DOCKET NO. 23 --- Decision by Committee

Brotherhood of Railway and Steamship Clerks)
vs.) PARTIES TO DISPUTE
Lehigh Valley Railroad)

QUESTION: and(d) refusal of Carrier to comply with and apply the provisions of "Agreement of May, 1936, Washington, D. C." with respect to affected clerical, office, station and storehouse employees in the coordination by the Lehigh Valley Railroad of its Tifft Farm Coal Dock Facilities, Buffalo, N. Y. with the coal dock facilities of the Delaware, Lackawanna & Western Railroad Company at Buffalo, N. Y.

(b) Request of the Brotherhood that the provisions of said agreement be fully complied with and applied by the Lehigh Valley Railroad Company and that all affected employees of said company who have suffered or may hereafter suffer any monetary loss as a result of the Carrier's failure and refusal to apply and comply with the terms of the "Agreement of May, 1936, Washington, D. C." be compensated in full for all such loss.

DECISION: This is a coordination under the "Agreement of May, 1936, Washington, D. C."

DOCKET NO. 24 --- Withdrawn by Organization

The Order of Railroad Telegraphers)
vs.) PARTIES TO DISPUTB
International Great Northern Railroad Company, and)
Missouri-Kansas-Texas Railroad Company of Texas)

QUESTION: Coordination of telegraph service of the International-Great Northern Railroad Company and the Missouri-Kansas-Texas Railroad Company of Texas at Taylor, Texas, and entering into of an agreement between the Managements and The Order of Railroad Telegraphers on the Carriers under Agreement of May, 1936, Washington, D. C.

DECISION: Further consideration of the case by the Committee is suspended pending further efforts by the parties to dispose of the dispute.

Case withdrawn by Organization.

DOCKET NO. 25 --- Decision by Referee Gilden

Brotherhood of Railway and Steamship Clerks)
VS.) PARTIES TO DISPUTE
Southern Railway System and)
Atlantic Coast Line Railroad Company)

QUESTION: lure and refusal cf the Carrier to comply with and apply the provisions of "Agreement of May, 1936, Washington, D. C." with respect to affected clerical, office, station and storehouse employees in the coordination by the Charleston Union Station Company of its work with the Atlantic Coast Line Railroad Company at Charleston and North Charleston, S. C., and the coordination of the Charleston Union Station Company with the Southern Railway System a: Charleston, S. C.

(B) Request of the Brotherhood that the provisions of said agreement be fully complied with and applied by the Southern Railway System and the Atlantic Coast Line Railroad Company and that all affected employees of the Charleston Union Station Company who have suffered or may hereafter suffer any monetary loss as a result of the Southern Railway System and the Atlantic Coast Line Railroad Company failure and refusal to apply and comply with the terms of the "Agreement of May, 1936, Washington, D. C.", be compensated in full for all such losses.

FINDINGS: Inasmuch as the dispute relates to and deals with the interpretation and application of the "Agreement of May, 1936, Washington, D. C.", the Carrier's contention that the Committee established by Section 13 thereof, and the Referee appointed thereto, are without jurisdiction to consider and decide the controversy, is patently untenable. The objection directed to want of jurisdiction is hereby overruled,

Following the destruction of the Charleston Union Station, the Atlantic Coast Line and the Southern, through resort to their own station facilities, individually absorbed the work that formerly had been performed through the facilities of the Union Station Company. In that manner, the ACL and the Southern, with their *own station* facilities began to perform that portion of the operations and services that prior thereto, they conducted separately on Union Station facilities. Thus, under the revised procedure, it was the Union Station facilities that were dispensed with - not those of the ACL or Southern. Under the new set-up, no passenger train facilities were provided either by ACL or Southern for their joint use, nor did either of these carriers perform any services for the other, or for the Union Station Company.

Even if it could be successfully maintained that the corporate cloak should not shield the Union Station's abandonment of the damaged station facilities (owned and operated by it since November 10, 1907), from being viewed as joint action by ACL and Southern, (the two carriers owning all of its corporate stock,) it is readily apparent that the operations conducted by the ACL and Southern in the Charleston area subsequent to January 10, 1947, through one set of facilities of each such carrier, were not theretofore transacted at this location through each of such carrier's own separate facilities.

Furthermore, to extend the doctrine of "piercing the corporate veil" for purposes of construing Union Station Company facilities as property belonging to ACL and Southern, in the absence of any semblance of fraud, would do violence to the well established legal concept of the separate character of the corporate entity.

