

COLLECTIVE BARGAINING
IN THE RAILWAY INDUSTRY:
Progress and Problems of the
1960's Projected to the 1970's

by

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ABSTRACT

Collective bargaining in the railroads of the United States has been turbulent since the establishment of the first labor unions in the late 1800's. Labor unrest in the industry, as well as government intervention and legislative action, reached critical limits in the decade of the 1960's. This study investigates and analyzes the progress and problems of the industry's labor relations in the 1960's and develops and recommends reasonably feasible actions to be taken by railroad management, unions, and governmental agencies to ensure better industry labor relations in the future.

The investigation is conducted by first taking a look at the Railway Labor Act and some of the past precedences established in its interpretation by governmental agencies, as well as the history of problems in the implementation of the Act. An analysis of the labor relations in the decade of the 1960's is made with a look at developments in union-management-government relationships pertaining to the establishment of a basic foundation for collective bargaining in the industry, as well as the intervention and legislation that evolved. An "as-exists-in-1972" state of the industry is developed to form a sound basis from which to predict what can be expected in labor relations in the decade of the 1970's. This prediction was developed from personal interviews with the leaders in railroad management, unions, and governmental agencies combined with data and opinions researched from publications and texts.

This study develops and recommends: (1) that railroad management in conjunction with union leaders begin an education program for all employees in better labor relations; (2) that the passage of the Surface Transportation Act or similar legislation transpire; (3) that labor unions continue to merge and consolidate until there are only four unions representing the employees; (4) that government intervention change more to the role of the mediator than the regulator - the helper to find solutions than decreeing the solution, and the listener to union-management mutual recommendations of the industry; and (5) that the railroads and unions once again become innovators in collective bargaining.

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The purpose of this thesis is to develop and recommend reasonably feasible actions to be taken by railroad management, unions, and governmental agencies to ensure better industry labor relations in the future.

In the search for these recommendations, an investigation and analysis will be made into the major collective bargaining problems of the industry. These include the multiplicity of unions, shrinking employment opportunities, generally declining profitability, and substantial labor-saving technology. Also covered will be the governmental controls of the industry as well as governmental intervention in labor-management disputes. Through the Railway Labor Act and legislative and Presidential actions, the government becomes involved in virtually all disputes.

Since past precedences, as established by government agencies and authorities in their interpretation and application of the Railway Labor Act, are so important in the consideration of any actions that may be taken by the parties to improve collective bargaining, we must first investigate these practices. Therefore, the first portion of Chapter II will present a short history of the Railway Labor Act, its amendments and the provisions included therein to ensure the success of collective bargaining in the industry. Also to be discussed are a few of the major problems of implementing the Act and some of the efforts that have been

made to correct these issues. Railway regulating authorities affecting ⁸
collective bargaining will be analyzed in relation to their positive or
negative reaction to the parties involved. These coverages will neces-
sarily be brief, since adequately covering each would be the subject of
an entire paper.

The decade of the 1960's was one of considerable labor relations
turmoil in the industry. We will investigate this tumult in the second
portion of Chapter II of the thesis, which will cover collective bargaining
in that decade. Much of the progress, and there was a great deal, and
most of the problems evolving from railroad union-management relation-
ships will be explored and analyzed. This portion is concluded with a
discussion of the foundation, as developed in the 1960 's , for the
improvement of collective bargaining in the railroad industry.

The third portion of Chapter II will disclose the union-management-
government relations in the 1960's. This will include the various
interventions of disputes, some of the legislation proposed, as well as
Presidential handling of disputes during the decade. Also discussed will
be the still existing problem of Federal versus State regulations over
work rules.

The decade of the 1960's provided considerable change in the
railroad industry labor relations. To bring our investigation to a
"as-now-exists" state of the industry, so that we will have a sound basis

from which to predict what to look for in the 1970's, Chapter III will describe the state of the industry environment as of 1972. The industry itself will be covered on its economic condition, technology, and competition. A short analysis will be made of the attitude of management towards collective bargaining as well as the problem of unity of the various railroad leaders in the nation. The unions will be covered as to their declining membership, multitude of crafts, and loss of status in the nation. Their attitude towards collective bargaining, as well as the effect of the evolution of technology, will be investigated. The public or governmental relationships to the industry will be discussed in view of their temperament towards railway strikes and disputes, as well as any contemplated new regulating legislation.

In the final chapter, the outlook for successful collective bargaining in the decade of the 1970's will be investigated and analyzed. This will be accomplished through the analysis of personal interviews with leading management, union, and governmental officials dealing with national railway labor relations problems. The information gained through these interviews are combined with data and opinions gathered from numerous publications and texts to form the projected outlook for the 1970's.

In conclusion, the author will present his recommendations to the parties to improve and ensure better labor relations for the future in the railway industry. The conclusion is presented in three parts. The first

part summarizes the basic problems as developed in the thesis 10
investigation. The second part determines the possible solutions that
could be proposed to resolve these problems. The final part presents
the author's recommendations that are reasonably feasible for the parties
to implement to make collective bargaining work more effectively in the
industry.

For the industry to remain viable, collective bargaining must be
the core of its labor relations.

History of Collective Bargaining in the U. S. Railways

The railway industry was the first major United States industry to initiate collective bargaining of labor contract terms and the first to become regulated by Federal legislation. However, its record of labor unrest and industry labor relation turmoil has not been a good one. Beginning with the first national legislation regarding railways, the Arbitration Act of 1888,¹ through the Railway Labor Act of 1926 to the present time, the government has tried to assist collective bargaining in the industry; but there continues to be bargaining problems that continually threaten to shut down part or all of the nation's rails.

History of the Railway Labor Act

The passage of the Railway Labor Act in 1926 established a very comprehensive and detailed set of rules and regulations to be followed in the settlement of rail management-union disputes. Its stated purpose was to:

"(1) To avoid any interruptions to commerce or to the operation of any carrier engaged therein; (2) to forbid any limitation upon freedom of association among employees or any denial, as a condition of employment or otherwise, of the right of employees to join a labor organization; (3) to provide for the complete independence of carriers and of employees in the matter of self-organizations; (4) to provide for the prompt and orderly settlement of all disputes concerning rates of pay, rules, or

working conditions; (5) to provide for the prompt and orderly settlement of all disputes growing out of grievances or out of the interpretation or application of agreements covering rates of pay, rules, or working conditions.¹²

The Act established various agencies to handle these procedures. The Board of Mediation, a five-man nonpartisan committee, was to try mediation if the parties could not come to an agreement through collective bargaining. If mediation failed, the Board would then urge voluntary arbitration. If either party refused to submit the dispute to arbitration, the Board would notify the President who would establish an emergency board to investigate and publish findings. The Act also established about three hundred adjustment boards throughout the nation. These boards were not successful as they lacked the means to break deadlocks. These boards were abolished by 1934.³

The 1926 Railway Labor Act was written in agreement by railway management and labor as both were dissatisfied with the governmental intervention system established following the government operation of the railroads during World War I. The Act specified general duties to the parties saying:

"It shall be the duty of all carriers, their officers, agents, and employees to exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes, whether arising out of the application of such agreements or

otherwise, in order to avoid any interruption to commerce or to the operation of any carrier growing out of any dispute between the carrier and the employees thereof."⁴

Thus, it can be seen that the original Railway Labor Act was well designed to handle all union-management disputes - first through an effort of collective bargaining, then mediation, and, as a last resort, a Presidential emergency board. Provisions for both the employees' rights as well as management's were included.

The Act was amended in 1934. The labor unions had become displeased with the lack of effective machinery for breaking deadlocks, carriers having influence in the choice of employees' representatives, as well as personnel on the Board of Mediation. The amendment abolished the Board of Mediation and established a three-man National Mediation Board for disputes over rules, rates of pay, and working conditions. Also established was the National Railroad Adjustment Board which had the jurisdiction over grievances and disputes arising out of the interpretation of agreements.⁵

The Act was further amended in 1936 when it was extended to employees of air carriers, 1940 to clarify the coverage as it affected coal miners, and in 1951 to allow union shop and checkoff provisions. In 1964, an amendment was added to clarify NMB members terms and in 1966, provisions were added allowing special boards of adjustments. In the

1970 amendment, the Act was revised to specify the number of members¹⁴ to occupy the Adjustment Board. (See Exhibits I and II.)

Collective Bargaining Provisions of the Railway Labor Act

Section 2 Fourth (employee's right to organize and bargain collectively; free from interference by carrier) provides:

"Employees shall have the right to organize and bargain collectively through representatives of their own choosing."⁶

This section also stipulates that the carriers shall not deny employees the right to join a labor organization, interfere with the organization, or use funds to assist any labor organization, or to coerce employees to join or not to join one organization over another.⁷

Problems of Railway Labor Act Implementation

With these employee collective bargaining guarantees and the detailed dispute settlement machinery established in the Railway Labor Act: Why has there been so much labor-management turmoil in the industry? Two of the basic problems can be shown in these two statements:

"Free collective bargaining is the process whereby union and management work out by themselves the terms and conditions of employment. It is a private matter without government interference. The essence of collective bargaining is agreement. Collective bargaining is "the process of acceptance which make agreement valid."⁸

"One of the eternal conflicts out of which life is made up is that between the effort of every man to get the most he can for his services, and that of society, disguised under the name of capital, to get his services for the least possible return. Combination on the one side is potent and powerful. Combination on the other is the necessary and desirable counter part, if the battle is to be carried on in a fair and equal way. "9

Thus, we can ascertain that the ideal definition of collective bargaining is for the parties of a dispute to mutually agree to a contract of compromised demands. While a second view of labor-management is that each is trying to get as much out of the other as possible, you can add to this combination the precedence of seemingly one-sided government intervention and establish a situation where neither side will compromise their demands. To compromise might mean getting a smaller settlement than a mediation board or other government arbitrator "might" award them. Therefore, with no cost to themselves, why should either party negotiate their demands when they can "gamble" on possibly receiving more than a compromise settlement? And, all the while, doing so with little or no responsibility for the outcome! If they get more, then it's great for their represented parties; if not, they can blame it on the mediator or the uncooperating, unjust, lack of true collective bargaining of the "other" party.

Prior to 1960, the Railway Labor Act functioned well except for the¹⁶ major nationwide disputes. Data cited in testimony before Congress shows that since 1937 some 74 per cent of all national disputes have been resolved by voluntary agreements and 20 per cent more have been settled through collective bargaining following recommendations of Presidential emergency boards.¹⁰

Through the years, starting with President Roosevelt, it became a custom for the President to modify upwards the recommendations of the emergency boards and then personally get the parties to come to agreement.¹¹ Thus, the practice was started to avoid true collective bargaining, true give-and-take compromising, and just wait for the government to take over and more might be gained. In the 1950's, there began a change in this resistance to negotiate. In this period, the unions could not count on favorable intervention from the White House. Union power was weakening due to the loss of the railroads competitive position. Employment decreased rapidly due to declining business as well as rapidly increasing technology.

Under these competitive and cost pressures, the carriers began a combined assault on costly work rule inequities called "featherbedding." For the first time, the nation's railroads joined in a single combined effort, waged an extensive and costly public relations campaign to rid themselves of some of the work rules which had been in effect since the early days of contract negotiations. The establishment of a Presidential

emergency fact-finding board at the beginning of the 1960's was to be a ¹⁷ most significant event in the long history of railroad labor-management relations. The board's actions and the results from them will be discussed and analyzed subsequently.

The most serious problem facing the National Railway Adjustment Board is the long backlog of cases and the long time lag in the disposition of the cases. The majority of the grievances are time claims for additional pay; and since there is no cost to either party, and neither union leaders nor company management desire to take the responsibility for turning down or approving the claims, they consider it their duty to fight every case to the fullest. Even precedence is often ignored in the hope that another referee will see similar cases differently. ¹²

Thus, it is clear that the Railway Labor Act becomes a part of the collective bargaining between the parties. Instead of preparing for the compromises that must take place in the bargaining of the issues, the parties just sit tight with their extreme demands. They realize that sooner or later the R. L. A. will enter the picture and, if the party does not get its full demands at each step, it just continues to wait until some governmental agency along the line will up the offer to an acceptable level. With this type of attitude by either party in the dispute, there can be no real collective bargaining.

Any governmental body or agency that intervenes in a rail labor dispute establishes not only an immediate effect on any collective bargaining that may be going on, but will have a precedent-setting effect on future negotiations. Take, for instance, an administration's statements in the past that a strike would not be permitted would immediately affect any negotiations that are taking place. In most disputes, the negotiations would be broken off by one or, in some cases, both parties. Each party would once again say, "Let the government do it." This trend began in President Roosevelt's era. Before he began the practice of appointing an emergency board in almost every dispute, the boards were very seldom used. Once he started the practice, thus establishing a precedence, the role of the National Mediation Board and the Railway Labor Act's decline in effectiveness was assured.¹³

As the past has shown, it would appear the unions have the most to gain by the submission of disputes to mediation boards or Presidential commissions and eventually to the President himself. This is not necessarily true, especially in wage disputes. Railway management has not resisted too strenuously the submission of these disputes to government mediators as they realize it is also a governmental agency that sets the freight rates; and, as long as the government sets the inflationary wage rates, it will also increase the freight rates to take care of the resulting increase in costs.

Whenever the government's influence was felt in a real crisis, it¹⁹ has been in favor of a settlement upon terms that would buy peace. This has been the dominant philosophy of most mediators. Although inflationary, this has not been necessarily a poor solution to many of the labor disputes. As Under Secretary of Labor Willard Wirtz said in a speech on the future of collective bargaining:

"Unlike many people who call attention to these phenomena, I imply praise and not criticism. In my view, the trend produced by collective bargaining was generally desirable from the standpoint of both workers and the public interest. Wage and price inflation carries some cost, but the wider distribution of wealth was to the general advantage and our widespread prosperity, not to say affluence, certainly gives some support to the Keynesian view that under the economic conditions then existing increased consumer purchasing power would help to produce a higher rate of economic activity and, as we should put it today, faster economic growth."¹⁴

Thus, it is somewhat easy to see the government's philosophy to the settlement of labor disputes entering the decade of the 1960's.

The Interstate Commerce Commission controls over the railroads are not a subject for this paper. These controls, as they relate to rates, mergers, and abandonments, do definitely have an affect on the railroads' ability to cope with competition as well as some work rules. The I. C. C. 's inability to issue decisions in a reasonable time has added considerable stress to the finances of the railroads. Their restrictions on rates and

reluctance to change has made it difficult for the rails to stay competitive²⁰ even when their technology is far ahead of their competition.

If collective bargaining in the railroad industry functioned even fairly well, the existing R. L. A. procedures for dispute settlement would be quite sufficient. The parties lack both the will and the ability to develop new and more effective ways of limiting the harmful impact on the public of their disputes.¹⁵ So, the railroad management-union relationship entered the 1960's with a background of upheaval, lack of trust of one another, a great amount of government intervention, an industry with its business declining, technology rapidly engulfing every craft, rapidly declining employment, and the carriers pushing hard to change work rules that have been the backbone of union negotiations for many decades.

One additional factor in the collective bargaining background that is connected with governmental actions is the lasting effect on labor relations of the federal control of the railroads during World War I. That control brought about a true nationalization of work rules and pay rates for railroad employees. Before control was returned to the railroads, the government had established standard rules governing work jurisdiction, working hours, operations, as well as the entire pay structure, in contracts across the nation. Many of these provisions are the work rules and jurisdiction that are the basis for most disputes as labor relations entered the 1960's.¹⁶

The decade of the 1960's, in railroad labor-management relations, was one of great turmoil, yet great successes by both parties. It was encouraging yet disappointing to those most familiar with the history of the rails problems. Many mergers developed in the decade, both of railroad companies and labor unions. An improving business picture as well as even greater technology developed. Of course, the technology and rising costs, due somewhat to inflation, forced further decreases in employment. And due to the public's increased displeasure with the continual threat of rail strikes, there was a bounty of governmental intervention. The decade might best be exemplified by the following:

"If change is the law of life in industry, and if one of the functions of unions is to try to insure that change does not do damage to the morale and material security positions of its members, then it becomes increasingly incumbent upon all of us to find more effective means of resolving the inescapable conflict. The means developed to eliminate wasteful practices from the industrial scene must be such that they do not damage those who are a necessary and integral part of that scene."¹⁷

Problems and Progress of the Decade

To begin the railroad labor problems of the 1960's, we must back up a short distance into 1959. For, in November, 1959, the nations' railroads announced their intention to overhaul the work rules, some dating back to the nineteenth century, and all at least a generation old.

