

Labor Act Section ~~Six~~⁶ must be understood.²⁰

Section ~~Six~~⁶ of the Railway Labor Act requires the parties to give at least 30 days written notice of any intended change in agreements concerning rates of pay, rules, or working conditions. That means that if changes are sort by either party to an agreement, 30 days prior to the expiration of that agreement, the parties exchange notices of their intent to change the agreement. When notices have been exchanged, the carrier must set a time and place for a conference between the interested parties within ten days of receipt of the notice. The first conference must be held, in every case, within 30 days. Once notice of intended changes to agreements are exchanged, a status quo is in effect until the controversy has been finally action upon pursuant to the Act.²¹

In the case of commuter service like the Long Island Rail Road, Section 9A of the Railway Labor Act applies, should either party to a dispute or the governor of the state in which the dispute arose requests an emergency board. The President of the United States shall create a 120 day emergency board. If no settlement is reached during that emergency board, either party or the governor may request and the President shall create a second emergency board. The

²⁰ Railway Labor Act, U.S. Code, Title 45, (1926).

²¹ Ibid., secs.6.

second emergency board is different from the first emergency board. It also comprises of a 120 day period except that the second board is divided into two 60 day periods. The first 60 day period requires the parties to submit to the emergency board their best final offers. The offers must be received within 30 days. The second 30 day period requires the emergency board to select the "most reasonable offer" and report same to the President. The next 60 day period is a cooling off period. At the expiration of the second 60 day period the parties are permitted to engage in self help. This includes strikes, lockouts, replacement, or congressional action.²²

The normal period of time that the negotiation process has taken on the property is approximately three years. Although this is a long period of time, the provisions of the Act work. Most times, during that period an agreement is reached and there is no interruption to commerce or to the operation of the carrier. The ^{LIRR} Long Island Rail Road, although a commuter rail road, also transports freight. That portion of the carrier's business is often overlooked by the parties when engaging in self help. Currently, the LIRR is exploring the selling of its freight business, they give as the main reason is so the LIRR can concentrate on its primary business of moving passengers. Today, the freight division of the ^{LIRR} Long Island Rail Road is the only division that realizes a profit. Long Island

22 Railway Labor Act, Sec. 9A.

planners say such a move could help ease the traffic congestion on Long Island's roads if the freight operations could become competitive with trucking. However, labor experts say the Rail Roads hidden agenda will be to seek removal from the Railway Labor Act. Freight transportation, an interstate commerce operation, has helped keep the LIRR under the Railway Labor Act. Without freight, the ~~Long Island~~ ^{LIRR} Rail Road would become more vulnerable for removal from the Act.²³

Over the last 35 years there has been 42 service disruptions, 37 of those, illegal. Some of those illegal work disruptions lasted only hours, some until the Rail Road was able to secure a temporary restraining order in court. That process sometimes lasted days. The protracted bargaining requirements of the Railway Labor Act has almost always lead to agreements between the parties. Benjamin Aaron, for example concluded that while emergency board procedures were;

"Formal, cumbersome, expensive and unproductive," they nevertheless "have usually provided the basis for the eventual settlement."²⁴

²³ Sylvia Adcock, "LIRR Freight Operation for Sale" Newsday, 29 February 1996, P.A41.

²⁴ Benjamin Aaron, "Public-Interest Disputes and their Settlement: Observations on the United States Experience," Procedures of the Spring Meeting, Industrial Relations Research Association (1963) :747, quoted in

The five legal strikes the Long Island Rail Road endured resulted in 97 work days lost over a 35 year period. The Act accomplishes what it was intended to do. Section 2 of the original 1926 statute set forth the Act's five basic purposes. The first and fourth read as follows"

1. To prevent interruption of service.
4. To assist in the prompt settlement of disputes over rates of pay, work rules, or working conditions.²⁵

HISTORY OF LIRR STRIKES/WALKOUTS/SLOWDOWNS²⁶

7/10/60-	26 Days	BRT- Trainmen withdrew part of demands from National
8/05/60		to local handling: 14 percent wages and arbitraries add cost of living into base rates; five day workweek for seven days pay; extension of \$.95 air hose allowance to Yardman; flagging work with arbitraries

Charles M. Rehmus, The Railway Labor Act at Fifty (National Mediation Board, U.S. Government Printing Office, Washington D.C., 1977), 242.