From what is expressly stated in the Washington Agreement, or what may reasonably be inferred therefrom, no support can be found for the proposition that the protection afforded therein embraces transactions terminating an existing Coordination as well as those which give it initial impetus. Section 2 (a) makes no mention of "abandonment" or "substitution" of facilities, operations or services.

Any stretching of the scope of the Agreement to include these subjects would be an unwarranted distortion of the clear and unambiguous language contained therein.

The expanded range of passenger business activity at their own respective station facilities, separately entered into by the ACL and Southern in the Charleston Area, was essentially a substitution for the privilege to use facilities at the Union Station to which these carriers had never acquired title.

Clearly, this situation is not encompassed within the definition of "coordination" set forth in Section 2(a) of the Washington Agreement.

DECISION: 1. That the Atlantic Coast Line Railroad Company and the Southern Railway Company are not required to comply with and apply the provisions of the "Agreement cf May, 1936, Washington, D. C." with respect to clerical, office, station, storehouse and Mechanical employees (Car Inspectors and Coach Cleaners) affected by the discontinuance of the Charleston Union Station Company facilities on January 26, 1947.

2, Request denied.

DOCKET NO. 26 --- Decision by Referee Gilden

Brotherhood Railway Carmen of America)
vs.) PARTIES TO DISPUTE
Southern Railway System, and)
Atlantic Coast Line Railroad Company)

QUESTION: (A) The failure and refusal of the Carrier to comply with and apply the provisions of "Agreement of May 1936, Washington, D. C." with respect to affected Mechanical employees (Car Inspectors and Coach Cleaners) in the coordination by the Charleston Union Station Company of its work with its tenant Roads, the Atlantic Coast Line Railroad Company and the Southern Railway System, at Charleston, S.-C.

(B) Request of the employees represented by the Brotherhood Railway Carmen of America through System Federation No. 42, Railway Employes' Department, A. F. of L., that the provisions of said agreement be fully complied with and applied by the Southern Railway Systemand the Atlantic Coast Line Railway Company and that all affected employees of the Charleston Union Station Company who have suffered or may hereafter suffer any monetary loss as a result of the Southern Railway System and the Atlantic Coast Line Railroad Company failure and refusal to apply and comply with the terms of the "Agreement of May, 1936, Washington, D. C." be compensated in full for all such losses.

FINDINGS: Identical to the Findings in Docket No. 25.

DECISION: 1. That the Atlantic Coast Line Railroad Company and the Southern Railway Company are not required to comply with and apply the provisions of the "Agreement of May, 1936, Washington, D. C." with respect to clerical, office,

station, storehouse and Mechanical employees (Car Inspectors and Coach Cleaners) affected by the discontinuance of the Charleston Union Station Company facilities on January-26, 1947.

2. Request denied,

DOCKET NO. 27 --- Decision by Referee **Gilden**

Brotherhood of Locomotive Engineers, et al)
vs.) PARTIES TO DISPUTE
Kansas City Southern Railway, and)
Chicago, Milwaukee, St. Paul & Pacific Railroad Company)

QUESTION: Are the carriers who are parties to the coordination of certain terminal facilities at Kansas City, Missouri covered by I. C. C. Finance Docket No. 13085 excused from complying with the terms of the Washfngton Agreement either because of the enactment of **Section 5(2)(f) of the** Interstate **Commerce** Act *or* by reason of action taken by the Interstate **Commerce Commission** in Finance Docket No. 13085 wherein the Commission imposed conditions *for* the protection of employees?

FINDINGS: The Carriers' plea that the Committee established by Section 13 of the Washington Agreement has no jurisdiction over the subject matter of this dispute *is* wholly **incompatible** with the express provisions of Section 13. In overruling this objection, it is hereby determined that this dispute is properly before the Committee and the Referee appointed thereto for decision.

The Transportation Act of 1940, of which Section 5(2)(f) of the Interstate Commerce Act is a part, was enacted with full knowledge and thorough familiarity with the terms of the Washington Agreement. There is no discernible manifestation of any Congressional design to emasculate it entirely or otherwise to thwart or subdue its potency. Actually, its legislative history reveals an affirmative willingness by Congress to permit the protective features embodied in the Washington Agreement to continue unimpaired alongside of those imposed by the statute on the Interstate **Commerce** Commission. Instead of being a deterrent to voluntary collective bargaining in this field, Section S(Z)(f), openly encourages such pursuit, without handcuffing or **dimming** to any degreee the brilliance of the accomplishments alreadyachieved by private interests as reflected in the Washington Agreement.

