CORRECTED

Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 12397
SECOND DIVISION Docket No. 12438
92-2-91-2-251

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and
(Aerospace Workers
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(Metro-North Commuter Railroad Company
(
(Transport Workers Union of America

STATEMENT OF CLAIM:

In accordance with past practice and the collective bargaining agreements between Metro-North and IAM&AW and Metro-North and TWU, which employees should be assigned to the repair, maintenance and inspection of MU electric equipment at the Carrier's Brewster, New York, Shop facility?

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Background

In 1984 the Carrier electrified tracks to its Brewster, New York Shop and thereafter began to provide service through to Brewster North with multiple unit electrical equipment, also known as MUs. This type of equipment had not been maintained at the Carrier's Brewster facility prior to 1984. Prior to that time various maintenance and repair work at Brewster was limited to diesel locomotives and diesel powered self-propelled vehicles. The latter are known as SPVs. The members of the IAM did the floor level maintenance and repair work on the diesel locomotive and SPVs and members of the TWU repaired and maintained the bodies, windows and interiors of this equipment. Members of the TWU also performed maintenance and repair work on standard coaches. The instant dispute has its origin with the arrival of MUs at Brewster and the need to maintain and repair that type of equipment also. MUs differ from SPVs in a number of ways, including the manner in which they are powered. The former use a third rail. The latter are powered by diesel.

Both of the Organizations have held the position, from the time that repair and maintenance was first done at Brewster on MUs, that this work belonged to them. This Award will put that dispute to rest once and for all. The work in dispute is work on MUs which is below the floor line. This includes repair and maintenance on brakes, wheels, draft gear, air compressors, air brake systems and so on. In short, the disputed work includes all maintenance and repair work which is not covered by the IBEW and SMWIA's Agreements. There is no dispute that the latter two Organizations have jurisdictional right to do certain electrical and sheetmetal work on the MUs at Brewster. According to its Submission, and in testimony before the Board with the neutral member present, the Carrier stated that it made various attempts since 1984 to come to an accommodation between the TWU and the IAM with respect to a "mutually agreed upon distribution of work" on Brewster's MUs. These attempts, which are chronicled next, have been unsuccessful.

In 1984, on interim basis, the Carrier gave repair work on the MUs at the Brewster Engine House to the IAM, and repair work on the MUs in Brewster Yard to the TWU. This provisional division of labor was unacceptable to both crafts. There remains to this day outstanding pay claims, going back to 1984 and filed by both crafts, which allege that the Carrier set up an arrangement whereby one craft was doing work which belonged to the other at its Brewster facility.

In 1987 the Carrier tried a different tactic. Looking to what it interpreted as past practice at other Carrier locations, staffing levels at Brewster as well as at other locations, and the Rules of the Agreements it had with TWU and IAM, the Carrier divided the creation of new positions needed to do the repair and maintenance work on Brewster's MUs on a 60/40 basis. Sixty percent of the work went to the TWU. Forty percent went to the IAM. This arrangement too was grieved by both crafts.

The TWU claim, absent resolution on property, was docketed before an ongoing SBA on this property and became Case No. 175. That claim stated, for the record, the following:

> "1.) Carrier has been violating ever since March 17, 1987 the Scope and Classification of Work rules of its Agreement with the TWU by assigning forty percent of the multiple unit equipment inspection and repair work at its new Brewster, New York facility to machinists rather than to carmen.
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> 2.) This is a 'continuing claim', the TWU claiming 'eight hours each day Machinists (IAM) are performing carmen's work at the new Brewster facility."

The IAM was invited to submit a Third Party brief, as was its right under the Railway Labor Act, before that SBA wherein it could have stated its position on the MU maintenance and repair work at Brewster. The IAM declined to do so. Hearing on that case was held on September 8, 1990, and on December 12, 1990, SBA No. 935 issued an Award on Case No. 175. That Award sustained the TWU's claim on merits albeit adding variances with respect to relief. That Award's conclusions are cited here, in pertinent part, as follows:

> .....
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> "When the disputed work began to be performed at Brewster, Carrier may have found itself in a difficult position because of IAM demands. However, it was subject to a binding practice and agreement commitments. While it may have been temporarily convenient for the Carrier in 1987 to issue its 60%-40% ruling, it plainly was thereby saddling subsequent labor relations' officers with troublesome practical problems that would not disappear.
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> It is the Board's conclusion that contrary to the Carrier's position, no valid basis exists for assigning MU inspection and repair work at Brewster to machinists. The first paragraph of the present claim will therefore be sustained. In view of the fact that the IAM did not participate in these proceedings and we did not have the benefit of its views or any evidence it might present with respect to the meaning of 'self-propelled unit' and other points, this Award will be applicable only to the instant claim and to the disputed work at Brewster, New York...."