Railway Labor Act, p.3.

"History of LIRR strikes/walkouts/slowdowns" 1995, LIRR Jamaica, NY; original in the LIRR labor relations research library, Jamaica, NY.

for trainman. Resulting 30-member State board of inquiry recommended arbitration which BRT declined. Also Presidential Emergency Board No. 129.

Settled by Mediation Agreement of 8/10/60.

2/17/62

Engineers illegally engaged in a two-hour work stoppage regarding dissatisfaction with windshield wipers, headlights, and drafts on engines, resulting with agreement of 2/23/62. Conditions were corrected. Foundation for pension fund established and certain work eliminated from required duties. Liberalization in application of rules.

4/06/63

2 Days

123 engineers engaged in a illegal sick out. Union demands for written guidelines to govern implementation of pension plan. TRO issued. Parties agreed to formalize pension plan. (Freight service only.)

10/30/64

Illegal two-hour slowdown at Long Island City

Passenger Yard caused by Carmen's Local Chairman, regarding disciplinary action against two employees who refused to "turn" coach seats.

3/19/65

Engineers illegally engaged in a slowdown due to dirty headlights on the locomotives. TRO issued. Carrier established programmed cleaning.

10/13/65

Trainmen illegally engaged in a slowdown due to union demand flagmen be assigned to protect contractors painting Jamaica Station. Nine trains delayed, six trainmen assigned for protection.

2/08/66

2 Days

2/09/66

Carmen illegally engaged in a slowdown when union, while seeking to progress issues barred by moratorium, attempted to extend blue flag rule beyond required application. Fifteen trains delayed, TRO issued, Court ordered continuance of practice in effect prior to slowdown.

5/10/66

1 Day

Trainmen illegally struck when union objected to passenger crew being disciplined for alleged

rule G violation. Evening diesel service canceled. TRO issued.

10/27/66

Telegraphers illegally engaged in 20 minute work stoppage, refused to display signals for train movement, due to dispute over time within which carrier is required to advertise positions. Seven trains delayed, TRO issued.

4/21/67

Carmen illegally engaged in one hour slowdown due to union holding "mass" meeting on company time to discuss local Section 6 notices. Disposed of in court.

9/05/67

4 Days

Trainmen illegally engaged in slowdown when union objected to abolishment of one yard job in Jamaica Yard. Fifty-one trains delayed over a four day period. Disposed of in court; issue to mediate.

9/11/67

2 Days

Engineers, illegally engaged in a two day work stoppage over protest of overtime and assignment reductions. TRO issued, 543 cancellations, 39 delays. Issue to Public Law Board with carrier's

position sustained.

9/25/67

Teamsters illegally engaged in a two hour work stoppage in attempt to enforce illegal Section 6 demands for new contract. TRO issued.

9/25/67

Signalmen illegally reported off sick in attempt to enforce Section 6 demands. Trains delayed. TRO issued.

12/14/67

Engineers illegally engaged in a slowdown and refused to switch trains, 112 trains delayed over a four day period.

5/01/68

Pennsylvania Railroad changed its operating rules. Union objected and refused to move trains beyond signal without clearance card. Trains delayed, TRO issued, permanent order.

7/01/68

1 Day

Teamsters illegally engage in one day strike over attempt of illegal enforcement of Section 6 demands for wages and rule changes. One

hundred four trains canceled, 181 delays.

TRO issued.

7/25/68

Carmen illegally engaged in slowdown over protest of carrier's proposed implementation of workday operation and also demand for job stabilization agreement. Twenty-six day slowdown resulted in various train cancellations. TRO, preliminary injunction granted.

11/25/68

Trainmen illegally engaged in two day strike over protest of overtime and crew assignment loss and timetable changes. All trains canceled. Union declared in contempt of court for violating TRO. Engineers engaged in one day illegal strike (11/27/68) for same reason; TRO, all trains canceled.