The days of old, when the railroads could pass their rising costs along ²² to their customers rather than take on the politically powerful railroad brotherhoods, were gone. Competition and rising costs were closing in on profits. ¹⁸

The railroads began their campaign on the archaic work rules, called "featherbedding, " through the American Association of Railroads. The AAR, as a starter, allocated \$900,000 for a newspaper campaign in 1959. The railroads launched an extensive public relations drive. They succeeded in making featherbedding practices known to the public.

The strategy of the 195 railroads that had formed unanimously behind the issue was twofold. First, instead of attacking each union affected separately, they decided to serve notices on the five operating unions as one party. In this manner, they hoped to keep the case from becoming a hopeless mess in which agreements might become useless because the unions did not agree to them unanimously. Secondly was to get a special presidential commission to consider the case. They considered the issues too complicated to be accurately appraised in the context of the Railway Labor Act, which provides only 30 days for study by the presidential appointees.

The unions initially turned down any agreement on the establishment of a commission. Then in July, 1960, they did a reversal and expressed

interest in establishing a commission. They decided that a thorough 23
examination of the pay structure would be to their advantage. They did
demand that current work practices would be maintained for present
employees, while newly negotiated rules would pertain only to new hires.
They also stipulated that the findings of the commission not be binding on
the parties.¹⁹

Thus, the 1960's began with what could possibly have been a turning
point in railroad labor relations history. The presidential commission
was formed and consisted of fifteen members, five each from the
carriers and the employees organization as well as five public members.
After months of hearings, the commission issued its report in February,
1962. The reaction of the brotherhoods was immediate and outraged.
The reaction of the railroads was of mild disappointment due to demands
for liberal separation allowances for ousted workers, but they endorsed
the findings in the public interest. Underlying their willingness and the
fact they were willing to pay the estimated \$50 million cost, plus an
additional \$78 million in pay raises, was the elimination of work rules
that were estimated to be costing them \$340 million per year.²⁰

The dispute over work rules was to continue throughout the decade.
Following was the appointment of another Presidential Emergency Board
in 1963 following a Supreme Court ruling that management had the right
to exercise the work rules. This Board did nothing more than endorse the
recommendations and decisions of previous mediatory and legal bodies.

The unions refusing to agree or recognize any decisions set strike deadlines. Congress passed the 1963 Railroad Arbitration Act which superseded the exhausted procedures of the Railway Labor Act.²¹

With this auspicious, yet cloudy beginning, the 1960's were to become a decade of railroad labor relations turmoil and achievements. To some, the achievements were dubious and to some even a step backwards for many years of employee gains. To some, the Congressional passage of the Arbitration Act was a blow not only to railroad collective bargaining, but to all industrial labor relations. For it was the government saying that if you cannot, or do not desire to, settle your own internal labor problems, we will do it for you. This was the first time such strong action, that of compulsory arbitration, had been administered on the rail industry and it was sure to leave both parties with thoughts of its consequences in future negotiations.

On four more occasions in the decade, through 1970, the Congress intervened in railroad national disputes and settled them, at least temporarily, by ad hoc legislation. (See Exhibit II.) In November, 1965, the fireman dispute was revived, the unions struck on July 17, 1970, and Emergency Board No. 177 was assigned to study the dispute. The shop-craft unions, in a dispute involving proposals for wage increases, modifications of wage differentials, and improvements in fringe benefits, representing 137,000 employees, threatened to strike April 13, 1967. Congress passed, on April 11, into law Public Law 90-10, which extended

the period of restraint provided in Section 10 of the Railway Labor Act. ²⁵
After yet another bill, Public Law 90-13, was to be passed on May 2, 1967, which provided an additional 20 days of restraint, the unions struck various carriers on July 16 and 17 and were terminated by passage of Public Law 90-54, which authorized a five-man special board that made the final settlement. Then in November, 1969, the dispute flared up once again. Emergency Board No. 176 was appointed and bargaining was resumed, with the assistance of the Department of Labor, with a tentative agreement on December 4, 1969, with the sheet metal workers refusing to sign. Once again, strikes were threatened; and on April 9, 1970, Public Law 91-226 was adopted. In 1969 the Clerks, Maintenance of Way Employees, Hotel and Restaurant Employees, and the United Transportation Union served notice on the railroads of wage and rule proposals. After the Railway Labor Act procedures were exhausted, including the issuance of an emergency board report on November 9, 1970, negotiations were conducted under the guidance of the N.M.B. and an impasse quickly developed. The unions conducted selective strikes on three of the nation's railroads. The courts issued a restraining order and the strikes were terminated. Negotiations once again began; but on December 10, 1970, the unions again conducted a nationwide strike. Congress passed ad hoc legislation giving the unions the pay wages they were requesting. ²²

Besides the Congressional legislation, there were three Presidential commissions. The first, Emergency Board 154, over the work rules previously discussed, was followed by Congress' ad hoc legislation, Public Law 80-108. The other two dealt with railroad marine disputes, both of the New York Harbor Carriers Committee. These disputes also exhausted the Railway Labor Act provisions; and the Pilots, Marine Engineers and Seaman unions struck on January 1, 1961, and an emergency board was created. The commission issued its report on June 11, 1962, and the unions rejected them. The third commission was created on June 12, 1961, when a dispute arose between the Longshoremen and the New York Carriers Committee. Emergency Board No. 134 was appointed on January 21, 1961, and issued its findings on July 11, 1962. The unions rejected it, but most issues were agreed to before the report had publicly been released.²³

Although many great strides were taken forward in labor relations in the decade, the problems of technology and their direct effect upon employment and changing work rules, the somewhat shaky financial position of the railroads, and the now unpredictable variations of government action were still prevalent in the minds of both the rail unions and management. The problems and progress of the decade might best be expressed by the following two quotes:

"The relative simplicity of the questions of wages and hours, the superficial ease with which these issues can be dramatized has focused attention upon these items in the

past on the collective bargaining agenda. The problem of working conditions is generally so technical a question and so peculiar to the industry that it is seldom understood outside the immediate circles of those who are involved. However, recently this problem of working conditions has more and more come to occupy the center of the collective bargaining stage. "24

"...proved that no impartial panel - and none of the branches of the federal government - will any longer tolerate policies that force the industry to subsidize unneeded workers. General agreement on that fact provides good reason to believe that elimination of the remaining feather-bedding will be a far simpler task. "25

Foundation for Collective Bargaining in the Industry

With compulsory arbitration as its only alternative, collective bargaining may have had its last chance in the 1960's and may have passed with creditable, although shaky, honors. There were many successful agreements made through bargaining by both parties. The most notable was the agreement between the United Transportation Union, representing the railroads' operating employees, and the National Railway Labor Conference, the negotiating representative for the nation's railroads. This agreement, reached through true compromising collective bargaining by the parties, brings to a conclusion the long work rules dispute. Some minor points were to be solved, but both parties agreed to study each to achieve the most agreeable solution. Even though the dispute over the work rules was long and difficult, the parties came to an agreement that was mutually acceptable. This may be the indicator, the pattern settler, for future negotiation in the industry.

The railroads and the brotherhoods were the leaders in the establishments of unions, collective bargaining, and, eventually, although maybe nothing to be proud of, the labor unrest that brought the first government regulation of disputes. Since this same industry has been the leader, so to speak, in employee representation and then labor problems, it seems they should also be the ones to find a way to get both unions and management back to true collective bargaining, to solve their own industry's problems internally instead of leaning on the government to do it with questionable legislation and compulsory arbitration.

Collective bargaining will once again be a vital tool in solving the industry's labor relations problems when both parties again realize it takes both of them to make a successful industry. The underlying principle of this theory is best expressed by:

"Such conflicts can be prevented or resolved only when the parties to the conflicts become fully aware of the interdependence of their fundamental interests. The fate of both labor and management is tied to the fate of the company, and hence they are tied to one another. They are jointly responsible for producing whatever conflict exists, and must act jointly, through collective bargaining and labor-management committees, to resolve their differences."²⁶

Union-Management-Government Relations in the 1960's

Collective bargaining between railroad management and the unions representing the railroad employees, in its truest form, should function without interference or intervention of the government.

"It has been the policy of the United States that the most desirable way for the parties to reach agreement is through collective bargaining common consensus. The problem that remains is what is to be done when a strike, a continuation of collective bargaining, brings the public to its knees before the principles show themselves capable of reaching an accommodation."²⁷

As long as the railroads remain a vital industry to the public of the United States, the government is obligated to see that the actions of either management or the unions do not infringe on the general public's rights. The government must, by some means, ensure that the public's right to adequate transportation of people and the essentials of life are not infringed upon by one party of a labor dispute who will not reasonably bargain its position. To do this, the government has, for all practical purposes, removed the union's right to strike except for very short periods of perhaps a few days. They have removed management's right to close down their business through the ICC long ago. The basic question for union, management, and the government is: How can you have true collective bargaining without the right to strike or to close up shop?

Analysis of Government Intervention in the Decade

In the work rules dispute, which began the turbulent decade, the Presidential commission made the most comprehensive investigation of every phase of the dispute. Both parties had ample opportunity to state

and prove their point of view. The commission also had a complete 30
staff making detailed studies of the facts surrounding the various phases
of the dispute. After 96 days of hearings, 15,306 pages of transcript, a
total of 319 exhibits aggregating 20,319 pages, the presentation of many
vital exhibits, the preparation of 22 technical monographs by the commis-
sion's staff as well as outside consultants, and a large number of field
inspection trips, they issued their findings as well as their recommenda-
tions but yet failed to dispose of the dispute.²⁸

Why? Probably many reasons, but the main one can be readily
seen in the following:

"Unfortunately the Commission. . . .
removed the emphasis from study, joint
exploration, joint counseling, joint work-
ing out of solutions, and emphasized
almost exclusively a court room type of
proceedings in which the parties were
pitted as antagonists. As adversaries,
they were represented by lawyers and it
was the legal profession which ruled the
roost. Lawyers framed issues, directed
questions, made arguments. The inevit-
able result was the hardening of positions.
What was tentative became implacable.
Reconciliation was impossible. Mediation
was never attempted. . . . Batteries of
Lawyers rounded up energetic and experi-
enced testifiers who never could use their
knowledge and experience in a constructive
joint effort, but were assigned roles of
offense and parry. Testimony was "party
line." Cross examination was not for
enlightenment but for obfuscation. Answers
were dictated by discretion rather than
candor."²⁹

So, it would seem the commission acted, as many government 31
bodies before them had, around collective bargaining instead of using it.
The commission did provide the first actual factual knowledge on the
work rules of the dispute and many of their recommendations do become
the basis of the final agreement which was to come some years later.

The fireman and work rules portions of the dispute were a thorny
issue to Congress and the President for the next three years. They
became so frustrated, they passed the first railroad compulsory arbitra-
tion legislature. This being the 1963 Railroad Arbitration Act and it
accomplished several things. First, it removed all doubt that the govern-
ment was thoroughly disgusted, even beyond politics, with railroad labor
relations. Secondly, it convinced both parties that the public would not
stand for any more strikes on these issues. Thirdly, by setting a two-
year limit on the decisions of the board, it was giving the parties one
more chance at bargaining the issues. And a fourth point might have been
a strong hint to the unions, since they dislike compulsory arbitration, and
to management, since they dislike the idea of nationalization, that they
meant business. The Arbitration Act was a reality not just a threat as
had been most past government actions.

Even though the rest of the decade had considerable labor unrest
for the industry, a pattern may have been established which will make
the parties a little more willing to bargain the issues. With the agreement
with the UTU in 1969, which was mutually designed, and the new

government approach, the rail disputes of the future may have less of a ³² need for government intervention. There may be some exceptions when individual railroads become financially bankrupt; some eastern roads are now in this position, and some form of legislative action will probably take place.

New and Revised Legislation

Even though the decade was filled with much industry labor relations turmoil, there was not a great deal of governmental legislation aimed at changing or controlling either the unions or the companies. Other than the ad hoc bills passed to settle the strike-bound or striking parties in several disputes, the only notable pieces of legislation came in the 1963 Railroad Arbitration Act and the 1969 Hours of Service Act. (See Exhibit II for a complete list of legislative action in the decade.)

The 1963 Railroad Arbitration Act, as previously discussed, was to be the most important and would come to be a critical step in railroad union-management relations. The 1969 Hours of Service Act was also somewhat revolutionary as it revised a 1907 provision limiting the number of hours an employee in the operation of a train could be on duty without rest or relief. It reduced the limit from 16 to 12 hours over a three-year two-step plan. It also provided other stipulations, such as time-off duty, increase of the penalty to the carrier for any violations and reduced telegraphers' time allowed on duty from 13 to 12 hours. ³⁰

There were many bills introduced in both houses of Congress, during the decade, to limit, revise, control, or change the means established in the R. L. A. to settle the railroad disputes. None were

passed. There were many hearings and much written on what should be³³ done, but nothing notable was done by the legislative parties.

Presidential Handling of Disputes

The national transportation policy, with regards to the railway industry, has tended to vary with each Presidential administration. However unfortunate this political tie may be, to the railroads and to the unions, it has been a factor in union-management relations since the early 1940's. Presidents have tended to liberally use the appointing of emergency boards as a dispute settling tool in almost every dispute instead of a last resort as it was originally intended. With this precedence, the parties, to a major dispute, now consider the Presidential Emergency Board just one more step in the normal dispute settling procedure of the R.L.A. There is seldom any real bargaining before the dispute reaches the emergency board procedure. The parties are more likely to wait until they appear before the emergency board before doing any serious negotiations.³¹

Some critics of the Railway Labor Act have charged the N.M.B. with pursuing a policy of notifying the President of any dispute which was unsettled after it had intervened. Their only criteria being whether a dispute threatened disruption of interstate commerce. Once the President has been notified, he generally issues some form of statement regarding the dispute or about any possible threat to shut down the nation's railroads. Once he has issued such a statement, such as referred to before, that he

will not allow a railroad strike or shutdown, the parties will not compromise their demands as they know that an eventual emergency board will be appointed to determine which party is in the right.

As noted before, there were three Presidential interventions in the decade. In each dispute the parties still were at their original demands when the emergency boards were appointed. Thus, no real bargaining had taken place in the procedures of the Railway Labor Act. They each obviously were waiting for the President and his appointed board to do it for them.

Federal Versus State Regulations

Many states have regulations and statutes, under the guise of increasing safety requirements, that require a minimum crew for a certain size train. Some require as high as a six-man crew when the crew consist national agreement requires only three. This has been a continual battle for the railroad carriers. It has also been a hindrance to national bargaining of the issues of crew size.

At the beginning of the 1960's, there were sixteen states with such "full crew" laws and in seven other states public utility commissions are empowered to rule on the size of train crews.³² As the railroads entered the decade of the 1970's, there were only four states remaining with these laws: Ohio, Indiana, Wisconsin, and Arkansas. So, progress has been made in the elimination of this additional problem. The outlook is that even these four may repeal their restrictions.

The elimination of these state regulations has been a hard uphill battle for the carriers. Much bargaining had to be done with the politically strong unions. Much of the progress was made even in the light of a 1968 Supreme Court decision ruling that "the matter of determining the size of crews should remain a function of the state legislature and not the courts."³³

Conclusion

The decade of the 1960's was not a good one for railway labor relations. As we have shown, it was filled with a great deal of labor and industry upheaval. There were strikes and strike threats in abundance. There was government intervention of every form from the normal National Mediation Board mediation to Congressional ad hoc legislation to Presidential emergency boards, and even a historical compulsory arbitration legislation.

The cause of the great turmoil of the decade was not too clearly definable. It could be just another stage of railroad union-management relations; or it could be the change in technology catching up with the rising costs of labor and materials. It could be the declining income of the railroads losing the race with rising costs of all types. It could be the employees rapidly declining employment finally hitting the bottom. It could be the union officials themselves feeling the squeeze of mergers and finances. Could this have been the decade of change for both the railroads and unions?

Let's now take a look at the state of the railroads, their unions, and the public to which the legislature must be responsible as we enter the 1970's.

