The Railway Labor Act was enacted to maintain the status quo and avoid interruption of rail services. It allows employees the right to organize and maintain their independence from management. Union representatives have the right under the act to carry out their duties without fear of retribution from management. Disputes between labor and management can be settled promptly through the Railway Labor Act (RLA).

Unions began to develop in the 1860’s. Rail unions learned early that strikes against regional groups or railroads nationwide were much more effective than strikes against individual railroads. Widespread disruptions of rail service caused demand for government intervention by shippers and the public.

This demand for intervention lead to a progressive series of Acts that preceded the Railway Labor Act of 1926, which was amended in 1934, 1936, and 1966.

**Railway Labor Act - History**

**1888 – Arbitration Act**
The law provided:
- Voluntary *ad hoc arbitration* upon agreement by labor and management.
- The President of the United States could establish boards of inquiry to investigate labor disputes that threatened to interrupt interstate commerce

*Ad hoc arbitration – a system whereby the union and carrier jointly choose arbitrators on a case by case basis.*

**1898 – Erdman Act**
The law provided:
- Reliance on government mediation and conciliation for the prevention of labor disputes.
- A temporary board for each dispute.
The law repealed:
- The investigative procedures of the Arbitration Act.

**1899 – First attempt to use the Erdman Act**
- A union requested mediation but railroad management refused to participate.
1906 – Second use of the Erdman Act

1906 – 1913 – Settlements under the Erdman Act
• 61 cases were settled, mostly by mediation.

1913 - Newlands Act of 1913
The law provided:
• A full-time Board of Mediation and Conciliation
• Stipulation that settlement of disputes should rely on mediation
• The Board of Mediation and Conciliation, when requested by either party to a dispute, to render an opinion to a dispute concerning the meaning or application of an agreement reached through mediation.

1916 - Hours of Service Law
The law provided:
• Work rules for hours of service
Congress enacted this law after voluntary arbitration was resisted

1916 – Adamson Act of 1916
The law provided:
• Variance on the basic 8 hour day by union contract or individual agreement if there is no union on the property for the craft involved.

1917 / 1920 (WW I) – Government Seizure of Railroads
The seizure entailed:
• Placement of railway labor-management relations under the supervision of the office of the Director General of the United States Railroad Administration (USRA)
• Creation of National Boards of Adjustment to settle, by arbitration, all disputes concerned with the interpretation of existing agreements
• There was labor-management peace and few arbitration cases during this period.

USRA – was the name of the nationalized railroad system of the United States between 1917 and 1920. It was possibly the largest American experiment with nationalization, and was undertaken against a background of war emergency.
1920 – The Transportation Act of 1920
The law provided:
• The United States Railroad Labor Board to hear and decide labor/management disputes not settled in conferences
• Compliance with Board decisions was not obligatory
Due to voluntary compliance the board became ineffective.

1924 – Political Party Conventions Resolutions
Resolutions adopted by both political parties supported:
• Special legislation governing rail labor negotiations.

1926 – Railway Labor Act
The Law (Section 6) provided:
• Collective bargaining rights to unions.
• A collective bargaining process which required an intervening 3rd party, either the government or neutral Presidential appointee, to press for solutions.
• No bargaining deadlines
• Legislative barriers prohibiting unions from striking until they had exhausted a whole series of formal steps.
The RLA was negotiated and written by rail unions and management.
The act was favorable to management due to the difficulty of changing the status quo and the virtual elimination of the right to strike.

Status quo – the existing state of affairs

1934 – Railway Labor Act Amendment
The amendment (Section 3) provided:
• The mandatory arbitration of all claims and grievances at government expense.
• The balance of power was tipped toward labor in 1934.
• The mandatory provisions led to a body of decisions that employed the “penalty day” as a remedy for Scheduled Agreement violations where the rule violated was silent with respect to any penalty for its violation.

1936 – Airline Pilots included in RLA
Airline Pilots Association (ALPA) persuaded congress to include airlines under the RLA
1936 – Railway Labor Act
With all amendments included, the 5 main provisions of the act are:
- To avoid the interruption of rail service.
- To allow employees the right to organize their own unions and collectively bargain.
- To provide organizational independence between management and labor.
- To assist in prompt settlement of disputes concerning pay rates and working conditions.
- To assist in prompt and orderly settlement of disputes or grievances concerning conflicting interpretations or applications of existing agreements.

