PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS

BROTHERHOOD OF RAILROAD TRAINMEN

GULF, MOBILE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: "Various claims of Conductors and Brakemen, Montgomery District, for 100 miles, at through freight rates of pay, July 10, 1947, and each subsequent date claims are made and properly progressed as provided in Memorandum of Agreement for (submitting time claims) account of Columbus Switching crew, Columbus, Mississippi, performing service, moving cars between Artesia, Mississippi and Columbus, Mississippi, destined to points south of Columbus, which it is contended is service to which through freight crews are entitled."

EMPLOYEES' STATEMENT OF FACTS: Columbus, Mississippi, is an intermediate point located on the main line of the Montgomery District, of the Gulf, Mobile and Ohio Railroad Company, which extends from Artesia, Mississippi, to Montgomery, Alabama, a distance of one hundred and eighty miles.

Columbus, Mississippi is located fourteen miles south of Artesia, Mississippi and Rucker's Gravel Pit is located approximately five miles south of Columbus, Mississippi.

Tuscaloosa, Alabama, which is located seventy-four miles south of Artesia, Mississippi, is the home terminal for all through freight crews. Montgomery, Alabama, which is the end of the Montgomery District is a distance of one hundred and six miles south of Tuscaloosa, Alabama.

Through freight crews operate out of Tuscaloosa, Alabama, the home terminal and Montgomery, Alabama and Artesia, Mississippi, the away from home terminals in a pool first-in first-out in both directions.

A crew from the ranks of Conductors and Brakemen, holding seniority in road service, have been assigned to perform the necessary switching within the switching limits of Columbus, Mississippi and between Rucker's Gravel Pit and Artesia, Mississippi, making occasional road trips between the points of their assignment moving tonnage destined between such points including the connections with Southern Railway and Columbus and Greenville Railway, and certain emergency trips relieving crews account of hours
of service law and handling regular passenger connections when on account of emergency the regular crews were unable to complete such trips.

During the period of the above assignment, it has been the understanding of the Committees, that such crew would not handle cars between Artesia, Mississippi and Columbus, Mississippi destined to points south of Columbus, Mississippi, except cars containing freight to be unloaded at Columbus, Mississippi.

In so far as the Committees have knowledge no cars were handled between Artesia, Mississippi, and Columbus, Mississippi, destined to points south of Columbus, Mississippi with one or two exceptions, which the Local Committee protested to the Local Officers of Carrier and the handling of such cars were discontinued, until the date of claims here in dispute.

The Committees include in this statement of facts, a letter which the present General Chairman of the Brotherhood of Railroad Trainmen, wrote to Mr. W. R. Barr, Train Master, while acting in the capacity of Local Chairman, subsequent to April 9, 1944 which read:

"Referring to our conversation in regards to the Columbus Switching crew handling approximately 1773 tons out of Artesia to Columbus March 28, 1944 and 1528 tons March 29, 1944. I stated to you that the through tonnage out of Artesia has been handled by our through trains. The Columbus Switching crew handling tonnage originating at Columbus and connections at Columbus, no movements as were made March 28 and 29, have been made in the past, according to the information I have been furnished. You advised me the practice would be discontinued with the understanding no claims will be made for the above dates. Your handling of the matter is entirely satisfactory."

There was a subsequent move made during 1945, which was explained by Mr. W. R. Barr, Train Master, verbally, as having been due to Mr. Buckingham, Assistant Chief Dispatcher, who had subsequently assumed the duties of Assistant Chief Dispatcher, not being familiar with the understanding and that the matter had been corrected.

The Committees understand that the applicable agreements now in effect between the Gulf, Mobile and Ohio Railroad Company successors of the Mobile and Ohio Railroad Company and the Order of Railway Conductors and the Brotherhood of Railroad Trainmen representing the claimants here involved are on file with your honorable Board and are in evidence and all applicable rules are to be considered by your Board without further reference thereto.

