT	Nov. 6, 1946	James H. Wolfe, chairman; Robert E. Stone, Floyd McGown.	Dec. 4, 1946 (extended to Dec. 24, 1946).	
45	Ann Arbor RR. Co.; Grand Trunk Western Railroad Co.; Pere Marquette Ry. Co.; Wabash RR. Co.	National Maritime Union (CIO).	Mar. 28, 1947	Frank M. Swacker, chairman; Harry H. Schwartz, Hugh B. Fouke.	Apr. 21, 1947	A-2455, A-2456, A-2457, A-2458.
46	Bingham & Garfield Ry. Co	BLF & E, ORC of A	May 16, 1947	H. Nathan Swain, chairman; George E. Bushnell, Joseph L. Miller.	July 16, 1947 (extension of time to July 16, 1947).	
47	Southern Pacific Co. (Pacific Lines); Northwestern Pacific RR. Co.; San Diego & Arizona Eastern Ry. Co.	BLE	July 18, 1947 (E.O. 9172).	Grady Lewis, chairman; Leverett Edwards, Paul A. Dodd.	July 30, 1947	
48	Terminal Railroad Association of St. Louis.	BRC	Aug. 6, 1947	Leif Erickson, chairman; Eugene L. Padberg, Andrew Jackson.	Aug. 19, 1947	
49	River Terminal Ry. Co	BRT	Aug. 1, 1947 (E.O. 9880).	Frank M. Swacker, chairman; Hugh B. Fouke, Sidney St. F. Thaxter.	Aug. 20, 1947	A-2542.
50	Railway Express Agency, Inc	IBT	Sept. 15, 1947 (E.O. 9891).	Leverett Edwards, chairman; H. Nathan Swain, Norman J. Ware.	Oct. 13, 1947	A-2584.
51	Atlanta & West Point Co.; the Western of Alabama.	BLE	Oct. 16, 1947 (E.O. 9899).	Ernest M. Tipton, chairman; Harry H. Schwartz, John T. McCann.	Nov. 1, 1947	A-2661.
52	Railway Express Agency, Inc	IBT	Oct. 21, 1947 (E.O. 9900).	Arthur S. Meyer, chairman; Frank M. Swacker, Aaron Horvitz.	Jan. 15, 1948 (extension to Dec. 21, 1947) (extension to Jan. 20, 1948).	A-2684.
53	Georgia	BLF & E	Dec. 16, 1947 (E.O. 9910).	Floyd McGown, chairman; John T. McCann, Eugene L. Padberg.	Jan. 20, 1948 (20-day extension to Feb. 4, 1948).	A-2518.
54	Alabama, Tennessee, and Northern Co. and other carriers.	17 cooperating railway labor organizations.	Dec. 31, 1947 (E.O. 9918).	Grady Lewis, Hugh B. Fouke, Andrew Jackson.	Jan. 28, 1948	A-2711.
55	Chicago, North Shore & Milwaukee	IU of AA of SE Railway & Motor Coach Employees of America.	Jan. 13, 1948 (E.O. 9922).	Harry H. Schwartz, chairman; Russell Wolfe, Robert E. Stone.	Feb. 14, 1948 (10-day extension of time to Feb. 23, 1948).	A-2693.

Emergency boards appointed pursuant to the Railway Labor Act, 1936–67—Continued

Board No.	Carrier	Organization	Date of order	Members	Date of report	NMB case No.
56	Akron & Barberton Belt Co.	BRT	Jan. 13, 1948 (E.O. 9923).	Robert W. Woolley, chairman; Huston Thompson, Walter Gellhorn.	Jan. 29, 1948	A–2665.
57	Akron, Canton & Youngstown Co. and other carriers.	BLE, BLF & E, SUNA	Jan. 27, 1948 (E.O. 9929).	William M. Leiserson, cairman; George E. Bushnell, William Willard Wirtz.	Mar. 27, 1948 (30-day extension to Mar. 27, 1948).	A–2705.
58	Terminal Railroad Association of St. Louis.	BLE, BLF & E, BRT	Mar. 18, 1948 (E.O. 9936).	Frank M. Swacker, chairman; George Cheney, James E. Wolfe.	Apr. 7, 1948	
59	Railway Express Agency, Inc.	IBT	Mar. 25, 1948 (E.O. 9940).	John A. Lapp, Chairman; John T. McCann, John D. Galey.	Mar. 30, 1948	A–2685.
60	Aliquippa & Southern RR. Co.	BRT	Apr. 10, 1948 (E.O. 9948).	Sidney St. F. Thaxter, chairman; Leverett Edwards, Aaron Horvitz.	May 17, 1948 (30-day extension to June 9, 1948).	A–2779.
61	Pennsylvania RR.	BLF & E	Apr. 10, 1948 (E.O. 9947).	Andrew Jackson, chairman; James H. Wolfe, E. Wight Bakke.	June 9, 1948 [1] (30-day extension to June 9, 1918).	A–2791.
62	National Airlines, Inc.	ALPA International, IAM.	May 15, 1948 (superseding proclamation June 3, 1948 (E.O. 9958–9965).	Grady Lewis, chairman; Walter V. Schaefer, Curtis W. Roll.	July 9, 1948 [2] (extension to July 30, 1948).	A–2707.
63	Grand Trunk Western RR Co.; Chesapeake & Ohio Ry. Co.; Wabash RR. Co.; and the Ann Arbor RR. Co.	National Maritime Union of America.	June 23, 1948 (E.O. 9971).	Robert G. Simmons, chairman; Joseph L. Miller, Thomas F. Gallagher.	July 20, 1948	A–2801, A–2802, A–2803, A–2804.
64	Pittsburgh & West Virginia Ry. Co.	BRT	Aug. 26, 1948 (E.O. 9991).	John W. Yeager, chairman; John T. McCann, Thomas J. Reynolds.	Sept. 13, 1948	
65	Public Belt RR. Commission of the City of New Orleans.	BLF & E, BRT	Sept. 8, 1948 (E.O. 9996).	Harry H. Schwartz, chairman; Floyd McGown, A. Langley Coffey.	Sept. 18, 1948 (supplemental report dated Sept. 23, 1948).	
66	Akron & Barberton Belt RR. Co., et al.	16 cooperating railway labor organizations (nonoperating).	Oct. 18, 1948 (amendment to procedure, Nov. 5, 1948).	William M. Leiserson, chairman; George A. Cook, David L. Cole.	Dec. 17, 1948 (30 day extension to Dec. 17, 1948).	A–2953.
67	Northwest Airlines, Inc.	IAM	Jan. 19, 1949 (E.O. 10029).	Harry H. Schwartz, chairman; Aaron Horvitz, Robert O. Boyd.	Mar. 10, 1949 (30 day extension to Mar. 21, 1949).	A–2913.
68	The Akron, Canton & Youngstown RR. Co. and other carriers.	IAM	Jan. 28, 1949 (E.O. 10032).	George W. Taylor, chairman; Grady Lewis, George E. Osborne.	Apr. 11, 1949 (45 day extension to Apr. 13, 1949).	A–2920.
69	Denver & Rio Grande Western RR Co.	SUNA	Feb. 14, 1949 (E.O. 10037).	Frank M. Swacker, chairman; Leverett Edwards, Adolph E. Wenke.	Mar. 5, 1959	
70	Carriers represented by Eastern, Western & Southeastern Carriers Conference Committee.	BLF & E	Feb. 15, 1949	George W. Taylor, chairman; Grady Lewis, George E. Osborne.	Sept. 19, 1949 (extension of time to Aug. 15, 1949); (extension of time to Sept. 19, 1949).	A–3045