2/08/70

Police illegally struck from 3:06 a.m. to 8:00 p.m. due to fearful of arrest for carrying weapons without permit. Returned to work and presented issue to Public Law Board; Board not progressed due to peace officer bill signed 3/24/70.

8/31/70	Signalmen illegally strike regarding Section 6; TRO granted.	
10/23/70	Electricians, boilermakers, and machinists illegally strike regarding Section 6; TRO granted.	
3/10/71	Police illegally strike regarding alleged improper use of sergeant to fill desk job; TRO granted.	
10/20/72	Trainmen illegal sick out regarding protest of pay board wage increase decision. TRO granted.	
11/30/70	50 Days	Twelve non-operating unions went out on strike over financial issues. Parties exhausted all Railway Labor Act provisions, including the appointment of a presidential emergency board. Service resumed when Secretary of Labor designate, Peter Brennan, persuaded the 12 international Union Presidents to return to work under a 90-day cooling-off period and resumption of negotiations. Subsequently a three man panel was established; parties accepted recommendations of the panel and a settlement was
1/18/73		

negotiated. Settlement included provisions for wage increases of: 6 percent in January 1997, 10 percent in January 1973, 10 percent in January 1994, and the establishment of shift differential and wage progression.

8/07/73 Signalmen illegal sick out regarding Section 6; TRO issued.

2/05/74 Electricians illegally strike for four hours over employees required to medical department for physicals; settled on property.

5/13/75 Electricians and Carmen engage in illegal work stoppage over coffee break rules; 18 employees charged with insubordination for failure to comply with direct orders; settled by allowing outside coffee break if not abused.

12/07/79 8 Days Conductors, track works, signalmen, and yardmasters went out on strike over financial issues. Service resumed with establishment of Presidential

12/15/79

Emergency Board for striking unions. Non-operating unions signed tentative settlement on date strike ended. Settlements for 1979 and 1980 strikes included wage increases of: 7 percent in January 1979; 8 percent in January 1980; 6 percent in January 1991, and 3 percent in June 1981.²⁷

4/01/80 2 Days Engineers, trackworkers, signalment, car repairmen, police, and yardmasters went out on illegal strike for two days over financial issues. TRO obtained by LIRR and unions returned to work. Negotiations resumed; followed by mediation agreements.

5/20/81 Teamsters illegal job action regarding dismissal of probationary employee. Striking employees paid for no work. Dismissals upheld.

2/03/82 IBT - Foremen and Assistant Foremen concerted illegal

2/04/82 sick out regarding changing assignment from one

This 1979 strike occurred in the same round of negotiations as the 1980 strike.

machine to another. Settled by all concerned signing trial waivers.

7/15/83

Teamsters illegal work stoppage regarding union misadvised of reason for employee's removal from service. Carrier explained that possible falsification of medical records existed; union satisfied.

12/13/83

Electricians, trainmen, and engineers illegally engaged in slowdown regarding dispute over moving cars at maintenance facility. Restraining order issued then later agreement signed.

12/14/83

2/27/85

Electricians illegally walk out regarding temporary assignment of engineers as electrician helpers. Settled by letter agreement.

8/01/85

Electricians illegally engage in work stoppage regarding assignment of electrician work force. Electricians not paid for their lost time and committeeman brought up on charges.

4/14/86 2 Days Trainmen and engineers illegally engaged in a slowdown

4/15/86 regarding Section 6 negotiations. Court order obtained. UTU again threatened to strike 5/09/86 and found in civil contempt by court.

1/18/87 11 Days Engineers, electricians, police, signalmen, machinists, sheetmetal works, firemen and oilers, and blacksmiths and boilermakers went on strike over financial issues. Service resumed following legislation requiring return to work and 60 day cooling-off period. Subsequent agreements reached through negotiations. Settlement included wage increases of: 5 percent in January 1985, 5 percent in January 1986, 5 percent in August 1987, 4.5 percent in August 1988, as well as health and welfare cost containment and a new Money Purchase Pension Plan.