The Committee desires to include in this statement of facts Award No. 2908, Docket 5486 by the National Railroad Adjustment Board First Division, involving service performed by this same crew, which includes a definite out line by the representatives of the Carrier and the Committees who were in authority in their respective capacities at the time the Columbus Switching service was inaugurated as to what service was required and performed by them, which did not include moving through tonnage between Artesia, Mississippi and Columbus, Mississippi, destined to points south of Columbus.

**POSITION OF EMPLOYEES:** It is the contention of the Committees, that the right of through freight crews, assigned between Tuscaloosa, Alabama and Artesia, Mississippi, to move tonnage from Artesia, Mississippi to all points south of Columbus, Mississippi, has been recognized since the inauguration of Columbus Switching crew. This contention is supported in part, by Carrier permitting such through freight crews to perform such service continuously without exception during the period since the abolition of local service between Tuscaloosa, Columbus and Artesia.
Service which the Columbus Switching crew has been required to perform, is evidenced by the statement of fact and position by both the Carrier and Committee as outlined in Award No. 2908, Docket No. 5486 by your honorable Board, to which the Committees invite the Board’s attention.

The fact that the Columbus Switching crew has performed service on certain occasions in emergencies, out of line with what the Committees contend to be proper, does not constitute a commitment on the part of the Committees, that such service was a part of the assignment.

The Committees insist that it is inconsistent with the practice, in so far as it is known to the Committees, in effect for many years, for Carrier to now include the movement of cars between Artesia, Mississippi and Columbus, Mississippi, destined to points south of Columbus, Mississippi, by the Columbus Switching crew, delivering such cars to through freight crew, that are being turned at Columbus, Mississippi, an intermediate point, short of the terminal for through freight crews, thereby depriving through freight crews of service which the Committees contend they are entitled to perform and which it is contended is included in the service through freight crews are assigned to perform between Tuscaloosa, Alabama and Artesia, Mississippi.

The Committees contend that the practice of turning through freight crews at an intermediate point short of through freight crew terminals, requiring a regular assigned crew within defined limits, performing a specific service, to move cars between the through freight crew terminal and the intermediate point where such through freight crews are required to turn, the cars so moved not being a part of the specific service required of the regular assigned crew, thereby curtailing the mileage of such through freight crews violates the agreements, which provide for a straight-away run where the tonnage is destined from terminal to terminal or points beyond, turn-around from the starting terminal to an intermediate point and return to the starting terminal, when the tonnage originates at either point destined to the other and short turnaround where the distance does not exceed twenty-five miles and the tonnage originates at either or both points destined to the other, the effect of such violation is dissection of terminal to terminal movement of tonnage in line with actual service requirements.

The Committees direct your honorable Board’s attention to that part of the employees’ statement of facts in Award No. 2908, Docket No. 5486 by your honorable Board which reads:

“* * * The work included in the assignment, when made, was switching at Columbus and Rucker’s Gravel Pit, and occasional road trips between Columbus and Artesia, for the purpose of relieving congestion at Columbus and to move tonnage from Artesia destined to Columbus.”

The above quoted from the Committee’s statement of facts in the above referred to Award and Docket Nos. was the understanding of the former Trainmen’s Committee. A careful reading of the statement of facts and position of Carrier in the same Award does not reveal any conflict as between the former Trainmen’s Committee and the present, in so far as the understanding as to what service the Columbus Switching crew may perform as part of its assignment. The Committees also desire to quote in part the interpretation of the Conductor’s Committee for the purpose of the claims of the conductor involved in the above referred to Award, which reads:

“* * * and was used on this date to take a train from Columbus to Artesia, after he had switched and worked eight hours, as we understand is the basis of claim.”

