

able jobs (including the element of physical demands¹) to the more desirable ones as years of service are acquired. Age discrimination legislation, unless accompanied by clear and concise exceptions and qualifications, is diametrically opposed to these principles for it would bring elderly new entrants without any accredited years of service or experience into the bottom of the seniority spectrum working on the least desirable, most physically taxing assignments.

The principle of indiscriminate hiring, regardless of age considerations, is an important personnel policy change. It should not be precipitately thrust upon the railroad industry whose work force by agreement with its employees revolves around the seniority concept.

The foregoing comments briefly summarize the two general considerations which prompt the Association to seek an exclusion from the coverage of H.R. 3651 and H.R. 5481. A more detailed, although not unduly lengthy, explanation of these two central points, follows:

Industry in general, and the transportation modes in particular, must have effective manpower. Manpower is the work force, the make-up of which is determined by many factors, all of which are interrelated and dependent on each other. In origin the work force structure of the basic industries was management-designed, but as organized labor gained power its influence on the structure and composition of the working forces became more apparent. The end products are an accommodation of one to the other and as a result work force composition varies from industry to industry.

In the railroad industry the structure and composition of the work force revolves around one of these end products, namely, the key concept of seniority which is incorporated in all labor agreements. Because the rail seniority concept is so pervading, no fundamental change in personnel policy, and the legislation under discussion unquestionably is of that character, should be attempted without a careful appraisal of what effect it will have on a work force which operates on the seniority principle. In that respect, a cursory appraisal illustrates that legislation which would discriminate against the preferential hiring of younger workers is opposed to the principles which make the rail seniority-oriented work force operable.

To illustrate, between 1940 and 1965 total railroad employment declined from 1,450,000 to 790,000—almost 50 percent. Since seniority preserved the employment rights of the worker with more service time, the layoffs were concentrated among junior employees. The end result, of course, is a surviving work force heavily weighted with older workers. Declining employment opportunities coupled with the application of seniority could produce no other result, and with the railroads both of these factors were active. Employment declines were steep; the seniority principle controlled; and the industry is saddled with the disproportionately over-age work force.² While the railroads have made some progress by hiring younger new entrants, uneven distribution is one of the industry's personnel problems. Passage of this legislation without a rail industry exclusion would only accentuate it.³

In 1961, after a full year of extensively studying the rules and practices which govern the working conditions of railroad operating employees, the Presidential Railroad Commission found that the rail work force is older than that of manufacturing industries generally and recommended that rail management and the rail unions adopt a compulsory retirement program. (Report of Presidential Railroad Commission, pp. 28, 32-33. Such findings and recommendations were unquestionably influenced by a desire to strengthen the Nation as well as the railroads, for as the Commission said, "The manpower of the railroad industry

¹ In the words of the Presidential Railroad Commission: "These operating employees have had to adjust to a way of life which is in many ways different from the pattern of employees in 'outside' industry. They are subject to call at irregular hours, round the clock; many of them cannot accommodate their time away from duty to the normal family program of free Sundays and evenings. Many of them must spend considerable time at distant terminals, away from their families and communities. They work out of doors regardless of weather, in the desert heat, or pouring rain, or amid snow and ice. Until they have achieved very considerable seniority, they are subject to irregularity of employment and often to extensive furloughs." (Report of the Presidential Railroad Commission, February 1962, page 23.)

² In 1964 67% of the industry's employees were 40 years of age or over; 42% were 50 or over; 30% 55 or over; and 18% 60 or over (Table D-7, 1965 Annual Report of the Railroad Retirement Board.)

³ While the number of employees with less than 10 years of service is now on the rise after a long period of decline, in 1964 there were 239,000 rail employees with between 20 and 29 years of service and 164,000 with over 30 years of service; 109,000 of those with 30 or more years of service were over 60 years of age. (1965 Report of the Railroad Retirement Board, p. 52.)