

“The Academy and the Railroad Industry”

Presentation to the National Association of Railroad Referees
Annual Meeting – September 22, 2022

A Historical Overview and Explanation of the Railway Labor Act From An Arbitrator’s Perspective

I. The “Crucible.”

- Panic of 1873 leads to the “Great Strike of 1877.”
- 1882 – 1885 Senate Committee on Education and Labor
- Arbitration Act of 1888
- Interstate Commerce Act of 1887
- 1894 Pullman Strike – Injunction
- Erdman Act of 1898
- Newlands Act of 1913

II. Federal Control (1917-1920)

- National Boards of Adjustment
- National Agreements

III. Transportation Act of 1920

- U.S Railroad Labor Board – Mediation and Arbitration
- No compulsory mechanism to resolve grievances
- Supreme Court rejected the Board’s petition for enforcement of a decision ordering the carriers to end their relationships with company unions.

IV. At Long Last, The RLA is conceived.

- Shopcraft Strike of 1922
- Presidents Harding and Coolidge want changes to the Transportation Act
- 1925 Joint Committee formed
- RLA enacted MAY 20, 1926

V. Constitutional Challenges

- Tussles over company unions
 - A. Texas & New Orleans Railroad Company v. Brotherhood of Railway and Steamship Clerks, 281 US 548
 - B. Virginian Railway Company v. System Federation No. 40, 300 US 515

VI. Headed To Failure

- Major dispute machinery OK, minor dispute not so much (30 years/2 days' disruption)
- Amendments
 - A. 1934 – Freedom of Association – NRAB – Enforcement of Orders – Board of Mediation - Referees
 - B. 1936 – Airlines
 - C. 1951 – Union shop – dues deduction
 - D. 1964 – Members terms continue pending appointments/affirmations
 - E. 1966 – Public Law 89-456
 - 1. Awards conclusive on the parties
 - 2. Narrow grounds for review of an award.
 - 3. SBA's, PLB's
 - F. §159(a) – Commuter Service

VII. Functions of NMB

- Mediation Services
- PEB appointment recommendations
- Section 3 administration – Neutral roster – SAM
- Tripartite efforts to improve the Section 3 process – arbitrator inclusion and training

VIII. Railroad Industry Dispute Resolution – Appellate Nature

- Discipline cases
- Rules cases
- STB proceedings
- Major disputes – mediation - proffer of arbitration – cooling off periods – strike/lockout – PEB
- System Agreements – “National Bargaining”
- Pattern bargaining

IX. Railroad Arbitration – NAA Membership – NARR

X. The Future of Dispute Resolution in the Railroad Industry

- The 1994 Dunlop Commission Report
- Contemporary Bargaining Issues
- Continuation of stability of transportation services – minimizing potential interruption to commerce