71	Wabash RR. Co. and the Ann Arbor RR. Co.	BLE, BLF, & E, ORC, BRT.	Mar. 15, 1949 (O.E. 10045).	Roger I. McDonough, Chairman; John W. Yeager, Curtis G. Shake.	Apr. 6, 1949	A-3028.
72	Southern Pacific Co. (Pacific Lines)	BLF & E	Mar. 30, 1949 (E.O. 10048).	Harry H. Schwartz, Chairman; Robert O. Boyd, Daniel T. Valdez.	Apr. 29, 1949 [3]	A-3016.
73	Railway Express Agency, Inc	BRC	Apr. 9, 1949 (E.O. 10050).	David L. Cole, Chairman; Leverett Edwards, Aaron Horvitz.	May 6, 1949	A-3006.
74	Aliquippa & Southern RR. Co	BRT	Apr. 15, 1949 (E.O. 10051).	Andrew Jackson, Chairman; Leif Erickson, Elmer T. Bell.	May 18, 1949 (30-day extenson to June 15, 1949).	A-3075.
75	Union RR. Co. (Pittsburgh)	BRT	May 12, 1949 (E.O. 1000056	Andrew Jackson, Chairman; Leif Erickson, Elmer T. Bell.	July 29, 1949 (30-day extension to July 11, 1949). (Additional 30-day extension to Aug. 10, 1949 a/c lack funds).	A-3083.
76	Missouri Pacific RR. Co	BLE, BLF & E. ORC, BRT.	July 8, 1949	Curtis G. Shake, Chairman; Floyd McGown, Roger I. McDonough	Aug. 2, 1949	A-3157.
77	Southern Pacific Co. (Pacific Lines)	BRT	July 20, 1949 (E.O. 10071).	Frank M. Swacker, Chairman; Robert G. Simmons, Leverett Edwards.	Sept. 1, 1949 (30-day extension to Sept. 18, 1949.)	A-3085, A-3086.
78	The Monongahela Connecting RR. Co.	BRT	Sept. 9, 1948 (E.O. 10078).	Harry H. Schwartz, Chairman; Francis J. Robertson, Andrew Jackson.	Oct. 7, 1949	A-3220.
79	The Denver & Rio Grande Western Co.	BRT	Feb. 4, 1950 (E.O. 10105).	Robert G. Simmons, Robert O. Boyd, Harold R. Korey.	Feb. 28, 1950	A-3065.
80	Texas & Pacific and its subsidiaries including Fort Worth Belt Co. and the Texas Pacific-Missouri Pacific Terminal of New Orleans.	BLE, BLF & E, ORC, & BRT.	Feb. 10, 1950 (E.O. 10109).	Frank M. Swacker, Chairman; Paul G. Jasper, Thomas F. Gallagher.	Mar. 9, 1950	A-3137, A-3261.
81	Carriers respresented by the Eastern, Western, & Southeastern Carriers Conference Committee.	ORC, BRT	Feb. 24, 1950	Roger I. McDonough, Chairman; Mart J. O'Malley, Gordon S. Watkins.	June 15, 1950 (66-day extension to June 1, 1950) (also handled concurrently with E.B.'s No. 83 and 84) (14-day extension to June 15, 1950 due to lengthy hearings and also so that it be submitted simultaneously with E. B. No. 84).	A-3290.
82	Terminal RR. of St. Louis	BLE and BLF & E	Mar. 3, 1950 (E.O. 10114).	Joseph L. Miller, Chairman: A. Langley Coffey, Walter V. Gellhorn.	Apr. 1, 1950	A-3343.
83	Carriers represented by Western Carriers Conference Committee.	SUNA	Mar. 20, 1950 (E.O. 10117).	Roger I. McDonough, Chairman; Mart J. O'Malley, Gordon S. Watkins.	Apr. 18, 1950	A-3332.
84	Carriers represented by the Eastern, Western, Southeastern Carriers Conference Committee.	RYA	Apr. 11, 1950	do	June 15, 1950 (30-day extension to June 11, 1950); (4-day extension to June 13, 1950).	A-3330.
85	Chicago & Illinois Midland Ry. Co	BRT	Apr. 26, 1950 (E.O. 10125).	Andrew Jackson, Chairman; Harry H. Schwartz, Joseph S. Kane.	May 19, 1950	A-3381.
86	Boston & Albany RR. Co	BRT	June 6, 1950 (E.O. 10130).	Andrew Jackson, Chairman; Paul G. Jasper, George W. Stocking.	July 6, 1950	A-3392.
87	Toledo Lakefront Dock Co	ILA Local 158 AFL	July 3, 1950 (E.O.10138 and 10139).	Robert G. Simmons, chairman, Jospeph L. Miller, Dudley E. Whiting.	Aug. 11, 1950 (30 day extension to Sept. 1, 1950).	A-3380.
88 & 88A	Toledo, Lorain & Fairport Dock Co					

See footnotes at end of table.