That Award does note that there was a concurrent case being arbitrated by the IAM over a claim dealing with the MU work at Brewster, and that it was SBA No. 935's "understanding that (a) hearing (had already been) held in that case ...but to date no decision ha(d) been rendered." SBA No. 935's Award also noted that the "...TWU declined a timely-served invitation to participate in that (other) proceeding, apparently on...ground(s) that it was dissatisfied with the wording of the issue."

The IAM had earlier brought an issue to arbitration which dealt with the MU work at Brewster and Hearing on that matter had been held on September 8, 1988, under title of Case No. 1 of PLB No. 4573. The issue before that Board, which the IAM and the Carrier "...agreed to submit...to arbitration" was the following:

> "Whether the work assignment at the new Brewster Shop as contained in the Metro-North bulletins of March 17, 1987 violates Section 2, Seventh of the Railway Labor Act."

The pertinent provision of the Railway Labor Act cited in that case states the following:

> "No Carrier, its officers or agents shall change the rates of pay, rules, or working conditions of its employees, as a class as embodied in agreements except in the manner prescribed in such agreements or in section 6 of this Act."

In lieu of ruling immediately on this issue the Chairman of that Board wrote, finally, in an Award which was issued on December 20, 1990, or some eight days after the rendering of Award 175 of SBA No. 935, that he had encouraged the parties, after Hearing on this case in 1988, "to attempt to resolve the dispute through negotiations" but that he was subsequently advised that such "...efforts were unsuccessful." The Chairman of PLB No. 4573 thus issued Award 1 of that Board. There are a number of conclusions found in that Award which should be cited here for the record. First of all, Award 1 of PLB No. 4573 states, properly drawing such conclusion with respect to the claim before it, that:

> "...this Board was not constituted for the purpose of resolving a potential jurisdictional dispute; or for the specific purpose of interpreting the IAM rule and/or the TWU scope rule...."

Nevertheless, in concluding about the issue which was before it, that Award states:

> "...(it) is not persuaded that the IAM, by grieving the work assignments, is foreclosed from proving that the Carrier's assignments in March 1987, at the Brewster shop, represented a violation of Section 2, Seventh of the RLA...."

Having stated the issue before it, and concluding that the issue was properly before a Public Law Board, Award 1 then ruled, on merits, with accompanying rationale, as follows in pertinent part:

> "The Board is sympathetic to the Carrier's dilemma. Metro-North found itself, in 1987, with a new shop facility and with competing claims from the two involved Organizations for the repair and maintenance work at that shop. It is clear that the Carrier made a somewhat scientific effort to satisfy both labor organizations by 'dividing' the work on a sixty percent (60%) TWU and forty percent (40%) IAM basis.

> While this Board is not prepared to say that the Carrier's effort was not intended to achieve an equitable distribution of the work, this Board is prepared to say that the Carrier has not established, by fact or argument, that it had the right, by contract or law, to determine what would be an appropriate division of work where no percentage guidelines existed in the collective bargaining agreement or had been agreed to by the competing Organizations.
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> Clearly, the Carrier's unilateral implementation of a percentage division of work, which Metro-North found to be appropriate, impacted and 'changed' the existing scope rules of both the TWU and the IAM. While the TWU may have been satisfied with the division, although it is not clear that that Organization has abandoned claims to the forty percent (40%) of the work assigned to the IAM, it is this Board's opinion that there is merit in the IAM's contention that the Carrier's arbitrary assignment of work was a violation of Section 2, Seventh of the RLA.
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> The Carrier's division of work at the Brewster shop, while it may have been reasonable and equitable, was not a right which the Carrier obtained through negotiations with the IAM and/or the TWU. Accordingly, this Board must conclude that the Carrier's determination of what was an appropriate division of work cannot bind the two Labor Organizations, and must be viewed as a change in existing rules and working conditions.
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> Based upon the above findings, the IAM's position shall be sustained...."