The Conductors’ Committee, rendered an interpretation which dealt directly with the question of continuing a crew in service after they had been on duty eight hours for the purpose of an additional trip between Columbus and Artesia and return and qualified their interpretation based
on the definite understanding that if the trip had been made within the eight
hour period of the assignment there would have been no claim. They ask
the question was it an eight hour assignment or did they work until their
work was complete within the 16 hour period? The entire interpretation
indicates that the question as to whether the trip could be properly made
after the crew had been on duty eight hours. The Trainmen's Committee,
insisted that the work performed was service that could not properly be
performed by the Columbus Switching crew at that time and the Trainmen's
Committee contend jointly with the Conductors' Committee that the service
here in dispute is service which cannot properly be performed by the
Columbus Switching crew and both Committees insist there is no conflict
in the commitments of the Committee in Award No. 2908, Docket No. 5486
and the claims here in dispute.

The Committees request your honorable Board to give particular con-
sideration to the fact that the challenge of Carrier of inconsistency on the
part of claimants and the former Trainmen's Committee in that claims was
not made for handling the same cars loaded with passengers from Artesia to
Columbus which service was performed prior to the expiration of eight
hours, and was made for handling cars loaded with passengers from Columbus
to Artesia after the expiration of eight hours on duty, which in the opinion
of the Committees here involved, may have had bearing on the Board's
decision in Award No. 2908, Docket No. 5486.

The claims here in dispute are claims for through freight crews for
service, which it is contended they have been deprived of, by the Columbus
Switching crew having been required to perform service which through
freight crews are entitled to perform.

The words "appears" and "seemingly" as used by Carrier to qualify
certain conclusions, in the opinion of the Committees serves the purpose
with equal substantiation as the words "they say". The facts are, that when
the Local Chairman, now General Chairman, conferred with Mr. W. R.
Barr, Train Master, in regards to the movement of tonnage from Artesia,
Mississippi to Columbus, Mississippi destined to points south of Columbus,
Mississippi, he was acting in good faith and after an understanding was
reached, after Mr. W. R. Barr, Train Master, had considered the matter
for several days, which he requested to do, the Local Chairman, now General
Chairman, was confident the question had been disposed of and it would
never be an issue again. Mr. W. R. Barr, Train Master had ample oppor-
tunity to record his reason for discontinuing the practice of requiring the
Columbus Switching crew to move cars from Artesia, Mississippi, to Columbus,
Mississippi destined to points south of Columbus, by answering the letter the
Local Chairman wrote him at the time.

The Carrier is correct, in assuming that the General Chairman of the
Trainmen's Committee, would be the first to deny that a Local Chairman
and Train Master, can not alter an agreement, but he will not deny, that they
can agree to properly apply an agreement that already exists.

The Committees cannot agree with Carrier that Article 10 of the
respective agreements, authorizes a combination of the various classes of
service in any manner the Carrier may elect to operate its trains. If so,
the rules providing for the operation of passenger, local, work, wreck, con-
struction, mine run, through freight trains, etc., would be without meaning
and of no effect. The Committees insist that the agreements definitely
provide separate classification of service for the purpose of operation and
pay for the operation when required on account of service needs, and that
Article 10 is applicable to emergency operations not deliberately planned.

The Committees do not agree with the Carrier, that the movement of
certain car load freight which is traffic, that belongs to through freight
crews, that the ultimate results will operate to delay the movement of ton-
nage from terminal to terminal. The Committees' claims here in dispute,
those involved in Docket 22603 and well as a third group which are in
process of preparation for submission to the Board, are directed at movements where tonnage is being set out between terminals short of its destination to be picked up by later scheduled trains to be moved on to its final terminal or points beyond.

The claims, including the instant ones have been originated within the last two years, all directed at preventing a reduction in train miles in the face of an unprecedented increase in the tonnage handled by Carrier. The Committees wonder how long "Oh Lord" does the Carrier expect the Committees to fold their arms in the face of a process a gradual elimination. The operations that were accepted as proper long before the first agreement with the train service employees became effective, were accepted and declared proper by the Carrier, and what the employees thought, is best expressed by the existence of organizations now, and the work required of your honorable Board.

The Committees indicated to Carrier in conference October 15 to 23, 1947 that if the practice of requiring the Columbus Switching crew to move cars from Artesia, Mississippi to Columbus, Mississippi, destined to points south of Columbus, Mississippi was discontinued the Committees would hold the claims originating prior thereto in abeyance. The Carrier declined the proposal of the Committees.