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- ⁴Railway Labor Act, op. cit., General Duties, First, p. LRX-18.
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- ⁶Railway Labor Act, op. cit., Sec. 2 Fourth, p. LRX-19.
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- ²⁰Ibid., p. 164.
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- ²³Ibid., p. 32.
- ²⁴Lomberg, William, Some Observations on the Problems of the Relationships between Union and Management in the Transportation Industries, Daily Labor Report, March 18, 1960, p. F-2.
- ²⁵Zim, op. cit., p. 253.
- ²⁶Siegel, Laurence, Industrial Psychology, 1962, p. 338.
- ²⁷Gomberg, op. cit., p. F-1.
- ²⁸Kaufman, Jacob J., The Railroad Labor Dispute: A Marathon of Maneuver and Improvisation, Industrial and Labor Relations Review, January, 1965, v. 18, No. 2, p. 199.
- ²⁹Ibid., p. 201, Quote from A. F. Zimmerman, Dissent to the Report of the Presidential Railroad Commission, Washington, D. C., February 28, 1962, p. 11.
- ³⁰Report No. 91-469, House of Representatives, 91st Congress, Committee on Interstate and Foreign Commerce, Hours of Service Act.
- ³¹Business Week, New Strike Laws, September 6, 1969.

³²Burck, Gilbert, The Great Featherbed Fight, Fortune, March, 1960,³⁹
p. 198.

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The Railway Industry

Collective bargaining and the freedom to manage one's own business are the dominant criteria to railroad management when it comes to bargaining with the unions. As Professor William Gomberg, in a report on labor problems in the transportation industry, stated:

"Historically, collective bargaining began as an encroachment on the managerial function. An employer who was called upon to discuss wages with a union at the turn of the century would refuse. His argument would be that he was a trustee for the owners of the property, that wages were an important element of costs, and therefore a critical determinant of the profitability of the enterprise. As he put it, he would be betraying his trust if he discussed wages with an outside institution. The passing years have attenuated this attitude. . . ."¹

When you add to this ingrained feeling that their right to manage is being bargained away to the squeeze of profitability, as has occurred in the railway industry, it is easily seen why collective bargaining is having its troubles. Of course, there are many other problems within the industry that also affect profits as well as labor relations. As stated in the Association of American Railroads' "Magna Carta for Transportation," the railroads needed four basic freedoms: (1) freedom from discriminatory regulation; (2) discriminatory taxation; (3) subsidized competition; and (4) freedom to provide a diversified transportation service by running their own road, waterway, or air service.²

Another problem that has caused major difficulties for management,⁴¹ in their efforts to lower costs, has been their inability to initiate new money-saving techniques and technology once they have been developed. This is due to union contract work rules or governmental restricting regulations. To change either of these constraints takes legal, political, and financial resources as well as being an extremely slow process. This is the environment that management must successfully challenge to make their business once again profitable.

Economic Conditions

The railroads have been in an economic decline since the 1930's. As shown in Exhibit III,³ percentage distribution of intercity ton-miles, the railroads' share has decreased from 64.4 per cent in 1939 to 38.6 per cent in 1971. Although it can also be seen their total ton-miles have increased from 370 billion to 745 billion in the same period due to the overall increase in total ton-miles, it can be then pointed out that the total increased 236 per cent and the railroads' share increased only 103 per cent.

In this business atmosphere, the pressure on the railroads to automate has been intense. As can be recognized in Exhibit IV,⁴ costs were rising at a much more rapid rate than gross income. Also shown is the obvious result, a much lower net income. There were several approaches to this declining, and at times for many roads a losing, net income.

One approach is to merge, with other lines, to eliminate wasteful⁴² costs. In 1950 there were 127 Class I railroads; in 1972 there were only 73 - thus, a reduction of 54 individual railroads.⁷ Most of this reduction came through the merger of two or more roads due to financial problems.

Other means used by the railroads to reduce costs were to reduce employment (Exhibits VI and X),⁶ retirement,¹⁸ and abandonment of unuseful and unprofitable track mileage (366,000 miles in 1957 to 320,000 miles in 1970); begin a long-range attack on archaic work rules and practices; increase their research and development investment in technology (Exhibit VII)⁸ and the use of it in all phases of work; and increase and improve its fleet of freight cars and locomotives (now being a sizeable 28,000 diesel locomotives and over 1.8 million freight cars). Capital investment in new plant and equipment in the railroad industry averaged \$1.4 billion a year over the 1947-1969 period.

In 1971 and 1972, the work rules and fireman disputes which raged for over a decade were brought to a close with collectively bargained agreements. This will result in additional cost savings to the industry. These savings will grow slowly, with little help in the next five years, due to the generous attrition and severance pay allowances in the contracts.

Conflict and competition are a powerful stimulant to both the intellect and the imagination. Collective bargaining (and government restricting regulations) provides the strength and creativity to generate new ideas by the process of composing conflicting interests.⁹ Technology changes in the railroad industry have been introduced in response to these pressures.

As can be seen in Exhibit III,³ the railroad's competition has taken over a large share of the ton-mile transportation business that was once theirs. Motor carriers have more than doubled their percentage share and pipelines have done the same.

To combat the competition and employee cost increases, and resulting decreases in net profits, the companies have resorted to technology. The ten generalized types of technological advances in the industry have been:¹⁰

1. Motive power developments — more powerful units, improved electrical systems, higher tractive power, and greater reliability.
2. Freight car improvement — specially developed cars, better bearings, higher capacity, and reduction of loading and maintenance problems.

3. Facility relocation and improvement — repair station consolidation, car and locomotive washing mechanization, and reduction of bad order ratio.
4. Piggy bank and unit trains — expedited schedules of containers loaded on flat cars, single bulk commodity on unit trains and providing vital link in production process.
5. Automatic classification yards — large yards where cars are sorted and switched automatically, increased car utilization and customer service, and manpower savings.
6. Computers — both digital and analog providing information and doing labor-saving operations, gives management better control of company.
7. Centralized traffic control — better control of traffic from centralized location, track capacity expanded while giving management better control and giving manpower savings.
8. Miscellaneous signal and communications — better equipment utilization, better safety and decreasing maintenance expense.

- a. Detectors — reduce costly derailments due to equipment failure.
 - b. Microwave — increase communication capacity and reliability.
 - c. Automatic car identification — speeds up car reporting and utilization and provides more accurate and centralized control.
9. Maintenance of Way innovations — multi-purpose labor-saving machinery in all operations, continuous welded rail, concrete ties, electronic defect detectors, and computer scheduling of work to better utilize equipment.
10. Innovations in passenger service — (even though now AMTRAK) — air-conditioned, electrically driven cars in Northeast Corridor Experiment, and computerized ticketing.

Thus it can easily be seen, as shown in Exhibit V⁵, why railroad productivity has increased so sharply. With these technological advances coupled with the reduction in employment, which they allow, the railroads have been able to stay even with the rising costs and to some extent competition.

Railroad management's attitude, in their bargaining with the unions, has changed significantly in the last decade. In the past, management has always demanded immediate change with no restitution or security for those employees who might lose in the changes. Now companies have reconciled themselves to a slower pace. They now offer attrition to get their demands, while at the same time giving the employee affected security until retirement.

Collective bargaining of work rules remain troublesome. The argument is generally over what is a working condition, subject to collective bargaining and over what is a managerial area, subject to sole managerial determination. Thus, the importance to many a railroad manager is to recapture his managerial functions which have been eroded away by collective bargaining.¹¹

This is referred to as "The Managerial Theory" classification of collective bargaining.¹² This being that collective bargaining is involved primarily in business decisions. The union participates in some of these decisions; hence, it shares in some aspects of the managerial function.

Management attitude towards collective bargaining has also taken on a new look in national negotiations with the appointment of William H. Dempsey as Chairman of the National Railway Labor Conference on January 1, 1972. Mr. Dempsey, a lawyer by profession, experienced in

union adversary proceedings, has made some statements that have not⁴⁷ been openly expressed in the industry by labor negotiators. Some typical ones:¹³

"My hope is that we can set up some kind of ground rules under which we can encourage the free exchange of ideas. This means that there should be the most open discussion, and a man should be free to change his mind."

"Miracles can be worked by talking together for three or four hours - or more. You can't always persuade the other fellow that you're right. But you can persuade him that you're reasonable."

"To the extent we can establish continuing communications, we're bound to have fallout that will help both the railroads and the unions."

Management Unity Problem

When the nation's railroads began their campaign against the fireman and work rules featherbedding, they knew it would have to be as a unified body and not as individual roads, or even their present three-conference setup. At the time, the railroads had been bargaining as the Western, Eastern, and Southeastern Conference Committees. These organizations had been reasonably successful; but for the large task at hand, they decided to unite; they organized the National Railway Labor Conference.

The NRLC was to be the bargaining arm of the nation's railroads for all negotiations of national nature - otherwise, wages, working

conditions, rules, crew size, and other related matters. This reorganization took place in 1963 and was a definite change in relations with the unions.

The first chairman of the NRLC was James E. (Doc) Wolfe; a career railroader and a veteran negotiator, a man respected and liked by rail labor's leaders.¹⁴ Wolfe was a table pounder, a two-fisted fighter who did not fear a battle even over the smallest of points. He knew every phase of railroading from personal experience; when the unions or mediators made a recommendation, he knew what it would cost the railroads in dollars and operations. Doc Wolfe carried the railroad negotiations on his own shoulders throughout the bigger share of the 1960's and its work rule disputes. For the time and the negotiations going on, he was the perfect man.

NRLC's second chairman was John P. Hiltz, Jr. He was also a career railroader - a former civil engineer and railroad president. Although not the popular man that Wolfe was, he headed the NRLC through a period of substantial accomplishment.¹⁵

As mentioned before, William H. Dempsey became Chairman on January 1, 1972. Although not a railroader by profession, he comes across as a man who knows the advantages of compromise - not a patsy, but not a table-pounder either. U.T.U. President Al Chesser, the union leader representing the operating brotherhoods, has said of Dempsey:

"Now, when we have problems we can call Washington, to the NRLC (and talk to Bill Dempsey), and most of the time we can

settle things over the phone. It's like a
breath of fresh air over there."¹⁶

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To aid Dempsey in the running of the NRLC is Vice-Chairman Maynard Parks. Ten railroad officials, with labor relations experience, make up the National Carriers Conference which assists the NRLC in all negotiations.

It does appear the railroads have become unified. This has been a serious weakness in the past; but with a strong NRLC, it will not be any longer. This strength of unification could be seen in 1970 when the unions struck only three railroads in a whipsaw fashion, thus avoiding a national emergency. The railroads joined together to form a mutual profit-sharing scheme to aid the struck railroads. This would have been unheard of prior to the NRLC.

The Railway Unions

The first written labor agreement known to exist in the railway industry was a contract between the New York Central & Hudson River Railroad and the Brotherhood of Locomotive Engineers.¹⁷ From that date, 1875, to the mid 1920's, the unions grew not only in membership, but in the number of union organizations. Membership reached a high of about 2 million in the booming railroad era of the 1920's. It dropped from 590,000 in 1968 to the present membership of about 530,000. This can be viewed graphically in Exhibit X.¹⁸

The current labor union picture in the industry is still one of considerable turmoil, centering on job dislocations, pay problems, and

divisions among the various organizations. One of the most critical 50
internal problems the unions must face is the new, younger generation
now entering their memberships. These new unionists are more affluent,
more sophisticated, and better educated and informed than any organized
workers in the past and will perhaps be less closely tied to the unions'
top leaders. These new union members are lukewarm about the labor
movement. They have no real commitment to the unions' causes because
the only struggles of labor they know are what they learned from history
books. And since most union officials are old-timers, they have no
association with them. Thus, eventual trouble.

The material accomplishments of the labor unions have been to
increase wages and fringe benefits, to shorten hours and to improve
working conditions. Added to this in recent years has been job preserva-
tion and security to those presently holding a position that has been bar-
gained away through attrition. So it might be said that for the past four
decades labor unions, who have by way of the closed shop no one to recruit,
have only tried to maintain a status quo on jobs and to get as much as
possible out of management for the services of their constituents.

Multitude of Crafts

Railroad unions were organized by individual crafts rather than by
the company or industry. It takes a wide variety of occupations or crafts
to operate a railroad, each with its own particular type of working rules
and completely different circumstances. Thus developed the craft

unionization and since there was a multitude of crafts, then there was to⁵¹
be a multitude of unions. At present there are 14 national unions that
have existing contracts with the railroads. There are nine others that
deal either locally or regionally for contracts. (See Exhibit XI.)¹⁹

As membership has declined, with employment, the existence of so
many unions has begun to take its toll. Within a two-year span, 1968-
1970, there were two union mergers. The United Transportation Union
was formed from four out of the then existing five operating unions, and
telegraphers joined the railway clerks to become the Transportation-
Communication Division of that organization. The U. T. U. consists of the
former firemen, conductors, trainmen, and switchmen. The engineers
elected to remain the only separate operating union. Whether union mer-
gers will continue or not, the fact remains that the railroad unions must
seek and find a device for coordinating their efforts if effective bargaining
is to be maintained.²⁰

Disunity among the railway unions has been quite common in recent
years as each fight for survival. The six shopcraft unions who have bar-
gained as a unit for many years broke up due to the skilled workers wanting
a bigger share of wages than the lesser skilled jobs.²¹ The Railway Labor
Executives Association, for years the national base for united union action,
split in 1969 over the issue of compulsory retirement legislation.²² Five
of the unions then formed their own group called the Congress of Railway
Unions.²³

The railroad unions were once the leader in unionization in the U.S. They were the initial organizers of employees. They were in the most prosperous, fastest growing, and most vital industry of the times. Since the rail unions were by far the largest in the nation, they led the way. Unions of other industries followed their guidance each year in wage demands.

Now the rail unions are not the leaders. They do not represent a healthy and prosperous industry. Their industry is rapidly changing through technology and reorganization. Although the industry is still a vital means of transportation, it is shrinking in size yearly.

As the industry and its relationship to the nation's business change, so must the unions change. The continual union fragmentation must cease. Some signs of this are appearing in the industry, but the history-old craft lines are still in existence and will not easily be eroded. It will probably take another decade or two to establish anything resembling an industrial union or even as far as three or four combined unions.

Attitude Towards Collective Bargaining

An indication of union's attitude of collective bargaining can be seen in the following statement by George Meany, President, AFL-CIO:²⁴

"Collective bargaining is not a perfect instrument. It rests on the somewhat fragile foundation of mutual confidence and good faith among human beings.

But like all truly democratic institutions,
it has the great virtue of strengthening
its own foundation as it is used.

Collective bargaining, like the idea of
democratic government, is based on
consent and acceptance. "

This is fortified by the following statement by Al Chesser,
President, U. T. U. in his Project Seventies brochure to all railroad
operating employees:

"The key to a brighter future for all of
us is a revitalized industry and a rail-
road labor-management relations program
that assures a good relationship in place of
the psychological warfare that has been
characteristic in the industry for the past
quarter century. I firmly believe these
two goals can be reached. . . ."25

Job security and wages have been the pattern in current railroad
contract bargaining. Many contracts either require job stabilization or
specify protection for incumbent employees until retirement unless he
quits or is fired for due cause. Some contracts do have attrition reduc-
tion clauses and some specify certain possibilities for management to
reduce employment in case business drops off.

Wages, on the other hand, have continued to rise. Exhibit IX
displays that railroad average earnings have surpassed manufacturing in
both average hourly rates and average weekly total earnings. In
achieving these gains, the unions have used the following criteria in
negotiating: changes in the cost of living, maintenance of

take-home pay in the face of reduction of hours, changes in productivity, the ability of the employer to pay, the effects of higher or lower wages upon purchasing power and employment, and wages paid to other industries and crafts.²⁶

Most of union's collective bargaining is trying to preserve a relationship rather than trying to establish a new one. On the charge that the unions are taking management's "right to manage" away from him, the unions have become somewhat inured. For every bit of progress that unions have made, every achievement they have won has been realized on the charge they were assuming the prerogatives of management.²⁷

On the subject of compulsory arbitration in place of collective bargaining, the unions are very adamant. Al Chesser has stated that a vote for compulsory arbitration is a vote for socialism. When compulsory arbitration replaced collective bargaining on the railroads, nationalization is not far behind. Since both management and government seem to lean towards compulsory arbitration as the only substitute for collective bargaining, it has put an added incentive for the unions to take that extra step to make it work in the industry.

Evolution of Technology

Unions have never been against technology. Technology makes the services done by their members easier to perform. What they are against, and always will be, is technology displacing a member. This

may sound like a play on words, but when railroad management came to⁵⁵ the bargaining table with an optimistic attitude towards attrition in the elimination of positions, the unions began to discuss technology.