The Carrier thereafter met with both Organizations in order to attempt to reach some type of resolution to the dilemma it was faced with as result of issuance of both of the Awards cited in the foregoing. The IAM and the Carrier agreed to submit the two arbitration "decisions (which) are in conflict," as the U. S. District Court of the Southern District of New York put it, to a tri-partite arbitration panel. The TWU refused to agree to this arrangement. The Carrier, therefore, unilaterally abolished the positions created as result of the 1987 60/40 split and proceeded to implement Award 175 of SBA No. 935 and assign all work in dispute at Brewster to the TWU. In early January of 1991 the Carrier issued various bulletins abolishing and creating positions to achieve that effect. Shortly thereafter, also in January of 1991, the IAM filed a motion for injunctive relief with the U. S. Federal District Court in the Southern District of New York. The pleading for injunctive relief requested a number of things including the re-establishment of the status quo at the Brewster facility as it existed prior to 1987; that

the Carrier be enjoined not to make further changes in work assignment at Brewster relative to the two crafts until either a work distribution agreement was reached with the IAM and/or until all procedures under the Railway Labor Act were exhausted, and so on. Several weeks after the first filing of this motion it was amended to include the TWU as additional defendant. Cross motion filed by the Carrier, which was joined by the TWU, was that the request for relief by the IAM be dismissed. Thereafter motion for summary judgment was filed by the IAM.

In September of 1991 U. S. District Judge T. P. Griesa issued an Order which stated, in pertinent part, the following:

> "On basis of the various submissions in this case, the court concludes that the conflicting arbitration awards create a problem which is properly resolved by tri-partite arbitration --- involving IAM, TWU and Metro-North --- before the National Railroad Adjustment Board. In the interest of justice, this arbitration proceeding should be handled on an expedited basis."

Thereafter the dispute, as outlined in the Statement of Claim, was docketed before the Board and Submissions, outlining each party's respective position, were submitted. Oral argument before the Board, with the neutral member present, took place.

Findings

There is a threshold, procedural issue raised by the TWU which this Union argues forecloses the Board's need to deal with the merits of the instant question before it. According to this Union, the two Awards issued in 1990 by SBA No. 935 and PLB No. 4573 "...are consistent with one another" and that, consequently, there is "...no dispute which requires resolution by this Board." This reasoning takes us back to before the IAM filed for injunctive relief in early 1991 and is based on earlier reasoning used by the Carrier when it decided to implement Award 175 of SBA No. 935. On January 7, 1991, the Carrier informed the General Chairman of the IAM and the President of the TWU that it was assigning work on Brewster's MUs to the TWU because of the following conclusion it arrived at after "...careful reading of both (the SBA No. 935 and PLB No. 4573) arbitration Awards...." The Carrier's conclusion was as follows:

> "1) Compliance with Arbitrator Kasher's decision (in PLB 4573) requires the abolishment of the positions that were established to create the 60/40 split in Brewster on March 17, 1987. Metro-North will be in total compliance with this Award once the 60/40 split is eliminated.
>
> 2) In order to comply with Arbitrator Weston's Award (in SBA 935), running repair and inspection of Multiple Unit electric equipment will be assigned to Carmen in Brewster."

The Board notes that this position is still held by the Carrier and it, like the TWU, believes that by awarding the MU work at Brewster to carmen it was "in compliance with both (of the earlier) Awards rendered on property" albeit the Carrier continues to pine, in its Submission to the Board, for the 60/40 division which it implemented in 1987 as the "most effective and equitable resolution of the instant dispute," consistent with past practice, and so on.

There are a number of problems with the procedural argument raised by the TWU. First of all, while PLB No. 4573 clearly states that the Carrier has no right by "contract or law" to scientifically divide the work up on 60/40 basis, this Board notes that the issue raised in that Award does not examine the intent and application of the IAM's Classification of Work Rule. And Award 175 of SBA No. 935 examines the TWU's Classification of Work Rule with incomplete information. The author of Award 175 expresses concern about evidentiary matters. This Board also notes that certain factual conclusions, crucial to an understanding of the work jurisdictional issue related to MUs at Brewster, which are arrived at in Award 175 of SBA No. 935, are in potential error. All parties to this dispute have danced around the jurisdictional issue long enough and have tried to win battles, not uningeniously, by using legal and procedural weapons. But what has been lacking, heretofore, is what is always needed as sine qua non to resolve jurisdictional disputes, and this is language from all contracts involved, and a complete record of evidence on past and current practices. It is difficult enough to come to reasonable conclusions on work jurisdictional issues with all pertinent contract language and facts in hand. It is impossible to do so without them.