Emergency boards appointed pursuant to the Railway Labor Act, 1936–67—Continued

Board No.	Carrier	Organization	Date of order	Members	Date of report	NMB case No.
89	The Pullman Co.	ORC	July 6, 1950 (E.O. 10140).	Ernest M. Tipton, chairman, I. L. Sharfman, Angus Munro.[4]	Nov. 3, 1960 (30 day extention to Sept. 4, 1950) (30 day additional extension to Oct. 4, 1950) (30 days added to Nov. 3, 1950).	A-3300.
90	Braniff Airways, Inc	BRC	July 12, 1950 (E.O. 10141).	William M. Leiserson, chairman, A. Langley Coffey, Daniel T. Valdes.	Aug. 31, 1950 (20 day extension to Sept. 1, 1950).	A-3149.
91	New York Central RR. Co. lines east of Buffalo.	BLE, BLF & E, ORC, BRT.	Aug. 4, 1950 (E.O. 10147).	Frank M. Swacker, chairman, Paul G. Jasper, Wayne Quinlan.[4]	Sept. 13, 1950 (30 day extension to Oct. 4, 1950).	A-3419.
92	Atlantic & East Carolina Ry. Co. and other carriers.	16 cooperating nonoperating labor organizations.	Aug. 11, 1950 (E.O. 10150).	Thomas F. Callagher, chairman, George W. Stocking, Walter Gellhorn.	Sept. 9, 1950	A-3444.
93	Railway Express Agency, Inc.	IBT	Oct. 3, 1950 (E.O. 10165).	Grady Lewis, chairman: William J. Kelley, O.M.I.,[4] Joseph L. Miller.	Nov. 2, 1950	A-3526.
94	American Airlines, Inc	ALPA	Jan. 13, 1951 (E.O. 10203).	David L. Cole, chairman; Frank P. Douglass,[5] Aaron Horvitz.	May 25, 1951 (30-day extension to Mar. 14, 1951); (30-day extension to Apr. 13, 1951); (30-day extension to May 13, 1951); (15-day extension to May 28, 1951).	A-3255.
95	The Denver & Rio Grande Western RR. Co., including Denver & Salt Lake RR. Co. (under Supervision of Secretary of Army, E.O. 10155).	BLE	Sept. 6, 1951 (E.O. 10285).	Frank P. Douglass, Frank M. Swacker, Robert G. Simmons.	Sept. 19, 1951	A-3563.
96	The Pullman Co.	ORC	Sept. 6, 1951 (E.O. 10286).	Carroll R. Daugherty, Chairman;[6] George Cheney, Andrew Jackson.	Oct. 3, 1951	A-3637.
97	Baltimore & Ohio RR. Co., including Buffalo Division (formerly Buffalo, Rochester & Pittsburgh Ry.) and Buffalo & Susquehanna District. Chicago & North Western Ry. Co., including Chicago, St. Paul, Minneapolis & Omaha Ry., Louisville & Nashville RR. Co., Terminal Railroad Association of St. Louis and other carriers represented by Eastern, Western, and Southeastern Carriers' Conference Committees (under supervision of Secretary of Army, E.O. 10155).	BLF & E	Nov. 6, 1951 (E.O. 10303)	Carroll R. Daugherty, Chairman; George Cheney, Andrew Jackson.	Jan. 25, 1952 (20-day extension to Dec. 26, 1951), (20-day additional extension to Jan. 15, 1952), (15-day additional extension to Jan. 30, 1952).	

98	Akron & Barberton Belt RR. Co., and other carriers (under supervision of Secretary of the Army E.O. No. 10155).	17 cooperating labor organizations (non-operating).	Nov. 15, 1951 (E.O. 10306).	David L. Cole, chairman; George Osborne, Aaron Horvitz.	Feb. 14, 1952 (30-day extension to Jan. 15, 1952) (30-day extension to Feb. 15, 1952).	A-3744 with number.
99	Pan American World Airways, Inc.	TWU of A, CIO	Dec. 17, 1951 (E.O. 10314).	Curtis G. Shake, chairman; William E. Grady, Jr., Walter Gilkyson.[7]	Feb. 16, 1952 (32-day extension to Feb. 18, 1952, see stipulation).	A-3827.
100	Northwest Airlines, Inc.	IAM	Jan. 4, 1952 (E.O. 10319).	Due to the fact that parties to dispute returned to direct negotiations which resulted in an agreement between the parties, dated Apr. 24, 1952, no effort was made to name said board members although 3 30-day extensions of time were granted by the President for investigation and report of dispute. Under the above circumstances this emergency board functioned until said agreement was reached.	None made. (30-day extension of time to Mar. 5, 1952; requested extension of time made to May 5, 1952).	A-3566.
101	Trans World Airlines, Inc.	Flight Engineers' International Association, TWA Chapter.	July 9, 1952 (E.O. 10371).	Adolph E. Wenke, chairman; Robert O. Boyd, I. L. Sharfman.	Report to President, dated Aug. 29, 1952 (30-day extension to Sep. 7, 1952).	A-3968.
102	Northwest Airlines, Inc.	IAM	July 10, 1952 (E.O. 10372).	do	Aug. 29, 1952 (30-day extension to Sept. 8, 1952).	A-3894.
103	United Air Lines, Inc.	Flight Engineers International Association, UNA Chapter.	Nov. 6, 1952 (E.O. 10406).	Saul Wallen, Robert O. Boyd, Harold R. Korey.	Jan. 2, 1953 (30-day extension to Jan. 5, 1953).	A-3910.
104	New York, Chicago & St. Louis R.R. Co.	BRT	Apr. 24, 1953 (E.O. 10449).	No members appointed. Parties reached agreement on Apr. 26, 1953, thus no E.B. was set up for hearing this dispute.		A-4182.
105	Railway Express Agency, Inc.	BRC	Dec. 16, 1953 (E.O. 10509).	Fred W. Messmore, William E. Grady, Jr., G. Allen Dash, Jr.	Feb. 17, 1954 (30-day extension time to Feb. 17, 1954).	A-4358.
106	Akron, Canton and Youngstown Co. and other carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	15 cooperating; non-operating railway labor organizations.	Dec. 28, 1953 (E.O. 10511).	Charles E. Loring, chairman; Adolph E. Wenke, Dean Martin, Paul Catherwood.	May 15, 1954 (52-day extension to Mar. 20, 1954) (41-day extension to Apr. 30, 1954) (15-day extension to May 14, 1954).	A-4336.
107	The Pullman Co.	ORC & B	Oct. 16, 1954 (E.O. 10570).	Edward F. Carter, chairman; Edward B. Bunn, Howard A. Johnson.	Nov. 20, 1954	A-4599.
108	Capital Airlines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc., United Airlines, Inc., Eastern Air Lines, Inc.	IAM	Nov. 16, 1954 (E.O. 10576).	Adolph E. Wenke, chairman; James P. Carey, Jr., Francis J. Robertson.	Apr. 13, 1955 (30-day extension to Jan. 14, 1955) (30-day extension to Feb. 14, 1955) (30-day extension to Mar. 14, 1955) (30-day extension to Apr. 14, 1955) (30-day extension to May 14, 1955).	A-4579, A-4580, A-4581, A-4582, A-4583, A-4584.

See footnotes at end of table.