The technology adjustments that seem to be agreeable to both parties are: (1) adequate advance notice - thus a thorough discussion of the new rules can be had by both; (2) job security - protection for the man holding the job until retirement; (3) transfer rights and displacement allowances - let each man maintain his seniority and if he must be moved, he should be reimbursed; (4) retraining or severance allowance - for those with little seniority - should be retrained for another railroad occupation or given an allowance until he relocates; (5) retirement - by adjusting the retirement age downward will allow attrition to develop more rapidly.

The unions have been said to resist technological change by a policy of obstruction, competition, and control. From the viewpoint of the unionist, they are just protecting jobs that they had bought and paid for through past collective bargaining. If these jobs were to be taken away, it would have to be through give-and-take collective bargaining again.

The Public

The public, as it is represented by its elected officials - the President and the legislature, has through the years become more and more involved in railroad labor relations. This control or involvement

is administered by the N. M. B. in their duty to administer the Railway ⁵⁶
Labor Act procedures. Although most publicity comes from the failure
of the Railway Labor Act, it has been reasonably successful. Since 1950,
the N. M. B. has disposed of over 4,000 mediation cases, of which only
94 required emergency boards. In all, the President has appointed
71 emergency panels (some had more than one). Of these, 60 reports
were published. The sad fact is that labor and management initially
accepted the boards' recommendations on only six occasions.

When will the public, through its legislature, reach the saturation
limit of the dodging, maneuvering, legal nitpicking, and stalling that goes
on in railroad labor relations? It seems that the limit came near in the
1960's, in the Arbitration Act of 1963, and again in 1970 with the sheet
metal workers.

The Railway Labor Act and all legislation concerning railroad
labor relations are predicated upon the assumption that free collective
bargaining is the ideal method to set down the working conditions and
economic terms of employment. The problem arises when this proce-
dure of collective bargaining results in a strike. Although strikes could
easily be legislated away, what would or could be used in its place as the
very backbone of collective bargaining?

When you eliminate the substitutes to collective bargaining, in railroad labor relations, it is evident that it must remain. In order for it to be free collective bargaining, the right to strike, or at least the threat to strike, must remain a reality. As history has pointed out, most strike threats cause more national jitters than any real inconvenience. With today's inflation in the cost of living and the high wage rates achieved by current railroad employees, the unions and their members have almost priced themselves off the picket line. Thus, any strike that might occur would, apparently, be short lived. This is the public's dilemma. Do they walk in and settle every dispute? Thus establishing precedence and dependence of the parties. Or do they allow the parties a free hand at collective bargaining? The danger in intervention is that the parties do no real collective bargaining because "the government will do it for us anyway." As an example, many unions (although not publicly saying so) and their members were pleased with the recent wage freeze. In this manner they did not have to voluntarily reduce their wage increase demands - the government made them do it.²⁸

Are Railway Disputes a National Emergency?

The problem remains - at what particular point does a strike become a national emergency, or worse, a national disaster. The criteria for this judgment, to be made by the public, has yet to be defined. Although it cannot be argued that the railroad industry is a nationally vital industry,

just how much of it could we close down and not have a national emergency? Surely, there are enough modes of transportation and competing railroads that it would not be an emergency if one railroad, even one of the large ones, were to be struck. Well, then, what about two or three all in different parts of the nation? What about ten and so on? This is the critical question. Some have said the limit is 40% of the track-miles; others have said 30% of the ton-miles; others say any shutdown is too much.

Senator Javis, of New York, believes the critical limit is whenever a region or city is faced with an emergency shortage of goods or any essentials of life due to the railroad shutdown. Thus, making the criteria possibly linked to service the railroad performs rather than its size.

It appears that the railroads are a nationally vital industry. Many industries and many non-railroad people depend on the railroad services for their existence.

Public Opinion of the Railroads

The attitude of the public towards the railroads and their economic decline has made quite a turnaround. This attitude has been very important in the struggle of the railroads to survive and change.

It can be said that it was public opinion that first brought the rails under government restrictions. The public felt the railroads were getting too big and too powerful. The same can be said for their labor

relations. In the 1960's the railroads, with the aid of a large public 59
relations program, convinced the public that "featherbedding" was their
real problem. And that it was up to the public, through their legislature,
to help them get rid of these archaic work rules and unneeded firemen.

Public opinion today may be back in a more neutral position. The
Penn-Central bankruptcy may be, once again, installing some doubt and
reservations about the stability and ability of the nation's railroads to
function as a private enterprise.

Public Opinion of the Unions

The public, in general, approves of labor unions. This includes
the railway unions. The public endorses the principle of unionism and
the right of employees to be represented in their bargaining with manage-
ment over their services. This endorsement comes, apparently, from
its belief that without the combined organization of the unions, the employ-
ee would not have secured adequate wages and working conditions.²⁹

On the other hand, portions of the public are highly critical of the
behavior, or at least the public display of it, and leadership of the unions.
Their continual refusal of any mediation board findings, the belligerent
public attitude towards management and the companies does nothing to en-
hance themselves to the public.

Part of the railroad unions' public opinion has to be their multitude
of unions. For it seems public opinion goes up and down with the publicity

that comes with a dispute at almost every contract time; and with some ⁶⁰
15 to 20 unions, it seems to the public that there is total industry labor
relations turmoil. When actually the dispute may be with only one union
representing a very small segment of the employees. This problem has
been somewhat eased now that the fourteen largest unions have a common
contract expiration date.

If the past attitude of the rail labor unions, in that they ignore
public opinion, continues, it may bring regulatory legislation. Neither
the unions nor the public desire this action.

New Legislation: Help or Hinder?

In the 1971 and 1972 Congressional sessions, there were thirteen
(Exhibit XII) bills introduced related to the regulation of railway labor
disputes and emergencies. Hearings were held by the Subcommittee on
Labor of the Committee on Labor and Public Welfare, United States
Senate. They began June 15, 1971, and completed April 16, 1972, with
a total of fifteen sessions. None of these bills were passes in the ninety-
second Congress; as of February, 1973, none have been reintroduced.

In almost every bill, there was, in some form or another, either
compulsory arbitration, complete freedom to strike, government seizure,
or nationalization. Only two bills were considered as having any
possibilities of passage. These were S.560 by Senator Javis and
S.3232 by Senator Packwood.

Senator Javis' bill would have given the President antistrike powers over all industries, not just the railroads, with the prior consent or approval of Congress required. Senator Packwood's bill, which was about the same as President Nixon's plan of the year before, would give the President the power to act in one of three alternatives: (1) he could extend the 80-day cooling off period for as long as 30 days; (2) he could require partial operation, keeping essential segments of the industry in operation for up to six months while letting the major part of the strike or lockout to continue; (3) he could invoke a procedure empowering a neutral panel to select the final written position of one of the parties as the settlement binding to both. Senator Packwood's bill did not require Congress approval for the President to act and applied only to the transportation industry, that being the railroads, airlines, maritime, longshore, and trucking.

Two of the major differences in the bills were that Packwood's bill was more national, in relation to emergencies, while Javis' was to include regional disputes, such as the city of New York, and that Javis' bill made any Presidential action dependent upon Congressional approval while Packwood's did not. Senator Packwood's bill did come to a vote and failed by 42-39. But this does show how very close the mood of the legislature was to passing some form of compulsory arbitration to further regulate railroad collective bargaining.

Few industries have been harder hit by inflation than the railroads. They pay out substantial portions of their revenues in wages and benefits. They are also heavy buyers of capital goods and operating materials and supplies. The restoration of the investment tax credit will aid the railroads economically. The government-backed AMTRAK take-over of the nation's passenger service will also be a substantial financial benefit.

There are other reasons for optimism. First, agreements have been reached in both the decade old fireman's and work rules disputes; secondly, the agreement with the U.T.U. and the Brotherhood of Locomotive Engineers provides for the creation of standing committees to work with the rules problem on a continuing basis; thirdly, a revamped National Railway Labor Conference shows capabilities of being more than just a bargaining agent for the nation's railroads. It has become effective in uniting the roads in a continuing dialogue with key people in the labor organizations.

- ¹Gomberg, William, Report on Labor Relations Problems in Transportation Industries, Report in connection with U.S. Department of Commerce, Daily Labor Report, March 18, 1960, p. F-2.
- ²Dunand, Georges, Job Security on the Railroads, International Labour Review, May, 1964, V. 89, p. 485.
- ³U.S. Department of Labor, Railroad Technology and Manpower in the 1970's, Bulletin 1717, Bureau of Labor Statics, p. 7, year 1972 added.
- ⁴Railway Age, 1971 Review, January 31, 1972, p. 68.
- ⁵U.S. Department of Labor, op. cit., p. 36, with 1972 update.
- ⁶U.S. Department of Labor, op. cit., p. 32, with 1972 update.
- ⁷Levine, op. cit., p. 374.
- ⁸U.S. Department of Labor, op. cit., p. 11, with 1972 update.
- ⁹Wirtz, op. cit., p. 1212.
- ¹⁰U. S. Department of Labor, op. cit., p. 15, 16 and 17.
- ¹¹Gomberg, op. cit., reference 1, p. F-2.
- ¹²Miernyk, William H., The Economics of Labor and Collective Bargaining, D. C. Heath and Company Boston, p. 231.
- ¹³Welty, Gus, Interview of William H. Dempsey, Chairman, NRLC, Railway Age, April 24, 1972, p. 44, 45.
- ¹⁴Ibid, p. 43.
- ¹⁵Ibid, p. 43.
- ¹⁶Ibid, p. 44.
- ¹⁷Burgoon, op. cit., p. 491.
- ¹⁸Levine, op. cit., p. 37.
- ¹⁹Association of American Railroads, Status of Railroad Labor Agreements, handout of official railroad unions.

²⁰Burgoon, op. cit., p. 497.

²¹The six shopcraft unions are: Brotherhood of Railway Carmen of the U. S. and Canada; International Association of Machinists and Aerospace Workers; International Brotherhood of Electrical Workers; International Brotherhood of Firemen and Oilers, Sheet Metal Workers' International Association; and International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers.

²²The Railway Labor Executives Association members are: International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Firemen and Oilers; International Association of Machinists and Aerospace Workers; Marine Engineers' Beneficial Association; International Organization of Masters, Mates and Pilots; Brotherhood of Sleeping Car Porters; Brotherhood of Railway Signalmen; Railroad Yardmasters of America; Railway Employees' Department; Brotherhood Railway Carmen of the U. S. and Canada; The American Railway and Airline Supervisors; Sheet Metal Workers' International Association; American Train Dispatchers Association.

²³The Congress of Railway Unions members are: Hotel and Restaurant Employees and Bartenders International Union; Brotherhood of Maintenance of Way Employees; Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees; Seafarer's International Union of North America; United Transportation Union.

²⁴Meany, George, Outlook for the 70's, Speech in the 1970 Collective Bargaining Forum, Collective Bargaining Today, 1970, p. 64.

²⁵Chesser, Al, Project Seventies, brochure from U. T. U. President to all operating employees, 1972, p. 2.

²⁶Miernyk, op. cit., p. 224.

²⁷Chamberlain, op. cit., p. 185-186.

²⁸Business Week, Angry Unions Aim for a Deal with Nixon, August 28, 1971, p. 58.

²⁹Bok and Dunlap, Derek C. and John T., Labor and the American Community, Simon and Schuster, New York, p. 11-13.

The decade of the 1970's could be one of the most significant periods in railroad labor relations history. Unions and management indicate more cooperation and mutual desire to solve their joint problems than the industry has ever experienced. There are some deep-rooted problems that may be troublesome, but the parties seem to desire collective bargaining as a means of solving them.

Whether or not free collective bargaining will be allowed to continue in the railroad industry may well depend on how well it functions in this decade. Collective bargaining must find ways to solve the rail labor problems sufficiently to satisfy the increasingly high level of public expectations. Rail unions are here to stay. Railroads are here to stay as private business. There is still much room for improvement in railroad labor-management relations - and this leaves the system a vulnerable one. This may be the decade for railroads, both management and unions, to prove they are capable of managing their own affairs and negotiating any disputes through collective bargaining without outside interference.

Unions

One of the major union problems to be faced in the near future is stagnation. In most fields of railroad union activity, the picture is of listless fulfillment of routinized functions without novelty, inspiration, or

even reassessment of goals to accommodate the changing wants and needs of a younger, better educated membership.¹

New directions, new goals, must be found by union leaders who will once again ignite their membership into responsive actions. Many fields are open and in need of union's backing. Many social reforms could be aided by the rail unions. Pollution control, on and off the job, as well as racial, female, and other prejudices that exist in the union's membership are considerations; age of membership is also a problem. (See Exhibits XIII² and XIV³.)

Education of not only union leaders, but members as well in labor-relations activities could be a progressive goal. This would add greater understanding of the economic facts related to the ever-increasing wages and their relationship to the ever-increasing inflation. With the membership growing younger every day, the job of educating members to what the union can do for them will be critically important.

Bargaining goals must be found that will appeal more to the members than just the endless reruns of the sterile battle for the buck. The younger members want more than just higher wages; they already have higher average pay than most industry, and their desires will have to be met by the union leaders. If new and fulfilling goals are not found and placed on the bargaining table, the unions may find they will have more internal than external problems in the 1970's.

UTU President Al Chesser in his "Project Seventies" brochure, in which he states the plans and ideas of the union for the next decade, states what must come first in the quest for better union-management relations and that is:

"First of all, we must have better labor-management relations at the ground level. Not only will such improvements be good for every worker, they will be good for management and good for our industry. There must be a starting point for every project; and, as far as I am concerned, the starting point here is the creation of better human relations, better labor-management relations. The kind of program it will take to save our railroad system demands cooperative action by the carriers, immediately. You can't have employer-employee cooperation with the type of relationship that now exists."⁴

This statement could be expanded to cover the entire industry's labor sentiments not just the UTU. These ground-level relations that were indicated to be so poor are characterized by the following summary of most pressing complaints of general chairman.⁵

- (1) Deliberate contract violations and refusal to pay: "Sue us - collect it the hard way, " attitude.
- (2) Employees being held out of service for alleged physical disabilities despite medical evidence to the contrary.
- (3) Carriers refusal to hire new employees and then working present employees long hours.

- (4) Carriers harassing employees because of on-duty injuries.
- (5) Intimidation of employees.
- (6) Unwarranted and frivolous investigations.
- (7) Refusal to correct hazardous conditions, then disciplining employees because of injuries resulting from such conditions.
- (8) Encouraging employees to ignore transportation safety rules in order to get the work done faster.
- (9) Promulgating rules' notices during strikes. Seniority rules and craft lines ignored. Employees mistreated.

The rail unions want the railroad industry to grow. They all realize that through this growth they can also grow, as it will provide more and better jobs. They know for this growth to take place the railroads must make a profit. They also want and expect to share in the profits that the industry generates. Many of the rail union leaders have publicly stated that all they expect is a fair share of the profits for their constituents' labor and to be treated fair and reasonable.

Automation and technology, with its attendant attrition of jobs and potential massive dislocation of employment opportunities, will be a major bargaining issue in the coming decade. And the present short-range, stop-gap measures now being used may not be the ultimate answer. As C. L. Dennis, President, BRLC, puts it, "But as technology advances, as it inevitably must, we have to think about the millions of people who

will enter the work force in the years ahead. They have to live and make⁶⁹ enough to supply themselves and their families a decent standard of living. The solution is a brain-buster."⁶

And so, it can be seen that railroad labor is not just sitting on their hands demanding short-sighted gains. They are thinking, worrying, and planning into the future. One problem union leaders have is that they personally cannot move faster than their membership wants to. The employees must have the will to change. They must be convinced that to save their occupations, their railroad, they must accede to technological change. Some solutions to ease the technological advances being offered by unions are early retirement and shorter work week along with the established attrition - but to all union leaders, "the protection of people must come first for without them - there is nothing."

As many a union leader has stated, "The unions were not formed for the business of striking the railroads; but when you talk about the right to strike, you are talking about their very core of existence." The unions will continue to fight for their right to strike for the terms of employment for their members. They will also continue to resist compulsory arbitration for it represents to them the removal of their freedom to bargain with management.

