Report

TO

THE PRESIDENT

BY THE

EMERGENCY BOARD

APPOINTED JULY 12, 1950, PURSUANT TO
SECTION 10 OF THE RAILWAY LABOR ACT

To investigate an unadjusted dispute between Braniff Airways, Inc., and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees

(*NMB Case No. A-3149*)

WASHINGTON, D. C.

AUGUST 31, 1950

(No. 90)

WASHINGTON, D. C., *August 31, 1950.*

THE PRESIDENT,
The White House.

MR. PRESIDENT: The Emergency Board created by you July 12, 1950, under Executive Order 10142, pursuant to section 10 of the Railway Labor Act, as amended, to investigate an unadjusted dispute between Braniff Airways, Inc., and certain of its employees represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, has the honor to submit herewith its report and recommendations based upon its investigation of the issues in dispute.

Respectfully submitted.

WILLIAM M. LEISERSON, *Chairman.*
A. LANGLEY COFFEY, *Member.*
DANIEL T. VALDES, *Member.*

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REPORT TO THE PRESIDENT BY THE EMERGENCY BOARD

I. INTRODUCTORY STATEMENT AND BACKGROUND OF THE DISPUTE

Pursuant to the Executive order creating the Board (appendix A), hearings were held in Dallas, Tex., from July 24 to 28, inclusive. Appearances were entered as follows:

On behalf of Braniff Airways, Inc.: Malcolm Harrison, personnel manager and John Plunket, assistant to general counsel.

On behalf of the employees: Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees: H. R. Lyons, vice grand president; Ralph Speer, assistant to grand president; Clarence E. Robinson, general chairman; and W. M. Crawford, southwestern representative.

Following the hearings, the Board met in joint conference with representatives of the parties in an effort to adjust their differences by mutual agreement. Although a few minor matters were settled, the conciliatory efforts of the Board were unsuccessful, and the meetings were adjourned on August 3. During these conferences, however, the Board learned much of value that was not brought out at the formal hearings; the technical problems involved in the various working rules were clearly explained, and the differences between the parties on each rule sharply defined. To allow sufficient time for careful study of the numerous rules, the parties entered into a stipulation extending the time for submission of the Board's report and recommendations, which was approved by the President.

The differences between the parties are of long duration, dating back more than 2 years. On April 5, 1948, following an election held the previous month, the brotherhood was certified as the duly designated and authorized representative of "the craft or class of clerical, office, stores, fleet and service employees of (the company) for the purposes of the Railway Labor Act." Following this certification the brotherhood filed a request with the company for a general wage increase. The company took the position, however, that a wage increase could not be negotiated without considering first the cost of certain working rules that involved money payments, and it insisted that such "economic rules" be negotiated first.

This dispute was referred to the National Mediation Board for mediation, and on October 20, 1948, that Board succeeded in getting

an agreement between the parties on a number of such rules. Despite this agreement the question of a wage increase remained deadlocked, and on November 5, 1948, the Meditation Board induced the parties to submit this question to an arbitration board under the provisions of the Railway Labor Act. The arbitration award was handed down on February 4, 1949, and the wage rates so fixed were embodied in a so-called master agreement, together with the rules previously agreed to.

The parties then proceeded to negotiate the other working rules requested by the brotherhood, and being unable to reach agreement on these, the services of the National Mediation Board were again invoked. On July 8, 1949, certain of these rules were agreed upon, and on November 10, 1949, another mediator secured agreement on some additional rules. Finally on March 2, 1950, a few more rules were adopted with the aid of still another mediator. All of these rules were included in the master agreement.

There remained in dispute then, 38 proposed rules by the brotherhood and certain counterproposals offered by the company. Meanwhile, under date of April 10, 1950, the company served the 30 days' notice required by the Railway Labor Act "that it desires to make certain changes by amendment and additions to (the) master agreement." These proposed amendments and additions consisted of 50 proposals containing numerous subparagraphs, including the company's various counterproposals. The brotherhood having objected to consideration of the amendments and new proposals, this dispute was referred to the National Mediation Board which, on June 5, 1950, took jurisdiction only of such new rules and changes "other than those proposed rules which were in dispute with the organization * * * in Board's case A–3149."

Several attempts were made by the Mediation Board to induce the parties to arbitrate all the matters in dispute (both those in the original case A–3149 and the new amendments and changes which were docketed as case A–3452), but without success. The brotherhood then took a strike vote of the employees; and a two-thirds majority having voted in the affirmative, the threatened interruption of transportation led to the appointment of the present Emergency Board.

II. NATURE OF THE CONTROVERSY

With the exception of a proposal for night-shift differentials, there are no wage questions dividing the parties. The matters in dispute are concerned wholly with rules and regulations for the government of employees represented by the brotherhood, of their relations with the management of the company, and of the conditions under which their work will be performed and their employment continued. Thus

many of the rules deal with methods of operating a seniority system, how seniority rights are to be acquired, accumulated or lost, promotions, assignments, transfers, displacements, and reductions of force according to seniority, etc. Then there are rules governing discipline, suspension and discharge, unjust treatment, hearings, appeals, etc. Both parties propose to establish a board of adjustment for hearing grievances and deciding disputes about interpretation or application of their agreements, but they differ as to the rules that shall govern the operations and procedures of such a board. And there are other various miscellaneous regulations.

Disputes of this character are often regarded by management and workers as more important than differences as to wages and other specific terms of employment. It is significant that the company and the brotherhood readily agreed to arbitrate the request for a wage increase, but could not agree on submitting the rules to arbitration. The disputed rules involve questions of rights, duties, privileges, immunities, and prerogatives of management and workers alike, and the protracted negotiations and mediation proceedings show how vital the parties regard such regulations, and how difficult they find it to adjust or compromise their differences about them. This is particularly true in the present case because the company and the brotherhood are negotiating a collective bargaining contract for the first time, and the lack of experience in dealing with each other has contributed much misunderstanding and increased the difficulties.

III. POSITIONS OF THE PARTIES

The parties have approached the problem of an ageement on working rules from opposite points of view. The brotherhood bases its proposals on its long experience with working rules for clerical and related occupations in the railroad industry, and it argues that these rules are well established, have a definite meaning, and have proved their practicality not only in that industry, but also their adaptability to other forms of transportation including trucking and airways.

The company, on the other hand, bases its counterproposals on what it says are the conditions and the flexible needs of a new and growing air transport industry. It emphasizes that as an airline with less than 2,500 employees and operating 31 airplanes, it must cover 2 continents and do a lot of other things with limited equipment and comparatively few employees in order to remain competitive with other airlines. It considers railroad rules bound by tradition, inflexible, and requiring payment for services not performed. It says it does not understand railroad rules or their interpretation and application. It would therefore pattern the rules for clerical and related workers on the provisions of the agreements the company has had for

some years with other labor organizations, such as those representing airline mechanics, radio operators, pilots, hostesses, and pursers.

The brotherhood denies that it seeks pay for services not performed, or that the disputed rules will hamper operations; and it challenges the company's position that basically the dispute concerns adoption of rules as practiced in the railroad industry as against rules established in the airline industry. Admitting that it stressed the origin, purpose, and history of the railroad rules, it claims this was necessary to show their evolution and their adaptability to all forms of the transportation business. It cited its agreements with seven other air carriers, and offered the company the choice of any one of these other agreements in toto, but was not willing to let the company pick and choose from among the various rules.

According to the company, however, the 7 agreements of the brotherhood with other airlines are not representative of the industry since there are presently in force 121 agreements with 22 labor organizations, and the provisions of the brotherhood's airline agreements are by no means uniform. It contends that a working agreement must be designed to fit the needs of a particular airline and its particular employees, and countering the brotherhood's offer, it offered to let the brotherhood take any 1 of the 6 existing agreements the company has with other unions on its property.

These contentions and counterproposals make it plain that the brotherhood is thinking in terms of more or less uniform rules designed to meet the needs of the craft or class of employees it represents in any transportation industry while the company is thinking of a working agreement adapted to the needs of its particular airline. Nevertheless both parties expressed themselves in substantial agreement with the principle that no set of rules or agreement should give a particular airline a special advantage, or burden it with a special disadvantage, in its competition with other air carriers. To this extent, at least, there is a workable basis for adjusting the differences between the parties, and apparently the rules which have already been agreed upon and embodied in the so-called master agreement have been worked out on this basis.

IV. OPINION OF THE BOARD

The conflicting approaches of the brotherhood and the company to the problem of a working rules agreement and their contradictory contentions to justify their positions cannot be reconciled by this Emergency Board. Only years of experiences in good-faith collective bargaining can bring about that understanding and good will which makes it possible for each party to recognize the merit and justice of the other's claim, and to acknowledge that the problem is

not that one party is right and the other wrong, but rather that the views of both need to be integrated in a common solution. Nor does the Board consider its duty in the present case to pass judgment on whose position is correct and whose is wrong. The fact is that the Board sees merit in the positions of both parties.

In considering the many specific rules on which the company and the brotherhood are in disagreement, and in making recommendations as to them, the Board has found it necessary at times to give greater weight to the merits of the position of one party or the other, as the facts with respect to particular disputed rules seem to justify such a conclusion. But in general the Board has given greatest weight in reaching its conclusions to the comparative rules governing the craft or class of clerical and related occupations that have been negotiated by collective bargaining in the air transportation industry. In this way the Board has tried to base its recommendations on the principle, apparently acceptable to the brotherhood and the company alike, that the carrier in the present case shall neither be advantaged nor disadvantaged by reason of provisions in the rules agreement, but shall be placed in as nearly an equal competitive position with other airlines as possible. The Board has been guided also in resolving differences on particular rules by the kinds of rules the parties have themselves already agreed to and included in their Master Agreement and by the spirit and principles that seem to be the basis of those adjustments by mutual accommodation.