Emergency boards appointed pursuant to the Railway Labor Act, 1936–67—Continued

Board No.	Carrier	Organization	Date of order	Members	Date of report	NMB case No.
109	Certain carriers represented by Eastern, Western, and Southeastern Carriers' Conference Committees.	ORC & B	Nov. 23, 1954 (E.O. 10578).	Edward M. Sharpe, chairman, John T. Dunlop, Charles A. Sprague.	Mar. 25, 1955, extended to Feb. 1, 1955 extended to Mar. 15, 1955, extended to Apr. 1, 1955.	A–4374.
110	do	BLF & E	June 17, 1955 (E.O. 10615).	Curtis C. Shake, chairman, G. Allan Dash, Jr., Martin P. Gatherwood.	July 30, 1955 (extension time to Aug. 1, 1955.	A–4854.
111	Railway Express Agency, Inc	International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America.	July 1, 1955 (E.O. 10622).	Robert G. Simmons, Chairman, Morrison Bandsaker, Benjamin C. Roberts.	Aug. 1, 1955	A–4779; A–4780.
112	New York Central System, lines East	ORC & B	Aug. 16, 1955 (E.O. 10630).	Mortimer Stone, chairman, Dudley E. Whiting, Arthur Stark.	Sept. 14, 1955	A–4712.
113	Pennsylvania RR. Co	Transport Workers Union of America, CIO.	Sept. 1, 1955 (E.O. 10635).	Howard A. Johnson, chairman, Walter R. Johnson, Mart J. O'Malley.	Oct. 26, 1955 (extended to Oct. 21, 1955) (extended to Oct. 31, 1955).	A–4717, A–4718.
114	The Albany Port District and other carriers represented by: Eastern, Western, and Southeastern Carriers' Conference Committees.	Cooperating and nonoperating railway labor organizations.	Nov. 7, 1955 (E.O. 10643).	Dudley E. Whiting, chairman; G. Allan Dash, Jr., John Day Larkin.	Dec. 12, 1955	A–4985.
115	Spokane, Portland & Seattle Co	BLE	Dec. 5, 1956 (E.O. 10691).	[6]	Extension of time granted to Feb. 3, 1957.	A–5245.
116	Akron & Barberton Belt Co. and other carriers represented by Eastern, Western, and Southeastern Carriers' Conference Committees.	BRT	Dec. 22, 1956 (E.O. 10693).	Nathan Cayton, chairman; Francis J. Robertson, A. Langley Coffey.	Mar. 15, 1957 extension to Feb. 21, 1957) (extension to Mar. 18, 1957).	A–5248.
117	Railway Express Agency, Inc	IBT	Jan. 25, 1957 (E.O. 10696).	Paul H. Sanders, Chairman; Thomas C. Begley, Harold M. Gilden.	Mar. 21, 1957 (extension to Mar. 25, 1957).	A–5211.
118	Toledo, Lorain & Fairport Dock Co.; Toledo, Lakefront Dock Co.; Cleveland Stevedore Co.	District 50, United Mine Workers of America, Independent.	May 9, 1957 (E.O. 10709).	Nathan Cayton, chairman; Dudley E. Whiting, Morrison Handsaker.	June 7, 1957	A–5385, A–5386, A–5433.
119	General Managers' Association of New York representing: New York Central R.R. Co.; New York; New Haven & Hartford RR. Co.; Brooklyn Eastern District Terminal; New York Dock Ry.; Bush Terminal RR.; Baltimore & Ohio RR. Co.; Pennsylvania RR.; Erie RR. Co.; Reading Co.; Delaware, Lackawanna & Western RR.; The Central RR. Co. of New Jersey.	International Organization of Masters, Mates and Pilots, Inc.	Aug. 6, 1957 (E.O. 10723).	James J. Healy, chairman; [7] Benjamin C. Roberts, Walter R. Johnson.	Sept. 20, 1957 (extension to Sept. 20, 1957).	A–5435.
120	Eastern Air Lines, Inc	Flight Engineers International Association, EAL Chapter.	Jan. 21, 1958 (E.O. 10749).	David L. Cole, Chairman; [7] Saul Wallen, Dudley E. Whiting.	July 21, 1958 (extension to Mar. 22, 1958) (extension to Apr. 28, 1958).	A–5612, E–148.
121	Eastern Airlines, Inc	ALPA International	January 28, 1958 (E.O. 10750).	David L. Cole, chairman; Saul Wallen, Dudley E. Whiting.	July 21, 1958 (30-day extension to March 29, 1958) (add 30-day extension to April 28, 1958).	E–146.

122	Eastern Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Northwest Airlines, Inc., Northeast Airlines, Inc., Capital Airlines, Inc., National Airlines, Inc.	IAM	February 27, 1958 (E.O. 10757).	Howard A. Johnson, chairman; Paul N. Guthrie, Francis J. Robertson.	September 15, 1958 (extended 30 days to May 14, 1958).	A-5599, A-5613, A-5615, A-5618, A-5621, A-5642, A-5643.
123	Trans World Airlines, Inc.	Flight Engineers International Association, TWA chapter.	March 27, 1958 (E.O. 10760).	David L. Cole, chairman; Saul Wallen, Dudley E. Whiting.	July 25, 1958 (30-day extention to May 27, 1958) (add extention to June 26, 1958, July 23 and July 31, 1958).	A-5630.
124	American Airlines, Inc.	ALPA, International	June 19, 1958 (E.O. 10770).	James J. Healy, chairman; Benjamin C. Roberts, Maynard E. Pirsig.	Sept. 3, 1958	A-5567, E-162.
125	Pan American World Airways, Inc.	TWU of A, AFL-CIO	Apr. 22, 1959 (E.O. 10811).	Dudley E. Whiting, chairman; Morrison Handsaker, Arthur Stark.	June 15, 1959 (extension to June 15, 1959).	A-5914, E-193.
126	Atchison, Topeka & Santa Fe	BLE	Feb. 12, 1960 (E.O. 10862.)	Dudley E. Whiting, chairman; Harold M. Weston, R. W. Nabstroil.	July 15, 1960 (stipulation extension of time to June, 1960.)	A-6117, E-218.
127	New York Central System	ORO & B	Feb. 29, 1960 (E.O. 10868).	Leo C. Brown, chairman; David R. Douglass, James P. Carey, Jr.	June 20, 1960 (stipulation extension approved until June 1, 1960.)	A-5866.
128	Pan American World Airways, Inc.	BRC	Mar. 18, 1960 (E.O. 10872).	Paul H. Cuthrie, chairman; Saul Wallen, Arthur Stark.	June 2, 1960 (stipulation extension approved until May 18, 1960.)	A-6130.
129	Long Island Co.	BRP	Apr. 18, 1960 (F.O. 10875).	Curtie G. Shake, chairman: Edward A. Lynch, Lloyd A. Bailer.	May 18, 1960	E-213.
130	The Akron & Barberton Belt Co. and other carriers represented by Eastern, Western, and Southeastern Carrier's Conference Committees.	11 cooperating (non-operating) railway labor organizations.	Apr. 22, 1960 (E.O. 10875).	John T. Dunlop, chairman; Benjamin Aaron, Arthur W. Sempliner	June 8, 1960	A-6157, A-6158.
131	Chicago, Rock Island & Pacific RR. Co.	Western Carriers Conference Committee and SUNA.	May 23, 1960 (E.O. 10878).	Russel A. Smith, chairman; Harold M. Gilden, Morrison Handsaker.	July 8, 1960 (extended to July 15, 1960).	A-6082.
132	The Pennsylvania RR. Co.	TWU of A; Railroad Division and Railway Employees Department, AFL-CIO, System Bd. No. 152.	May 20, 1960 (E.O. 10877).	Frank P. Douglass, chairman; Paul H. Sanders, A. Langley Coffey.	June 24, 1960 (extended to June 24, 1960).	A-5949, E-134.
133	New York Harbor Carriers' Conference Committee.	Employees represented by labor organizations, members of the Railroad Marine Harbor Council.	Sept. 26, 1960 (E.O. 10888).	Dudley E. Whiting, chairman; Benjamin C. Roberts, William H. Coburn.	Dec. 10, 1960	A-6217.
134	....do	Lighter Captains' Union, Local No. 996.	Jan. 12, 1961 (E.O. 10904).	James T. O'Connell, chairman;[7] David R. Douglass, Harold M. Gilden.	Mar. 6, 1961 (extended to Feb. 25, 1961), extended to Mar. 11, 1961).	A-6352.
135	Pan American World Airways	Flight Engineers International Association, PAA Chapter.	Feb. 17, 1961 (E.O. 10919) (amended E.O. 10926, dated Mar. 18, 1961).	G. Allan Dash, Jr., chairman,[7] Arthur Stark, Edward A. Lynch.	June 20, 1961	A-6245.
136	Northwest Airlines, Inc.	IAM	Feb. 24, 1961 (E.O. 10923).	Paul N. Guthrie, Chairman;[7] Benjamin Aaron, Paul B. Hanlon.	May 24, 1961	A-6176, A-6343.