The effect of a decision sustaining the Carrier in the contention that a regular assigned crew operating between the terminal for through freight crews and an intermediate point, have the right to handle tonnage destined to points south of the intermediate point, under which all of which is between terminals where through freight crews are assigned to operate, could and may result in the elimination of through freight crews performing service between the through freight terminal established by agreement and the intermediate point located between the through freight crew terminals. The Committees insist the issue here is far reaching in its effect on the future preservation of the contractual rights of the employees involved.

Therefore, we request your honorable board to emphasize the importance of the issue above the value of the claims here in dispute and we feel confident your honorable board will sustain the claims.

The Committee affirms that all data contained herein has been submitted to the Carrier and made a part of this submission.

Oral hearing is not desired.

CARRIER'S STATEMENT OF FACTS: Carrier's Montgomery District extends southeastwardly from a connection with the M&M Districts at Artesia, Mississippi, 180 miles to Montgomery, Alabama. The home-terminal of all chain gang crews in through freight service is at Tuscaloosa, Alabama, where extra boards of all train and engine service employees are maintained. Tuscaloosa is situated 74 miles south of Artesia and 106 miles north of Montgomery. Columbus, Mississippi, is an intermediate station situated 14 miles south of Artesia and 60 miles north of Tuscaloosa. The relative locations of these stations are—

Artesia COLUMBUS Tuscaloosa Montgomery

-14 miles- 60 miles — 106 miles

During the period of Federal Control of Railroads, and for a time thereafter, switching service at Columbus was performed for the Mobile and Ohio Railroad (a predecessor Carrier) by yard crews of the Southern Railway in Mississippi (now the Columbus and Greenville Railway) and by an M&O road crew which at night switched at Columbus and also made trips to and from Artesia handling passengers, mail, baggage, express, and all types of freight traffic regardless of point of origin or point of destination.
This road crew assignment was the "regular Columbus-Artesia turn-around run" informally known as the "Owl run", and its conductor and trainmen were compensated in accordance with provisions of the Conductors' and Trainmen's Schedule Agreements which read:

**Conductors** Article 28, paragraph (g). "On the regular Columbus-Artesia turn-around run, conductors will be paid local freight rates. This will include switching at Columbus."

**Trainmen** Article 28, paragraph (g). "On the regular Columbus-Artesia turn-around, trainmen will be paid yard helper rates, which includes switching at Columbus, and other service performed."

In the latter part of the year 1921, Carrier discontinued the arrangement whereby the major part of its Columbus switching service was performed by yard crews of the Southern Railway in Mississippi.

At the time the aforesaid arrangement with the Southern Railway in Mississippi was discontinued, Carrier assigned a second road crew with home terminal at Columbus, to make trips from Columbus to Rucker's Gravel Pit and return, from Columbus to Artesia and return, and, together with the "Owl run" assignment, to do the required switching at Columbus and at intermediate points. In the beginning, all members of this crew were paid local freight rates, but, effective March 7, 1922, Carrier agreed to pay yard helpers' rates to the brakemen. The history of the origin of this assignment is contained in Docket No. 5486, Award No. 2908, which, by reference, is made part hereof.

The territory of this 1921 "switch local" assignment, sometimes referred to as the "Columbus Switching Crew", was and is

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<thead>
<tr>
<th>Artesia</th>
<th>Bentoak</th>
<th>McIntyre</th>
<th>Columbus</th>
<th>Rucker's Pit</th>
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<tbody>
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<td>0</td>
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6 miles - 3 miles - 5 miles - 5 miles -

From the beginning of its assignment in 1921, this second road crew (switch local) was required to handle all classes of traffic between Columbus and Artesia, regardless of its point of origin and destination, both freight and passenger. It handled empty cars to and loaded cars from Rucker's Gravel Pit. It handled all classes of traffic from Columbus and Artesia to intermediate stations such as Bentoak and McIntyre, and vice versa. It handled freight traffic from Artesia to Columbus for forwarding southward on a local freight train that was assigned to operate from Columbus to Tuscaloosa. It handled from Columbus to Artesia such freight traffic destined beyond Columbus as was brought there by a local freight train that was assigned to operate from Tuscaloosa to Columbus. It handled through freight trains from Columbus to Artesia when the crews of such trains became ineligible for further service under the Hours of Service Law after arrival at Columbus. Within the territory of its assignment, it handled any and all classes of traffic that might there require service.