The rail unions are in a neutral position on nationalization of the railroads. They have and will continue to use it as their threat against

compulsory arbitration. Their general opinion must best be expressed⁷⁰
by what Al Chesser has stated:

"Without question, I'm for the free enterprise system. I like the way it operates. But it's time we found out more about nationalization. Good or bad, let's know it. What I want is Congress to study what nationalization is and what it would do. We can all argue about it, but nobody is talking from facts."⁷

Mr. Chesser, speaking for the UTU and the industry's unions, summed up their thoughts with:

"We know that if labor-management relations are improved, as they should be on all of the carriers, collective bargaining will have a chance to work effectively as it did many, many years ago. This is the kind of relationship we are looking for. We ask no special advantages; we want only what is rightfully ours. We want an end to the warfare that has characterized this industry too long. The time has come for change."⁸

Major Collective Bargaining Issues

One major point that may be an important bargaining issue can be seen in the following statement by Al Chesser in early 1972:

"...we've reached the end of the line. We are not going to support any more carrier legislation, we are not going to cooperate with the carriers on any project or any issue until management/union relations are improved on the individual railroads. So far as I'm concerned - and I've spent 32 years in

this business - these relationships are the worst they've ever been, and they're the worst of any industry in this country. "9

He went on to explain that the management/union relations he was talking about was the first-line supervisors; not the railroad presidents, but those superintendents, trainmasters, and division engineers who deal directly with the union members. He wants his constituents treated like an important function of the company instead of like an undesirable. This may, in some form or another, be an important point in future negotiations.

Of course, the normal issue of wages and fringe benefits will continue to be a major bargaining hurdle. Now that the railroad worker has achieved the status of high wages, he will be intent on staying on top. Unionist will expect the five-and-a-half per cent allowed by the wage stabilization board plus considerable in fringe benefits. An effort will be made to get more out of the companies than that allowed due to the rise in cost of living, railroad retirement benefits and, in some companies, their hospitalization. Due to some work rules and headquarters changes, some men will be earning less take-home pay than before; this will place additional pressure on the drive for higher wages.

With the employment predicted to decline to about 540,000 by 1975 due to attrition and general railroad technological changes, it is somewhat obvious the unions will again make some effort to secure a

guaranteed minimum force. Some crafts have taken the brunt of the 72
railroad reductions and may be more adamant in their quest for some
form of job stabilization.

There will be a continuation of the work rules and craft jurisdiction
disputes in most negotiations as the railroads continue their battle on
featherbedding work practices. For instance, the sheet metal workers
who, through collective bargaining, signed an agreement allowing "inci-
dental work" rules to be eased a few years back have now changed their
minds. Now they want to withdraw any allowance of another craft to do
any work that was formerly theirs.

Other negotiating points will be any further attrition and the age-old
battle of safety on the railroads. Railroad retirement, and the financial
problems it is facing, could also be an important bargaining issue.

Mergers of the Brotherhoods

If in the development of rail unions there had been one union instead
of the multitude that exists, there would have been much more labor-
relations stability in the industry. Even today if the unions were equal
in stature and membership, the merging into a combined union would be
more easily accomplished. The merging into larger, more diversified
unions would make negotiations more homogeneous.

There are presently fourteen major national unions and at least
nine regional unions. (Exhibit XI) The large number of unions presents

a labor relations problem. With the many unions rivaling for memberships, jurisdiction and for labor prestige and power, the individual union's demands are often contradictory and inconsistent to the rest of the industry. Many call strikes to show aggressiveness, hoping to win something extra so they can say to the other brotherhoods, "We got more than you did."

By merging into larger membership unions, the pressure and impact of technology would be less. Instead of a change in railroad operations threatening the entire membership, it could be absorbed as just a small part of the whole organization. It would and could still be resisted, but the impact would be much less.

Mergers do appear to be shaping up in the industry. Of course, the UTU has already united the operating unions. The six shopcraft unions have been negotiating nationally for some years. The Congress of Railway Unions with its six unions, and The Railway Labor Executives Association with its fourteen unions, is another possible lineup of mergers. Or if the craft classification to union organization must remain, there are many possibilities that would still substantially reduce the number of individual unions.

Then there is the social, financial, and union leaders' personal ego side of union mergers. In merging several unions together, there would be natural savings in combined operations, but reductions in the

people are needed. This to some unionists is against the very principles⁷⁴ they stand for. The mergers would put many unions, especially the smaller ones, back on a sound financial basis. The problem of the union officials of the merging unions is a serious one. After being the president or vice-president of a union for many years, it is not easy to step back and let someone else take over. Each thinks his union will not receive adequate representation. This is solved normally by carrying the official, at his old salary, in the new organization. This eliminates some savings but provides a more agreeable atmosphere.

Strike Policy

The railroad unions in July, 1971, began a new approach to striking for their demands. The UTU struck only two of the nation's railroads, the Southern and Union Pacific. This effort was made in an attempt to eliminate governmental intervention under the "national emergency" clause of the RLA. The UTU then spread the strike to eight more railroads. This was the first time that unions had struck separate selected railroads over a national dispute. The carriers did take the case to the Supreme Court but the unions received a favorable opinion, thus establishing a precedence for future strike policy.

The policy of whipsaw strikes of this nature give the unions several advantages. Of course, number one is that their money continues to come in from those still working on the non-struck railroads. Secondly, the strikes will be more effective with the threat of government intervention

lessened. Thirdly, the unions may be able to better swing public opinion to their side by not crippling the nation's entire economy.

There may be one backlash from the whipsaw strike action - that being dissension of the workers on the struck railroads. These workers must take the brunt of the financial loss for all railroad employees' gains. The attitude may arise of "Why me and not some other employee of some other railroad?"

Collective Bargaining in the Next Decade

Collective bargaining in the railroad industry is an absolute must of the rail unions. Its only apparent substitute is compulsory arbitration. Due to the unions' past actions and their public display of apathy towards any form of change, even helping to save a floundering company forces the unions to not submit the final decision to a neutral board. For this reason, whenever compulsory arbitration comes to the forefront in a deadlocked dispute, the unions will immediately issue statements backing nationalization of the railroads. There will be considerable discussion of compulsory arbitration and nationalization in the next decade.

One big fault of both management and labor in past bargaining has been the lack of discussion prior to contract talk time and almost no continuing discussions between agreements. This has been solved on a

trial basis with the National Railway Labor Conference-United Transportation Union committees now studying work rules and crew headquarters changes. If these joint management-union committees function properly, they may become established on a more permanent basis and expanded into other problems and other unions. These joint study committees may even be established on an individual railroad basis or even one per railroad division to help solve local problems before they progress to the dispute stage.

Collective bargaining in the next decade by the rail labor unions could reach a historic high in not only harmonious negotiations, but in achievements, too. If rail union leaders enter negotiations with a "Let's talk" attitude, they will more than likely be met with a "Let's see how we can improve our railroad together and we both can share the monetary savings" attitude from management.

Management

In the work rules and fireman's labor relations battle of the 1960's and early 1970's, the railroads had no choice but to act and act strongly! They were up against the wall. It was either rid themselves of costly problems or go out of business and submit to nationalization. Presently, most railroads are in a much better financial position; so, it is time for decisions once again. Do the railroads stand still or continue to push for further technological changes? Can they afford to ever again

stand still while the rest of American industry modernizes? How must⁷⁷ management go about capitalizing on the good labor relations that have developed with the unions in the last few years?

The management of United States railroads does not have an easy task, as the responsibility for the industry's success or failure is on their shoulders and not the unions. The 1963 Presidential Railroad Commission said it clearly in:

"In a private enterprise economy, the American community places the major responsibilities appropriately on management to divine the future, to develop and adopt new technology, to search vigorously for new markets and to improve the quality of service to the passenger and shipper. It is far easier to administer by rule a fixed and unchanging organization than to stimulate and guide an organization to pioneer new developments in a changing world."¹²

Therefore, it is today's railroad management that must "stimulate and guide" our industry to better labor relations which will, in the long run, make a more profitable and viable industry.

Two prominent internal problems must be dealt with by the railroads in the coming decade. Both are related to and have a direct effect on labor relations. These are:

- (1) Labor relations dealing has become a lawyer's battleground.
- (2) Lower-level management's training and pay.

Labor relations in the railroad industry has become a lawyer's battleground. No longer is collective bargaining the discussion of working conditions and pay between employer-employee, but a continual set of legal maneuvers. It will be up to management to make the first move to reverse this trend. Lawyers are necessary in labor relations, but their duties should be as Andrew R. Cecil, Executive V.P. of the Southwest Legal Foundation, states:

"The role of the lawyer engaged in the field of labor law is to prove that by interpretation of existing laws a spirit of common purpose can satisfy the common aspirations of labor and management. Understanding of law and sharing of legal experience and knowledge can prevent unnecessary disputes. . . . some think it is unmanly to agree on a local issue before everyone else does, the lawyer can enhance the pride of local leaders in being first to reach a settlement. "13

First-level management, the railroad people who daily deal with union members, are undertrained to deal with labor relations. With no formal training at all, he must make rule implementation decisions while at the same time trying to get some work done. Many times the new rule changes are not clear, even to those at the bargaining table

who wrote them; and yet it is the railroad supervisor who must make the first interpretation of what the new rule changes mean and how to implement them.

The recruiting and training of good low-level supervisors is becoming more difficult. In the past, most positions were filled by promoted unionists who, by experience, had learned the ropes and had shown management talents. Now the employee does not want the promotion. Often the pay offered for the position is not competitive with the one he has for much less responsibility. Many line management positions require the individual to work long hours with few days off, devoting nearly all his waking hours to the railroad and little to his family. This is not compatible with present life styles and is not competitive with other industries.¹⁴

Railroad Leader's Perspective

In a word, railroad management's perspective of the next decade could be said to be optimistic. They are optimistic towards business and profits, as well as the industry's labor relations. Each has reservations or conditions that must continue as they are today for their optimism to become a reality. There was little doubt in their minds, however, that the decade ahead was going to be a good one for the railroads.

The general opinion of the 1960's was that it was a bad period in 80
railroad labor relations history. Many mistakes were made by both
management and unions. Management's major error was when they
made the decision to fight out the fireman's and work rules disputes in
the courts instead of at the bargaining table. There was little labor-
management discussion of the issues during the past decade. This was
the major mistake made by the two parties. Many disputes on minor
issues could have been solved, but past animosities prevented the
parties from even discussing possible alternatives.

The optimism for the future comes from a changed attitude by
both parties. This new attitude seems to be plainly recognizing they
must get along, each recognizing the necessity of the other party. Add-
ing to this was the fact that the present leadership of both the unions and
the national carrier negotiators are good men. They are able to discuss
the issues and come up with reasonably recommended solutions. They
have the ability to keep everything out in the open. There does not seem
to be the old "hidden-clause" type of dealings in the negotiations.

Management saw the operation of the Railway Labor Act with mixed
reactions. On one side it was bluntly stated the RLA and NMB should be
replaced by putting the transportation industry under the Taft-Hartley Act;
on the other side, it was pointed out that the NMB has just been rejuvenated

with personnel and that the RLA will work once the parties begin discussing their problems through collective bargaining. It was pointed out that the backlog of cases before the Adjustment Board was being cleaned up by joint agreements between union and management.

Most believed we have seen the last of the nationwide strikes, but that some regional or whipsaw strikes would continue. Continued problems will exist in the implementation of cost-saving technological advances. Employment will not decrease as sharply as in the past but will continue to decline through attrition. The railroads as a nation are about to reach their lower employment limit. Of course, it was also pointed out that the continued rise of wages is a real profit-squeezing problem. For every five per cent raise given in nationwide bargaining costs the railroads \$350 million. Quite a sum when you consider that the nation's railroads' net income for 1971 was only \$391 million.

Railroads are beginning to work on their internal labor relations problems. Presidents are issuing open letters to all employees, as well as personal instructions to officials that employer-employee relations will improve, that both must work together to make "their" company once again profitable. Many standing committees are being established on a local basis to study certain work rule implementation. These committees are manned by both management and union. Many plan to expand these committees to other labor-relation problems in the future.

Work rules and the continuing institution of new technological advances will be the biggest issue for management in the coming decade. The industry and its technology is changing so rapidly no one could predict what railroad operations, communications, maintenance, or any other phase may be like ten years hence. Some of the issues to be bargained for now are: (1) the lengthening of the basic operating work day (on a mileage basis) from 100 to 160 miles; (2) certain crew consist requirements in some states; (3) contracting of some miscellaneous jobs; and (4) establishment of a general purpose mechanic job classification, thus cutting across some craft lines.

Of course, there will be the issue of wage increases. Management will begin bargaining at no increase but will then move to the President's recommended five and one-half per cent. The reasons for their inability to go higher will fall into several of the following: (1) increases in cost of living due to higher wages will raise prices even more, thus the railroad and employees both lose; (2) productivity has not improved other than that of the improved technology which the company provided; (3) their inability to pay and the ever rising cost, due to wages, are causing profits to deteriorate to the dangerous level; and (4) that the average wage of railroad employees is already higher than that of manufacturing.

Management, in their bargaining, in the coming ten years will be more agreeable to sharing the savings of technological changes provided unions are willing to agree to the instituting of them. Attrition is also a firm part of all railroad work rule changes. Management probably will not agree to any minimum work force, but will continue to reduce only by attrition.

Railroad mergers have been resisted vigorously by the unions. Management may wish to negotiate the easing of these tensions on mergers. The carriers hope through some form of cooperation to get the unions to combine forces in the backing of mergers - to help make one strong railroad company out of two or three that are in financial trouble.

Inflation, Social Environment, and Technology

Inflation and its natural result, rising costs, are a serious and continuing problem for the railroads. To combat this eroding away of the already slim net profits, the railroads must cut costs. They will continue this attack on rising costs in two major areas: technology and mergers.

The railroads have averaged \$1.4 billion per year in capital investment expenditures since 1957. Added to this figure should be \$400 to \$500 million in rented equipment plus \$3.5 million per month for computer rentals. Technological advances in the next decade will occur in almost all phases of railroading. Some of the more prominent will

be: (1) computers - to include automatic car identification, dispatching⁸⁴ and scheduling centralized traffic control, automatic classification yards; (2) communications - expanded use of microwave; (3) diesel locomotives - second generation power that will be more powerful and more maintenance free; (4) piggy-backing; (5) unit trains; and (6) continued mechanization of maintenance - both in mechanical repairs and maintenance-of-way.¹⁵

Railroads will continue their aggressive marketing approach begun in the 1960's to find new business and to regain business lost to competitors. New, younger, better educated, better trained personnel will be recruited to aid in accomplishing this task.

The railroads will continue to invest heavily in technological research and development, spending as much as \$60-\$70 million per year in the development of new equipment and techniques.

The structure of American railroads will also continue to change through more mergers. Since 1957 there have been 17 significant mergers involving Class I railroads. Although railroad management believes the ICC moves far too slow in the approval of contemplated mergers, the rail unions believe they are moving too fast. Railroads that are not financially sound, and territorial conditions and competition show their only salvation is to merge with another railroad must be allowed to do so.

The railroads will continue to reduce their mileage through retirements and abandonments of unprofitable trackage, thus reducing cost of upkeep on unused and unneeded, as well as taxation of, non-income property.

Railroads are now and will continue to improve their facilities in pollution control. Many new developments in wastes, diesel oil, and other environmental issues have been made. Others will be developed and instituted in the decade.

Unity Among the Nation's Railroads

In 1963, when the nation's Class I railroads united to form the National Railroad Labor Conference, there was a dire need of unity. That need still exists today and may become even more prominent in the next decade. By negotiating nationally with a common expiration date for all union contracts, the railroads have solved many of their old vexing problems. By negotiating as a unit in the future, they will be able to move forward as an industry. The weak railroads will gain the same labor relations advantages as the strong. The competition between unions from one railroad to the next will be virtually eliminated. Although local railroads or regions can still undermine nationally negotiated gains, as did the Pennsylvania RR, New York Central RR, and a few other Eastern roads in 1965 in order to get the unions to remove their resistance of the contemplated Penn-Central merger, the unified bargaining has worked wonders in stabilizing labor relations in the

industry. This unified action under the National Railroad Labor Conference should continue to be effective in the next decade. To railroad labor relations, one of the most important actions that the NRLC and the railroads, on an individual basis, are doing is to continue the established committees now discussing work rules and expand these committees into other dispute areas with other unions.

The railroads will continue their battle against unfair and unequal taxation; they will continue to pursue legislation that will alleviate pricing restrictions. Otherwise, railroads will strive, through every possible means, to remain a profitable, "private" enterprise to resist nationalization with a sound transportation system that is capable of serving the public's needs.

Approach to Union's Strike Policy

When the unions began the selective strike policy in 1971, the railroads were faced with a unique problem. How could they hope to keep one or two railroads who were being struck and, therefore, suffering great financial losses from yielding to the unions' demands, thus establishing precedence for the rest of the roads' agreements?

