

Since the enactment of the 1963 compulsory arbitration law, known as Public Law 88-108, the railroad employees in train and yard service have been drastically affected contrary to what Congress intended. The provisions of Public Law 88-108 were only intended to last for a period of 2 years, the same as the provisions of this new legislation. But that is not what happened.

The railroads have obtained court decisions to the effect that the special board decisions constituted a permanent change in our agreements, which change came about strictly by compulsory arbitration! And to make it worse, these railroad employees were required to pay half the cost of these arbitration procedures which were designed for the benefit of management! Thousands of dollars came out of the pockets of railroad brakemen and switchmen to pay for the elimination of their jobs! Some of the very men who lost their jobs helped pay for their own execution!

Now this arbitration procedure which the Congress passed in 1963 provided that the award of the arbitration board expired at the end of two years. Section 4 (of Public Law 88-108) stated in part as follows:

"... The award shall continue in force for such period as the arbitration board shall determine in its award, but not to exceed two years from the date the award takes effect, unless the parties agree otherwise."

But that provisions didn't mean a thing to the courts, because parts of the award and all of the results of the procedures it established are still in effect by court order, which is under appeal now.

The crew consist dispute, as it developed following the enactment of the 1963 Compulsory Arbitration law, shows what will happen to collective bargaining on the railroads if the Congress continues to intervene in these disputes not because there is an actual emergency but simply because they are afraid there might be one! It also shows you what the railroads are up to.

Congress, in passing the 1963 law, intended for the parties to continue to negotiate in attempts to settle the crew consist issue. All concerned understood that.

Mr. Wolfe, representing the railroads, testified before the House Committee on Interstate and Foreign Commerce, on page 559 of the transcript of hearings on H.J. Res. 565 in 1963, as follows:

"... Mr. BROYHILL. My final question is, would not the party that would be favored by any ICC interim rule be reluctant to bargain and thus the doors of bargaining would be closed for all practical purposes?"

"... Mr. WOLFE. I think responsible people to whom this resolution would be applicable must certainly realize that by the end of 2 years they ought to have their problems solved. They are going to have to solve them sometime, and this is the only temporary relief to protect the public interest as we understand it."

"... Mr. BROYHILL. You are saying that if the railroads were favored by any ICC interim rule that you would still be willing to bargain?"

"... Mr. WOLFE. We will be willing to bargain under any circumstances. But when I say bargaining, I mean bargaining in its true and accepted sense, that both parties sit down and in a manner that is favorable to both of them. Give and take, as I understand, doesn't mean that one party gives and the party takes. They both give and they both take."

In the hearings before the Senate Committee on Commerce in 1963, Secretary of Labor Wirtz testified and stated as follows:

From page 47, transcript of hearings.

"... This interim rule would go into effect for a 2-year period or until the parties reached their own settlement by collective bargaining. And it is urged all the way through here that collective bargaining procedure continue and that the final answer be found there."

And Mr. J. E. Wolfe testified before the Senate Committee on Commerce as follows:

From page 364, transcript of hearings.

"... Senator MONRONEY. Do you take this bill that is before us, with all that is at stake in the shutdown, as being a means of obtaining a compulsory arbitration under another name?"

"... Mr. WOLFE. No, sir; I do not. I think that I agree with the description of that resolution by Mr. Wirtz, Secretary of Labor, that it does give the Interstate Commerce Commission the authority to establish interim rules. And during that period it contemplates that the parties themselves, as they eventually will have to do sometime or another, will finally dispose of these long, drawnout disputes by collective bargaining."