12/01/87 1 Day Engineers staged an illegal wildcat strike at 1:00 p.m., over agreement language regarding

vacation splits. The strike disrupted service for a brief period. The strike occurred as the carrier was obtaining a TRO in the U.S. District Court, and was looking for the BLE officers so that the TRO could be served. As a result of the strike, two locomotive engineers were removed from service and 15 others faced disciplinary charges. Following issuance of an interim award on 2/09/87, resolving 7 of the 12 issues which remained between the carrier and the BLE after the January 1987 strike, both parties desired to correct omissions or oversights in the award. The 12/01/87 strike was called because the carrier refused to implement an agreement to give engineers five vacation splits. The agreement had been part of a package including a provision regarding pension and vacation calculation which the BLE had to agree to on 2/17/87, and then refused to sign. Carrier held the position that absent implementation of both parts of the package,

both issues should be brought back to arbitration for resolution. In court on 12/07/87, the parties negotiated a settlement of the lawsuit. Under the settlement, carrier implemented both parts of the package, with arbitration for the vacation and pension calculation issues. The two employees who were removed from service were restored without back pay for the time held out, and all 17 employees involved received letters reminding them of their Engine Service responsibilities.

2/03/88

BRS engage in illegal work stoppage due to two men required on all jobs in unsafe areas. TRO issued.

6/17/94

2 Days

6/18/94

UTU trainmen, carmen, maintenance of way, maintenance of way supervisors, and special services attendants struck over Section 6 negotiations, after Presidential Emergency Boards 223 and 224 failed to reach agreements. Agreement reached 6/18/94.

Agreement signed 7/12/94.

5/26/95

BLE engaged in an illegal walkout over absence of collective bargaining agreement. TRO obtained at approximately 8:00 a.m. but Engineers did not begin reporting back to duty until 4:00 p.m. Union was found to be in contempt of the court-ordered injunction. BLE was fined \$2 million dollars, payable to the LIRR. LIRR reached agreement 9/06/95. Part of the agreement holds the \$2 million fine in abeyance until the year 1998. If during the abeyance period the BLE engaged in any unlawful job actions the fine is immediately due the LIRR. Should there be no further illegal job actions by the BLE, the fine will not be collected by the carrier. Five day discipline issued to each employee who took part in the walkout. Appeals are pending.

CONTRACT BARGAINING HISTORY

As stated before, the Railway Labor Act provides for a long process of negotiations between the parties. Only once in the last 25 years has an agreement been reached between the parties, prior to, or within six months of

the expiration of a previous agreement. But the process has prevailed, with only five legal strikes occurring over a period of the last 35 years, with a total loss of only 97 work days. Those numbers include the November 30, 1972 through January 18, 1973, 50 day strike, that was settled by the LIRR agreeing to a 26 percent wage increase over a three-year period. The protracted bargaining period, and the addition of Section 9A of the Railway Labor Act that provides commuter railroads an additional 240 days for extended bargaining, makes the process seem to go on forever, but that's the intent, to have the parties negotiate without an interruption of service and without the imposition of an agreement. History proves that the process is long, but in the overall process, the designers of the original policy managed to achieve what they set out to accomplish. The Railway Labor Act works as it regards collective bargaining.²⁸

The history of collective bargaining on the Long Island Rail Road is interesting. Below is an outline of eight labor organizations collective bargaining history, as it regards the bargaining period from the expiration of the previous contract, the date a new agreement was reached, and the expiration date of the new agreement.

BARGAINING PERIOD FROM	DATE
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²⁸"History of LIRR Strikes/Walkouts/Slowdowns" 1995.

<u>UNION</u>	<u>PREVIOUS EXPIRATION DATE</u>	<u>AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
BLE-Engineers	--	04/04/70	12/31/70
	0	01/01/71	12/31/73
	6 months	06/13/74	06/30/76
	22 months	04/28/78	12/31/78
	17 months	05/29/80	12/31/81
	19 months	07/11/83	12/31/84
	56 months	08/16/89	06/30/89
	25 months	07/21/91	12/31/91
	45 months	09/06/95	12/31/98

The total rounds of negotiations for the Brotherhood of Locomotive Engineers during the time period of 1970-1995 was eight with an average of 23.7 months of bargaining between contracts.