See footnotes at end of table.

Emergency boards appointed pursuant to the Railway Labor Act, 1936–67—Continued

Board No.	Carrier	Organization	Date of order	Members	Date of report	NMB case No.
137	Baltimore & Ohio RR. Co. and other carriers.	Eastern, Western, and Southeastern Carriers Conference Committees and Railroad Yardmasters of America.	May 19, 1961 (E.O. 10944).	Harold M. Gilden, Chairman; Leo C. Brown, William H. Coburn.	July 10, 1961 (extended to July 19, 1961).	A-6360.
138	Southern Pacific Co. (Pacific Lines)	ORT	July 20, 1961 (E.O. 10953).	Harry H. Platt, Chairman; Hubert Wyckoff, Morrison Handsaker.	Sept. 15, 1961	A-5904, A-6083.
139	The Pullman Co. and Chicago, Milwaukee, St. Paul & Pacific RR. Co.	ORC & S	Sept. 1, 1961 (E.O. 10963).	David R. Stowe, Chairman; Bryon R. Abernethy, H. Raymond Cluster.	Dec. 11, 1961 (extended to Oct. 30, 1961) (extended to Nov. 30, 1961) (extended to Dec. 15, 1961).	A-6380, A-6400.
140	Trans World Airlines, Inc	TWU of A, AFL-CIO	Oct. 5, 1961 (E.O. 10965).	Saul Wallen, chairman; Israel Ben Scheiber; Emanuel Stein.	Nov. 3, 1961	A-6537.
141	Reading Co	IOOM & P, Local No. 14.	Oct. 11, 1961 (E.O. 10969).	Joseph Shister, chairman; Lloyd H. Baller; Edward A. Lynch.	Dec. 5, 1961	A-6246.
142	Trans World Airlines, Inc	ALPA, International	Jan. 1, 1961 (E.O. 10971).	Donald B. Straus; Morrison Handsaker; Patrick J. Fisher, chairman.	Dec. 15, 1961	A-6407.
143	Pan American World Airways, Inc	do	Nov. 10, 1961 (E.O. 10975).	Leo C. Brown, Chairman; Eli Rock; Arthur M. Moss.	Dec. 10, 1961	A-6328.
144	Eastern Air Lines, Inc	Flight Engineers International Association.	Feb. 22, 1962 (E.O. 11006).	Theodore W. Kheel, chairman; Paul N. Guthrie; Byron R. Abarnethy.	May 1, 1962	
145	Akron & Barberton Belt RR. and other carriers represented by Eastern, Western, and Southeastern Carriers Conference Committees.	11 cooperating railway labor organizations.	Mar. 3, 1962 (E.O. 11008).	Saul Wallen, chairman; Lawrence E. Siebel, Edward A. Lynch.	May 3, 1962	A-6627.
146	Trans World Airlines, Inc	Flight Engineers International Association, TWA Chapter.	Mar. 20, 1962 (E.O. 11011).	James C. Hill, Chairman; Thomas C. Begley, Arthur W. Sempliner.	May 1, 1962	A-6406.
147	Chicago & North Western Ry. and the former Chicago, St. Paul, Minneapolis & Omaha RR.	O RT	Apr. 23, 1962 (E.O. 11015).	Arthur Ross, Chairman; Paul D. Hanlon, Charles C. Killingsworth.	June 14, 1962	A-5696, A-5739.
148	New York Central RR System and Pittsburgh & Lake Erie RR.	O RT	June 8, 1962 (E.O. 11027).	Joseph Shister, Chairman; Walter F. Eigenbrod. J. Harvey Daly.	Aug. 30, 1962	A-5809, A-6063.
149	American Airlines, Inc	T.W.U. of A., AFL-CIO.	June 20, 1962 (E.I. 11033).	Paul N. Guthrie, Chairman; James J. Healy, Burton B. Turkus.	No formal report, Aug. 11, 1962.	A-6582, A-6663.
150	Belt Ry. of Chicago	BLE	Aug. 6, 1962 (E.O. 11040).	Paul D. Hanlon, Chairman; David H. Stowe, Frank D. Reeves.	Mar. 4, 1963 (extension to Jan. 5, 1963).	A-6690.
151	Southern Pacific Co. (Pacific Lines)	BRC	Aug. 10, 1962 (E.O. 11042).	Keith J. Mann, Chairman; John F. Sembower, Abram H. Stockman.	Dec. 31, 1962	A-6617.
152	Pan American World Airways, Inc	TWV of A, AFL-CIO	Aug. 14, 1962 (E.O. 11043).	James C. Hill, Edward A. Lynch, Theodore W. Kheel, Chairman.	Dispute resolved by mutual agreement between parties.	A-6701
153	REA Express	International Brotherhood of Teamsters, Chauffers, Warehousemen & Helpers of America.	Sept. 14, 1962 (E.O. 11050).	Jacob Seidenberg, Chairman: J. Glenn Donaldson, Robert J. Ables.	Nov. 10, 1962	A-6671 A-6696.