The Board has deemed it necessary to make this general explanation of its method of determining the issues submitted to it by the parties, because the large number of disputed rules and subrules on which it must make findings and recommendations will not permit setting forth fully the analysis and the reasoning which have led to the conclusions on each specific rule. With this general exposition of the weight given to various factors in the final determination, only a brief outline of the reasons for each recommendation is necessary.

V. FINDINGS AND RECOMMENDATIONS

Since the controversy before the Board grew out of the set of proposed rules submitted to the company by the brotherhood, the numbered rules considered below are those proposed by the brotherhood, unless otherwise indicated.

RULE 4. *Seniority datum:*

(*c*) Employees who have established seniority rights under the rules of this Agreement promoted to official and supervisory positions not covered by this Agreement, or partially excepted positions as designated in Section—of this Agreement, shall retain all their seniority rights and continue to accumulate seniority in the Seniority Group from which promoted. When officials or supervisory positions, not covered by this Agreement, are filled by other than

employees having established seniority rights under these rules, no seniority rights shall be established by such employees (revised).

(*e*) Employees promoted or transferring from one Seniority Group to another Seniority Group shall at the time of such transfer begin to accumulate seniority in his new Seniority Group and continue to accumulate seniority in the Seniority Group from which transferred. If displaced, they shall be required to exhaust their seniority rights in the Seniority Group in which employed before being permitted to exercise rights over employees in the Seniority Group from which promoted or transferred, and must return to his new Seniority Group as soon as their seniority will permit. No employee can hold and retain seniority in more than two seniority groups (revised).

With respect to (*c*), the company is willing to accept this rule with a proviso that it is limited to promoted employees who supervise workers covered by the agreement with the brotherhood. We find, however, that none of the Brotherhood's agreements with other airlines contains such a proviso or limitation, and the company has not made out a case for different treatment in this respect. The company's objection to the references to "official positions" in this paragraph, however, does have merit and the Brotherhood expressed its willingness to omit these references.

Paragraph (*e*) deals with promotion or transfers of nonsupervisory employees from one seniority group to another. There are eight such groups listed and described in section 5 of the master agreement, and the proposal does not mention transfers to positions not covered by the agreement. The company's written proposal, however (company exhibit 1) would require that an employee who is transferred to a nonsupervisory position "not covered by the agreement," shall have his seniority terminated in the position from which transferred, 1 year after such transfer. The company's proposal seems inappropriate here, since paragraph (*e*) makes no mention of transfers to positions outside the coverage of the agreement. It does have some bearing on the brotherhood's proposed rule 21 dealing with transfers "to other branches of service," and will be considered in connection with that rule.

The company's written proposal also requested the following:

An employee accepting an assignment outside the continental United States shall retain and accrue seniority during the period of such assignment but he shall have no right to exercise his seniority until he has completed his period of assignment outside the continental United States, unless the company waives the requirement that he complete such period of assignment.

This proposal, too, deals with transfers to other services outside the scope of the agreement and will therefore be dealt with in connection with rule 21.

RECOMMENDATION

The Board recommends that rule 4 be adopted with modifications to read as follows:

( ) Employees who have established seniority rights under the rules of this Agreement promoted to supervisory positions not covered by this Agreement, or partially excepted positions as designated in Section — of this Agreement, shall retain all their seniority rights and continue to accumulate seniority in the Seniority Group from which promoted. When supervisory positions, not covered by this Agreement, are filled by other than employes having established seniority rights under these rules, no seniority rigts shall be established by such employees.

( ) Employes transferring from one Seniority Group to another Seniority Group, covered by this Agreement, shall at the time of such transfer begin to accumulate seniority in their new Seniority Group and continue to accumulate seniority in the Seniority Group from which transferred. If displaced, they shall be required to exhaust their seniority rights in the Seniority Group in which employed before being permitted to exercise rights over employees in the Seniority Group from which transferred, and must return to their new Seniority Group as soon as their seniority will permit, or forfeit all seniority rights in the new group. No employee can hold and retain seniority in more than two seniority groups.

RULE 7. *Exercise of seniority.*—Seniority rights of employees covered by these rules may be exercised only in case of vacancies, new positions or reduction of forces, except as otherwise provided in this agreement.

The exercise of seniority in the reduction or restoration of forces or displacement of junior employees is subject to the provisions of rules 8 and 15.

This proposal of the brotherhood does not appear to add anything to the agreement or subtract from or limit any provision that is or will be in the agreement. It is not found in most of the other Brotherhood agreements with air carriers, and its purpose has not been made clear to the Board.

RECOMMENDATION

The Board finds that this proposal is redundant and recommends that it be withdrawn.

RULE 8. *Promotion, assignments and displacements.*—(*a*) Employees covered by these rules shall be in line for promotion. Promotion, assignments and displacements under these rules shall be based on seniority, fitness and ability; fitness and ability being sufficient, seniority shall prevail.

(*b*) The word "sufficient" is intended to more clearly establish the right of the senior employee to bid in a new position or vacancy where two or more employees have adequate fitness and ability.

Although paragraph (*a*) is contained in all other agreements the brotherhood has with airline carriers, the company proposes to change the wording to include the following:

If the factors of fitness, job knowledge, training, skill, efficiency, and physical fitness are equal, seniority shall govern in selecting and assigning a bidder to the vacancy.

The Board is of the opinion that the injection of new and additional words in the rule that has become standardized and well understood will create confusion in the administration of the seniority provisions, and stimulate many new controversies. Aside from the fact

that the company preferred to include the additional words, it offered no persuasive reasons to support the proposed new wording.

Paragraph (*b*) is found in other agreements between the brotherhood and other airline carriers and the company's objections went to the whole rule.

RECOMMENDATION

The Board recommends that proposed rule 8, as quoted above, should be adopted.

RULE 9. *Bulletins.*—(*a*) All new positions and vacancies (except those of less than thirty (30) calendar days duration) will be promptly bulletined in agreed upon places for a period of five (5) calendar days. Employees desiring such positions will file their applications wtih the official whose name is signed to the bulletin within that time. A bulletin of assignment designating the successful applicant shall be posted for a period of three (3) calendar days thereafter at all places where the position was bulletined.

(*b*) Bulletins will be numbered consecutively beginning with number one (1) as the first bulletin issued in January of each year. Assignment bulletins will be handled in like manner. Bulletins will show location and title of position, complete description of duties, rate of pay, assigned hours of service, assigned meal period, assigned days of rest and, if temporary, the probable or expected duration.

(*c*) Employees awarded bulletined positions will be transferred thereto within five (5) days or paid for all losses sustained, if carrier's fault.

(*d*) Copies of bulletins will be furnished to Local Chairmen and General Chairman. Copies of assignment bulletins so furnished shall list names of all applicants in addition to the successful applicant.

(*e*) When an employee junior to other applicants is assigned to a position, senior employees making application will be advised in writing reason for non-assignment.

The company would substitute 90 days in paragraph (*a*) for the proposed 30 days' duration of jobs not requiring bulletins. Also it wants the bulletin posted for only 3 days instead of the 5 proposed; and where the brotherhood would have the parties agree upon the place for posting the bulletin, the company would have it at each location where seniority groups are stationed.

All other brotherhood contracts with air carriers specify 30 days as the limit for jobs not requiring bulletins, five out of seven of them specify that the bulletins shall remain posted for 5 days. No convincing reasons were presented to the Board for changing these provisions, and we are persuaded that it will be more practical to agree upon locations for the bulletins than to try to fix the locations in the general agreement.

Paragraph (*b*) would require bulletins to contain a "complete description" of duties, rates of pay, hours of service, meal periods, rest days, etc., of the positions bulletined. The company objects to this detail; it would merely refer to the classification of the positions and indicate any special requirements. A majority of the brotherhood's

agreements with other airlines merely require a "brief description," and the Board is of the opinion that a complete description is unnecessary as the provisions of the agreement control much of what would be described.

In paragraph (*c*) the company objects to the penalty imposed for failure to transfer the successful bidder within 5 days after he has been awarded a position, and it would also require such employee to be ready "to move and report to duty at his new location" within 6 days from the date of his assignment to the position.

No pattern appears in the other brotherhood agreements with air carriers as to the number of days after a position has been awarded when the transfer must be made, but three out of six contracts do provide penalties for delayed transfers. The Board is persuaded that 6 days, unless otherwise mutually agreed upon, would be a reasonable period beyond which the transfer should not be normally delayed. As to the penalty, the proposal that the company's fault must be established before it is liable seems ample protection.

Paragraph (*d*) provides that copies of the bulletins shall be furnished to the local chairman and the general chairman, and in addition that they be furnished with the names of all applicants for the position. The first is generally required by other brotherhood agreements with airlines, but only two of seven agreements require including a list of all applicants. The Board is of the opinion that the chairmen ought to get copies of the bulletins, but the matter of getting a list of all applicants is something that they might well work out with the company's personnel manager.

Finally, the company does not object to paragraph (*e*) furnishing senior employees the reasons for assigning a position to someone junior to them, but it sees no need for notifying all senior employees passed over, unless they want the information. The Board is persuaded that the information should be furnished only upon request.

RECOMMENDATION

The Board recommends that rule 9 should be adopted with the modifications indicated in the above discussion so that the rule will read as follows:

( ) All new positions and vacancies (except those of less than thirty (30) calendar days duration) will be promptly bulletined in agreed-upon places for a period of five (5) calendar days. Employees desiring such positions will file their applications with the official whose name is signed to the bulletin within that time. A bulletin of assignment designating the successful applicant shall be promptly posted for a period of three (3) calendar days thereafter at all places where the position was bulletined.

( ) Bulletins will be numbered consecutively beginning with number one (1) as the first bulletin issued in January of each year. Assignment bulletins will be handled in like manner. Bulletins will show location, title, and brief de-

scription of position, rate of pay, assigned hours of service, assigned days of rest, and any special requirements.