<u>UNION</u>	<u>BARGAINING PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
IRSA-Supervisors		07/24/70	12/31/71
	18 months	06/01/73	06/30/74
	-1 month	06/14/74	06/30/76
	17 months	11/21/77	12/31/78
	19 months	07/01/80	12/31/81
	18 months	06/24/83	12/31/84
	25 months	01/22/87	06/30/89
	25 months	07/11/91	12/31/91
	36 months	12/08/94	12/31/94

The total rounds of negotiations for the Independent Railway Supervisors Association during the time period of 1970-1994 was eight with an average of 19.63 months of bargaining between contracts.

BARGAINING

<u>UNION</u>	<u>PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
IAM-Machinists		06/12/67	09/30/69
	16 months	01/15/71	12/31/71
	17 months	06/01/73	06/30/74
	06 months	12/19/74	06/30/76
	17 months	11/21/77	12/31/78
	18 months	07/01/80	12/31/81
	20 months	08/26/83	12/31/84
	26 months	02/13/87	06/30/89
	21 months	03/28/91	12/31/91
	32 months	08/22/94	12/31/94

The total rounds of negotiations for the International Association of Machinists during the time period of 1967-1994 was nine with an average of 19.22 months of bargaining between contracts.

<u>UNION</u>	<u>BARGAINING PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
IBEW-Electricians		06/12/67	10/01/69
	16 months	01/15/71	12/31/71
	18 months	06/01/73	06/30/74
	06 months	12/27/74	06/30/76
	18 months	11/21/77	12/31/78
	20 months	08/04/80	12/31/81
	20 months	08/26/83	12/31/84
	26 months	02/27/87	06/30/89
	30 months	12/19/91	12/31/91
	42 months	06/26/95	12/31/94

The total rounds of negotiations for the International Brotherhood of Electrical Workers during the time period of 1967-1994 was nine with an average of 21.77 months of bargaining between contracts.

<u>UNION</u>	<u>BARGAINING PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
IBFO-Firemen & Oilers		06/26/68	09/30/69
	10 months	07/22/70	12/31/71
	17 months	06/01/73	06/30/74
	-1 month	06/19/74	06/30/76
	17 months	11/21/77	12/31/78
	18 months	07/01/80	12/31/81
	13 months	01/31/83	12/31/84
	25 months	01/26/87	06/30/89
	23 months	05/31/91	12/31/91
	33 months	09/29/94	12/31/94

The total rounds of negotiations for the International Brotherhood of Firemen and Oilers during the time period of 1968-1994 was nine with an average of 17.22 months of bargaining between contracts.

<u>UNION</u>	<u>BARGAINING PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
SMW-Sheet Metal Workers		06/03/68	09/30/69
	10 months	07/10/70	12/31/71
	18 months	06/01/73	06/30/74
	-1 month	06/19/74	06/30/76
	17 months	11/21/77	12/31/78
	19 months	07/01/80	12/31/81
	21 months	09/26/83	12/31/84
	26 months	02/27/87	06/30/89
	27 months	09/13/91	12/31/91
	41 months	05/26/95	12/31/94

The total rounds of negotiations for the Sheet Metal Workers union during the time period of 1968-1994 was nine with an average of 19.77 months of

bargaining between contracts.

<u>UNION</u>	<u>BARGAINING PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
TCU-Clerks		07/27/70	12/31/71
	18 months	06/01/73	06/30/74
	-1 month	06/14/74	06/30/76
	17 months	11/21/77	12/31/78
	19 months	07/01/80	12/31/81
	07 months	07/23/82	12/31/84
	24 months	12/24/86	06/30/89
	19 months	01/14/91	12/31/91
	32 months	08/11/94	12/31/94

The total rounds of negotiations for the Transportation and Communications Union during the time period of 1970-1994 was eight with an average of 16.87 months of bargaining between contracts.

