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• Lyndon B. Johnson

Special Message to the Congress Recommending Procedures To Complete Collective Bargaining in the Railway Labor Dispute

May 4, 1967

To the Congress of the United States:

INTRODUCTION

On Monday, at my request, the Congress acted to protect the country for 47 days against the intolerable injury of a nationwide railroad strike.

This additional period affords the parties to the current dispute another opportunity to settle it by agreement.

The time has come, however, to insure that by public action we guard the public interest against a continuing failure of private responsibility in this case.

We cannot leave ourselves vulnerable, as a people, to the dangers of: --a disruption in the flow of arms and material to the 500,000 valiant men in Southeast Asia who are making sacrifices greater than any of us are called upon to make;

--food shortages and health hazards in our cities;

--the paralysis of our economy;

--a rising tide of unemployment, as factory doors close for lack of raw material.

I reviewed this situation in detail in my Message to the Congress on April 10. Only a summary is necessary here.

The dispute is between virtually all of the major railroads and six shop craft unions representing 137,000 railroad employees who inspect, maintain and repair locomotives and other rolling stock. Without the continuing service of these workers, the Nation's railroads cannot operate.

The disagreement in this case is mainly about wages.

There have been eight months of collective bargaining and mediation in the current round of railroad contracts.

During these months, the process of collective bargaining has produced settlements between the railroads and 11 other unions, representing over 70 percent of the Nation's railroad workers.

THE SEARCH FOR SETTLEMENT

There have been diligent and extended efforts to achieve settlement of the shop craft dispute. This record is important, and I urge you to consider it carefully:

--During the summer and fall of 1966, private collective bargaining between the parties proceeded, first at the local level and then at the national level, as the parties pursued their search for settlement.

--From October 1966 through early January 1967, the National Mediation Board worked with the parties. The issues were refined, the differences narrowed.

--On January 6, 1967, the National Mediation Board advised the parties that its mediation efforts had been unsuccessful and offered arbitration. The railroads accepted but the unions declined.

--On January 19, 1967, the National Mediation Board advised me that the services of an Emergency Board were necessary in this case.

--On January 28, 1967, under the Railway Labor Act, I appointed such a Board, chaired by David Ginsburg, a distinguished Washington attorney; John W. McConnell, President of the University of New Hampshire, and Frank J. Dugan, Professor of Law at Georgetown University.

-The Emergency Board conducted an exhaustive inquiry into the facts of the case. It compiled a record of over 1,000 pages. On March 10, 1967, it made a series of recommendations on the basis of that record.

--These recommendations provided a new center point around which further negotiations could revolve. They were accepted by the railroads but not by the unions.

--The full cycle under the Railway Labor Act ran out. A strike was called by the unions for 12:01 a.m., Thursday, April 13th.

--I proposed to the Congress on April 10 an extension of the period of statutory restraint under the Railway Labor Act for 20 additional days. The Congress promptly enacted that proposal.

THE FAHY PANEL

As soon as the Congress extended the no-strike period for 20 days, I asked three distinguished Americans with long experience in the field of labor management relations to serve on a Special Mediation Panel. They were: Charles Fahy, recently retired judge of the Court of Appeals for the District of Columbia as Chairman; Dr. John T. Dunlop, Professor of Economics at Harvard, and Dr. George W. Taylor, Professor of Industry at the University of Pennsylvania.

For ten days the Special Panel worked patiently and with great skill, seeking to close the gap which separated the parties by encouraging a voluntary resolution of the dispute through collective bargaining.

Then, drawing upon the parties' own proposals, the work of the Emergency Board and their own experience of 10 days of intensive mediation, the Special Mediation Panel developed a proposal. In their judgement, this proposal represented the conclusions the parties themselves could very well have reached if the give-and-take of collective bargaining had resulted in agreement. As the Panel stated to the parties in its report to me:

We ask the parties to agree now to our suggested basis for settlement of this dispute. The matter is one of dollars and cents alone, and the real differences between the parties in our judgment are not great. We cannot say our proposals contain precisely the correct figures; but we can say our terms are reasonable and not unjust. There is no way in which perfect precision about a matter of this kind can be reached. To carry the dispute further, in light of the consequences of doing so, would not be justifiable, especially after so much consideration has been given to the matter.

Despite this plea, both parties declined to accept this basis for settlement.

On April 24, after hearing testimony from the Panel and the parties to this dispute, the Senate Committee on Labor and Public Welfare called upon the parties "to seriously reconsider as the basis for settlement the recommendations of the Special Mediation Panel."

This summons went unheeded.

Monday, the Congress acted again, at my request, by extending the no-strike period for an additional 47 days, until 12:01 a.m. on June 19, 1967.