154	Eastern, Western, Southeastern Carriers' Conference Committees.	BLE, BLF & E, ORC & B, BRT, SUNA.	Apr. 3, 1963 (E.O. 11101).	Samuel I. Roseman, Chairman; Nathan P. Feinsinger, Clark Kerr.	May 13, 1963	A-6700.
155	Pullman Co.; Chicago, Rock Island & Pacific RR. Co.; New York Central; Soo Line RR.	BRCP	July 4, 1963 (E.O. 11115).	Jacob Seidenberg, Chairman; J. Keith Mann, Frank D. Reeves.	Nov. 2, 1963	A-6794, A-6795, A-6796, A-6797.
156	United Air Lines, Inc	IAM	Oct. 9, 1963 (E.O. 11121).	Paul D. Hanlon, chairman; Eli Rock, Laurence E. Selbel.	Nov. 18, 1963	A-6905.
157	Florida East Coast Co	11 cooperating railway labor organizations.	Nov. 9, 1963 (E.O. 11127).	Harry H. Platt, chairman; Derek Bok, Paul N. Guthrie.	Dec. 23, 1963	A-6627, sub. No. 1.
158	Braniff International Airways, Continental Airlines, Eastern Air Lines, Inc., National Airlines, Inc., Northwest Airlines, Inc., Trans World Airlines, Inc.	IAM	Dec. 11, 1963 (E.O. 11131).	Ronald D. Haughton, chairman; Lewis M. Gill, John W. McConnell.	No report (Jan. 20, 1964 agreement).	A-6898, A-6899, A-6900, A-6901, A-6903, A-6904.
159	Eastern, Western, Southeastern Carriers' Conference Committees.	BRS	Jan. 3, 1964 (E.O. 11135).	James C. Hill, chairman; Joseph Shister, Michael Deane.	Apr. 3, 1964	A-6967.
160	National Railway Labor Conference	RED	Mar. 17, 1964 (E.O. 11147).	Saul Wallen, chairman; Jean T. McKelvey (Mrs.), Arthur M. Ross.	Aug. 7, 1964	A-7030.
161	do	RED	Aug. 18, 1964 (E.O. 11169).	Richardson Dilworth, chairman; Paul D. Hanlon, Rabbi Jacob Joseph Weinstein,[9] Robert J. Ables, Lewis M. Gill, H. Raymond Cluster, Frank J. Dugan.	Oct. 20, 1964	A-7107.
162	National Railway Labor Conference	11 cooperating railway labor organizations.	Aug. 18, 1964 (E.O. 11168).	(Same as E.B. 161)	do	A-7127.
163	National Railway Labor Conference	5 cooperating railway labor organizations.	Aug. 18, 1964 (E.O. 11170).	do	do	A-7128.
164	National Railway Labor Conference	BLF & E	Sept. 24, 1964 (E.O. 11180).	Ronald D. Haughton, chairman; Jacob Seidenberg, Louis Crane.	Nov. 5, 1964	A-7173.
165	Atchison, Topeka & Santa Fe	Brotherhood of Railroad Trainmen.	Sept. 11, 1965 (No. 11243).	Settled in conference between parties	None	A-6318.
166	5 carriers (EAL, NAL, NWA, TWA, UAL).	International Association of Machinists & Aerospace Workers, AFL-CIO.	April 21, 1966 (No. 11276).	Wayne Morse, Chairman; David Ginsburg; Richard E. Neustadt.	June 5, 1966	A-7655.
167	American Airlines, Inc	TWU	July 27, 1966 (E.O. 11291).	John Dunlop, B. Manning, J. P. Drew	Aug. 27, 1966	
168	Pan American World Airways, Inc	TWU	Sept. 30, 1966 (E.O. 11308).	David Stowe, C. Rhemus, J. P. Williams.	Oct. 30, 1966	
169	National Railway Labor Conference	6 cooperating shopcraft unions.	Jan. 28, 1967 (E.O. 11324).	David Ginsburg, Frank J. Dugan, John W. McConnell.	Mar. 10, 1967	
170	Long Island Rail Road	BRT, IBEW, and IAM.	Apr. 12, 1967 (E.O. 11343).	George E. Reedy, Jr., Roland Boyd, N. Thompson Powers.	May 12, 1967	

[1] Interpretation of report to President dated Aug. 24, 1948.
[2] Clarification of report to President July 23, 1948.
[3] Interpretation of report to President dated June 29, 1949.
[4] Appointed to serve 1st time.
[5] Appointed to serve as member of R.B. for 1st time.
[6] See E.B. No. 63, under supervision of Government also. See E.B. No. 83, restraining order.
[7] Named by White House.
[8] Withdrawn—A settlement was reached between the parties by an agreement dated Jan. 10, 1957 and effective Jan. 16, 1957.
[9] Weinstein appointed Sept. 22, 1964, to replace John W. McConnell who resigned (E.B. 161-162-163 appointed Aug. 18, 1964, by separate Executive orders and heard by same 7-man Board).

Supplement to Emergency Board Index (Railway Labor Act)—Strikes occurring during or subsequent to the statutory period

Emergency board No.	Carrier	Union	Date stoppage began	Duration	Maximum number of workers [1]
46	Bingham & Garfield Ry. Co.	BLF & E, ORC of A	Oct. 22, 1947	16	150
*47	Southern Pacific Co. (Pacific Lines); Northwestern Pacific RR. Co.; San Diego & Arizona Eastern Ry. Co.	BLE	July 21, 1947	1	270
55	Chicago, North Shore & Milwaukee	IU of AA of SE Railway & Motor Coach Employees of America.	Mar. 27, 1948	91	1,240
†*62	National Airlines, Inc.	ALPA International, IAM	Jan. 23, 1948	307	[2]
70	Carriers represented by Eastern, Western & Southeastern Carriers Conference Committee.	BLF & E	May 10, 1950	7	175,000
*71	Wabash RR. Co. and the Ann Arbor RR. Co.	BLE, BLF & E, ORC, BRT	Mar. 15, 1949	8	10,000
*73	Railway Express Agency, Inc.	BRC	Mar. 10, 1949	39	9,240
76	Missouri Pacific RR. Co.	BLE, BLF & E, ORC, BRT	Sept. 9, 1949	45	27,000
78	The Monongahela Connecting RR. Co.	BRT	Jan. 21, 1950	2	1,200
81	Carriers represented by the Eastern, Western & Southeastern Carriers Conference Committee.	ORC, BRT	[2]	[3]	[3]
83	Carriers represented by Western Carriers Conference Committee.	SUNA	June 25, 1950	14	59,000
*85	Chicago & Illinois Midland Ry. Co.	BRT	Apr. 27, 1950	3	123
*87, *88 & *88A	Toledo Lakefront Dock Co. Toledo, Lorain & Fairport Dock Co.	ILA Local 158 AFL	June 18, 1950	26	[2]
92	Atlantic & East Carolina Ry. Co. and other carriers	16 cooperating nonoperating labor organizations.	Jan. 29, 1951	41	[2]
*93	Railway Express Agency, Inc.	IBT	Sept. 23, 1950	20	2,000
97 [4]	Baltimore & Ohio RR. Co., including Buffalo Division (formerly Buffalo, Rochester & Pittsburgh Ry.) and Buffalo & Susquehanna District. Chicago & North Western Ry. Co., including Chicago, St. Paul, Minneapolis & Omaha Ry., Louisville & Nashville RR. Co., Terminal Railroad Assn. of St. Louis and all other carriers represented by Eastern, Western and Southeastern Carriers' Conference Committees (under supervision of secretary of Army, E.O. 10155).	BLF & E	Mar. 9, 1952	4	41,000
105	Railway Express Agency, Inc.	BRC	June 20, 1954	1	[2]
106	Akron, Canton and Youngstown Co. and other carriers represented by Eastern, Western, and Southeastern Carriers' Conference Committees.	15 cooperating; nonoperating railway labor organizations.	Mar. 14, 1955	58	24,000