<u>UNION</u>	<u>BARGAINING PERIOD FROM PREVIOUS EXPIRATION DATE</u>	<u>DATE AGREEMENT REACHED</u>	<u>EXPIRATION DATE</u>
UTU-Carmen		07/10/70	12/31/71
	18 months	06/01/73	06/30/74
	-1 month	06/14/74	06/30/76
	16 months	11/21/77	12/31/78
	17 months	05/12/80	12/31/81
	21 months	09/15/83	12/31/84
	25 months	01/23/87	06/30/89
	26 months	08/20/91	12/31/91
	31 months	07/12/94	12/31/94
14 months	02/28/96	12/31/98	

The total rounds of negotiations for the United Transportation Union during the time period of 1970-1998 was nine with an average of 20.88 months of

bargaining between contracts. The eight unions averaged 19.88 months of bargaining between contracts.²⁹

As stated earlier one of the main purposes of the Railway Labor Act to avoid disruptions of commerce by forcing the parties to exhaust collective bargaining procedures, and to encourage arbitration and mediation before engaging in self-help and strikes. There is abundant case law standing for the proposition that: "Under the Railway Labor Act, parties in a major dispute have a statutory duty to fully exhaust statutorily mandated notice and mediation procedures before resorting to self-help measures such as a strike or work slowdown."³⁰

There are other important labor issues that are not the subject of collective bargaining that are as important, or more important than issues reserved for collective bargaining. These issues thought not negotiated through collective bargaining, require the parties to meet and discuss them just as formal due to the fact that the LIRR is state owned and operated. This leaves for the politicians a prime target for political posturing. The Long Island Rail Road is currently undergoing a down-sizing or right-sizing. Jobs have been attrited

²⁹"Collective Bargaining History-LIRR" 1996, LIRR Jamaica, NY; original in the LIRR Labor Relations Research Library, Jamaica, NY.

³⁰Texas Intern,Airlines v. Air Lines Pilots Ass'n, 518 F.S. 203 (S.D. Texas 1981).

through resignations, retirements, discharges, and dismissals. Except for the management ranks, there have been no layoffs. Along with this down-sizing effort is a loss of New York State monies or subsidies received by the Rail Road for general operation as well as capital programs that placed a hole in the LIRR's operating budget. The LIRR is looking for ways to reduce spending and cutting operating costs and is now planning the elimination of ticket agents or clerks in 32 train stations and replacing them with ticket vending machines. The move the Rail Road contends would save an estimated \$2.8 million annually and help plug a \$38 million gap in its 1996 operating budget. The LIRR has been holding public meetings concerning their plan. The Transportation and Communications Union has been trying to negotiate with the Rail Road concerning the issue but to no avail. The subject of abolishment or rearrangement of positions is not an issue of collective bargaining, unless it violates the controlling collective bargaining agreements.³¹

The Long Island Rail Road currently negotiates with 12 labor organizations to negotiate 23 individual labor contracts. Besides trying over the years to remove them self's from the auspices of the Railway Labor Act to be bound to the New York State Taylor Law. The Long Island Rail Road has also tried unsuccessfully in 1981 to ask the State to replace the 17 railroad employee unions that existed

³¹Sidney C. Schaer, "LIRR's Ticket Plan Panned" Newsday, 9 February 1996, p. A14.

in 1981 with two big unions - one operating and one non-operating. The Railroad petitioned the state's Public Employment Relations Board to decertify the smaller unions and certify two larger unions. The two large unions would be established when employee petitions show that employees share "a community of interest or basic similarity in job functions." The Railroad used as their reasons for their request, that the current arrangement made "rational negotiations" impossible.³² The Railroad eventually lost its bid to reduce the number of labor organizations to two, when the United States Supreme court ruled that the LIRR was protected by the Railway Labor Act. By the high court ruling that the Long Island Rail Road was still subject to federal law, the railroad's petition became moot. As a result, it was determined that the Public Employment Relations Board had no jurisdiction to rule on the railroad's request.³³

The Long Island Rail Road has sought relief from the Railway Labor Act since 1981, their efforts continue today. Collective bargaining under the New York State Taylor law³⁴ is very different from the collective bargaining process of the

³²Jeff Sommer, "LIRR Asks State To Give It Only Two Big Employee's Unions Instead Of The 17 That It Has" Newday, 3 June 1981, P.6.