In 1921, prior to the time when the Columbus "switching local" or so-called "Columbus Switching Crew" was assigned, Carrier maintained two road crew assignments that on each calendar working day operated two local freight trains, one from Tuscaloosa to Columbus, and the other from Columbus to Artesia, where it turned southward and ran through Columbus to Tuscaloosa.

Subsequent to the time when the Columbus "switching local" or so-called "Columbus Switching Crew" was assigned, the above described local freight train service was discontinued between Columbus and Artesia, and thereafter one of the above described local freight trains was operated from Tuscaloosa to Columbus, and the other from Columbus to Tuscaloosa.
When local freight train service had been discontinued between Columbus and Artesia, as described hereinabove, the Columbus “switch local” or so-called “Columbus Switching Crew” handled between Columbus and Artesia the traffic brought into Columbus by the Tuscaloosa-Columbus local freight train, and the traffic at Artesia that was to be moved from Columbus by the Columbus-Tuscaloosa local freight train.

The instant dispute was initiated when the Committees submitted two claims one dated July 17, 1947, and the other July 18, 1947. On each of these dates, a Tuscaloosa-Columbus-Tuscaloosa turn-around freight train was operated, manned by chain-gang crews that were paid local freight train rates of pay because of the work which they performed at stations and under the provisions of Article 10 which reads “Road Conductors (trainmen) performing more than one class of road service in a day or trip will be paid for the entire service at the highest rate applicable to any class of service performed”, and the provisions of an agreement dated March 28, 1941 reading, “The service at stations, which, if performed by a train and engine crew in through freight service, will be recognized as service for which local freight rates of pay will be allowed under the provisions of Article 10 *** is as shown below ***”.

On July 17, 1947, the date of the first claim, the Columbus “switch local” or so-called “Columbus Switching Crew” moved a car of steel (AT&S 169220) from Artesia to Columbus. This car was destined for interchange to the AT&N RR, at Reform, and was moved from Columbus to Reform by the Tuscaloosa-Columbus-Tuscaloosa turnaround freight train of that date.

On July 18, 1947, the date of the second claim, the Columbus “switch local” or so-called “Columbus Switching Crew” moved a car of beer (ART 801) and a car of fertilizer (IC 28881) from Artesia to Columbus. The car of beer was destined to Reform, and the car of fertilizer to Buhl. These cars were moved from Columbus to destinations by the Tuscaloosa-Columbus-Tuscaloosa turn-around freight train of that date.

The relative locations of the stations of Reform and Buhl are—

<table>
<thead>
<tr>
<th>Artesia</th>
<th>Columbus</th>
<th>Reform</th>
<th>Buhl</th>
<th>Tuscaloosa</th>
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<tr>
<td>-14 miles -</td>
<td>29 miles</td>
<td>19 miles</td>
<td>12 miles</td>
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At the time when the Columbus “switch local” moved these cars from Artesia to Columbus, claimants were at their home-terminal (Tuscaloosa). Their claims for being “run-around” (100 miles at through freight rates of pay) were supported by the Committees, according to their letter of July 26, 1947, upon the basis that the Columbus “switch local” or so-called “Columbus Switching Crew” have performed service “not included in their assignment” and which should have been performed by chain-gang through freight crews.

POSITION OF CARRIER: Docket No. 5486 of the First Division of this honorable Board, which, by reference is made a part hereof, relates to the same crew assignment that is involved in this dispute.