TO BRIDGE THE GAP

This is a record of a free society going to the very limit to permit private responsibility to play its part.

It is a record of risking everything except national catastrophe on free collective bargaining.

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It is also a record of collective bargaining almost doing its job--narrowly failing--but coming close enough to offer clear guidance for the completion of the task.

The remaining dispute is principally about narrow differences regarding the amount of the general increase, about the amount--but not the principle--of an "inequity adjustment" covering journeymen and mechanics, and about the length of the contract period.

What is called for now is a procedure to complete collective bargaining, not to replace it--to bridge the remaining gap this bargaining has not closed.

Nothing here warrants resort to a compulsory arbitration procedure which would disregard all that collective bargaining has accomplished and substitute the unfettered discretionary decision of others.

The situation does not warrant seizure by the Government of the railroad properties. President Kennedy well defined the difficulties of such a course of action when confronted with a similar situation in July, 1963. He rejected seizure of the railroads "as creating complex legal and financial problems for the Government, and as merely postponing the day of reckoning" Seizure of these properties would also be offensive to the equities involved in the present situation.

The solution here is one which:

--Assures the Nation the continued availability of railroad transport.

--Gives full effect to the record of collective bargaining in this case and builds on the negotiations which have taken place.

--Looks toward the ultimate resolution of this dispute by agreement.

--Provides only the means to bridge the remaining gap between the parties.

This solution is supplied by the recommendations of the Special Mediation Panel and the advice I have received from leaders of the Congress and my top advisers in the Executive Branch.

THE PROPOSAL

I propose a Joint Resolution authorizing the establishment, for a 90-day no-strike, no-lockout period, of a 5-member Special Board to be appointed by the President. All will be "public members." But I intend to appoint one member with a management background and one member with a labor background.

The functions of the Board will be these:

--For the first 30 days after enactment of the Joint Resolution, the Board would engage in intensive mediation with the parties to encourage and stimulate a final resolution of the issues in dispute.

--Beginning on the 31st day, if no agreement has been reached, the Board would be authorized to hold hearings to determine whether the Special Mediation Panel proposals of April 21, designed to implement the collective bargaining contemplated by the Emergency Board recommendations meet the following criteria:

- are in the public interest,
- are a fair and equitable extension of the collective bargaining in this case,
- protect the collective bargaining process, and
- fulfill the purposes of the Railway Labor Act.

--By the 60th day, if there is still no agreement, the Board would file, with the Congress and the President, its determination concerning the Special Mediation Panel proposals, and whether any modification of these proposals is necessary to insure that they meet these criteria.

--If by the 91st day there is still no agreement, the Special Mediation Panel proposals, with any modifications which the Board finds necessary to insure conformity with these criteria, would take effect. They would continue in effect until the parties reach agreement or until such time, not to exceed two years from January 1, 1967, as the Board determines to be proper.

For the period after that, and until final agreement is reached or the time specified by the Board expires, the Board's determination would have the same effect including the preclusion of resort to strike or lockout-as though it was arrived at by agreement of the parties under the Railway Labor Act.

A final agreement reached by the parties at any time would supersede the Board's determinations and would apply retroactively, if the parties so agree.

CONCLUSION

I urge the Congress to act on this proposal.

At the same time, I urge these railroads and unions to finish this job themselves. The only completely successful conclusion of this case will come not from an act of necessity by the Congress but from an act of responsibility by the parties.

It is within their power to close the gap in this case by heeding the call of their country to reason together. Their taking the last few steps to settlement will show the world the industrial statesmanship which is the pride of America.

All Americans believe in the right of management to healthy profits. All Americans believe in the right of workers to a just and bountiful wage.

All of us realize our progress in labor relations in this country. We recognize--and take pride in--the significant strides we have made in improving the condition of the working man, while at the same time improving the profits of the employer.

We have met many of the problems of poverty, of substandard working conditions, of depression and business failure. But each step forward has brought us new problems-problems of prosperity, of technological progress, of sharing the affluence that is our blessing.

All Americans recognize that there is a management interest and a labor interest. But there comes a time when the interest of management and the interest of labor must be the public interest--a time when people must be fed, when soldiers must be supplied, when water must be kept potable, and when factories must not be allowed to close down for lack of materials.

I believe the action I propose to be in the public interest and in the interest of management and labor. It represents the slightest possible intrusion upon the process of collective bargaining. Indeed, in the long run I believe it will preserve the collective bargaining process in the railroad industry.

This proposed Joint Resolution will not solve all the difficulties prosperity brings to labor relations. But we must take this action now, as we continue and renew our search for a just and general solution to emergency strike or lockout problems in our country.

I urge the Congress to act promptly on this Joint Resolution.

LYNDON B. JOHNSON
The White House
May 4, 1967

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