³³United Transportation Union v. Long Island Rail Road, et. al. Supreme Court of The United States, no.80-1925, (1982).

³⁴New York, 1967. Civil Service Law. SS200-214.

Railway Labor Act. Section 209 of the Taylor Law is titled "Resolution of disputes in the course of collective negotiations",³⁵ it provides the mechanism for resolving disputes when impasse has been declared. The process is as follows:

An impasse may be deemed to exist if the parties to a dispute fail to reach an agreement at least 120 days prior to the end of the fiscal year of the public employer. The statute also provides that the parties can enter into written agreement in the event that disputes reach impasse in the course of collective bargaining. Absent of a written agreement, if an impasse occurs, either party may request the services of the Public Employment Relations Board (PERB)³⁶ to proffer their services to reach settlement. The Board may also by its own motion render assistance. If assistance is provided, the board shall appoint a mediator. If the mediator can not assist the parties in reaching agreement, the board shall appoint a fact-finding board to hear the parties positions concerning the matters of the dispute. Should the impasse continue and the dispute not be resolved 80 days prior to the end of the public employers fiscal year, the fact-finding board must forwarded their findings and recommendations to the chief executive officer of the Government involved. After five days those findings must be made public. If the recommendations of the fact-finding board

³⁵Ibid., SS 209.

³⁶Ibid., SS 205.

is not excepted in whole or in part, within ten days the chief executive officer of the Government involved must submit to the legislative body of the Government involved the results of the fact-finding board. The legislative body must hold public hearings wherein the parties may be required to testify as to their positions in the matters of the dispute.³⁷

Section 209 subsection 5 of the Taylor Law provides that in the event that the board certifies that a voluntary resolution of the contract negotiations between the MTA and the public employees organization can not exist, the board shall refer the dispute to a public arbitration panel of three. The panel will be comprised of one member appointed by the public employer, and one member will be appointed by the employee organization. The third member, or public member will be appointed jointly by the public employer and the public employee organization. This member will serve as chair. All members will be appointed within ten days after receipt by the board of a petition for creation of the arbitration panel. Each party will be required to bear the cost and expensive's of their member and will share the cost and expensive's of the public member.³⁸

³⁷New York, 1967. Civil Service Law SS 209.3 (c).

³⁸Ibid., SS 209 (5).

The arbitration panel shall hold hearings on all matters within the scope of the negotiations related to the dispute. The panel shall make just and reasonable determinations of the matters in dispute. The panel must provide the basis for its findings and recommendations to the board. While investigating their findings, the panel must take into consideration a comparison of the wages, hours, fringe benefits, conditions and characteristics of employment of the employees involved and of other employees performing similar work and other employees in both the public and private sector in New York City or a comparable community.³⁹ The panel must also consider the overall compensation paid to the employees party to the dispute including direct wage compensation, overtime, vacations, holidays, and other excused time. Insurance, pensions, medical and hospitalization benefits, and all other benefits received. The cost of living, the interest and welfare of the public and the impact of the panels award on the financial ability of the public employer to pay. Finally, the panel shall have full authority to resolve the matters in dispute and issue a determination which shall be final and binding upon the parties.⁴⁰ There is no time limit for this process and a status quo is in effect.⁴¹

³⁹New York, 1967. Civil Service Law. SS 209.5 (c).

⁴⁰Ibid., SS 209,5. (e).

⁴¹Jerome Lefkowitz, Public Sector Labor and Employment Law. (New York, NYHBA, 1988) 195.

When comparing the Railway Labor Act and the New York State Taylor Law as it regards collective bargaining, the Railway Labor Act proves to be a better piece of labor legislation. The Railway Labor Act provides for protracted contract negotiations in an effort to entice the parties to bargain and to reach agreement. Unlike the Taylor Law, there can be no forced upon settlement unless the parties agree to interest arbitration or after the run out of Section 9A of the Act and Congress is requested to intervene. It is also illegal for public employees to strike.