117	Railway Express Agency, Inc	IBT	Apr. 21, 1957		88	3,700
118	Toledo, Lorain & Fairport Dock Co.; Toledo Lakefront Dock Co.; Cleveland Stevedore Co.	District 50, United Mine Workers of America, independent.	July 7, 1957		62	200
120 & 122	Eastern Airlines	Flight Engineers, Int'l Assn., EAL Chapter, IAM.	Nov. 24, 1958		38	14,000
122	Eastern Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Northwest Airlines, Inc., Northeast Airlines, Inc., Capital Airlines, Inc., National Airlines, Inc.		[2]	[3]		[3]
124	American Airlines, Inc	ALPA, International	Dec. 20, 1958		22	21,000
129	Long Island Co	BRP	July 10, 1960		25	1,350
132	The Pennsylvania R.R. Co	TWU of A., Railroad Division and Railway Employees Department, AFL-CIO, Sys-Board No. 152.	Sept. 1, 1960		12	72,000
133	New York Harbor Carriers' Conference Committee	Employees represented by labor organizations, members of the Railroad Marine Harbor Council.	Jan. 10, 1961		14	23,000
*135	Pan American World Airways	Flight Engineers International Association, PAA Chapter.	Feb. 17, 1961		7	73,000
144	Eastern Airlines, Inc	Flight Engineers Int'l. Association	June 23, 1962	[6]		17,000
147	Chicago & North Western Ry. and the former Chicago, St. Paul, Minneapolis & Omaha RR.	ORT	Aug. 30, 1962		30	15,000
154	Eastern, Western, Southeastern Carriers' Conference Committees	BLE, BLF & E, ORC & B, BRT, SUNA	Apr. 8, 1964		2	20,000
†*157	Florida East Coast Co	11 cooperating railway labor organizations	Jan. 23, 1963	[7]		2,023
166	5 Carriers (EAL, NAL, NWA, TWA, UAL)	International Assn. of Machinists & Aerospace Workers AFL-CIO.	July 8, 1966		43	[2]

[1] Data on stoppages involving 10,000 workers or more are taken from annual reports on work stoppages issued by BLS; data on other stoppages are from annual reports of the National Mediation Board.

[2] No published data.

[3] 3 stoppages occurred: Aug. 21–26, 1950, no information on workers; Dec. 13–16, 1950, 10,000 workers; Jan. 30, 1951 to Feb. 10, 1951, 70,000 workers.

[4] A stoppage also occurred on June 16 and 17, 1952, no information on workers.

[5] 2 stoppages occurred in addition to that involving Eastern Airlines (see Board No. 120) Capital Airlines, Oct. 14 to Nov. 23, 1958, 7,000 workers; Trans World Airlines, Nov. 21 to Dec. 3, 1958, 14,000 workers.

[6] Regular flight operations were resumed in September 1962.

[7] Carrier has resumed operations with nonstriking employees and replacements.

NOTE.—In the 9 cases marked by an asterisk, stoppages occurred during the statutory period; in the 2 cases marked by an asterisk and a cross, stoppages occurred during and subsequent to the statutory period; in the remaining 23 cases, stoppages occurred subsequent to the statutory period.

[Telegram]

WASHINGTON, D.C., *May 5, 1967.*

Hon. HARLEY O. STAGGERS,
Washington, D.C.:

The AFL–CIO, Maritime Trades Department—speaking on behalf of its 36 affiliated national and international unions and their more than 5½ million members—vigorously opposes the administration scheme designed to suspend the democratic rights of trade unionists in the current railroad dispute.

The administration is engaging in a dangerous game of words when it tries to convince the American people that its so-called plan for "mediation to finality" does not intrude on the freedom of collective bargaining. By any name, this is compulsory arbitration—rammed down the throats of unions which have been patient beyond belief in their dealings with a recalcitrant management.

For months, the railroad industry has frustrated free collective bargaining. It has stubbornly refused to enter into any meaningful negotiations with the legal union representatives of its employees. Rail management has made no bones about wanting nothing less than the ultimate weapon—compulsion. The blockades that the industry has erected to free collective bargaining have been designed to force Congress to enact such an undemocratic law. The White House now seeks to reward management for its destruction of free bargaining by giving them what they have always sought.

At any point along the way, had Congress or the White House made it quite plain that railroad workers—like other American workers—were entitled to the right to withhold their services, the rail dispute would never have reached the present crisis stage. Faced with the reality that the rail unions could strike, after exhausting all of the procedures of the Railway Labor Act, the industry long ago would have come to the bargaining table and the two sides could have hammered out their differences.

Up to now, management has had no incentive to sit down and bargain—indeed, its incentive has been to stay away from the table in order to increase its pressure on the Congress and the administration to come up with compulsionary legislation that works to the disadvantage of free trade unionists.

Even at this late hour, Congress can make the only sensible contribution to ending this impossible situation by rejecting compulsory arbitration, by whatever name, and by affirming the right of free railroad workers to strike. Faced with the inevitable, management would quickly come to terms with its workers—and the cause of free collective bargaining would best be served.

We urge you, then, to repudiate this move by rail management to make the Government of the United States its not-so-silent partner at the bargaining table. The power and prestige of the Government should not be made a servant of the rail industry. The proposal by the President should not be accepted—for it would destroy the freedom of one group of workers, make the freedom of all workers less secure, and, in the end, it would endanger the freedoms of all Americans.

MARITIME TRADES DEPARTMENT, AFL–CIO,
PAUL HALL,
President.
PETER M. MCGAVIN,
Executive Secretary-Treasurer.

[Telegram]

NEW YORK, N.Y., *May 10, 1967.*

Representative HARLEY O. STAGGERS,
Chairman, House Commerce Committee, House Office Building,
Washington, D.C.:

The international officers of the Transport Workers Union of American, AFL–CIO, representing 150,000 members throughout the Nation, strongly urge that you reject President Johnson's strike ban proposal to force compulsory arbitration on the Nation's railroad shopcraft workers. Such repressive legislation deprives them of their rights and compels them to remain working under substand-

ard wages and conditions while the railroads continue to operate at a profit. Compulsory arbitration, by any name, is a tyranny that has no place in our free society.

MATTHEW GUINAN,
International President.
DOUGLAS L. MACMAHON,
International Secretary-Treasurer,
JAMES F. HORST,
International Executive Vice President.

