

Decision No. 36467

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion)
into the operations of railroad corporations)
to determine the sufficiency of manpower avail-) Case No. 4676
able for the efficient and safe operation of)
their facilities.)

ORIGINAL

R. E. WEDEKIND, for Southern Pacific Company.
LEO E. SIEVERT, for Santa Fe Railway Company.
C. W. DOOLING, for The Western Pacific Railroad Company.
E. E. BENNETT and E. C. PENWICK, for Union Pacific
Railroad Company.
HARRY SEE, for the Brotherhood of Railroad Trainmen.
N. D. PRITCHETT, for Order of Railroad Telegraphers, et al.
T. J. FINNERAN, for the Brotherhood of Maintenance of Way
Employees.
J. J. DEUEL, for California Farm Bureau Federation.
G. F. IRVINE, for the Brotherhood of Locomotive Firemen
and Enginemen.
LYLE DUFRANE, for State Legislative Committee of the
Brotherhood of Railway Steamship Clerks,
Freight Handlers, Express and Station
Employees.
FRED E. REYNOLDS, for Brotherhood of Locomotive Engineers.
C. J. BORN, for System Federation, 114, of the Railway
Employees Department.
W. G. WELT, and J. H. WASSERBERGER, State Representatives
of the Order of Railway Conductors.
J. N. INMAN, for the Railroad Brotherhoods.

BY THE COMMISSION:

INTERIM OPINION AND ORDER

For the purposes of this interim opinion and order pending further hearing in the proceeding, we need not indulge in an extended discussion of the facts leading up to the institution of the investigation nor of the evidence thus far adduced. After the evidence is in and the case submitted we intend to review the record and make such finding of fact and conclusion and such further order or orders as may then be warranted.

When the four major railroads operating in this State proposed before the Legislature an amendment to the full crew law contained in Section 6902 of the Labor Code so as to suspend the application of certain provisions of that law during the continuance of the war, the Commission was importuned to institute the above entitled proceeding for the purpose of inquiring generally into the sufficiency of manpower available for the operation of

trains. Subsequently, the Legislature, by Chapter 586 of the Laws of 1943, conferred upon this Commission authority to allow variations from the requirements of subdivisions (e), (f) and (g) of the law, these being the provisions relating to the employment of more than two brakemen on freight trains in excess of 49 cars in length upon ^{tracks} ~~trains~~ of various grades.

The rail carriers thereupon filed petitions with the Commission seeking complete relief from each of said provisions. Evidence was received at many days of hearing both before and after the Commission was given specific legislative power to authorize such deviations from the law. The carriers' petitions were vigorously protested by the four railroad brotherhoods. At the close of the hearing on June 25, an adjournment was taken until a date to be set.

During the course of these hearings the Commission was advised of conferences first held between the carriers and their employee representatives with the hope of agreeing upon a plan to be submitted to the Commission whereby some deviations from the law could be permitted upon a trial basis pending a final submission of the matter. Unfortunately, it appears that the parties are not sufficiently in agreement to obviate the necessity for further and extended hearings. From the evidence presented to this date the Commission cannot find that the carriers' petitions should be granted in full. The record contains ample evidence, however, that some immediate relief should be afforded the carriers from the observance of the inflexible provisions of the existing law. It is our opinion that the suggestion made by the representative of the Brotherhood of Railroad Trainmen points the way to an

order which we now properly may make pending the completion of the hearings.

A proposal was made by these employee organizations that the carriers be relieved from observance of the provisions of (e), (f) and (g) of the law, when the requisite number of brakemen are not actually available to meet the requirements of those provisions. Although the employees dispute the carriers' assertion of a general shortage of brakemen, they concede that the furtherance of the war effort demands that no train be delayed because of the want of the crew required by (e), (f) and (g). To this proposal the carriers reply that disputes are certain to arise as to when the requisite number of brakemen are actually available. This may be true, but it should not deter us from promptly issuing a temporary order affording them relief from the penalties imposed under the existing law if it should be necessary for them to operate trains without requisite crews.

In the order herein made we shall not attempt to set forth the conditions under which men shall be deemed available. This is a term which must be understood by both employers and employees, for it is a term constantly employed as well as actually applied by them. Pending the completion of the hearings, the Commission will expect them to continue in good faith to negotiate any differences arising between them respecting the application of this order.

The Commission expects both the railroads and the employees to exert every reasonable effort to make a sufficient number of trainmen available to operate freight trains in California in accordance with the requirements of the full crew law.

The Commission will arrange to be kept informed of the operating results under this interim order, and will scrutinize reports of train delays and their causes and to what extent trains are operated with a reduced number of brakemen.

O R D E R

The Commission having considered the evidence thus far presented in this proceeding upon the petitions of Southern Pacific Company, Santa Fe Railway Company, Western Pacific Railroad Company, and Union Pacific Railroad Company, and being of the opinion that it is necessary and proper that such action be taken; therefore,

IT IS ORDERED that said railroad corporations and each of them be and hereby are authorized, pending further direction by this Commission, to deviate from any provisions of subdivisions (c), (f) and (g) of Section 6902 of the Labor Code whenever and to the extent only that it is deemed reasonably necessary to so deviate because of the unavailability of the requisite number of brakemen for the operation of a train or of trains being made ready for departure from a terminal station.

This order shall become effective immediately.

Dated, San Francisco, California, this 30th day of

June, 1943.

Francis R. Havenner
W. L. Davis
Justin F. Carpenter
Richard L. Jackson
Francis R. Havenner
Commissioners