Today’s customer driven, highly competitive markets cause management to want to change the status quo. The RLA was enacted to preserve the status quo. The processes required by the act are lengthy, usually resulting in change taking place only in small increments.

Case in Point - Elimination of Firemen from Diesel Locomotives

Railroads initiated proposals to eliminate firemen from locomotives during the early days of the Eisenhower administration. After several years of negotiations, third party studies, and legislation an agreement eliminating the requirement of diesel locomotive firemen was reached in 1985. The agreement took over 30 years to settle.

**Railway Labor Act - Reaching Agreement**

In the rail industry, contracts do not expire. Before a contract can be changed both parties must negotiate and reach agreement on the requested change. The RLA requires that a series of formal steps be taken before a change in the status quo can occur.

This process is unique to the rail industry. It provides many points of settlement between labor and management. Since the procedures are long and drawn out change usually takes place in very small increments. Ultimately, the RLA was written to maintain the status quo and avoid interruptions in interstate commerce.

**Section Six Notice**
If either labor or management wants a change in the existing contract they must notify the other side of the requested changes. The notice must be in writing, and is known as a Section Six notice under the Railway Labor Act.

**Notice is Served**
A Section Six notice is served requesting changes in agreements affecting pay rates, rules, or working conditions. Negotiations must begin within 30 days of the Section Six Notice.

**Reply is Required**
Within 10 days of receipt of the notice a time and place must be set up for a labor/management conference. The conference must be held within 30 days of receipt of the Section Six notice.

**Negotiations**
Negotiations over the requested changes begin within the 30 day period, according to the arrangements set by both parties. There is no time limit within which an agreement must be reached. Status quo of the existing contract is maintained until an agreement is reached.

**Agreement is Reached**
The parties come to an agreement and changes are made to the contract.

Or…..

**Strike, Lockout, or Promulgation of New Work Rules**
If a period of 10 days has elapsed after the termination of conferences without the requested or proffered services of the National Mediation Board, strike lockout, or promulgation of new work rules occur. If either party breaks off negotiations the union is free to strike and management is free to change the contract.

*Proffer* – to present for acceptance an offer or suggestion

*National Mediation Board* – an independent agency in the Executive Branch of the government

*Promulgate* – to proclaim, to make known by open declaration, to post.

**Request for Mediation Services of the National Mediation Board**
Either party can request the services of the National Mediation Board (NMB). Status quo is maintained during the period that the NMB is involved. There is no
time limit for the jurisdiction of the NMB. But, the Board is obligated to make the best effort possible to bring about a settlement. If the board relinquishes jurisdiction labor and management are permitted to act.

**Agreement is Reached**
Under the auspices of the National Mediation Board, an agreement is reached.

Or . . .

**NMB Proffer of Arbitration**
If agreement is not reached, in the public interest of avoiding an interruption of rail services, the NMB makes a proffer of arbitration.

**Agreement is Reached**
Upon the proffer of arbitration by the NMB, agreement is reached by accepting binding arbitration for a new contract.

Or . . .

**Exercise of Self Help**
The NMB must notify both sides if either party refuses the proffer of arbitration. Labor and management are permitted to exercise self help within 30 days of receipt of notice of refusal. Self help includes strike, lockout or promulgation of new work rules. The sides can not exercise Self Help if the President appoints an Emergency Board at this point.

*Self Help – strike, lockout or promulgation of new work rules*

**President**
The NMB may notify the President if it believes that the exercise of Self Help will interrupt essential interstate commerce.

**Emergency Board**
The President may appoint an Emergency Board if a strike or lockout may take place interrupting essential rail service. The Emergency Board investigates the dispute between the two parties and makes non-binding recommendations for a settlement. Status quo is maintained during the investigation and recommendation period held by the Emergency Board.
**Report to the President**

The Emergency Board reports to the President within 30 days of its appointment on its findings and recommendations. During this 30 day period status quo is maintained.

**Agreement is Reached**

If both parties adopt the recommendations of the Emergency Board an agreement is reached.

Or . . .

**Exercise of Self Help**

If the parties do not agree on the recommendations of the Emergency Board they are permitted to exercise self help within 30 days of issuance of the report.

**Settlement**

If a settlement is not reached or if the agreement is not at the level that the Emergency Board recommended, Congress can intervene. Congress can legislate a contract settlement through the President’s approval or the overriding of his veto.