In the aforesaid Docket No. 5486, the Trainmen’s Committee recognized this assignment to be a “Local” train in road service when they identified it as the “Columbus-Rucker’s Gravel Pit Switching Local”. Having in mind Article 10 which reads “Trainmen performing more than one class of road service in a day or trip will be paid for the entire service at the highest rate applicable to any class of service performed”, and having recognized this assignment as a “Switching Local” in road service, the Committee naturally recognized the propriety of the assignment having performed “passenger service” during its “usual performance”, notwithstanding its contention that “passenger service was not included as a part of the assignment”. As a consequence, there was no claim made for additional pay account of handling passengers and passenger equipment prior to 6:15 P.M.
As is shown in the aforesaid Docket, the Conductors’ Committee was agreed with the Trainmen’s Committee to this extent. It was not until this assignment alleged handled a “special passenger train” from Columbus to Artesia after having completed eight hours service that the former Trainmen’s Committee contended for additional payment to its crew, and then its contention was based upon the premise that the crew had performed “passenger service” which was “not included as a part of the assignment” under circumstances which made such service “in addition to its usual performance”.

The former Trainmen’s Committee, in Docket No. 5486, in effect said that while “passenger service” was not included as a part of the assignment, it properly could be performed during the “usual performance” of the assignment (Article 10). The Conductor’s Committee said that it properly could be performed then or later during a continuous tour of duty. Now both Committees say in effect that while the service of handling from Artesia to Columbus cars that are “destined to points south of Columbus” likewise was not included as a part of the assignment, it properly may not be performed at any time. If it was then proper for this assignment to perform “passenger service” that was contended to be not included in the assignment, during its “usual performance”, why is it not proper now for it to handle cars that are destined to points south of Columbus even if such handling is likewise contended to be not included in the assignment? The inconsistency of the positions of the former and the present Trainmen’s Committee, and of the two positions of the same Conductors’ Committee, is noteworthy.

The Committees say that in Docket No. 5486 there is included “a definite outline by the representatives of the carrier and the committees who were in authority in their respective capacities at the time the Columbus Switching service was inaugurated as to what service was required and performed by them, which did not include moving through tonnage between Artesia, Mississippi, and Columbus, Mississippi, destined to points south of Columbus”. This is an incorrect statement, and a reading of the said Docket will show it so to be. Nowhere therein is there to be found a “definite outline” such as the Committees describe. There, the former Trainmen’s Committee insisted that “passenger service” was not included in the assignment; now, the present Trainmen’s Committee admits that certain passenger service is included. The Carrier there asserted, and now asserts, that “This crew performs switching service at Columbus, and road service between Rucker’s Gravel Pit, Mile Post B-19.01, and Artesia, Miss., Mile Post B-O”; and the Conductors’ Committee is there shown to have recognized that this crew was “assigned to a combination of yard and road service”. The term “road service” assuredly embraces service to all kinds and classes of traffic—and no traffic is excepted because of its origin or destination.

In their original Statement of Facts in the instant dispute, the Committees said “It has been contended by the train service employees during the period of the above referred to assignment, that they were not entitled to handle any cars destined to points south of Columbus which it was not necessary to stop at that point”. (Emphasis has been supplied to one phrase.) Carrier alleged that statement to be an erroneous one. It has now been omitted from this submission, but in lieu thereof the Committees say, “During the period of the above assignment, it has been the understanding of the Committees, that such crew would not handle cars between Artesia, Mississippi and Columbus, Mississippi destined to points south of Columbus, Mississippi, except cars containing freight to be unloaded at Columbus, Mississippi.” (Emphasis has been supplied to one phrase.) Carrier alleges this substituted statement to be erroneous. How could such a statement be correct when, as is shown by Carrier in its Statement of Facts, and not denied by the Committees, the Columbus “switching local” regularly handled between Columbus and Artesia the traffic brought into Columbus by the Tuscaloosa-Columbus local freight train, and the traffic at Artesia that was to be moved southward from Columbus by the Columbus-Tuscaloosa local freight train?