( ) Employees awarded bulletined positions will be transferred thereto within ten (10) days, unless otherwise agreed upon, or paid for losses sustained if Company's fault.

( ) Copies of bulletins will be furnished to local chairman and general chairman.

( ) When an employee junior to other applicants is assigned to a position, senior employees making application will, on request, be advised in writing reason for non-assignment.

RULE 10. *Temporary assignments.*—Bulletined positions may be filled temporarily, pending an assignment, by the senior qualified employee, desiring the position. In the event bulletin fails to develop an applicant, the position may be filled by appointment, except as otherwise provided in rule 17 (Reducing Force).

The company does not object to temporarily filling bulletined vacancies pending an assignment under the agreement, if left to management's discretion as to when and how such vacancies are to be filled.

The company expresses some concern that the rule as proposed would require shifting personnel and rescheduling jobs for temporary periods. The brotherhood concedes that the Company should not be required to fill every temporary vacancy during short periods and acknowledges that this is not the rule's purpose. When a temporary vacancy is filled, however, the brotherhood would require that the senior qualified employee, desiring the position, be assigned.

The last sentence of the brotherhood's proposal is not incorporated under this rule in six of the seven airline agreements with the brotherhood, but is found in some contracts in another form in connection with other rules.

On principle there is no substantial difference between the parties on filling vacancies in event there are no applicants for a position.

To conform to the rule most prevalent in other airline agreements, the Board is of the opinion a revision of the proposal is necessary and that the second sentence as restated should be made a part of a more appropriate rule under the contract.

RECOMMENDATION

The Board recommends, in lieu of the brotherhood's proposal, a rule or rules to read as follows:

( ) Temporary assignment: When filling bulletined positions temporarily pending an assignment, a senior qualified employee will be assigned.

( ) If a qualified employee does not apply within the time limit specified in the bulletin, the Company may proceed to fill the vacancy with any employee desiring the same, or with a new employee, except as otherwise provided in rule 17 (Reducing Force).

RULE 11. *Short vacancies.*—Positions or vacancies of less than thirty (30) calendar days duration shall be considered temporary and shall be filled without bulletining, but senior qualified employees at the station or in the department where the vacancy occurs will be given preference where resulting changes will not cause undue impairment to the service. When there is reasonable evidence that such temporary position or vacancy will be longer it shall immediately be bulletined, showing, if possible, the probable duration.

Employees will be selected to fill positions pending assignment by bulletin and all short vacancies in accordance with rules 8 (Promotion, Assignments, and Displacements) and 17 (Reducing F'orce).

The first paragraph of this rule deals with filling short vacancies which are not of sufficient duration to require the issuance of a bulletin. The second paragraph appears to deal in part with the same subject covered by rules 8, 10, and 17, and does not appear necessary. It is not found in other airline agreements with the brotherhood.

The only real difference between the parties seems to be what period shall constitute a temporary vacancy. This question has been considered and disposed of by rule 9. All other airline agreements of record covering clerical and related occupations uniformly provide vacancies of less than 30 calendar days duration shall be considered temporary, and "may" be filled without bulletining.

RECOMMENDATION

The Board recommends that rule 11 should be adopted, as modified, and shall read as follows:

( ) Positions or vacancies of less than thirty (30) calendar days duration shall be considered temporary and may be filled without bulletining, but senior qualified employees at the station or in the department where the vacancy occurs will be given preference where resulting changes will not cause undue impairment to the service. When there is reasonable evidence that such temporary position or vacancy will be longer than thirty (30) calendar days it shall immediately be bulletined, showing if possible the probable duration.

RULE 12. *More than one vacancy.*—When more than one vacancy or new position exists at the same time, employees shall have the right to bid on any or all, stating references. Nothing in this rule shall be construed to prevent employees bidding on all bulletined positions, irrespective of whether the position sought is of the same, greater, or lesser remuneration.

The purpose of this rule is to insure to each employee the right to bid on any and all bulletined positions. It permits bidding on two or more positions at one time, providing a preference is stated. The company does not oppose the principle of an employee bidding on as many bulletined positions as he wishes, so long as he does not make more than one move a year within the same job classification (2D). No such restriction is found in the brotherhood agreements with other airlines, and the Board is not persuaded any good reason is shown for making an exception here.

RECOMMENDATION

The Board recommends that rule 12 above be adopted.

RULE 13. *Former position vacant.*—When an employee bids for and is awarded a position, his former position will be declared vacant and bulletined.

The brotherhood maintains that its proposal is merely a reaffirmation of the requirements of the bulletin rule, but necessary to prevent misunderstanding as to the necessity of issuing bulletins. The company proposes that former positions, unless temporary or being discontinued by the company, be bulletined in accordance with the provisions of its proposed filling of vacancies section.

Rules dealing with this specific subject are found in only two airline-brotherhood agreements and both of these rules are at variance with those proposed by the brotherhood and company. The brotherhood, however, has expressed its willingness to accept the rule in the Western Airline agreement which provides that "* * * his former position, unless abolished, will be declared vacant and filled in accordance with the provisions of this agreement." In line with this expression and to assure uniformity with the bulletin rule recommended by the Board, positions which are temporary or abolished should be excluded from the bulletining requirements of this rule.

RECOMMENDATION

The Board recommends that the following rule be adopted:

( ) When an employee bids for and is awarded a position, his former position, unless temporary or discontinued, will be declared vacant and bulletined in accordance with the provisions of this agreement.

RULE 15. *Time in which to qualify.*—Employees entitled to bulletined positions, or exercising displacement rights, will be allowed thirty (30) calendar days in which to qualify, and failing, shall retain all of their seniority rights, may bid on all bulletined positions, but may not displace any regularly assigned employee. Employees failing to qualify on temporary assignments may return immediately to their regular positions. Employees will be given full cooperation of department heads and others in their efforts to qualify.

The company's principal objections to the brotherhood's proposed rule are that it does not make clear that an employee shall be given a 30-day trial period only upon the assignment being made, and that it does not provide for the removal of an employee before the expiration date of the trial period if the company finds that the employee cannot satisfactorily perform the duties of the position.

The Board finds some merit in the objection to this lack of clarity in the proposal regarding the conditions under which a trial period shall be given. It also finds that in all other airline agreements with the brotherhood, the term "awarded" or "assigned" is used instead of the word "entitled" as in the proposal.

The Board is of the opinion that the company should not be required to retain an employee in a position for the full qualifying period if, prior to the expiration date of such period, it becomes evident that the employee does not possess the qualifications to satisfactorily perform the duties of the position. A provision granting the company the right to remove an employee prior to the expiration date of the trial period after such determination is found in three airline-brotherhood agreements.

RECOMMENDATION

The Board recommends that the following rule should be adopted:

(__) Employees assigned to bulletined positions, or exercising displacement rights, will be allowed thirty (30) calendar days in which to qualify, and failing, shall retain all of their seniority rights, may bid on all bulletined positions, but may not displace any regularly assigned employee. Employees failing to qualify on temporary assignments may return immediately to their regular positions. Employees shall be given full cooperation in their efforts to qualify.

(__) When it is evident that employees will not qualify for positions, they may be removed before the expiration of the time limit, but shall be furnished with reason therefor in writing. Such employees will retain their seniority rights as provided in the first paragraph above.

RULE 16. *Status after leave of absence.*—An employee returning after leave of absence, when relieved from temporary assignment, official and supervisory positions, or partially excepted positions may return to former position providing it has not been abolished or senior employee has not exercised displacement rights thereon, or may, upon return or within ten (10) days thereafter, exercise seniority rights on any position bulletined during such absence (revised).

In the event employee's former position has been abolished or senior employee has exercised displacement rights thereon, the returning employee will be governed by the provisions of rule 17 (reducing force) and will have the privilege of exercising seniority rights over junior employees, if such rights are asserted within ten (10) days after his return. Employees displaced by his return will be affected in the same manner.

There is no apparent opposition to this rule on the part of the Company except as to the meaning the brotherhood may attach to the words "former position." The company's arguments regarding possible misunderstanding over this term are found in its testimony regarding several proposed rules of the brotherhood, but the possibility of any dispute over the meaning of the term seems to have been eliminated by the brotherhood's explanation that "position" means the position as described in the bulletin. The Board has excluded officials from its rule 4, and the same exclusion should be made in this rule.

The principle of protecting the employee's right to return to his former position after leave of absence, or after occupying certain specific positions, is found in all the other airline-brotherhood agreements. The most significant difference between the rule proposed by

the brotherhood and these agreements is that the brotherhood's proposed rule grants the employee 10 days after his return to exercise seniority rights on any position bulletined during his absence, whereas these agreements give the employees only 5 days to exercise this right.

RECOMMENDATION

The Board recommends that rule 16 should be adopted with modifications to read as follows:

( ) An employee returning after leave of absence, when relieved from temporary assignment, supervisory positions, or partially excepted positions may return to former position providing it has not been abolished or senior employee has not exercised displacement rights thereon, or may, upon return or within five (5) days thereafter, exercise seniority rights on any position bulletined during such absence.

( ) In the event employe's former position has been abolished or senior employee has exercised displacement rights thereon, the returning employee will be governed by the provisions of rule 17 (Reducing Force) and will have the privilege of exercising seniority rights over junior employees, if such rights are asserted within ten (10) days after his return. Employees displaced by his return will be affected in the same manner.

RULE 17. *Reducing force.*—(*a*) When reducing forces seniority shall govern. At least two (2) weeks advance notice will be given employees affected in the reduction of forces and abolishment of positions. Employees whose positions are abolished may exercise their seniority rights over junior employees provided they assert their displacement rights within this two (2) weeks period; other employees displaced, whose seniority rights entitle them to regular positions, shall assert displacement rights within fifteen (15) calendar days from date actually displaced. Employees who do not possess sufficient seniority to displace a junior employee or who do not assert their displacement rights within the prescribed time limit will be considered furloughed. A list of employees furloughed under this rule will be furnished by the management to the local and general chairman.