The Railway Labor Act is used by labor, management, the President, and Congress to reach agreement on disputes and to settle on new contract language.

The Railway Labor Act has specific criterion for distinguishing between major and minor disputes. The RLA offers guidelines for settling both types of disputes.

**Railway Labor Act - Minor Dispute**

**Minor Disputes (Not in RLA but rather and an interpretation by the courts)**

Minor disputes relate to the meaning, interpretation and / or proper application of an existing agreement. A minor dispute is to the rail industry what a grievance dispute is to other industries.

• **Settlement of Minor Dispute**
  • A minor dispute is settled between management and labor.
• **Minor Dispute: Disciplinary**
  - If the dispute is disciplinary in nature a hearing is held and preceded over by a hearing officer selected by management. The hearing officer then rules on the case. If labor has a disagreement with the ruling the Railway Labor Act and contracts allow for the appeal of the ruling.

• **Agreement is not Reached**
  - If the Minor dispute is not settled it progresses to one of several boards. These boards are the National Railroad Adjustment Board, a Public Law Board, and a Special Board of Adjustment (set up special).

• **Agreement**
  - The board makes a recommendation on the dispute that must be followed by both parties. Strikes and lockouts are not permitted over minor disputes.

• **National Railroad Adjustment Board**
  - The National Railroad Adjustment Board (NRAB) settles disputes over the interpretation or implementation of pay rates, rules, or working conditions under existing contracts. Either party can petition the Board after the dispute has progressed through the usual channels between labor and management without a settlement.
  - If the NRAB does not bring about a settlement a referee can be requested through the NMB. The referee then determines the settlement.

• **Cost**
  - The referee’s services are paid for the NMB.

• **Board members**
  - The NRAB has 34 members. The rail unions and management select 17 members each.

• **Location**
  - The NRAB is headquartered in Chicago, Illinois.

• **Public Law Boards**
  - Public Law Boards are established through the written request of either labor or management. These Boards handle minor disputes, which are otherwise handled by the NRAB. Public Law Boards can also handle disputes that have been before the NRAB for 12 months or more.
**Railway Labor Act - Major Dispute**

**Major Disputes**

Major disputes involve the formation of a new contract or a change in an existing contract. Across the board changes in rates of pay, rules, or working conditions are considered major disputes.

**Major Disputes**

- **National Mediation Board**
  - The National Mediation Board settles:
    - Major Disputes
    - Representation Disputes, which are disputes among employees regarding the designation of union representation
    - Disputes over the interpretation of mediation agreements
  - The NMB is an independent agency in the executive branch of the government.

- **Board Members**
  - The NMB has three members appointed by the President and approved by the Senate
    - Elisabeth Doughery, Chairman
    - Harry R. Hoglander, Member
    - Linda Puchala, Member

- **Staff**
  - The Board has a staff of mediators, who work in the field.

- **Location**
  - The offices of the NMB are in Washington, DC.

- **Emergency Boards**
  - An Emergency Board is appointed by the President if the NMB believes that a Major Dispute they are presiding over cannot be resolved, causing interstate commerce to be interrupted. The Emergency Board investigates the dispute, submits a report and offers recommendations to the President.

- **Board Members**
  - Board members are selected by the President in each instance of need for dispute resolution. Three members are usually selected. Members should not have any conflict of interest with the union or management.
• Exception is AMTRAK – 6 members

**Railway Labor Act - Self Help**

The Railway Labor Act affords union representatives the right to carry out the procedures and options listed in the RLA without fear of retribution from management.

**Rights of Representation**

• A union Representative is free to carry out his or her responsibilities under the RLA, Scheduled Agreement and **Duty of Fair Representation** without fear of retribution or coercion from management.

• Union representative must be designated by the union or the members without the interference, influence, or coercion of management.

**Duty of Fair Representation** – union representation or employees that is not arbitrary, discriminatory, or in bad faith.

**Self Help**

• Union representatives are free to exercise self help under the RLA.

• The union can exercise Self Help as an economic job action, such as a work slow down, or strike.

• The carrier can exercise Self Help as a lockout or implementation of the proposals made in their Section Six notice.

**Railway Labor Act - Boards**

There are four boards which have jurisdiction under the RLA to settle disputes between management and labor. Two boards handle Minor Disputes and two boards handle Major Disputes.

Presentation of the Brotherhood of Locomotive Engineers and Trainmen
The Education & Training Department
And Arbitration Department
2011