Within its territory, the Columbus switch local train assignment customarily handled any and all traffic that might there require service, as is shown
hereinbefore, precisely the same as did all other local freight train assignments within their territories. This was a matter of common knowledge, and assuredly was known by members of the Committees, especially the member of the Conductor's Committee who participated in the discussion of October 12, 1937 which is mentioned by Carrier in its Position, Docket No. 5486.

Actually, no such contention as that presently made by the Committees was ever made by any train or engine service employs prior to the time in 1944 when a Local Chairman of the Trainmen (now General Chairman) did so in discussion with the Trainmaster of the Montgomery District. With respect to that discussion, having been shown a copy of Mr. Mullins' letter of April 9, 1944, the Trainmaster (Mr. W. R. Barr) says:

"It has never been conceded by anyone on the Montgomery District that tonnage for points south of Columbus would not be handled on the Columbus engine. On the dates mentioned in Local Chairman Mullins' letter, there was through tonnage handled from Artesia to Columbus, on which complaint was made and I told Mr. Mullins at that time that I did not think it was necessary to handle this tonnage on the Columbus switcher as we could handle it on through freight trains and set it out at McCrary and avoid blocking Columbus yard which I did not want to do. This is the reason it was stopped and not because of the complaint." (McCrary is a station located 4 miles south of Rucker's Gravel Pit where maximum southbound tonnage must be reduced because of grades.)

It thus appears that the present General Chairman of the Trainmen conceived the idea of changing the Agreements by interpretation instead of by negotiation, and laid the groundwork for the present claims, in 1944 when he was a LOCAL CHAIRMAN. Doubtless, he would be among the first to deny that a Local Chairman and a Trainmaster could authoritatively and permanently alter or amend the provisions of an existing Schedule Agreement, but he foreseingly wrote a letter to a Trainmaster while he was a Local Chairman, and now presents a quotation therefrom as "evidence."

If it should be presumed, as the Committee would have us do, that the movement of certain carload freight traffic is service which exclusively belongs to through freight crews, then, logically, the movement of other carload freight traffic might be conceded to local freight crews, and thus nullify the provision of Article 10 which recognizes the propriety of road crews performing "more than one class of road service in a day or trip". This could well mean that when the total traffic requiring movement on a given day on light traffic territory would be LESS THAN A TRAIN-LOAD, Carrier would be compelled to operate TWO TRAINS, each handling a small portion of a train-load, for the sole purpose of having through freight crews move certain traffic while local freight crews moved certain other traffic. The only alternative to such unjustifiable waste would be to delay the movement of traffic until train-loads had been accumulated, and, of course, this would result in inconvenience to the public, or the loss of traffic to carrier and consequent loss of work to its employees. The absurdity of such a presumption is apparent, and there can be no possibility of any carrier representative ever having subscribed to such an idea or accepted such an obligation.

The instant claims admittedly are being prosecuted by the Committees as a part of a studied attempt to change the current Schedule Agreements, and thus create new working conditions, without negotiation. The change sought here is one that would require certain carload traffic to be "ear-marked" and segregated to be serviced EXCLUSIVELY by chain-yang through freight crews. A number of claims, including the instant ones, have been originated within the last two years, since a change in personnel of the Trainmen's Committee, all directed to the end of causing an increase in the number of train-miles which carrier must operate. These attempts to change arrangements in the guise of interpreting them relate to working conditions that all concerned have recognized as being proper and in accord with the provisions of applicable Schedule Agreements continuously since the time when the first agreements with train service employs became effective.
One of these cases is now before your honorable Board. It is identified as Docket No. 22603, and the submissions in that Docket are, by reference thereto, made a part of this submission.

The dispute in Docket No. 22603 grew out of Committees' erroneous interpretation of agreements related to "turning through freight crews at an intermediate point", the subject to which the Committees devote the fifth paragraph of their Position in the instant submission where further erroneous statements are made.