(*b*) In reducing forces (except in cases where the work on a given position or positions has been entirely discontinued) the lowest rated position or positions in the kind or section of work in the office or department where the reduction occurs will be abolished. Local Chairmen and General Chairman will be furnished with a list of the positions to be abolished, which shall include the names of employees filling the positions to be abolished, and such information will be bulletined to all employees covered by this agreement.

(*c*) Employees desiring to protect their seniority rights and to avail themselves of this rule, must, within five (5) days from the date actually reduced to the furloughed list, file their names and addresses in duplicate in writing both with the proper official (the officer authorized to bulletin and award positions) and the general chairman and advise promptly any change in address or forfeit all seniority rights, except in cases of personal illness or other unavoidable causes. The official and general chairman shall sign and return to the employee as his receipt one copy of the notice of address or change of address so filed.

(*d*) When forces are increased or vacancies occur, furloughed employees shall be returned and required to return to service in the order of their seniority rights, except as otherwise provided in this rule. Such employees, when available, shall be given preference on a seniority basis to all extra work, short vacancies and/or

vacancies occasioned by the filing of positions pending assignment by bulletin, which are not filled by rearrangement of regular forces. Copy of all bulletins and assignments will be mailed to furloughed employees. When a bulletined new position is not filled by an employee in service senior to a furloughed employee who has protected his seniority as provided in this rule, the senior furloughed employee will be called to fill the position. Furloughed employees failing to return to service within seven (7) days after being notified (by mail or telegram sent to the last address given) or give satisfactory reason for not doing so will be considered out of service.

(*e*) Furloughed employees may waive their rights to return to service on positions or vacancies of less than thirty (30) days duration by filing written notice with the proper official as defined in section (*c*) of this rule, and the general chairman; such notice may be canceled or terminated in the same manner.

Paragraph (*a*) of the proposed rule says, first, that seniority shall govern in reducing forces. This means according to the brotherhood that when forces are reduced, eventually the junior employee will be out of a job. The rule requires two weeks advance notice of a reduction in force or abolishment of positions. Then it provides for exercise of seniority, limits the time for exercising displacement rights, and further provides for furloughing displaced persons.

The company would make the exercise of seniority subject to the employee's "fitness, training, ability, and physical fitness." Notice of reduction in force and abolishment of positions would not be required where acts of God, strikes, and like circumstances intervene. Further differences exist as to time limits and procedures for the displaced employee returning to work (company exhibit 14).

In conference between the parties and the Board the brotherhood withdrew paragraph (*b*) of its proposal.

Paragraph (*c*) imposes conditions which the employee must meet if he desires to protect his seniority rights and return to service. Differences exist between the parties on the requirement for giving notice of address and notice of subsequent change therein (company proposal 8).

With respect to paragraphs (*d*) and (*e*) providing for the employee's return to service, the company proposes that the employee must signify in writing his acceptance or rejection of reemployment within 5 days of posting notice, and must return to the service within the period specified in the notice which shall be not less than 15 days from date of posting. Also, the company would limit reemployment to the employee's former classification. Such reemployment rights would attach only where the layoff did not exceed 1 year.

Further requirements would be that the employee (1) pass a physical examination meeting the company's requirements, (2) meet all company employment requirements, (3) undergo tests, (4) and/or serve a trial period. A temporary or probationary employee would acquire no right of reemployment, except that any previous company service

would be credited to the employee if reemployed in his former classification within 1 year of layoff date. Finally, reemployment would be only on the basis of station seniority.

To conform to the other contracts of record the Board believes it proper to substitute "12 calendar days" in place of "two (2) weeks" in paragraph (*a*) of the proposal.

The Board believes it fair for employees to have notice of a planned or scheduled lay-off, but it is not fair to require the Company to give advance notice of some temporary reduction in force or abolishing of positions made necessary by some sudden disaster or other act of God. A section of the master agreement prohibits strikes, lockouts, and similar conduct, so they need not be considered here. The brotherhood conceded that some such modification might be in order. The Board believes that some of the company's proposals would deprive furloughed employees of valuable seniority rights in that their status on return to service would be substantially that of a new employee. Other changes proposed by the company are at variance with other airline contracts, and no good reason appears in the record for recommending their adoption.

RECOMMENDATION

The Board recommends adoption of paragraph (*a*) of the brotherhood's proposed rule as modified, so that it shall read as follows:

( ) When reducing forces seniority shall govern. At least 12 calendar days' advance notice will be given employees affected in the reduction of forces and abolishment of positions except where failure to give notice is due to acts of God or some other sudden disaster. Employees whose positions are abolished may exercise their seniority rights over junior employees provided they assert their displacement rights within a 12 calendar day period; other employees displaced, whose seniority rights entitle them to regular positions, shall assert displacement rights within fifteen (15) calendar days from date actually displaced. Employees who do not possess sufficient seniority to displace a junior employee or who do not assert their displacement rights within the prescribed time limit will be considered furloughed. A list of employees furloughed under this rule will be furnished by the management to the local and general chairman.

The Board recommends adoption of paragraphs (*c*), (*d*), and (*e*) above, paragraph (*b*) having been withdrawn.

RULE 21. *Transferring to other branches of service.*—(*a*) Except as provided in section (c) of rule 4, employees promoted or transferred to any position in another branch of the service shall lose all seniority rights under this agreement after the expiration of twelve (12) calendar months and cannot displace any regularly assigned employees in former seniority district, unless the position, to which transferred is abolished, in which case he can, within that period, revert to original seniority district and exercise full seniority rights, but may within that period bid on any new position or vacancy in seniority district from which transferred.

This rule deals with transfers to branches of the service not covered by the agreement, the reference to (*c*) of rule 4 being to transfers from one seniority group to another within the agreement. It is to be noted that the proposed rule offers what the company asked for in its counterproposal to rule 4 above. As indicated in our disposition of that rule, however, the company proposes that when an employee accepts a position that is not covered by the agreement and which is also outside the continental United States, the 12-month limit on seniority shall not apply. Instead it wants the transferred employee to accumulate seniority for as long as the company assigns him abroad, provided he does not exercise that seniority until the period of that assignment has ended.

Since six brotherhood agreements with other airlines contain substantially rule 21, we shall recommend its adoption. Only one of these other air carriers has any reference to transfers outside continental United States, and this provides that by mutual agreement of the union and the carrier an arrangement for accumulating seniority in the position from which transferred may be made. The Board finds that the evidence does not justify the proposal of the company with respect to employees working abroad and not covered by the agreement, except where it can arrange a mutual consent agreement with the brotherhood.

RECOMMENDATION

The Board recommends that rule 21 as quoted above should be adopted.

RULE 23. *Changing duties.*—When the duties of any position are so changed that the occupant cannot satisfactorily perform them, he shall, upon agreement between the management and the general chairman, be permitted to exercise his seniority rights to a position held by a junior employee.

In conference with the Board the parties settled their differences over this rule and agreed to insert in the agreement a provision to read, as follows:

When the occupant of a position has his duties so materially changed by the company that he cannot satisfactorily perform them after a sincere effort to do so, he shall upon agreement between the Management and the General Chairman be permitted to exercise his seniority rights in his seniority group to a position held by a junior employee.

RULE 26. *Advice of cause.*—An employee charged with an offense shall be furnished with a letter stating the precise charge at the time charge is made.

It appears from the record that the principle embodied in this rule is already in effect on the company's property under other labor agreements, and is recognized in all other airline contracts with the brotherhood. The slight modification of the proposal hereinafter

incorporated in our recommendation is not seriously objected to by either party and should settle the dispute.

RECOMMENDATION

The Board recommends adoption of rule 26 as modified to read as follows:

( ) An employee charged with an offense shall be furnished with a letter stating the precise charge or charges at the time charge is made.

RULE 27. *Investigation.*—An employee who has been in the service more than three (3) consecutive months, shall not be disciplined, or dismissed without an investigation, at which investigation the employee, if he desires to be represented, may be accompanied and represented by the duly accredited representative as that term is defined in this agreement. He may, however, be held out of service pending such investigation. The investigation shall be held within seven (7) days of the date when charged with the offense or held out of service. A decision will be rendered within three (3) days after completion of investigation. The time limits provided in this rule may be extended by mutual agreement (revised).

This rule assures the employee the right to a formal investigation before being disciplined or discharged.

The dispute arises primarily over the question of whether the company shall have the right to discipline or discharge an employee prior to a formal investigation or must postpone such action until the investigation is completed; the employee, however, may be held out of service pending such investigation. The Brotherhood maintains that this rule incorporates a generally recognized principle found in other airline-brotherhood agreements. The company states that the Brotherhood agreements with Pan-American and Northeast covering almost a majority of all employees represented by the Brotherhood in airline industry do not require investigation prior to discipline or discharge, and the employees must request the investigation and hearing within 7 days after receiving notice of such discipline or discharge.

The provision for an investigation and hearing prior to discipline or discharge is found in agreements between the Brotherhood and five other airline companies. Moreover, even agreements of other crafts which the company cited in support of its position provide that written charges must first be presented to the employee before he can be disciplined or discharged, and if he objects to such action without a hearing, the company must grant it on request. The hearing thus being a matter of right in either case, and the company being free to suspend the worker pending the hearing, there is little reason for the company having a different rule for this class of employees than the five other air carriers have in their agreements with the brotherhood.

RECOMMENDATION

The Board recommends that rule 27 as quoted above should be adopted.