The Board will not deny, after a full study of the record before it and the parties' arguments in its Submissions, that both sides may have had good, strategic reasons for not participating in the evidentiary process, as third parties, in the two prior arbitrations dealing with MU work at Brewster. But it is not the Board's function to speculate on these matters and it will refrain, therefore, from doing so. On the other hand, the work jurisdictional issue before the two Organizations, and before the Carrier, has not yet had a full hearing prior to the docketing of this case before the Board. The procedural objection raised by the TWU is dismissed on those grounds.

Such conclusion by the Board is consonant with that of the Federal District Court which underlined its view that the two arbitration Awards issued by PLB No. 4573 and SBA No. 935 were in "conflict": the court states this conclusion thrice in its short, two page Order. The court says that these conflicting Awards, in turn, "create a problem" without, however, delineating the full details of this problem. But the nature of that problem is clear and it is the charge of the Board, by mandate from the court, to resolve the work jurisdiction issue over MU repair and maintenance work at Brewster in light of the language of both the IAM and TWU contracts, with all accompanying, factual information from both Unions as interested parties. In its Submission to the Board the TWU argues that:

> "(The NRAB) does not have the right to simply tear up the award of the TWU SBA, reexamine the very same evidence which the TWU SBA did, and then reach its own conclusion...."

The flaw in this logic is that the Board will not be examining the "very same evidence" in its determinations on the question before it nor will it be handicapped, as SBA No. 935 complained it was, absent IAM's "...views and any evidence it might present with respect to..." certain issues central to the question of work jurisdiction over MUs at Brewster. The Board will proceed, therefore, with a ruling on the merits of the question before it.

The TWU's labor contract with the Carrier states the following in its Classification of Work Rule, in pertinent part:

> "1, A. Classification of Work
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> Carmen's work shall consist of building, maintaining, repairing, dismantling, assembling, upholstering... all passenger and freight cars...All inspection of passenger and freight cars and equipment for defects and repairs, maintenance of safety appliances, and compliance with rules governing the interchange of cars. Inspecting and measuring cars for clearance... Inspecting passenger and freight cars...."

Appendix B of the labor contract deals with Graded Work Classifications of Carmen Mechanics. Under Graded Work Classification entitled: Multiple Unit Electric Car Inspecting, Appendix B states the following under title of Explanation:

> "Multiple unit electric car inspecting work, repair work which may be connected therewith or any work assigned when not engaged in inspecting work."

The IAM's labor contract with the Carrier states the following in its Classification of Work Rule, in pertinent part:

> "IV, Machinists' Classification of Work
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> A. Mechanics
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> Machinists' work shall consist of maintaining, repairing...all machinery, including pumps, bearing, pinions, gears, sheave wheels, mechanical couplings, compressors, air equipment, lubricator and injector work on steam, diesel electric, electric and other types of locomotive or self propelled unit...(and) ...inspection and testing of engines and locomotives and self-propelled units generally recognized as machinists' work...(and) all other work generally recognized as work of the Machinist craft...."

According to the TWU, prior to 1984 all inspection and heavy repair work on MUs running on electrified Carrier rail lines in New York State's Hudson Division was performed by TWU carmen at the Carrier's Harmon Car Shop. When the northern portion of the Harlem Division was electrified to Brewster the Carrier began operating MU cars on that line for the first time and the Carrier "required that the MU cars be serviced at the existing facilities" from 1984 through 1987 with the arrangement cited in the foregoing, i.e., the TWU carmen did work on MUs at Brewster Yard and the IAM was assigned the MU work at the Brewster Engine House on a "temporary non-precedential basis." The Carrier acted properly, according to the TWU, in subsequently assigning all MU inspection and repair work at Brewster to carmen, not only because it was required to do so by Award 175 of SBA 935, but also on substantive merits. According to the TWU the language of its labor contract is clear and unambiguous: its work shall consist in "...repairing....all passenger cars..." and the work accruing to carmen mechanics include the work of "...multiple unit electric car inspectors." TWU states that if the IAM argues that MUs are "self-propelled" units covered under the IAM Work Classification Rule that such argument ought to be considered fallacious since MUs are not self-propelled since they "cannot move under their own power when simply placed on tracks, without the addition of electric power." Certain other kinds of cars, such as Budd units are self-propelled, according to argument by the TWU. Further, past practice establishes carmen's right to do the MU work at Brewster. For example, "...(f)rom the time MU cars were first introduced, all inspection and repair work ever performed on them on the Hudson Division Car Shop at Harmon, New York (and at the smaller Harlem Division car shop at North White Plains, New York) was performed by carmen." Carmen "perform rigorous and lengthy inspections of MU cars, including repairs incident to the inspection" according to the TWU and a copy of the forms used by carmen is presented to the Board under title of an exhibit. The TWU does admit that the IAM did MU work on the Carrier's New Haven Division, both at New Haven and "partially" at Stanford but that such was so because these practices originated in a "different, private rail system." The TWU recognized and agreed to this past practice "...essentially under a non-conforming variance exception" in its Classification of Work clause in the TWU labor contract. The language at bar states the following:

> "Except as otherwise determined by a joint jurisdiction committee, it is further understood and agreed in the application of this Carmen's Classification of Work that any work specified herein which is being performed on the property of any former component railroad by employees other than Carmen may continue to be performed by such other employees at the locations at which such work was performed by past practice or agreement on the effective date of this Agreement; and it is also understood that work not included within this Carmen's Classification of Work which is being performed on the property of any former component railroad by Carmen will not be removed from such Carmen at the locations at which such work was performed by past practice or agreement on the effective date of this Agreement (which is 1986) ...."

Finally, the TWU argues that "such...acceptance of the situation as it existed in fact is not a license for the IAM to increase its encroachment on the TWU carmen class and craft work by demanding to share in the MU car inspection and repair work on the Harlem and Hudson Divisions of the Carrier located entirely in New York State...." With its argument that all of the MU work at the Carrier's Brewster facility belongs to the carmen craft, this Organization rejects once again, as it did before Case 175 of SBA No. 935, that the work ought to be shared between carmen and the IAM.

The IAM argues that prior to 1984 all repair work on self-propelled units at the Brewster shop was done by the IAM except for the cleaning and maintenance of the bodies, windows, and interiors of units which was work accruing to the TWU. The self-propelled units included Budd cars and SPVs, both of which are diesel powered. The history of IAM work on self-propelled units at Brewster is related in a statement submitted by the President of IAM Liberty Lodge 226 at Brewster who is also a working machinist. This statement says the following, in pertinent part, which is cited here for the record:

> "...Under the IAM-Metro-North Collective Bargaining Agreement my work at the Brewster Shop involve(d) the inspection, maintenance and repair of locomotives. Prior to 1984, this work included all Self-Propelled Units; those units are considered locomotives under federal safety regulations.
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> Machinist work on the self propelled units includes all federal safety inspection work including 92 day and two-year inspections and repair, all daily inspections and signing of Rule 203 cards (which are kept in the units as evidence of inspection) and signing of E. L. 106 forms noting any defects (those forms are kept on file by Metro North). Machinists also sign federal forms FRA F6180-49A covering brakes, running gear, machine equipment and safety appliances. Additionally, Machinists perform typical Machinists locomotive maintenance work on the self propelled units including gauging wheels; replacing brake shoes, hangers, treads and slides; adjustment, repair and replacement of pumps, bearings, pinions gears, etc. and all air brake work.
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> Beginning in 1984, Metro-North began servicing certain self propelled units known as MUs at the Brewster Shop and some inspection, maintenance and repair work on those units was assigned to carmen.... Previously, the only work done on self-propelled units by carmen at Brewster involved maintenance and repair of the bodies, interiors and windows of those units.

> Subsequently, in 1987, Metro-North opened a new shop in Brewster and it filled new positions at the shop which involved inspection, maintenance and repair of the MUs (in part, to Carmen)...even though (this) involved work which, under the IAM-Metro-North Collective Bargaining Agreement, belongs to Machinists and which had historically been done by Machinists on locomotives generally, and self-propelled units in particular...."