[Telegram]

WASHINGTON, D.C., *May 8, 1967.*

Representative HARLEY O. STAGGERS,
Chairman, House Committee on Interstate and Foreign Commerce,
Rayburn Office Building, Washington, D.C.:

The nation right to work committee respectfully requests the opportunity to present its views in connection with the proposal being considered for dealing with Railway Labor Act strike emergency provision. Regardless of steps taken to solve the current railway crisis we believe legislation should be included to remove basic defects in the Railway Labor Act and prevent the recurrence of today's threatened transportation paralysis.

REED E. LARSON,
National Right to Work Committee.

ALEXANDRIA, VA., *June 10, 1967.*

HON. HARLEY O. STAGGERS,
Chairman, House Committee on Interstate and Foreign Commerce, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate the opportunity to submit the following statement for the record on H.J. Res. 559. I am an independent economist who has heard most of the testimony on this resolution. I have no professional connection with either railroad management or railroad labor or any acquaintances among them. My interest is solely that of one deeply concerned for almost 40 years in finding out why the United States economy fails to provide respectable, suitably-paid jobs for all, without price inflation, and with fair treatment for all groups. This statement particularly endeavors to supply a few statistics and analyses on the more fundamental problems involved.

1. Enactment of the resolution is clearly preferable both to allowing a railroad strike and to legislation enabling the Government to "seize" the railroads, but additional action by the Congress and by the Executive Branch is vitally needed, along with a major change in a key American economic policy.

2. Enactment of the resolution will be far from a satisfactory solution of the basic problems, for several reasons:

(a) If, following a failure of the parties to agree "voluntarily," the determinations of the Special Board stipulated in the resolution are put into effect (until not later than January 1, 1969), a genuine settlement of the basic differences will only be postponed for 18 months or so. There is no reason to believe that such a postponement will reduce the gap between the two parties.

(b) The difficulties caused for Members of Congress and the President by having to take the steps so far taken in this dispute and in having to espouse this resolution—difficulties which several members of the Committee candidly deplored during the hearings—may create a pattern to be repeated in further railroad and other labor disputes, unless measures are taken to prevent it.

(c) Since the determinations of the five-man Special Board may turn on the vote of a single member, and will in any case turn on the vote of three

members, this procedure will make an important public issue hinge on the personal leanings of the Presidential appointees, without possibilities of appeal or review.

(d) Injurious trends have been proceeding for 30 to 40 years both in the railroad industry and U.S. industry generally, injurious trends which neither determinations by the Board nor reaching of a voluntary agreement offer any realistic promise of improving.

3. In the case of railroads these injurious trends are the heavy and progressing losses which each of the four major groups concerned—the public, railway labor, railroad investors, and the Federal and local Governments—have all suffered in one way or another over the past 40 years:

(i) The American public is losing railroad service. A decline in the use of railroads for passengers and freight, whether relative or absolute, should be accepted if it means better service to the public, comprehensively measured. Problems, however, from the congestion, fumes, noise, etc., of truck, automobile, and airplane traffic, now reaching crisis proportions, and the surrender of more and more prime land in metropolitan areas to roads and terminals which constitute a very heavy financial burden rather than a source of positive tax revenue from that land, are crucial issues in which greater use of railroads may be able to make a contribution.

(ii) Railroad labor has lost a very large amount of employment. From 1.8 million employees in 1924/27, the number has sunk to around 630,000—a decline of nearly ⅔ rds.

Average annual earnings of individual railroad employees, on the other hand, have increased 4½ fold, from approximately $1,700 for 1926/30 to $7,734 in 1966. Inclusion of all fringe benefits, amounting to more than $1,000 a year per employee in 1966, according to the 1967 Yearbook of Railroad Facts (of the Association of American Railroads) would bring the comprehensive increase to over five fold.

Aggregate compensation of railroad employees increased ⅔ rds from 1926 to 1966, the same proportion that the number of employees declined. Allowing for the reduction of the value of the dollar over that period, which was about 50% as measured by the Consumer Price Index, aggregate compensation in 1966 represented about 17% less purchasing power than was paid annually during the 1920's.

Railroad employees also gained from the very sharp reduction in the number of employees killed and injured in railroad accidents yearly.

(iii) Financially owners of railroad stocks as a group have made out much worse than railroad employees as a group or individually (on the average) since the 1920's. Dividends on railroad common and preferred stocks have apparently declined in absolute dollar amount (according to the Inter-State Commerce Commission figures published in the Department of Commerce's Historical Statistics of the United States and the annual Statistical Abstract). (A further downward adjustment seems necessary to eliminate double counting of railroad dividends paid on stock owned by other railroads.) After taking into account the decline in the value of the dollar, owners of railroad stocks are receiving much less purchasing power today than in their dividends during the 1920's.

If one takes into account the long periods since 1930 when dividends on railroad common stocks in the aggregate have been at very low levels, their owners as a group would have been far better off during these four decades to have had their investment in bonds, savings deposits, or other forms. Even in 1966, when railroad dividends reached their highest total in many years, the rate of return on the owners' equity (capital stock plus surplus) was only 2.80%, according to the Yearbook of Railroad Facts.

(iv) The Federal Government's receipts of income taxes from railroads have been trending downward since World War II (except for the period of the Korean War), and both it and some local governments are having to appropriate tax funds to preserve commuter service by rail in some localities and to pay part of the costs of developing high-speed passenger service between Washington and Boston.

4. The outstanding injurious trends affecting U.S. industry generally rather than railroads in particular during the last 40 years are first, the huge inflation which has advanced fairly steadily since the low point of the Great Depression. As already stated, the decline in the value of the dollar as measured by the Consumer Price Index of the Bureau of Labor Statistics has been about 50% since 1926. As measured by some indexes of the costs of construction, the price rise has

been larger—about three fold. Secondly, there have been long periods of excessive unemployment and business depression.

The danger of further inflation is again increasing, now that the country is in a period of mounting wage increases each year and is facing the prospect of much larger Treasury deficits than during recent years.

5. Contrary to allegations by some, the price rises have not been due to disproportionately large profits of corporations, speaking generally.

6. Within the ever-mounting total of aggregate wages and salaries in the United States economy, there is apparently a hidden gain of the best paid at the expense of the worst paid. The latter have to buy goods and services containing the costs of the former, and they are artificially barred from competing for many of the better paid lines of work.

Steps by Congress and the Executive Branch to overcome that trend seem essential to the nation's conquest of poverty, the improvement of cities, and other goals. Allowing the more powerful bargaining groups unlimited scope to exert their power to strike in obtaining ever higher wage rates and more wasteful work rules will defeat those goals.

Respectfully submitted.

GEORGE A. EDDY.

(Whereupon, at 12:03 p.m. the committee adjourned, to reconvene in executive session at 10 a.m., Thursday, June 8, 1967).

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