RULE 28. *Appeals.*—The right of appeal in the regular order of succession up to and including the highest official designated by the company to whom appeals may be made is hereby established. At a hearing or on an appeal the employee may, if he desires to be represented, be accompanied and represented by the duly accredited representative as that term is defined in this agreement. Appeals will be registered as soon as possible after decision is given and a copy furnished the official whose decision is appealed. Hearings and decisions will be given within a reasonable time.

There are no major differences between the parties regarding this proposed rule. Discussion between the parties revealed that clarification was needed only on the point of the company establishing the succession of appeals within the management with due notice to the general chairman.

RECOMMENDATION

The Board recommends adoption of rule 28, as modified to read as follows:

( ) The right of appeal in the regular order of succession, as established by the company with due notice given the general chairman, up to and including the highest official designated by the company to whom appeals may be made is hereby established. At a hearing or on an appeal, the employee may, if he desires to be represented, be accompanied and represented by the duly accredited representative as that term is defined in this agreement. Appeals will be registered within ten (10) days unless extended by mutual agreement after decision is given and a copy furnished the official whose decision is appealed. Hearings and decisions will be given within a reasonable time.

RULE 29. *Investigations and hearings, when held.*—Investigations and hearings shall be held whenever possible at home terminal of the employee involved and at such time as not to cause the employee to lose rest or time. Employees shall have reasonable opportunity to secure the presence of representatives and/or necessary witnesses.

There is no dispute over the principle incorporated in the brotherhood's proposed rule. The rule, with a minor modification, should be acceptable to both parties.

RECOMMENDATION

The Board recommends that the rule proposed by the brotherhood should be adopted, with a modification to read as follows:

( ) Investigations and hearings shall be held whenever possible at home terminal of the employee involved and unless unavoidable at such time as not to cause the employee to lose rest or time. Employees shall have reasonable opportunity to secure the presence of representatives and/or necessary witnesses.

RULE 30. *Record of investigation and hearing.*—A copy of statements made a matter of record at the investigation or on appeals will be furnished the employee and his representative. A copy of each statement so recorded will be signed by the person making same. When a notation is made against the record of an employee he will be furnished a copy and will receipt for same.

The company objects to various provisions of the brotherhood's proposal, but has indicated its willingness to accept the rule found in

the brotherhood agreements either with Pan-American article 32 (f) or with Western's section 33 (h) which merely provide that written statements or the stenographic report be furnished the employee and his representative.

The brotherhood agreements with Pan-American and Western do not provide for the signing of each statement recorded nor do they have provisions relating to notations made against an employee's personnel record. But four brotherhood agreements with other air carriers have provision substantially the same as here proposed.

RECOMMENDATION

The Board recommends adoption of rule 30 as quoted above.

RULE 31. *Date of suspension.*—If an employee is suspended, the suspension shall date from the time he was taken out of service.

This rule would apply in a case where an employee has already been out of service, for example, for 20 days by the time the investigation is held. The decision reached after the investigation is for suspension of the employee for 30 days. The question is: Should the employee be required to remain away from his job for 30 days from the date of the decision or only for 10 days?

Although a specific rule like that proposed by the brotherhood is found only in one other airline-brotherhood agreement, there can be no reasonable objection for thus clarifying a generally recognized practice.

RECOMMENDATION

The Board recommends adoption of rule 31 as quoted above.

RULE 32. *Exoneration.*—If the decision decrees that the charges against the employee were not sustained, the record shall be cleared of the charge; if suspended or dismissed, the employee shall be reinstated and paid for all time lost.

The question posed by this rule is how shall it be interpreted in cases involving awards of back pay where the employee has been suspended or dismissed but charges are not wholly sustained. In such cases the parties are not in disagreement that compensation may be determined as the facts justify. The Board feels that the wording of the rules should reflect this understanding.

RECOMMENDATION

The Board recommends adoption of the brotherhood's proposal as modified to read as follows:

( ) If the decision decrees that the charges against the employee were not sustained, the record shall be cleared of the charge; if suspended or dismissed, the employee shall be reinstated and paid for all time lost; provided that such

compensation be as the facts in the case justify where charges are not wholly sustained.

RULE 33. *Unjust treatment.*—An employee who considers himself unjustly treated, otherwise than covered by these rules, shall have the same rights of investigation, hearing, and appeal as provided above, if written request which sets forth the employee's complaint is made to his immediate superior within thirty (30) days of cause of complaint.

The company's only objection to this rule is that it would authorize arbitration of a grievance charging unjust treatment that is not a violation of any specific provision of the agreement. Otherwise the company is agreeable to processing a grievance of this kind the same as one charging a violation. It argues that this in effect would give the referee authority to write new rules into the agreement.

It appears that all airline agreements with the brotherhood contain the same language as to handling alleged injustices that are not specifically covered by rules, except that four out of the seven omit the word "than" between the words "otherwise" and "covered." It is plain, however, that this omission does not change the meaning of the rule. The intent is clearly the same in all the agreements to provide a means of dealing with grievances that do not allege violation of the agreements, but merely complain that an injustice has been done. The Board is not convinced a referee would be writing new rules if he arbitrated alleged injustices, and since the other seven agreements do not eliminate the final step of arbitration in processing such a grievance, we see no reason for departing from the general practice in the present case.

RECOMMENDATION

The Board (Mr. Coffey dissenting)* recommends that rule 33 as quoted above should be adopted.

* I respectfully dissent when the majority members of this Board find that the unjust treatment rule is in most airline agreements with the brotherhood and on that basis recommend its adoption.

It is unquestionably true that three of the agreements contain rules almost identical with the proposal. Beyond this point the Board has been compelled tc interpret the language of three other agreements and to give to it a meaning which, to my mind, is questionable.

The pertinent part of the proposal provides: "An employee who considers himself unjustly treated, otherwise *than* covered by these rules * * *" [Italics supplied.] The disputed language, which my colleagues interpret to mean the same thing, reads: "An employee who considers himself unjustly treated, otherwise covered by these articles * * *"

Now it is to be recognized that the crux of this dispute is whether an employee should be given the right by contract to have an arbitrator or referee decide a dispute he has with his employer which is predicated on grounds of unjust treatment when no violation of the contract is involved. Accordingly, I think it significant that in the proposal we are dealing with unjust treatment "otherwise

than covered" by the agreement and in the contracts under consideration we are dealing with unjust treatment "otherwise covered" by the agreement.

I cannot subscribe to the thinking that the language means, or is intended to mean the same thing, or that the word "than" was inadvertently left out of the agreements. Either way one views it is to take liberties with language when all the real parties in interest are not before the Board to explain the purpose, intent and meaning of their agreement. The less violent presumption, in the absence of evidence to the contrary, and where a real difference of opinion exists, is that a word of such import was deliberately omitted. We owe it to those whose contracts have been subjected to our scrutiny on another's invitation to avoid an interpretation which may pose problems for those who are unwittingly and without their sanction drawn into a dispute.

If the majority's interpretation of the disputed language is correct, there is sound reason for the Board's recommendation. They very well may be right in their views, but sufficient doubt exists in my mind that I am compelled to dissent.

A. LANGLEY COFFEY.

RULE 34. *Representation.*—Disputes growing out of personal grievances and/or the interpretation or application of agreements or practices concerning wages, rules, or working conditions between the parties hereto, may be handled by one or more duly accredited representatives, first with the immediate supervisory officer and, if not satisfactorily settled, may be appealed by the representative in the order of succession up to and including the highest official designated by the company to whom appeals may be made.

Six out of seven brotherhood agreements with other air carriers contain similar rules.

RECOMMENDATION

The Board recommends adoption of rule 34 as quoted above.

RULE 35. *Leave of absence.*—(*a*) Except in case of accident or personal illness, an employee desiring to remain away from service must obtain permission from his superior officer.

(*b*) When the requirements of the service will permit, employees, on request, will be granted leave of absence not to exceed thirty (30) days with privilege of renewal. Except for physical disability or as provided in rule 36, leave of absence in excess of ninety (90) days in any twelve month period shall not be granted unless by agreement between the management and the duly accredited representatives of the employees.

(*c*) An employee absent on leave who engages in other employment will be considered out of the service, unless special arrangements shall have been made with the official granting the leave of absence and the General Chairman.

(*d*) An employee who fails to report for duty at the expiration of leave of absence will forfeit all seniority rights, except when failure to report on time is the result of unavoidable delay, in which case the leave will be extended to include such delay.

(*e*) Employees may return to work prior to expiration of leave of absence provided forty-eight (48) hours advance notice of such intention is given, in writing, to the employing officer.

(*f*) The arbitrary refusal of a reasonable amount of leave of absence to employees when they can be spared, or failure to handle promptly cases involving sickness or business matters of serious importance to the employees, is an improper practice and may be handled as unjust treatment under these rules.

Paragraph (*a*) was withdrawn during conference with the parties, since section 17 B of the master agreement covers the matter dealt with.

The main differences between the remaining paragraphs and the company's counterproposal are the following: (1) It would authorize the leaves of absence up to 1 year whereas the brotherhood limits them to 30 days with privilege of renewal up to but not exceeding 90 days in any 12-month period. (2) The company would add a provision for military leaves of absences; and (3) it would require a physical examination and other tests on return of employee from a leave of absence. (4) The company objects to paragraph (*e*), return prior to expiration of leave, and also to the whole of paragraph (*f*).

Leaves of absence when granted permit the employee to retain his seniority. For this reason the brotherhood desires short leaves, limited except in case of sickness (or for representatives of the brotherhood) to 30 days and to a total of 90 with extensions. All its agreements with other air carriers provide 30 days with extension up to a maximum of 90. As to military leaves, these are governed by law, and apply uniformly to all who enter the armed services. Some airline agreements with the brotherhood provide such shall be governed by applicable law. We see no reason for either including or excluding such a provision.