The IAM argues that MUs are self-propelled units designed to carry passengers as either single units with an engineer or as a consist of a number of units operated by an engineer in the lead unit. When operated in the latter manner, there is no need for a locomotive because the "entire consist acts as a locomotive" with each contributing power to "propel the entire consist." It is true, according to the IAM, that each MU carries passengers, but they are nevertheless "treated as locomotives in Metro-North operations" and such is "consistent with federal safety laws." The IAM goes into considerable detail in its Submission outlining the current position of both the ICC and the courts on the relationship between locomotives and self-propelled units. The ICC currently defines a locomotive in the following manner:

> "A locomotive is a self-propelled unit of equipment designed for moving other equipment and includes a self-propelled unit designed to carry freight and/or passenger traffic."

Although various Carriers objected to this definition they have not prevailed, according to the IAM and "...ever since, multiple-operated electric passenger units have been considered locomotives for federal rail safety purposes." Additionally, according to the IAM, the FRA defines a locomotive in the following manner:

> "(It is a) piece of on-track equipment other than hi-rail, specialized maintenance, or other similar equipment with one or more propelling motors designed for moving other equipment; with one or more propelling motors assigned to carry freight or passenger traffic or both; without propelling motor but with one or more control stands."

FRA regulations explicitly define "MU locomotive" as a "...multiple operated electric locomotive...." Lastly, the IAM cites court thinking which also supports that MUs are to considered locomotives. Suffice it to cite here for the record the opinion of the Court of Appeals of the State of Washington in Duchsherer v. Northern Pacific Ry., 4 Wash. App. 291, 481 P. 2d 929, 931 (1971) wherein it was held that: "...(W)here the motorcar is being used to carry people...it is being used like a locomotive and it will be treated as such...." The IAM argues that its Classification of Work Rule expressly covers maintaining and repairing of "electric and other types of locomotive and self propelled unit(s)..." and that the MUs at Brewster are covered by

that language. Further, as a matter of past practice, the IAM does not deny that the TWU did do some maintenance and repair work on MUs but that such happened only at the Carrier's Harmon Shop which the IAM tolerated because of a grandfather clause in its Agreement.

From the record before it, the Board concludes as follows. Award 175 of SBA No. 935 factually erred when it concluded as follows:

> "As we understand it, the terms, 'locomotives' and 'self-propelled units,' are specialized equipment that realistically and in normal railroad parlance do not refer to the type of MU cars worked upon at Brewster...."

Thus the TWU argument that MUs are not self-propelled units "...since they cannot move under their own power when simply placed on tracks, without the addition of electric power" is rejected. Such conclusion is not only supported by the opinion of the ICC, FRA and the courts cited in the foregoing, but the Carrier itself, in its Submission to the Board, states the following:

> "Inconsistent with...award (175 of SBA 935) a MU is considered by the FRA to be a type of locomotive within the scope of the (IAM's Classification of Work Rule)...."

Secondly, it is clear that there was a mixed tradition on the Carrier's property, due to past practices originating on operating railroads which were incorporated into its corporate structure over time, which puts to rest the claim of exclusivity by either the TWU or the IAM when it is question of repair and maintenance on MUs. Both Organizations admit that in their Submissions to the Board and both have labor contracts which permit accommodations to this arrangement.

Thirdly, the Board must agree with the conclusions of Award 1 of PLB No. 4573, despite the Carrier's continuing argument to the contrary on equity and other factual grounds which it finds to be pertinent, that there is no basis "by contract or law" for the Board to conclude that the maintenance and repair work on MUs at Brewster should be divided up between the TWU and the IAM according to some formula. The work either belongs to the IAM or to the TWU and the Board must rule accordingly.

Fourthly, there is insufficient evidence that members of the TWU craft did work of the type in question on locomotives or any other self-propelled units at Brewster itself prior to the establishment of the MU repair and maintenance work there by the Carrier. There is evidence that the IAM had exclusive purview at Brewster on repair and maintenance work of the type at bar in this case on self-propelled units and, as concluded in the foregoing, MUs are self-propelled units.

Lastly, the language of the IAM contract, and not that of the TWU contract, more properly supports that the repair and maintenance work on MUs of the type here at bar, at Brewster, belongs to the IAM, and not to the TWU. Therefore, the Board rules that in accordance with past practice and the Collective Bargaining Agreements between the Carrier and the IAM&AW and the Carrier and TWU, the work of repair, maintenance and inspection of MU electric equipment at the Carrier's Brewster, New York, Shop facility shall be assigned to the Machinists' craft covered by the IAM&AW labor contract.

A W A R D

The question in the Statement of Claim is disposed of in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of July 1992.