The carriers responded with a new and effective tactic. The carriers invoked a mutual aid program which paid substantial amounts to the struck railroads. At the same time, all non-struck railroads unilaterally effectuated the work rule changes and also eliminated

several others. The UTU, still wanting to stay away from government ⁸⁷ intervention, issued orders to their employees to continue to work under the new rules.

Under this plan, the railroads did stay united (except for the Chicago and North Western who was in a cash emergency) and the struck railroads suffered only minor losses. The Southern, for example, was paid \$650,000 per day, reducing its loss to only \$150,000 by the other railroads.

Collective Bargaining in the Next Decade

Collective bargaining in the railroad is an absolute must for management. Its only alternate, compulsory arbitration, may look appealing, but it can only mean the failure of the free system of bargaining for the conditions of employment. When this function is taken over by a third party and this third party is the government, then the industry is just one short step away from nationalization. The railroads want to protect their private enterprise system - thus they will work a little harder in the next decade to make collective bargaining work.

With the establishment of the aforementioned committees, the bargaining at contract time should be made much easier. The lengthening of the advance notice to any change in working conditions will enable both sides to better prepare their parties to them. With the apparent changed attitude on both sides of the bargaining table, a more amicable

settlement of most disputes should be reached without the services of the NMB. With the committees on an individual railroad, the minor disputes and claims should be reduced, thus alleviating the jamup in the National Railroad Adjustment Board.

Collective bargaining by the railroads will be more open with the unions. Now that management must allow attrition and now know what some work rule changes can save them, since they now have some actual facts and figures, they will be able to lay their cards on the table. Thus, the unions will be able to share in not only the decision in the institution of technological advances, but share in the savings by increased benefits to their constituents.

Government

With management's drive for efficiency and labor's objective of job security and desire for status quo, in an era of substantial technological change, high employment and high competition, the government has become more and more involved in the railroad labor relations disputes. Government's dilemma is how to control railroad collective bargaining without being forced into a position of complete authority.

The Railway Labor Act does not compel, nor was it intended to, the parties to reach an accord. The Act places maximum reliance on self-determination by labor and management in the collective bargaining process. The problem to be solved by government then is how to

generate public pressures on the parties to contribute to their reaching⁸⁹ just and equitable settlements. This is far easier said than done. Many legislators and a great deal of the public sentiment are completely fed up with railroad problems. Of these problems - labor disputes ranks number one.

The legislature will not be very patient with rail strikes in the next decade. Any that do develop will be rapidly handled with ad hoc legislation setting a longer bargaining period or will establish one form or another of compulsory arbitration. In some and maybe most disputes that involve wages and work rules, the legislature will divide the two disputes as they did in 1970-71 UTU settlement. In that dispute, the legislature actually established the wage settlement. This may be a precedence for the future but more than likely, they will have some other government agency set guide lines and then force the parties to negotiate the actual figure.

The President will also have little patience with rail labor problems. President Nixon appears more inclined to let the parties continue to seek their own economical solutions than many of the successors. We may see a definite tendency in letting the parties "try" to find a mutual settlement; but if they cannot, then a strong governmental action, either from the legislature or President, will result.

Two categories of governmental officials were interviewed; legislative labor assistants and personnel of regulating agencies. First will be the opinions perceived from the legislative branch.

The general opinion of railroad labor relations by the legislature is that they are poor. Legislators are sick and tired of railroad disputes coming to Congress for solution. They are tired of the parties always passing the buck to them to determine a "fair and equitable" settlement, then both complaining about the outcome. The mood of the Congress, in one opinion anyway, was: "If the railroads cannot solve their own labor problems, we may soon pass legislation that will force them to do so."

The legislature came very close to passing dispute-settling legislation in the last Congress; and if there is a continuation of labor problems, it will probably pass next time. A definite impression was felt that this is the general opinion of Congress and not just an idle threat.

The Penn-Central's problems will be a real crisis in the next decade. Many Northeast railroads are in financial trouble. These problems may cloud the entire national railroad picture. As one official put it: "The Penn-Central problem is like a cancer to the industry."

What the legislature does in this situation may affect all the nation's railroads in all phases of the industry, including labor relations.

The government agencies had quite a different attitude towards railroad collective bargaining. There, opinion was much closer to management's general optimism. They felt that the Railway Labor Act was working and the revamped National Mediation Board was now functioning well. A statement was made that the RLA procedures solve 96 per cent of all disputes, but the 4 per cent left receive a great deal of publicity and do tend to be the larger disputes.

The industry problems, as seen by the agency leaders, have been the parties' past resistance to change. It was pointed out this is referenced to both sides. Management, as well as unions, has wanted status quo on the "good old times." Most saw the new leadership of the NRLC and its new role in the industry as a key factor in the current change. This also led them to believe the present attitude by both would continue.

Many stated the two things the carriers need most is to: (1) improve labor relations skills of local level management - otherwise, improve grievance resolving, and (2) continue and expand the discussion of their mutual labor problems; for as one official said, "Neither party can have a collective bargaining definition of 'you bargain and I'll collect'." Each party must recognize the other's problems and each must enter bargaining knowing they will have to give as well as receive in the ultimate compromised agreement.

Public opinion of the railroads and their unions is not a good one. Most people believe "they got themselves into this mess, let them get themselves out." Most people are very opinionated about the railroads and their labor problems; but very few actually know the facts or even the real problems. They tend to still remember and associate the railroads with the "good old days."

One of the railroads' real problems in modernizing their rail network has been, and still is, this historic tie to the public. Whenever a railroad makes an effort to retire an unprofitable branch line or unneeded trackage, they receive an unproportional amount of public resistance. There are several reasons for this public reaction: (1) the railroads in many cases pay a very large percentage of town and country taxes; (2) the railroad still symbolizes the community's opportunity; and (3) the unions' natural job loss objection, thus they enlist the aid of the local public as well as influential politicians.

The ICC, with their antiquated retirement-authorizing procedures, have been the real basis for this problem. The procedure for abandonments for a railroad takes many years of legal maneuvering, hearings, volumes of facts and figures, and political bargaining. While all this complicated procedure is taking place, the railroad is required to continue operating and maintaining the trackage and, of course, absorbing the losses incurred.

The power of the ICC to act so slowly and the lack of any action ⁹³
by the legislature to alleviate the situation may invoke the courts to take
action. Some of this can be seen on the east coast where five railroads
are in bankruptcy. Federal courts have stepped in and are reshaping
the railroads themselves. In many cases, the judges are not waiting
for ICC approval of abandonment petitions, they are issuing court
orders to the railroads giving them the authority to do so in the guise of
keeping the railroad profitable. ¹⁶

The railroad unions still have a very poor public image with the
general public. The carriers have improved their image greatly in the
past 15 years with a great deal of advertising as well as general good
public image presentation. The next decade will show evidence of the
unions bettering their image. This will mostly be done through present-
ing a better public image. They will present the image of "wanting to
help the railroads out of the terrible mess poor management got them in-
to." They may begin some good neighbor-type advertising, but mostly
they will concentrate on strengthening their political ties. The railroads
themselves will suffer some image setback with all the troubles the
Penn-Central is experiencing and may itself have to start rebuilding
public confidence again.

The public's as well as political temperament might best be
expressed by:

"Our level of aspiration rises perhaps more rapidly than realized progress. In this situation, there is always some feeling of impatience with the degree of progress of private institutions and a desire for increased government control." 17

Inflation and Controls

Inflation will continue to be one of the major retardants to railroad progress in the next decade. The ever-increasing cost of all products and supplies plus the increase in wages, even if only raised the equivalent of the cost of living, will add even more pressure on railroad management to economize. With this continual rise in costs, problems will be ahead for the rails in their labor relations. Continued technological advances in manpower replacement is their only means of reducing cost. All other avenues have either been exhausted or are blocked by one regulating authority or another.

Phase III wage and price controls are at this time a question mark in their effect on upcoming negotiations. On one side they may be effective in holding down wage settlements, but on the other side they may restrict the flexibility of both parties in their negotiations of further changes in work rules. As stated before, the companies are in the opinion of sharing the savings with the employees if work rules are allowed to be instituted. However, if controls prevent this, then there will be another governmental obstacle in railroad collective bargaining.

One of the more encouraging outlooks is the Surface Transportation Act of 1973. If enacted, STA would be the first large-scale government aid extended to the rails since the 19th century. The decision, in 1970, to seek such aid was the reversal of decades-old railroad industry policies. The Act will alleviate many other railroad problems in addition to financial aid, as can be seen in Exhibit XV.¹⁸ The Surface Transportation Act received the backing of the labor unions late in 1972, and many now feel the bill has good chances in the legislature.

This may be the legislature's means to fulfill their duty to give the railroads the aid they need in reshaping their rail systems, particularly in the northeastern portion of the United States. To do this, the legislature must adopt a national transportation policy and reform regulatory procedures that are generally counterproductive. The Surface Transportation Act seems to fulfill these criteria.

In today's activity in environmental studies and problems, and their probable increase in the next decade, the legislature, as well as the President, realize the total necessity of keeping the railroads in operation, for the railroads are the least polluting means of transporting heavy tonage goods. The railroads are also spending

considerable sums of money to correct those environmental problems 96
that do exist. To do this, they realize that the railroads must be
viable. They must be a private profit-making industry. In order for
all this to occur, they must be free to bargain collectively with the rail
unions with a minimum of governmental interference.

Conclusion

It is common knowledge in the industry, with the unions,
management, and governmental bodies that these idealistic goals must
come into being; but, how is the question that the "three" parties must
find a solution. This, as recognized by all parties, is not going to be
an easy task - nor, rapid procedure.

It will be another five to ten years before the financial benefits
of the new work rules, due to the attrition clauses, will begin to help
the railroads. Five northeastern railroads are now in bankruptcy with
several midwestern roads in shaky financial problems. The next five
years may be very critical to many others. A big financial benefit was
received when the government took over the railroad passenger business
through AMTRAK. These savings are making some roads profitable
now instead of in the "red," as they would have been if forced to continue
their former passenger operation.

With what appears to be much improved relations with the unions
and a unified railroad management, the next decade shows promise of

improvement in the industry in many ways. With the addition of attrition, the path to the revision of archaic work rules seems to be insight. The entire atmosphere of labor relations has improved with management's unity under the National Railway Labor Conference and its new approach to the instituting of technological changes, as well as the addition of joint study groups and continuing talks with the unions. It can be said the whole industry has begun to discuss their mutual problems with each other. It might be added that they are beginning to realize that the problems are mutual, as railroads' profits are as important to the labor unions and employees as to management. Realization that there is no future of jobs in a company going broke and labor costs are a critically important factor in those profits is now evident.

- ¹Raskin, A. H., The Labor Movement Must Start Moving, Harvard Business Review, January-February, 1970, p. 111.
- ²U. S. Department of Labor, op. cit., p. 42 with 1971 update.
- ³Ibid, p. 42 with 1971 update.
- ⁴Chesser, op. cit., p. 2.
- ⁵Chesser, op. cit., p. 4.
- ⁶American Labor, BRAC's C. L. Dennis, July-August, 1970, p. 30.
- ⁷Welty, op. cit., p. 50.
- ⁸Chesser, op. cit., p. 8.
- ⁹Welty, op. cit., p. 44.
- ¹⁰Business Week, op. cit., January 23, 1969.
- ¹¹Morgan, op. cit., p. 97.
- ¹²Report of the Presidential Railroad Commission, Washington, D.C., 1963, p. 184.
- ¹³Cecil, Andrew R., Labor Law Developments 1971, Southwestern Legal Foundation, 17th Annual Institute, Dallas, Texas, p. iv of Foreword.
- ¹⁴American Association of Railroad Superintendents, Annual Association Meeting, June 13-15, 1972.
- ¹⁵U. S. Department of Labor, op. cit., p. 9.
- ¹⁶Loving, Rush, Jr., Railroads Back on the Track, Fortune, December, 1972, p. 175.
- ¹⁷Sloane, Arthur A. and Whitney, Fred, Threatened Private System, Harvard Business Review, January-February, 1970, p. 118.
- ¹⁸Beddow, Reid, Washington: In a Crowd Legislative Hopper, STA Remains the Big One, 1973 Outlook, Railway Age, January 29, 1973, p. 48.

In conclusion, the railroad collective bargaining problems and progress of the past decade, and their projection to the coming decade, may be broken down into three quite different categories. These are (1) the problem, (2) possible solutions, and (3) the author's recommendations. The conclusion is presented in this manner, as it is felt the rail industry's collective bargaining problem, as developed in the preceding pages, must be separated from the multitude of possible solutions that may remedy them; and since some of these possible solutions are either impossible or impractical, the thesis will offer reasonably feasible recommendations to be taken by the parties in the next decade to ensure better employer-employee relations in the future.

The Problem

The collective bargaining problem in the industry is in seven distinct parts: (1) right of either party to say "no" without question, (2) the lack of trust of the parties, (3) the multitude of union crafts, (4) governmental intervention, (5) mergers of financially-troubled carriers, (6) the right to strike, and (7) the lack of labor relations experience in lower-level management and union officials. These are not necessarily in order of importance regarding their effect on railroad labor relations, but it can readily be seen that each category has its own effect upon the industry's labor relations. Each is

interdependent upon events in other categories; therefore, it would be impossible to give a short statement of the overall problem.

A basic freedom of American unionism and collective bargaining is the right to say "no" regardless of justification or lack of it. The fact that a union or management can threaten to shut down a railroad with little reason and no real responsibility, other than to its members, is a perplexing problem to the carriers and the public. Even though the government intervenes in a few days, the public is still inconvenienced. In the American economy, nothing can make an employee work for an employer if he does not want to. The problem arises when in exercising this freedom to strike at will without just cause, the employee interferes with the rights of the general public to have the use of a service vital to its health and safety.

The lack of trust between union and management, in some cases, is deep-rooted. Many union, as well as carrier, leaders have many labor relations battle scars that have not healed. This trust of one another is not an easy thing to regain. Once a party is betrayed, or thinks he has been, in a bargaining session, he will have a frustrated, disgusted, and disillusioned feeling. These feelings become ingrained in the mind of the party betrayed - it is not easy to forget them. In many cases, his reaction may be that of anger, resentment, and even a burning desire for retaliation. When you add to this theory many years of bargaining with many unions and many companies, it is clear that

a possible buildup of resistance to anything resembling a sensible discussion of the issues could occur. How fast can past scars heal? When one party gets the best of the other for a prolonged period of time, when can true collective bargaining take place?

The fact that some carriers must negotiate with many unions is so complex a problem that its resolution may have to come before any true collective bargaining can take place. The merging of unions is complicated by their great differences in size as well as the RLA restriction of crafts. Closely related to these external problems is the internal fighting between the unions over job jurisdiction. This is especially true in newly established positions, that are a result of new technology, that may combine two or three crafts into one operation.

Governmental intervention and control of railway operations, as well as collective bargaining in the industry, is a heavy burden for all parties. The precedence of intervention is too deep-rooted to release. In fact, it seems to be becoming more intense as time progresses, for it seems there are too many political ties to an industry as vital as the railroads for the government to ever let it become a true "free enterprise." So, the industry's problem is not how best to rid themselves of government controls and interventions, but how best to influence the legislatures to adjust them enough to allow the carriers and unions to function freely in collective bargaining.

The mergers of financially-troubled railroads is a complicated ¹⁰² problem for all parties. For management, it is a logical, simple and necessary cost-saving reorganization of the profitable portions of the merging parties and retirement or abandonment of the nonprofitable portions. For the unions, it means the cutting of their lifelines - reducing employment. To the government, it means that a vital transportation service, to a community, may be discontinued, thus depriving a tax-paying citizen of his right to the service, regardless of its profitability. Therefore, the ICC, the agency with complete authority over the approval of mergers, acts with great caution. They conduct detailed hearings and procedures before ever sanctioning a merger. The industry's problem with this approach is that it is required to continue operations on an unprofitable line while the ICC continues to deliberate the case. The longer it takes the ICC to decide a case, the more financially troubled the merging parties become prior to their unification, thus adding a great deal of strain to their reorganization.

The unionist's right to strike in a nationally vital industry is also a perplexing problem. It is easy to say that an employee, of an industry as controlled as the railroads, does not need the right to strike, just force them to submit to compulsory arbitration if they cannot come to a mutual agreement by bargaining with management. The problem is that without the right to strike, or at least the threat of it, there can be no true collective bargaining. If the parties are always forced to

compulsory arbitration, then why should they compromise any demands,¹⁰³ regardless of how extreme they are, prior to a third-party mediator compromising them to a neutral solution? So, the problem is: How can the industry maintain the union's right to strike along with the carrier's right to impose technological changes without disrupting the public's right to rail service?