The Board is of the opinion the company has not made out a case for requiring physical examinations and other tests when employees return from leaves of absence. The record shows that most clerical employees are not required to take such examinations on original entrance to employment, and whatever policy the company has been pursuing with respect to returning after leaves in this craft or class can be continued without incorporating a rule such as the company requests.

With respect to paragraphs (*e*) and (*f*), however, the company's position is well taken. Consent of the management is required by other brotherhood airline agreements before an employee may return prior to expiration of leave; and no other such agreement contains a provision like (*f*). The Board is of the opinion, also, that leave authorizations should be in writing, as these other agreements also provide.

RECOMMENDATION

That rule 35 be revised in accordance with the above considerations, and that it be adopted to read as follows:

( ) When the requirements of the service will permit, employees, on written request, will be granted leaves of absence not to exceed thirty (30) days with the privilege of renewal. Except for physical disability (or as provided

in rule 36), leaves of absence in excess of ninety (90) days in any twelve month period shall not be granted unless by agreement between the management and the duly accredited representatives of the employees. All such granted leaves shall be in writing.

( ) An employee absent on leave who engages in other employment will be considered out of the service, unless special arrangements shall have been made with the official granting the leave of absence and the general chairman.

( ) An employee who fails to report for duty at the expiration of leave of absence will forfeit all seniority rights, except when failure to report on time is the result of unavoidable delay, in which case the leave will be extended to include the delay.

( ) Upon approval of the company and duly accredited representative of the employees, and in case of personal illness or pregnancy, an employee may return to work prior to expiration of leave of absence, provided advance notice of such desire is given.

RULE 36. *Leave of absence—Duly accredited representatives.*—Duly accredited representatives of employees, or employees exclusively employed by the organization, shall be considered as in the service of the company and may return to their former positions or exercise seniority rights at any time within thirty (30) days after release from such employment.

Other duly accredited representatives of the employees will be granted necessary leaves of absence for investigation, consideration, and adjustment of grievances, or to attend meetings of employees.

All brotherhood agreements with other air carriers contain the same rule as in paragraph 1. Only two agreements also have the second paragraph. The company objects to this second paragraph apparently because it would allow leaves to more than two accredited representatives, and as to the first paragraph it is opposed to the displacement rights for indefinite periods that this provides. It would limit leaves for representatives to a period of one year with privilege of renewal to a maximum of 4 years.

In order that employees who become representatives for collective bargaining purposes shall be free from interference, influence, or coercion by the management, as provided by the Railway Labor Act, it is necessary that such employees shall be secure in their seniority and reemployment rights while acting as representatives; and in view of the general acceptance of paragraph one of the rule, the Board cannot approve the limitations the company would place upon it. And though only two agreements include the second paragraph in the rule, it is to the interest of the management as well as the employees that investigation and adjustment of grievances shall be promptly made, and necessary leaves for this purpose is a common practice throughout industry. The Board is of the opinion that no reasonable objection has been presented to either of the paragraphs of the proposed rule.

RECOMMENDATION

The Board recommends that rule 36 as quoted above should be adopted.

RULE 38. *Shift differential pay.*—Employees required to work on the second or afternoon shift shall be paid an additional ten cents ($0.10) per hour, and employees required to work on the third or night shift shall be paid an additional fifteen cents ($0.15) per hour.

The only objection the company offers to this rule is that it is a pay rule and has been disposed of by the arbitration award of February 4, 1949, referred to above. The Board finds, however, that the question of night differentials was not submitted to arbitration, and the arbitration board did not consider or make any award with respect to night differentials. That Board considered only three questions (1) a wage increase; (2) should existing practices of wage adjustment plan be disturbed; (3) effective date of award (employees example 3, p. 7). Moreover, the question of night differentials is specifically listed by the National Mediation Board as in dispute in the present case, A3149. The Board finds, therefore, that under the Executive order, it must consider and make a recommendation on night differentials.

As to the merits of the proposed rule, we find that eight airline carriers pay differentials for second and third shifts for the entire craft or class of clerical and related occupations where employees work such shifts, while two others pay such differentials only to certain classifications of employees. The most common rates paid are 5 cents extra for the second or afternoon shift, and 10 cents extra for the third or night shift. We find also that the Braniff Co. now pays its stores employees 5 and 10 cents extra for the respective shifts. The Board is of the opinion that the brotherhood's requested 10 and 15 cents differentials are excessive, but that the equities require that the employees here involved shall receive the prevailing shift differentials which employees of other air carriers are getting.

RECOMMENDATION

The Board recommends that a 5-cent differential for the second or afternoon shift and a 10-cent differential for the third or night shift should be paid, above the rate for the first shift.

RULE 39. *Hours of service.*—(*a*) Except as otherwise agreed, eight (8) consecutive hours exclusive of meal periods, shall constitute a daily work period, *for which eight (8) hours pay will be allowed.* (Only italic portion of this paragraph in dispute.)

(*b*) Except as otherwise provided in paragraph (*c*) of this rule, the regular workweek shall consist of five (5) consecutive days, Mondays to Fridays inclusive (revised).

(*c*) Employees necessary to the continuous operation of the company and who are regularly assigned to such service shall be assigned any five (5) consecutive days of eight (8) hours each, exclusive of meal period, in the week, the two remaining days to be considered their regularly assigned days off duty (revised).

(*d*) The starting time of shifts will be governed by the requirements of the service at each station, but no shift will be started or terminated between the hours of 12 midnight and 5 a. m.

(*e*) (Agreed upon.)

(*f*) All employees will be granted a fifteen (15) minute rest period during the first half of their work shift and a fifteen (15) minute rest period during the second half of their work shift without deduction in pay, to be arranged by local management and local committee of employees.

The company objects to the underscored portion of paragraph (*a*) because it fears that the language might be interpreted to authorize employees to work less than eight hours on their own will even though the company has a full 8 hours work for them, and it might still be required to pay them for the full 8 hours. Most brotherhood agreements contain a similar rule, though in place of "will be allowed" they usually end with the words "shall be paid." We shall recommend the latter as preferable.

With respect to paragraphs (*b*) and (*c*) the company's objections are concerned with the requirement for consecutive rest days. It wants to split the rest days alternately every few weeks for certain employees in offices which are required to be open for 6 days a week, and it doubts that the provision for "continuous operations" authorizes any splitting of rest days. This objection is well taken, but no other airline agreements provide for splitting either rest days or the 5 day working week.

The problem of an office that operates regularly 6 days a week rather than continuously for 7 days can usually be met by assigning Sunday and Monday as rest days for some employees and alternating them with others whose rest days are Saturday and Sunday. In any 6-day office where consecutive rest days cannot be provided in this manner, such a special problem should be worked out by mutual agreement of the company and the Brotherhood in each case.

Paragraph (*d*) deals with starting time of shifts, but it also would prohibit terminating shifts between 12 midnight and 5 a. m. We find only one other brotherhood agreement with an air carrier which restricts both termination and starting. Most of the agreements provide that shifts shall not be started between 12 midnight and 6 a. m. One which sets the hours as between 12 midnight and 5 a. m., permits exceptions.

Finally, in paragraph (*f*) the brotherhood would require that employees be given 15 minute rest periods without deduction in pay during the first and second half of every 8-hour shift, a total of 30 minutes in each workday. It appears that an existing practice of the company voluntarily allows such rest periods now, and the brotherhood wants it formalized in the agreement. The Board finds, however, that the three brotherhood contracts with other air carriers which provide for

rest periods allow only 20 minutes in every 8-hour shift or 10 in each half shift. A recommendation of more than a total of 20 minutes would not be justified by the record. Accordingly the Board makes the following recommendation:

RECOMMENDATION

That paragraph (*f*) be withdrawn, and that the rest of rule 39 as proposed be modified and adopted to read as follows:

( ) Except as otherwise agreed, eight (8) consecutive hours, exclusive of meal periods, shall constitute a daily work period, for which eight (8) hours compensation shall be paid.

( ) Except as otherwise provided in next paragraph of this rule, the regular workweek shall consist of five consecutive days, Monday to Friday inclusive.

( ) Employees necessary to continuous operations of the company and who are regularly assigned to such service shall be assigned any five consecutive days of eight (8) hours each, exclusive of meal period, in the week, the two remaining days to be their regularly assigned days off duty. Employees regularly assigned to operations requiring six (6) days service may be assigned to work either Monday to Friday or Tuesday to Saturday, both inclusive, with rest days either Saturday and Sunday or Sunday and Monday. By mutual agreement of the brotherhood and the company other arrangements may be made to take care of special problems where employees are regularly assigned to six (6) day operations.

( ) The starting time of shifts will be governed by the requirements of the service, but no shift will be started between the hours of 12 midnight and 5 a. m.

RULE 42. *Basis of pay.*—(*a*) Where it has been the practice to pay employees on a monthly, daily or hourly basis, such practice will be continued. To determine the straight time hourly rate for monthly rated positions, multiply the monthly rate by twelve and divide by 2080.

(*b*) Nothing in these rules shall be construed to permit the reduction of working days for employees covered by this agreement below five (5) per week.

There is no real dispute with respect to paragraph (*a*), as the company does not question the accuracy of the proposed method of determining the straight time hourly rate of pay for monthly rated positions. The company apparently prefers another method which is to divide the monthly rate by 173⅓ hours. Some agreements provide for one of these methods, while other agreements stipulate the other method. A sensible adjustment of this dispute seems to be that either method may be used, and we shall so recommend.

The company first objects to paragraph (*b*) because it makes no provision for reduced work weeks "because of fire or flood or * * * a labor strike," or when an employee is separated from the payroll before a week is ended. Then it offered a revised counterproposal which would relieve the company of responsibility for work not being available on any day, if it gave the employee 2 hours notice of the "reasons beyond the control of the company which shall include labor disputes involving the company." If not so notified, he was to be

paid for 4 hours if required to work, or 2 hours if not so required (company example 17).