Implicit in the pronouncement made in Section S(Z)(f) to the effect that, notwithstanding the relief afforded in that provision and certain other sections, the Carriers and the authorized representatives of their employees could, nevertheless, thereafter enter into contractual arrangements for the protection of employee interests adversely affected by Carrier transactions, **is** the recognition that all existing prior understandings, arrived at by the same principals, dealing with the identical subject, and similarly designed to serve the very same purpose, are also sanctioned.

Furthermore, the failure of either the Milwaukee or the Kansas City Southern to withdraw from the Washington Agreement for more than sixteen years after June 18, 1941, when they were first privileged to take such a step, does not jibe with the assertion that following the enactment of Section 5(2)(f) on September 18, 1940, said Carriers were no longer bound by the provisions of the Washington Agreement with respect to coordinations requiring the approval of the Interstate Commerce Commission under Section 5(2).

Where the protective conditions granted by the Interstate Commerce Commission pursuant to Section 5(2)(f), parallel the allowances provided in the Washington Agreement, duplicate payments do not accrue. In that regard, the displacement and dismissal benefits tied to the Commission's approval of the Milwaukee and Kansas City Southern's coordination of terminal facilities in Kansas City, Missouri in Finance Docket 13085 (252 ICC 49) are a permissible offset against the respective increments allocated to these items by the Washington Agreement. On the other hand, there is no bar to the recovery of benefits which are neither conflicting with nor are replicas of each other, and which are available under both the Statute and the Washington Agreement.

DECISION: That the Carriers who are parties to the coordination at Kansas City, Missouri, covered by I. C. C. Finance Docket No. 13085 are not excused from complying with the terms of the "Agreement of May, 1936, Washington, D. C." either because of the enactment of Section 5(2)(f) of the Interstate Commerce Act or by reason of the action taken by the Interstate Commerce Commission in Finance Docket No. 13085 imposing conditions for the protection of employees.

DOCKET NO. 28 --- Withdrawn by Organization

Brotherhood of Locomotive Engineers, etal)
vs.) PARTIES TO DISPUTE
Norfolk Southern *Railway* Company)

QUESTION: (a) Failure and refusal of the Carrier to comply with and apply the provisions of "Agreement of May, 1936, Washington, D. C." with respect to affected Engineers, Firemen, Conductors and Trainmen in the coordination by the Norfolk Southern Railway Company with the Norfolk Southern Bus Corporation.

(b) Request of the four Brotherhoods that provisions of the "Agreement of May, 1936, Washington, D. C." be fully complied with and applied by the Norfolk

Southern Railway Company, and that all affected employees of the Norfolk Southern Railway Company who have suffered, or may hereafter suffer, any monetary loss as a result of the Norfolk Southern Railway Company's refusal and failure to apply and comply with the terms of the "Agreement of May, 1936, Washington, D. C." be compensated in full for all such losses.

DECISION: Withdrawn.

DOCKET NO. 29 --- Withdrawn by Organizations

Brotherhood of Locomotive Engineers and)
Brotherhood of Locomotive Firemen and Enginemen)
vs.) PARTIES TO DISPUTE
The Denver and Rio Grande Western Railroad Company)

QUESTION: Carrier's contention that it may proceed to coordinate facilities, operations and services affecting employees in engine service, heretofore having rights between Denver and Bond, and between Denver and Craig, on the former Denver and Salt Lake Railway Company, on the basis of its formal coordination notice dated April 21, 1947, as more than ninety (90) days have now elapsed without arriving at any agreement.

DECISION: Case withdrawn.

DOCKET NO. 30 --- Withdrawn by Carrier

Kansas City Terminal Railway Company)
The Atchison, Topeka and Santa Fe Railway Company)
Chicago, Rock Island and Pacific Railroad Company)
vs.) PARTIES TO DISPUTE
Railway Employes' Department, A. F. of L., System Federation)
No. 38, System Federation No. 97 and System Federation No. 6)

QUESTION: Proper application of Section 5 of "Agreement of May, 1936, Washington, D. C.", hereinafter called Job Protection Agreement, to the herein described change in the method of handling passenger car maintenance and servicing work at Kansas City, Missouri.

DECISION: Case withdrawn by Carrier.