Railroad management's and union's internal personnel training in labor relations is an additional problem to be solved in the near future. These are the first- and second-line supervisors and union stewards or representatives who conduct the day-to-day railroad operations; they are the employees who must first implement new or changed work rules. They are the railroad people who must serve the public, sometimes in spite of rules and regulations. These supervisors need to know more about labor relations on both a national and local level. The basic problem appears to be information, and then experience in working together.

Possible Solutions

Both the unions and carriers must become more responsible for their labor relation actions as neither party is independent of the other. As previously stated, any labor problems in the industry must be shared equally by the parties. The success or failure of collective bargaining in the industry must be shared by both sides of the bargaining table. When a party to a dispute has the right to an unqualified "no," it

must be responsible enough to the industry to have sound reasons, while¹⁰⁴ at the same time remembering the rights of all parties concerned. They should also remember that true collective bargaining has very few absolute no's and a great number of compromised yes's.

Experience of successful agreements and time may be the only means of building trust back into railroad collective bargaining. Another might be the injection of new blood, such as new leaders on both sides, thus eliminating the past buildup of mistrust as they would have no old battle scars to revenge. This can be seen in the change of atmosphere and cooperation since January, 1972, when new leaders took over the UTU and the NRLC. The progress the industry has made in the last year in labor relations is directly proportional to the trust new leaders have in one another's word. They know that when they make an agreement, there are no hidden clauses, no tricky wording, and no double talk as was the custom in past negotiations.

If this attitude of trust and cooperation can be passed on to rail management and union leaders, labor-management relations would very shortly be at an all-time high. There is nothing more important than to make sure neither side thinks the other is being unreasonable. Therefore, it is clear that if collective bargaining is going to succeed, there must be a mutual trust of one another.

There are many possible combinations of mergers of existing unions that would be desirable for the industry and advantageous for the individual unions. One seemingly ideal alignment is shown in Exhibit XVI. In this plan there would be four major unions. This plan would comply with the criteria of "like crafts" since the headings could be in the very general terms shown. This would give a more reasonable size distribution to the unions.

Operating Union	169,000
Clerks and Station Employees Union	143,000
Shopcraft Union	108,000
Maintenance Union	82,000

Another combination could be the Congress of Railway Unions and The Railway Labor Executives Association, now the legislative programs representatives in Washington. Of course, these organizations are not by crafts and, therefore, would have to realign their memberships or get a legislative change in the RLA.

In any plan there will still be the problem of the small, nine-to-twelve, regional and local unions. These unions could join one of the major groups as a separate division, as each present union would be, under the reorganized unified union. With this divisional-type organization, each craft could still retain its identity and, therefore, feel it was receiving fair representation in the unified organization.

Of course, ideal collective bargaining in the railroad would be without government intervention. But as long as the government has the many controls over the operation of the rails, it will be forced to intervene in their labor relations; for without the complete freedom of a private enterprise, the carriers are not free to manipulate their business to freely negotiate labor's demands. Unions who are not allowed to strike the industry lose their most powerful weapon; therefore, they cannot bargain completely free. When you add these two restrictions together, you have every important issue taken back to the organization doing the controlling - the government.

As stated before, the question for the industry and the public is not how to eliminate governmental intervention, but in what form should this intervention be devised to best assist the parties in bargaining their disputes collectively. Recommended is the third-party neutral. In a two-party dispute, there will always be impasses reached. A trained neutral can aid in solving these impasses in one of two ways. First, he could be highly knowledgeable in the problems involved and through his experience decide which party was in the right. He could also decide a middle road solution somewhere between the parties' extremes. Otherwise, decree the terms of settlement of the dispute.

Secondly, the neutral could be trained in process consultation and not necessarily in railroad operation. He could have a limited amount of experience in labor relations, but even this would not be necessary.

His job would start with the very first negotiations of the parties and his¹⁰⁷ only function would be to keep the parties talking about the issues. He would not decide who was right or wrong. He would not decide the middle of the road settlement. He would only point out certain clarifying statements to make sure both parties were understanding each other; otherwise, his job is to keep the parties discussing and compromising the issues and understanding the other side's point of view and reasoning.

Neutrals such as these, whether government or private, once they earned the respect of the parties, would be invaluable to railroad labor disputes settlement. For in far too many negotiations the parties are not discussing the issues, they are making no effort to understand the other side's viewpoint, they are just sitting and waiting with their extreme demands in hand for the government to step in and give them their fair share.

The financial aid the railroads need to turn the corner and start back up the ladder of profitable operations may come in the Surface Transportation Act of 1973. As shown in Exhibit XV, the Act will aid the rail industry in many more ways than just equipment financing. Of these the most important are probably the elimination of discriminatory taxation and the instructions to the ICC regarding the abandonment of unprofitable portions of railroad systems. With these two decrees, which the railroads have been fighting for over many years of operating

unprofitable trackage while waiting for the ICC to act, they will have an¹⁰⁸ opportunity to trim their systems to a money-making size. This will, as a sideline benefit, give them the financial freedom to bargain with the unions with a surplus of money instead of always agreeing to pay increases and not knowing where the money will come from. This will give railroad labor-management relations a healthier atmosphere in which to work.

The right to strike is so vital to unions' existence, there can be no substitute if the industry is to have free collective bargaining. Many alternates to the strike have been recommended, and each will be discussed in relation to its possible effect upon the industry and collective bargaining. One such alternate to the elimination of industry-wide strikes resulting from nationwide bargaining would be to segment this bargaining back to the individual railroads. This, of course, would eliminate national strikes but the industry turmoil would be enormous. The nation's railroads, with some individual railroad on strike almost all the time, would lose its operating efficiency. The whipsaw effect from one railroad to another and from one union to another would cause even greater labor relations problems than now exist.

Compulsory arbitration, whether it be voluntary or legislated, would eliminate any effective collective bargaining of the issues by the parties of the dispute. What incentives would the negotiators have if they know a mediator is going to enter the dispute and decide the ultimate

compromised settlement? Even with compulsory arbitration, you cannot ensure a strike-free industry. If the employees are not happy with a settlement, no matter how fair and equitable it may be, they will still feel they must strike to show their displeasure.

Nationalization of the nation's railroads is another recommended solution to the labor problems. This is seemingly an impossible viewpoint to understand. Today, government employee unions are becoming the most adamant in all of industry. The experience of government operation of the railroads in World War I was a disaster. There is just too much red tape involved in the government to efficiently run the nation's railroads. There is no doubt they could operate the railroads, but not profitably, and the nationalization would be an enormous tax burden to the public. This tax burden would come with no guarantee of any better rail service, nor even a more strike-free industry.

Thus, it can be seen that the right to strike must remain a vital part of railroad collective bargaining. It is not, as the past has shown, a perfectly used instrument. Many unions use the strike to show their power, to show management their indispensability, and even at times a means for labor leaders to show their constituents they are not giving in to management. But even with its many faults, it is still the only means an employee has to tell his employer that he is not satisfied with the conditions of his employment.

Lower-level management and first-line union representatives, 110
with their problems of poor cooperation, animosities, and past labor
practice scars, is one of the most perplexing problems of the industry,
and one of the most important to solve. It is easy for a carrier presi-
dent or a union president to say, "We are going to have better labor
relations on the ground level," but it is another thing to get it done.
It is easier to say, in an agreement, how a certain operation should be
performed than it is to do the job in the field. Conditions are never
quite the same as at the negotiation table. Each party, the first-line
supervisor and the employee or his representative, has just a little
different interpretation of the details of the agreement and a dispute
starts. But the job must get done; so, the supervisor forces his version
of the agreement and the dispute begins.

It appears the initial solution is to establish a dispute-settling
committee on the property to function as rules interpreters, thus decid-
ing the dispute before it blossoms into major proportions. These
low-level committees could be staffed by the supervisor and union repre-
sentative with a neutral third party. Of course, the third party would
not even be necessary if the two parties are conducting continual discus-
sions of current problems. This is a second necessary need, that of
continual discussions of the day-to-day, first-line problems. The open
discussion of any and all daily problems, the continual building of trust
at the lowest level, thus building complete understanding of one another's

problems. This is the ultimate in ensuring continued good railroad labor relations. 111

The question is: How do the carriers and the unions accomplish this ultimate goal?

Recommendations

First and foremost, the railroads and the unions, together and individually, must begin an internal education of labor relations. This education should cover all phases of the industry and its problems. It should emphasize that both parties are interdependent on each other - that in working out their problems to a mutual solution, at the level where they develop, they help make their industry healthier. By making it healthier and more profitable, they help produce better working conditions and more jobs.

This internal education can come in many forms, from once-a-month seminars including both union and management, to correspondence courses, and even day-to-day bulletins explaining rules and operations. Probably the most fruit-bearing would be to establish local rules committees, including both parties, to continually discuss their mutual problems. These same committees could receive labor relations training together, thus learning to work as a team - thus building up the trust necessary for them to solve the problems at hand. The establishment of these rules committees should be initiated at every

company level with each and every union. This continued discussion 112
of daily disputes has to be a critically important part of future
successful labor relations in the industry.

Passage of the Surface Transportation Act, or some form of
legislation similar to it, is a must as it will give the railroads some
financial and negotiation freedom. The Act would let the carriers get
back on their feet and once again begin to work at the industry's labor
relation problems.

The merging of some of the labor unions is a must for the
industry and for the unions. Some unions, due to technological change
and normal attrition, are becoming so small they are also in financial
trouble. Union's internal craft conflicts are adding to the problem.
Another problem is that in the future, the larger-stronger unions may
refuse to recognize the picket lines of the smaller unions; therefore,
developing an explosive situation. So, it seems clear mergers are a
must if the unions are to remain a vital part of the railroad industry.

As stated before, these mergers also give the unions an
opportunity to adjust to technological change more easily. When one
craft is practically eliminated by new techniques, it does not threaten
the entire union. Being larger and more diversified would give them
the ability to adjust internally.

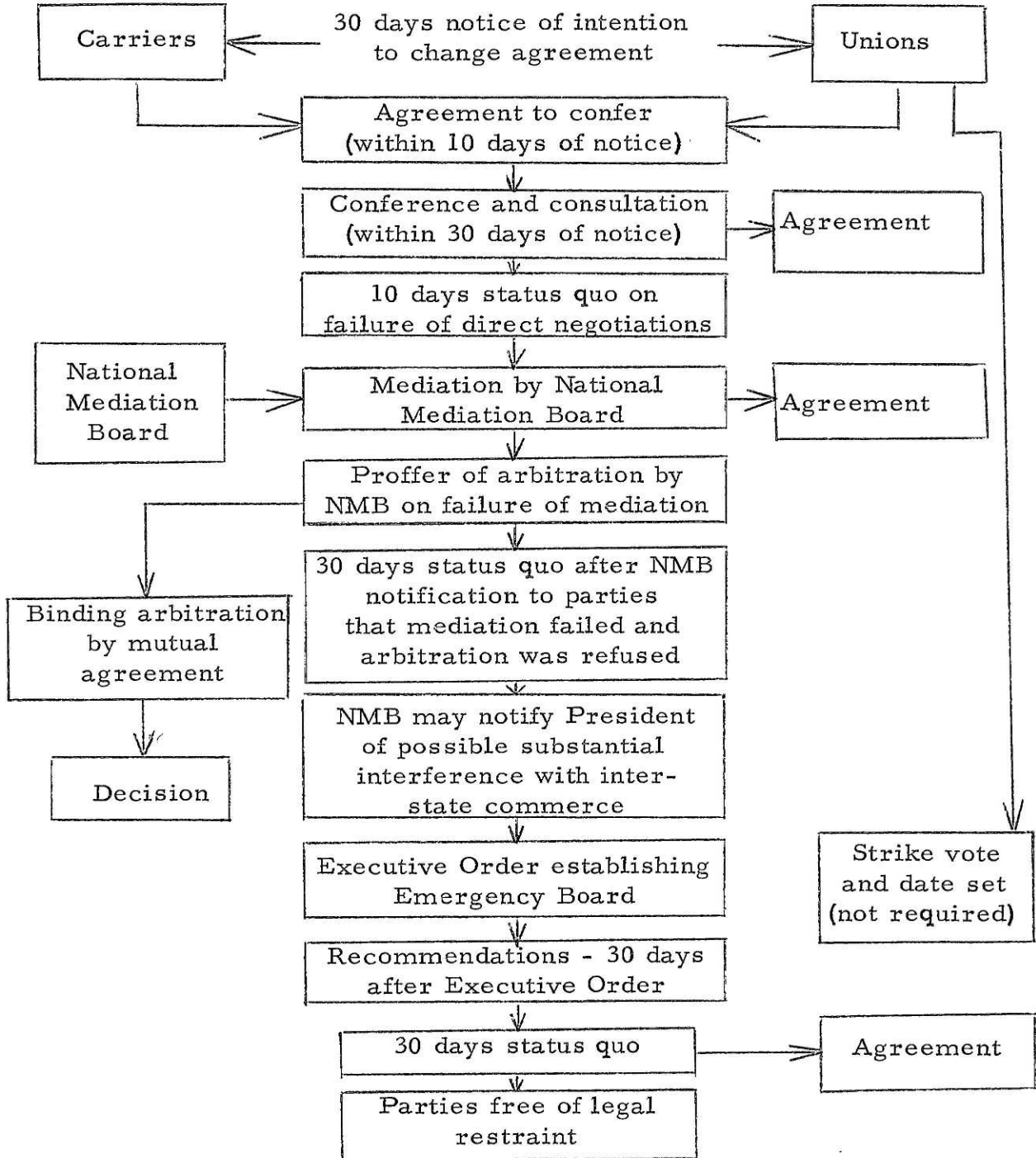
The ideal recommendation, regarding government intervention in rail labor disputes, would be that there be none. But more realistic, the interventions should be more of the mediator than the regulator, more in the role of the puller than pusher to arbitration, more of the helper than the "I'll-do-it-for-you" attitude and, most of all, being the listener to the carrier and unions mutually agreed upon solutions to their problems. It is impossible to have a governmental control-free railroad system in the United States. There will always be the conflict between private enterprise, the rights of its employees and the rights of the general public to the services of that enterprise.

Most important of all recommendations would be for the carriers and the unions to once again become innovators in the labor relations field. History has shown that they began collective bargaining in this nation when they were the first to exhibit that in America the employee does have the right to bargain for the terms of his employment. It is only fitting that the rail industry then begin to find new means and methods to once again establish collective bargaining as the tool to a better industry.

Some of these innovations may be as recommended in this thesis, such as using third-party process consultants, the establishment of local dispute-settling committees, and the use of joint labor-union training sessions. There may develop many other and better methods

to be tried by the parties; but the important thing is that they do keep 114
developing better ways to improve the industry through successful
collective bargaining.

BARGAINING PROCEDURES UNDER THE RAILWAY LABOR ACT



NOTE: All mandatory time periods may be extended by mutual agreements.

RAILROAD LABOR RELATION

LEGISLATION IN THE 1960'S

- 1963 - Railroad Arbitration Act, compulsory arbitration of the work rule and fireman dispute
- 1964 - Public Law No. 542, amendment to Sec. 4, First of the RLA, defining expiration dates of NMB members
- 1966 - Public Law No. 456, amendment to Sec. 3, Second of the RLA, establishment of Special Adjustment Boards
- 1967 - Public Law 90-10, extending period of restraint to strike and established special mediation board
- 1967 - Public Law 90-13, provided an additional 20 days to Public Law 90-10
- 1967 - Public Law 90-54, provided special five-man to provide final settlement of shopcraft dispute
- 1969 - Hours of Service Act, limiting hours operating employees can be on duty as well as prescribing hours must be rested and limits telegrapher time
- 1970 - Public Law No. 234 - amendment to Sec. 3, First of the RLA, providing adjustment board to consist of 34 members
- 1970 - Public Law 91-203, delaying sheet metal workers strike for 37 days
- 1970 - Public Law 91-226, submitting final negotiating with sheet metal workers to binding arbitration

EXHIBIT III

PER CENT DISTRIBUTION OF TOTAL
ESTIMATED INTERCITY TON-MILES
OF FREIGHT, BY MODE³

Year	Total Ton-Miles (Billions)	Percentage Distribution ^a			
		Rail	Motor Vehicle	Inland Waterway and Great Lakes	Pipeline
1939	574.8	64.4	9.2	16.7	9.7
1947	1060.8	66.6	9.6	13.8	9.9
1957	1354.0	47.6	18.8	17.1	16.5
1961	1310.3	43.5	22.6	16.0	17.8
1969	1894.2	41.2	21.3	15.6	21.7
1971	1930.4	38.6	22.3	15.9	23.0

^aAirlines account for about 0.2 per cent.