Where men are regularly assigned to work 5 days and are paid by the week or month, unless they lay off of their own accord, or quit or are discharged before the week is ended, they are customarily paid for the full week. Section 8 (*b*) of the master agreement between the parties provides that the shifts and working hours of such men shall not be changed without giving at least 36 hours notice. Although the Board sees merit in the contention of the company that it should not be held responsible for lack of work due to acts of Providence, such as fires, floods, etc., its proposal to give 2 hours' notice in other cases when "work is not available" seems contrary to the spirit and intent of the master agreement. Strikes and lockouts, for example, are prohibited by that agreement, and if these provisions are violated, a 2-hour notice of changed working hours would certainly be no remedy. The Board deems the proposed 2 hours' pay for reporting without being given work and 4 hours' pay when required to work inappropriate in connection with employees who are regularly assigned to work full weeks. It believes, however, that acts of Providence do justify the company in reducing the regular working hours on shorter notice than the rules for abolishing jobs or changing assignments permit.

RECOMMENDATION

The Board recommends that rule 42 should be modified as suggested above, and should be adopted to read as follows:

( ) Where it has been the practice to pay employees on a monthly, daily or hourly basis, such practice will be continued. To determine the straight time hourly rate for monthly rated positions, multiply monthly rate by 12 and divide by 2080, or divide the monthly rate by 173⅓ hours.

( ) Nothing in these rules shall be construed to permit the reduction of working days for regularly assigned employees below five (5) per week, except in case of acts of God or some other sudden disaster.

RULE 43. *Service away from headquarters.*—Employees required to spend time working, waiting or traveling outside of their regular assigned hours away from their designated headquarters or base station will be paid as provided by the rules of this Agreement and, in addition thereto, will be allowed actual necessary expenses while away from their designated base station. Necessary expense money will be advanced when requested by the employees.

The proposed rule purports to provide a method of paying for working, waiting, and travel time outside regular assigned hours and away from headquarters. But it does not define what kind of travel and waiting is involved, nor the kind of work that is to be done outside regular hours and away from headquarters. Without explanations, such as are contained in other brotherhood agreements with airlines,

the rule merely says that compensation shall be as provided in the agreement.

We find, however, the master agreement contains no provision as to waiting and travel time except as these may be involved in section 15 relating to "attendance at hearings and investigations and conferences on nonproductive trips." Thus the overtime rates would appear to be the only method of compensating travel, work, or waiting in all other situations, such as travel on relief assignments, waiting in the course of travel, temporary work at more than one station, etc. Since other agreements describe the nature of the service required away from headquarters outside working hours, the Board is of the opinion that such description is needed either in this rule or in some other section of the agreement in the manner that attendance at investigations and conferences is described.

RECOMMENDATION

The Board remands rule 43 to the parties with instructions to embody a rule in the agreement that describes the travel, waiting, and work away from headquarters and outside working hours that is intended to be covered; and it recommends that compensation therefor shall be set in line with what most of the other airline agreements provide.

RULE 45. *Rating positions.*—(*a*) Positions (not employees) shall be rated and the transfer of rates from one position to another shall not be permitted.

(*b*) The pay of women employees, for the same class of work, shall be the same as that of men (revised).

Paragraph (*a*) of this rule is in five of the agreements between the brotherhood and other airlines. Paragraph (*b*) would eliminate any pay differential between male and female employees. The parties do not disagree in principle, but the company's proposal with slight modification appears to be more in line with the pay provisions of the master agreement.

RECOMMENDATION

The Board recommends adoption of paragraph (*a*) quoted above, and further that paragraph (*b*) be modified and adopted to read as follows:

( ) Where the work requirements are the same, there shall be no pay discrimination within a classification between men and women employees.

RULE 46.—*Preservation of rates.*—Employees temporarily or permanently assigned to higher rated classifications, positions, or work shall receive the higher rate for each day so assigned. Employees temporarily assigned to lower rated classifications, positions, or work shall not have their rates reduced.

The rule provides that an employee temporarily or permanently assigned to a higher rated position shall receive the higher rate, and

when temporarily transferred to a lower rated position retain his higher rate.

The company does not object to an employee retaining his regular rate of pay when temporarily transferred to a lower rated job; but it is opposed to paying the higher rate to employees assigned to the higher rated position if the assignment results from another employer's absence without loss of pay. Neither would the company pay the higher rate in any event unless the temporary assignment was longer than 5 days.

Rules substantially similar to rule 46 are found in agreements with the brotherhood of four other airlines, except that all four of these other agreements provide that where the assignment is necessitated because other employees are off duty without loss of pay, the higher rate need not be paid. The Board feels that this exception should be included in the rule.

RECOMMENDATION

The Board recommends adoption of rule 46 modified to read as follows:

Employees temporarily or permanently assigned to higher rated classification, positions, or work shall receive the higher rate for each day so assigned, except where such assignment is necessitated because other employees are off duty without loss of pay. Employees temporarily assigned to lower rated classifications, positions, or work shall not have their rates reduced.

RULE 55. *Transportation to and from work.*

This proposed rule was withdrawn by the brotherhood in conference between the Board and the parties.

RULE 57. *Free transportation.*—(*a*) Employees covered by this agreement shall be entitled to free transportation privileges according to but not less than present company policy.

(*b*) The duly accredited representatives of the brotherhood will be furnished with positive passes over Braniff Airways for use in connection with their work, to the extent permitted by CAB regulations. A copy of CAB regulations respecting the granting of free transportation will be furnished to the general chairman by the company.

In conference between the Board and the parties, the company expressed a willingness to accept the rule on this same subject in the Western Airlines agreement in lieu of the above proposal. This seems to be a reasonable compromise, since there is a lack of uniformity in the agreements, and the one the brotherhood has with Western would prevent discrimination being practiced against these employees and against the general chairman in favor of other employees and employee representatives.

RECOMMENDATION

The Board recommends adoption of the following rule:

( ) Employees covered by this agreement shall be entitled to free transportation privileges according to company policy.

( ) The general chairman of the brotherhood will be granted the same consideration as representatives of other employees for free transportation over Braniff Airlines not in conflict with law.

RULE 60. *Additional allowances for benefits.*—(*a*) If the company grants other employees vacation, sick leave and/or free transportation allowances or benefits in excess of those provided herein, it is agreed that these rules shall be amended to provide similar treatment of the employees covered by this agreement.

(*b*) Any additional benefits now accorded employees covered by this agreement shall be maintained in effect until changed by mutual agreement between the parties hereto.

This rule is in only one other brotherhood contract with an airline, and the subjects covered in paragraph (*a*) being properly matters for bargaining between the parties, the Board is unable to recommend the adoption of the rule.

RECOMMENDATION

The Board recommends the proposed rule be withdrawn.

RULE 61. *System Board of Adjustment.*—(*a*) In compliance with section 204, title 2, of the Railway Labor Act, as amended, there is hereby established a System Board of Adjustment for the purpose of adjusting and deciding disputes or grievances which may arise under the terms of this agreement, and which are properly submitted to it after exhausting the procedure for settling disputes as set forth under rules 27, 28, 29, 33, and 34.

(*b*) The System Board of Adjustment shall consist of four (4) members, two (2) selected by the company and two (2) selected by the brotherhood.

(*c*) Members of the Board will serve for one (1) year from the date of their appointment, or until their successors have been duly appointed. Vacancies in the membership of the Board shall be filled in the same manner as is provided herein for the selection of the original members of the Board.

(*d*) The Board shall have jurisdiction over disputes between any employee covered by this agreement and the company growing out of grievances or out of interpretations or application of any of the terms of this agreement. The jurisdiction of the Board shall not extend to proposed changes in hours of employment, basic rates of compensation, or working conditions covered by this agreement or any amendment thereto.

(*e*) The Board shall consider any disputes properly submitted to it by the general chairman of the brotherhood or by the proper officer of the company, when such dispute has not been previously settled in accordance with the terms of this agreement.

(*f*) Appointments of members of the Board shall be made by the respective parties within thirty (30) days from the date of the signing of this agreement and said appointees shall meet in the city of Dallas, Tex., or any other point as designated mutually agreeable within forty-five (45) days from the date

of the signing of this agreement, and shall organize and select a chairman and vice chairman, both of whom shall be members of the Board.

The term of office of chairman and vice chairman shall be one (1) year. Thereafter the Board shall designate one of its members to act as chairman and one to act as vice chairman for one (1) year terms. Each officer so selected shall serve for one (1) year and until his successor has been duly selected. The office of chairman shall be filled and held alternately by a brotherhood member of the Board and by a company member of the Board. When a brotherhood member is chairman, a company member shall be vice chairman, and vice versa. The chairman, or in his absence, the vice chairman, shall preside at meetings of the Board and at hearings. Both the chairman and the vice chairman shall have a vote in connection with all actions taken by the Board. After the organization meeting referred to herein, the Board shall thereafter meet in the city where the general offices of Braniff Airways, Inc., are maintained (unless a different place of meeting is agreed upon by the Board) during the first week in June and the first week in December of each year, provided that at such times there are cases filed with the Board for consideration, and shall continue in session until all matters before it have been considered, unless otherwise mutually agreed upon.

(*g*) All disputes referred to the Board shall be addressed to the chairman and notice thereof must be given in writing within thirty (30) days after the final decision in the last step of the grievance procedure set forth in rules 27, 28, 29, 33, and 34. Seven (7) copies of each petition, including all papers and exhibits in connection therewith, shall be forwarded to the chairman, who shall promptly transmit one (1) copy thereof to each member of the Board. Each case submitted shall show:

1. Question or questions at issue.
2. Statement of facts.
3. Position of employes.
4. Position of company.

When possible, joint submissions will be made, but if the parties are unable to agree upon a joint submission, then either party may submit the dispute and its position to the Board. No matter shall be considered by the Board which has not been handled in accordance with the appeals provisions of this agreement, including the rendering of a decision thereon by the personnel manager of the company or his duly designated representative.