The Committees also devote a paragraph to the subject of Article 10 of the current Schedules. That Article of the Schedule Agreement, and the pertinent part of an Agreement of March 28, 1941, applicable to both Conductors and Trainmen, refute what the Committees have to say, as is shown by quotations therefrom:

"ARTICLE 10.
TWO OR MORE CLASSES OF ROAD SERVICE.

Road conductors (Trainmen) performing more than one class of road service in a day or trip will be paid for the entire service at the highest rate applicable to any class of service performed. The overtime basis for the rate paid will apply for the entire trip."

"AGREEMENT OF MARCH 28, 1941

It is mutually understood and agreed as follows:

The service at stations, which, if performed by a train and engine crew in through freight service, will be recognized as service for which local freight rates of pay will be allowed under the provisions of Article 10 of the respective Schedules for Conductors; for Trainmen and Yardmen; and for Engineers, Firemen and Hostlers, is as shown below:

(a) Weighing cars.

(b) When LCL freight is required to be loaded or unloaded by the crew of their train.

(c) When required to perform the following service to a car, or cars, not brought into or taken from a station by their train:

(1) Placing at designated loading or unloading point or points.

(2) Assembling for forwarding in other trains.

(3) Shifting, on instructions, from one designated track to another.

(d) When required by a proper officer of the Company to place (spot) a car brought to a station by their train at a designated point for loading or unloading. This does not apply to cars loaded with live stock or perishable freight.

(e) When required to pick up and set out a car, both point of pick-up and point of set-out being intermediate to the crew terminals.

(f) When required to pick up or set out cars at more than four points between terminals. This does not apply to setting out cars loaded with livestock or perishable freight, setting out bad order cars, doubling hills, nor setting out or picking up (but not setting out and picking up at the same point) for the
purpose of adjusting tonnage to established engine rating.  

The Committees show that they attempted to have Carrier accept their new "interpretation" by offering to "hold . . . in abeyance" the claims which are the subject of this dispute. Carrier declined this naive indication of the Committees because its representatives then knew what the Committees now openly say, namely, " . . . the issue here is far reaching in its effect . . . ."

Carrier is astonished at the frank boldness of the Committees in avowing, first, the purposes of certain claims which they have originated within the last two years, second, their thought that long-established agreements now mean only what they would like them to mean, and, third, their reliance upon "the work required of your honorable Board."

The Carrier submits that—

(1) The Columbus Switching Local crew was assigned in 1921, with home terminal at Columbus, Mississippi, for road service within the territory between Rucker's Gravel Pit and Artesia.

(2) Early in 1922 the Carrier agreed to pay the "switchman's rate" to the brakemen on this crew because the brakemen of the "Owl" assignment were paid that rate.

(3) In all other respects, the character of the service expected of this Switching Local assignment was and is the same as that of any other assignment of a local freight crew; and all local freight crews are expected to perform all classes of road service within the assigned territory, including switching at stations that may be required.

(4) From the time when it was established, this Columbus Switching Local assignment handled any and all traffic that might require service by it within its territory, including traffic from Artesia that was destined to points south of Columbus.

(5) There is no basis for the instant claims.

Carrier contends that the instant claims are entirely without merit, and, therefore, should be denied.

All data contained herein has been submitted to the Committees

Oral hearing is not desired.

FINDINGS: The First Division of the National Railroad Adjustment Board, upon the whole record and all the evidence, finds that the parties herein are carrier and employe within the meaning of the Railway Labor Act, as amended, and that this Division has jurisdiction.

Hearing was waived.

No rule is cited in the applicable agreement, and no established practice appears implying agreement, that carrier may not handle cars of through freight on its switching local, to be picked up as here shown, by scheduled trains for moving on to their destination. In the absence of rule the manner of moving traffic rests in managerial discretion. See Docket 22603, Award 13270.

AWARD: Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of FIRST DIVISION

ATTEST: (Signed) J. M. MacLeod
      Executive Secretary

Dated at Chicago, Illinois, this 7th day of March, 1952.