EXHIBIT IV

CLASS I RAILROADS NET INCOME,
RATE OF RETURN,
AND OPERATING EXPENSES,
1961-1971⁴

Year	Total Operating Income (Millions)	Net Operating Income (Millions)	Net Income After Fixed Charges (Millions)	Rate of Return on Investment (Per Cent)
1958	9,565	492	601	3.26
1961	9,786	538	382	1.97
1969	10,784	655	464	2.36
1971	12,649	716	391	2.53

EXHIBIT V
OUTPUT AND OUTPUT PER MAN-HOUR
1947-1972⁵

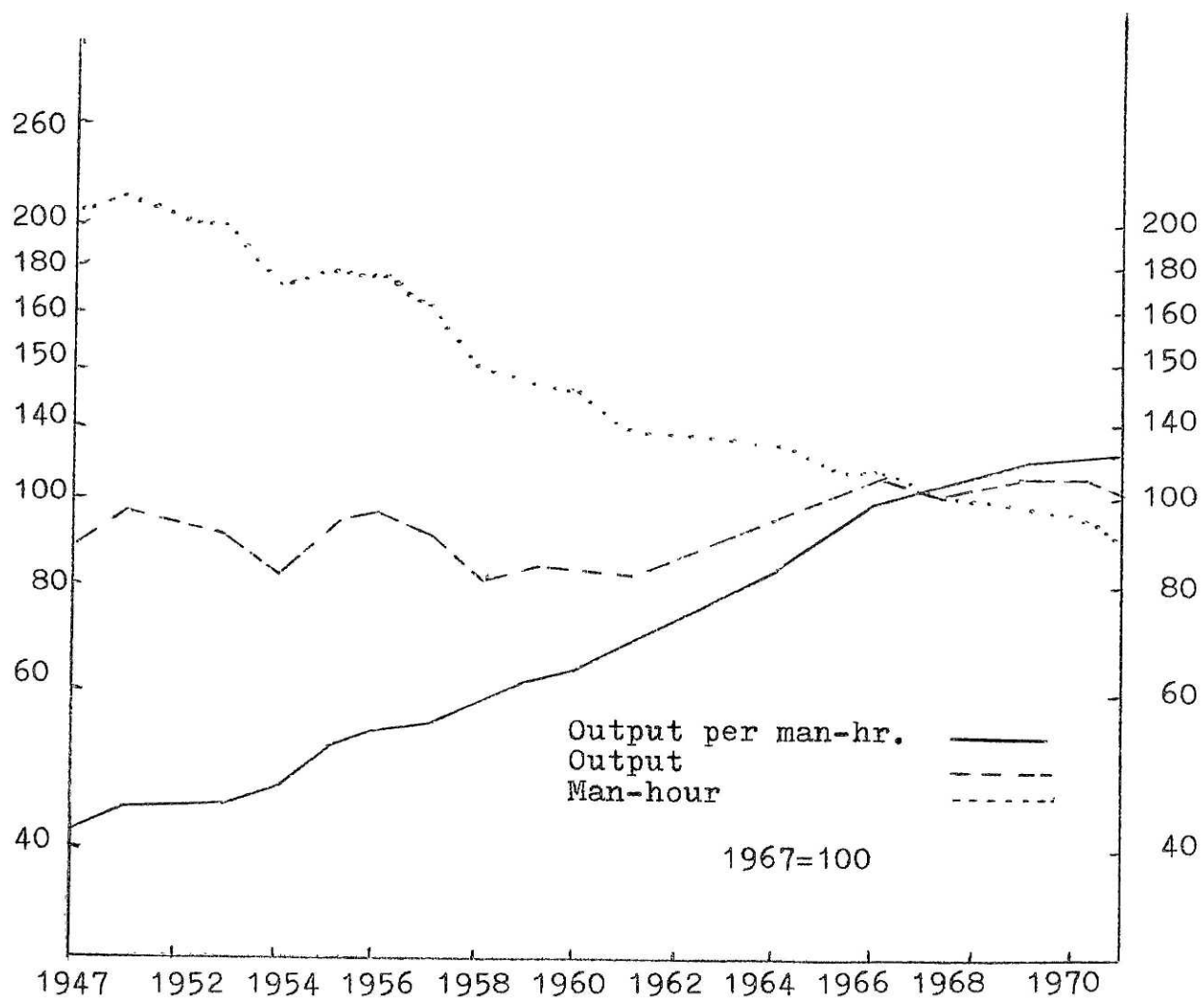


EXHIBIT VI

RAILROAD (CLASS I) EMPLOYMENT AND TRAFFIC

1947-1971⁶

Year	Total Employment (Thousands)	Revenue Ton Miles (Billions)	Revenue Passenger-Miles (Billions)
1947	1352.0	654.7	45.9
1957	984.8	618.2	25.9
1961	717.5	563.4	20.3
1969	578.3	767.2	12.2
1971	548.5	764.2	10.7 ^a

^aAMTRAK

EXHIBIT VII

RESEARCH AND DEVELOPMENT
RELATED TO THE RAILROAD INDUSTRY
1960-1971⁸

Year	Industry		
	Companies	AAR	Suppliers
1960	\$ 6, 000, 000	\$1, 000, 000	\$35, 000, 000
1961	5, 400, 000	N. A.	15, 000, 000
1965	42, 000, 000	N. A.	32, 900, 000
1966	48, 000, 000	1, 272, 800	29, 800, 000
1971 ^b	54, 000, 000	1, 000, 000	32, 000, 000

^bEstimated

EXHIBIT VIII

VALUE OF ROAD AND EQUIPMENT

1947-1971

Year	Road and Equipment (1958 Dollars - Billions)	All Railroad Employees (000's)	Road and Equipment per Employee (000's)
1948	51.9	1517	34.2
1952	53.6	1400	38.3
1957	53.3	1121	47.5
1962	51.0	796	64.1
1967	52.1	698	74.6

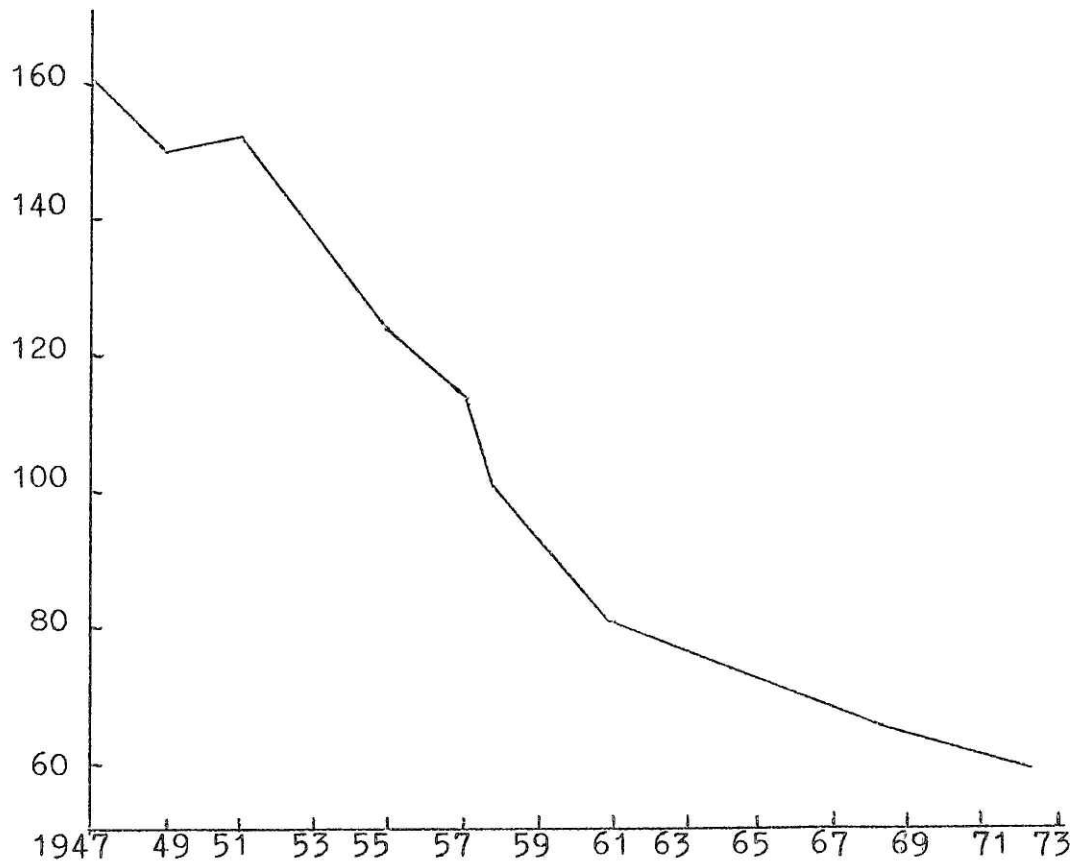
EXHIBIT IX

EARNINGS, HOURLY AND WEEKLY,
OF CLASS I RAILROADS AND MANUFACTURING
1947-1972

Year	Class I Railroads		Manufacturing	
	Average Hourly Earnings	Average Weekly Earnings	Average Hourly Earnings	Average Weekly Earnings
1947	\$1.19	\$ 55.03	\$1.22	\$ 49.17
1961	2.67	112.94	2.32	92.34
1968	3.39	149.16	3.01	122.51
1971	3.97	178.76	3.47	142.27

TRENDS IN EMPLOYMENT,
CLASS I RAILROADS
1947-1972¹⁸

Index 1957-59=100



RAILWAY LABOR UNIONS AND MEMBERSHIP
AS OF JANUARY 1, 1973¹⁹

1. United Transportation Union	133, 742
2. Brotherhood of Locomotive Engineers	34, 951
3. Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees	131, 554
4. Brotherhood of Maintenance of Way Employees	71, 431
5. Brotherhood of Railway Signalmen	10, 500
6. Railroad Yardmasters of America	5, 375
7. American Train Dispatchers Association	3, 350
8. Hotel and Restaurant Employees Union	2, 733
9. Brotherhood of Railway Carmen of the U.S. and Canada	51, 670
10. International Association of Machinists and Aerospace Workers	19, 730
11. International Brotherhood of Electrical Workers	15, 335
12. International Brotherhood of Firemen and Oilers	13, 000
13. Sheet Metal Workers' International Association	6, 300
14. International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers	<u>2, 250</u>
TOTAL	501, 921

In addition, railroads negotiate on a regional basis with the following nine unions: National Marine Engineers' Beneficial Association, American Railway Supervisors Association, Brotherhood of Sleeping Car Porters, Inland Boatmen's Union of the Pacific, International Organization of Masters, Mates and Pilots, Railway Labor Executives' Association, Congress and Railway Unions, Shop Crafts' International Officers Handling National Movements, Railway Employees' Department, AFL-CIO.

RAILROAD LABOR LEGISLATION

INTRODUCED IN CONGRESS

1971-1972

S. 560 - February 3, 1971 - Mr. Griffin
S. 594 - February 4, 1971 - Mr. Javis
S. 832 - February 17, 1971 - Mr. Williams
S. 1093 - March 3, 1971 - Mr. Taft
S. 1934 - May 24, 1971 - Mr. Brock
S. 2060 - June 14, 1971 - Mr. Dominick
S. 2369 - July 29, 1971 - Mr. Fannin and 3 others
S. 2583 - September 27, 1971 - Mr. Miller
S. 2655 - October 5, 1971 - Mr. Stafford
S. 2850 - November 12, 1971 - Mr. Taft
S. 2959 - December 6, 1971 - Mr. Taft
S. 3232 - February 24, 1972 - Mr. Packwood and 28 others
S. 3243 - February 25, 1972 - Mr. Stafford

EXHIBIT XIII

AGE DISTRIBUTION OF RAILROAD EMPLOYEES

1957-1971²

Age	Percentage Distribution		
	1957	1967	1970*
34 and under	29.6	26.9	29.2
35-44	21.7	19.7	21.2
45-54	21.6	25.3	22.2
55-64	20.5	22.3	24.8
65 and over	6.4	5.6	2.6

*Estimated

EXHIBIT XIV

FEMALE EMPLOYMENT ON THE RAILROADS

1944-1971³

Year	Total Employees (000's)	Women (000's)	Per Cent of Total Employment
1944	2,903	268	9.2
1947	2,470	140	5.7
1957	1,510	92	6.1
1966	944	58	6.1
1971	610	39	6.3

SUMMARY OF SURFACE TRANSPORTATION ACT OF 1973

1. Create a Revenue Financing Division within DOT. This agency would provide Federal guarantees for 15-year loans to regulated surface carriers, such loans not to exceed a total of \$2 billion. For rails, the loans would cover track whose usage exceeds 5 million ton-miles a year, signals, switching, and terminal facilities, communications and power systems, bridges, tunnels, and other surface structures, but not rolling stock.
2. Create a Federal Railroad Equipment Obligation Insurance Fund administered by DOT which would ensure interest and the unpaid balance of \$2 billion in equipment paper. Funds would be created by a 1% premium on the principal. Financing for rebuilt cars may not exceed one-third of the number of all cars financed.
3. Authorize \$35 million for DOT aid to rails for a national rolling stock scheduling and control system.
4. Ban discriminatory state and local taxation of carrier property.
5. Permit rails to abandon uneconomic lines upon 90-day notice to ICC. ICC can delay abandonment from six months to a year, but must grant abandonment if revenues fail to cover variable costs of the line. Requires rails to inform ICC of all lines which originate or terminate 35 or less carloads during one year.
6. Instructs ICC to identify traffic moving at rates less than variable costs of service. Directs ICC to order such rates raised to level of variable costs. Directs ICC to develop procedures for interim rate level adjustments that can be awarded rapidly pending findings of major rate cases.
7. Directs ICC to establish standards and procedures for rate levels adequate to cover operating and capital costs, including return on investment.
8. Repeals Section 22 of the Interstate Commerce Act which gives lower rates to government.
9. Directs ICC to establish nondiscriminatory rates for the transport of recycled solid waste materials.
10. Permits ICC to submit budgets directly to Congress.
11. Requires domestic water carriers of dry bulk commodities to publish rates.
12. Directs ICC to study rate bureaus and submit a report to Congress on their future.

POSSIBLE UNION MERGER ALIGNMENT

Operating Union

United Transportation Union

Locomotive Engineers

Maintenance Union

Maintenance of Way

Railroad Signalmen

Clerks and Station Employees Union

Railway and Airline Clerks

Yardmasters of America

Train Dispatchers

Hotel and Restaurant

Shopcraft Union

Carmen

Machinists Workers

Electrical Workers

Sheetmetal Workers

Boilermakers, Blacksmiths, and Helpers

Persons Interviewed

131

Ailes, A., President and Chief Executive Officer, American Association of Railroads, interviewed by phone.

Burgoon, Beatrice, Special Labor Assistant to Bill Usery, the Assistant Secretary of Labor, interviewed in person.

Cassel, Jack, National Mediation Board Mediator, interviewed in person.

Crawford, Mrs. N., Labor Legislative Assistant to Senator Packwood, interviewed by phone.

Eischen, Dana, Special Assistant to the National Mediation Board, interviewed in person.

Middleman, Gene, Labor Legislative Assistant to Senator Javis and Legal Council to the Sub-Committee on Labor, interviewed in person.

Parks, Maynard, Vice-President National Railway Labor Conference, interviewed in person.

Quinn, Rowland, Assistant to National Mediation Board in charge of Mediators, interviewed in person.

Stone, Davis, Chairman-National Mediation Board, interviewed by phone.

Sullivan, Bill, Special Assistant to the American Association of Railroads, interviewed in person.

Additional phone interviews and verbal information from the offices of:

Chamberlain, Chas., Chairman Railway Labor Executives Association, telephone interview with Mr. McIntosh.

Chesser, Al, President-Congress of Railway Unions, telephone interview with Mr. Beattie and received Mr. Chesser's "Project Seventies" brochure sent to all employees stating his views.

O'Brian, J. W., President-Sheet Metal Workers International of America, telephone interview.

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_____, Assault on Work Rules, March 3, 1962.

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