(*h*) Upon receipt of notice of the submission of a dispute, the chairman shall set a date for hearing, which shall be at the time of the next regular meeting of the Board, or, if at least two (2) members of the Board consider the matter of sufficient urgency and importance, at such earlier date at such place as the chairman and vice chairman shall agree upon, but not more than fifteen (15) days after such request for meeting is made by at least (2) of said members, and the chairman shall give the necessary notices in writing of such meeting to the Board members and to the parties to the dispute.

(*i*) Employees covered by this agreement may be represented at Board hearings by their duly accredited representative or representatives. The company may be represented by such persons as it may designate. Evidence may be presented either orally, in writing, or both. On request of individual members of the Board, the Board may, by majority vote, or shall at the request of either brotherhood members or the company members thereon, call any witnesses who are employed by the company and who may be deemed necessary by the parties to the dispute, or by either party, or by the Board or by either group of members consisting the Board.

(*j*) A majority vote of all members of the Board shall be competent to make a decision.

(*k*) Decisions of the Board in all cases properly referable to it shall be final and binding upon the parties thereto.

(*l*) In the event of a deadlock in the case of any dispute properly before it, it shall be the duty of the Board to endeavor to agree, within thirty (30) days from the date of such deadlock, upon a procedure for breaking such deadlock. A majority vote of all members of the Board shall be competent to reach such agreement and the action of the Board operating under such procedure shall be final and binding upon the parties hereto. If, after the expiration of said thirty (30) days, the deadlock is not broken or such case is not otherwise disposed of, either party may notify the other in writing that the services of a referee are desired. Within ten (10) days after such notification the members of the Board will endeavor to select a referee and, if no agreement can be reached within the ten (10) day period, a joint request will be directed to the chairman of the National Mediation Board for the appointment of a referee. The referee so selected shall sit with the Board as a member thereof in the subsequent consideration and disposition of the case.

Within thirty (30) days after the selection of the referee as provided above, the Board and the referee shall consider and review the prior record in the case and may call such additional witnesses and receive such additional evidence as the Board may deem necessary. Either party may make written request to the Board for the privilege of presenting witnesses or documentary evidence, and the Board, with the referee, may at their discretion permit such presentation. The decision of the Board shall be rendered within ten (10) days after the closing of the hearing, and a majority vote of the members of the Board, including the referee, shall be necessary to reach such decisions, which shall be final and binding upon the parties hereto. The expenses and reasonable compensation of the referee selected as provided herein shall be borne equally by the parties hereto, except as may be otherwise provided by the Railway Labor Act, as amended. The time limits specified in paragraph (*l*) of this section may be extended by mutual agreement of the parties to this agreement.

(*m*) Nothing herein shall be construed to limit, restrict, or abridge the rights or privileges accorded either to the employees or to the company, or to their duly accredited representatives, under the provisions of the Railway Labor Act, as amended.

(*n*) The Board shall maintain a complete record of all matters submitted to it for its consideration and of all findings and decisions made by it.

(*o*) Each of the parties hereto will assume the compensation and expenses of the Board members selected by it.

(*p*) Each of the parties hereto will assume the compensation and expenses of the witnesses called or summoned by it. Witnesses who are employees of the company shall receive paid transportation from the point of duty or assignment to the point at which they must appear as witnesses and return, to the extent permitted by law.

(*q*) The chairman and vice chairman, acting jointly, shall have the authority to incur such other expenses as in their judgment may be deemed necessary for the proper conduct of the business of the Board and one-half of such expense shall be borne by each of the parties hereto. Board members who are employees of the company shall be granted necessary leaves of absence for the performance of their duties as Board members. Board members shall be furnished paid transportation by the company for the purpose of attending meetings of the Board, to the extent permitted by law.

(*r*) It is understood and agreed that each and every Board member shall be free to discharge his duty in an independent manner, without fear that his individual relations with the company or with the union may be affected in any manner by any action taken by him in good faith in his capacity as a Board member.

The brotherhood's proposal sets up machinery to finally dispose of any grievances and/or disputes "between any employee covered by this agreement and the company." The company's proposal establishes adjustment procedures almost identical to those proposed by the brotherhood, but does not provide for final arbitration of grievances or disputes. It stresses the relationship of the company and the individual employee emphasizes that the Board of Adjustment shall have jurisdiction over disputes arising out of "specific" provisions of the agreement, provides that only "one (1) grievance case at a time shall be submitted to (the Board) unless otherwise mutually agreed to," and restricts the number of witnesses to the company's operating convenience.

A detailed study of the rule and a comparison with related rules in brotherhood agreements with seven other airlines show that two of these agreements include rules identical with the one under consideration here. The other five agreements contain rules differing only in that they provide for final settlement of disputes and grievances "as are properly before (the Adjustment Board)." In addition to this language the proposed rule here says, "grievances and disputes between any employee covered by this agreement and the company," which wording is not found in any of the five, but is substantially the same as in the company's proposal. One other minor difference found between the proposed rule and those in the other agreements is that the others do not provide for a definite period of tenure for Board members, but this is not in dispute between the parties.

RECOMMENDATION

The Board recommends that rule 61 as quoted above should be adopted.

RULE 63. *Printing of agreement* (also cover page).—This agreement shall be printed by the company, and all employees affected thereby shall be provided with a copy. Duly accredited representatives of the employees will be furnished a sufficient number of copies to meet their requirements.

The only objection of the company is the obligation to print. Since this is the first agreement and may be revised in the next year or two, it would be less costly to mimeograph or multigraph the copies.

Upon the suggestion of the Board both parties agreed to add the phrase: "or multigraphed in booklet form" after the word "printed" and before the words "by the company."

In connection with this rule, it is necessary to dispose of a controversy between the parties as to the wording of the cover page of the agreement. This dispute arises out of the difference between the wording of National Mediation Board's certification of the Brotherhood to represent certain of the company's employes and section 1 of the master agreement known as the scope rule.

In accordance with section 2, ninth, of the Railway Labor Act, the Mediation Board certified the brotherhood as the duly designated representative of "the craft or class of employees of clerical office, stores, fleet and passenger service employees" of the Braniff Co. In negotiating the master agreement, however, the scope rule that was adopted provides that certain positions and classifications of employees shall be excepted from some or all of the provisions of the agreement. The brotherhood wants the cover page to show that the agreement is between the company and all the class of employees represented by it, while the company would refer to the classifications of employees shown in the scope rule.

The brotherhood apparently fears that its representation rights under the Railway Labor Act and the certification may be jeopardized by the wording of the cover page while the company similarly seems to fear that its rights under the agreement may be adversely affected. The Board is of the opinion that both parties are fighting windmills in this controversy. Determination of what employees make up a craft or class and who are eligible to vote for its representatives is a matter of law, and the Mediation Board is authorized to determine disputes as to whom the Brotherhood represents regardless of any agreement. On the other hand the scope rule or coverage of the agreement is a matter of contract, and at any given time provisions of an agreement may be applicable to fewer or even more employes than an organization is legally authorized to represent.

RECOMMENDATION

The Board recommends:

1. That to rule 63 quoted above should be added the words "or multigraphed in booklet form."

2. That on the cover page of the agreement after the name of the brotherhood the following words should be added "and as shown in section 1, scope of agreement."

RULE 65. *Duly accredited representative.*—Where the term "representative" or "duly accredited representative" appears in this agreement, it shall be understood to mean the regularly constituted committee and/or the officers of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes of which such committee or officers is a part.

The brotherhood maintains that it is required by law to represent all employees in the class or craft and the contract should be specifically

define "duly accredited representative" and "representative" in terms which would eliminate disagreement as to authority. The company contends the proposed rule would be in conflict with the Railway Labor Act, and would restrict the employee's right to personally handle his own grievances.

This rule appears in all other brotherhood-airline agreements except that "duly accredited representative" is used almost uniformly in those other agreements, whereas the proposed agreement in the present case uses both the terms "representative" and "duly accredited representative."

RECOMMENDATION

The Board recommends adoption of rule 65 as quoted above.

RULE 66. *Existing agreements.*—This agreement shall supersede and be substituted for all agreements, practices, and working conditions in conflict herewith.

This rule in virtually identical language is found in all other agreements of the brotherhood with air carriers.

RECOMMENDATION

The Board recommends adoption of rule 66 as quoted above.

Earlier in this report we mentioned that the company's counterproposals together with certain additions and amendments were submitted to the brotherhood and the Mediation Board in 50 proposals containing numerous subparagraphs. At the hearings the company revised and reduced the number of these to about 30 (c. e. 12). The Board carefully examined and considered all these proposals, counterproposals, and revisions in connection with its discussion and recommendations on the disputed rules listed above. Thus all matters in dispute have been disposed of that were referred to the Board by the Executive order.

Respectfully submitted.

WILLIAM M. LEISERSON, *Chairman.*
A. LANGLEY COFFEY, *Member.*
DANIEL T. VALDES, *Member.*

AUGUST 31, 1950.

APPENDIX

EXECUTIVE ORDER

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE BRANIFF AIRWAYS, INC., AND CERTAIN OF ITS EMPLOYEES

Whereas a dispute exists between the Braniff Airways, Inc., a carrier, and certain of its employees represented by the Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express and Station Employees, a labor organization; and

Whereas this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

Whereas this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive a section of the country of essential transportation service

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

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

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by the Braniff Airways, Inc., or its employees in the conditions out of which the said dispute arose.

HARRY S. TRUMAN.

THE WHITE HOUSE,
July 12, 1950.

U. S. GOVERNMENT PRINTING OFFICE: 1950