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# REPORT

of the

# NINTH MEMBERSHIP MEETING

of the

# MEDICAL OFFICERS

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held at the

BROADMOOR HOTEL

COLORADO SPRINGS, COLORADO

February 18, 19, 20, 21, 22, 1969

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Whereupon, the gallant doctor, with a gracious bow, said, "Young lady, I would drive a hundred miles to do you a similar honor." (Laughter)

Speaking of snowy mountain roads, I understand there's one a few miles from here with a sign that reads: "Ski Lodge Ahead. Twelve Doctors. No Waiting."

I didn't come over mountain roads but I did come about 1500 miles. And now that I'm here I'd better explain the advance title for my remarks. I used the Biblical admonition, "Physician, heal thyself." I meant this to suggest that--we--all of us in the railroad business--must do all we can to cure our own ills before seeking or expecting outside help or even understanding.

With special reference to your section, I'd like to make serious but very brief comments on your history, your contributions, your weaknesses, your challenges, your work atmosphere, the importance of the railroads, your importance to the railroads, recent developments of special significance, and the railroad future.

Your 1967 "Proceedings" has a history which reflects the significant contributions of this Section during half a century. I noted, for example, that Chief Surgeons were responsible for "The Sanitation of Privies on Company Property" at a time when such sanitation was no small challenge. But times have changed. Modern medical officers function on a very high level, and your Section can be proud of its history--and your collective record in your professional responsibilities.

The new breed of doctors is not immune to lust for the buck. I know one young doctor who has already bought an estate. He calls it Bedside Manor. He's a throat specialist. He built up his bank account strep by strep. (Laughter)

As you men know, many people call a doctor when all they want is an audience. My appearance here today is a switch. The audience called me. Obviously, I'm no medical expert. My situation makes me think of a woman who burst into an office and blurted, "Doctor, what's wrong with me?"

"Madam," came a prompt response, "you're too fat, you use too much rouge and lipstick, you bleach your hair, you smoke too much, and one other thing--you're in the wrong office. The doctor is next door. I'm a railroad freight agent." (Laughter)

Well, I'm not a doctor, either, but, like the freight agent, I'll tell you what's wrong. As I said, I can only touch on a couple of topics. And I can't say anything too shocking because you won't get your cardiac lecture until tomorrow. So let me merely raise some innocent questions like: Have you sold yourselves to management? Have you too much reverence for the status

As ex-President Johnson said in his valedictory speech, "We tried." But I say, "We will continue trying and try even harder to do a good job."

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In our audience is the man best qualified to advise us on where we are going. He is Mr. Thomas Goodfellow, President of the Association of American Railroads. Mr. Goodfellow chose as his subject the topic, "Physician, Heal Thyself." It is my honor and privilege to present to you Mr. Thomas Goodfellow. (Applause)

MR. THOMAS M. GOODFELLOW: Thank you, Dr. Longeway.

Ladies and gentlemen: It's been said that insult, not flattery, is the great stimulator. How, then, can you expect much from me after a generous introduction like that?

I'm pleased to be here--here in the shadow of Pikes Peak; here in Colorado Springs, a resort for health and pleasure; here with men who make a business of health and an art of pleasure; here with your ladies who lend grace, beauty and charm to the deliberations of this body. I'm honored to be in such company.

To orient myself to your group, I did a little homework. I skimmed through your "Proceedings" for '67 and '68. And I got the definite impression your meetings are really significant work sessions. I congratulate you on that.

The "Proceedings" reported one or two things I didn't fully understand. For example, I'm still not entirely clear on all aspects of "Flicker Fusion Frequency." But I did understand the bubble gum caper and the drunk test which cost one road $65,000 for just one blood sample. These reports were not meant to be funny--but they did have amusing overtones for a layman like me.

I'm fearful my remarks today may work the other way around. Things I mean to be amusing may be taken seriously. Please do your best to differentiate the humor from the serious. That may not be easy. But I'd like you to know this is a Pavlovian exercise. Your reactions will help me decide what to repeat at the Railway Surgeons' meeting in Chicago in April--if anything. I understand many of you attend that meeting, also.

Doctors are often harried but they almost always keep their wits about them. Here's proof: At a spot not far from here, a few weeks ago, a bust of a world-renowned, living surgeon was unveiled with considerable ceremony. After the formalities, an attractive young woman said to the distinguished surgeon, "I'd like you to know I drove fifty miles on mountain roads in bad weather to see your bust unveiled."

quo? Have you a communications problem? Do you believe in yourselves and your industry? How's that for openers?

It's my impression that many M. D.'s who work for railroads have never sold themselves to management. Management generally feels medical officers have engaged mostly in after-the-fact medicine. There hasn't been any widespread program of preventive medicine in our industry. Or, if there has, it's been kept secret from many who should have heard about it. This has given rise to a conclusion that our doctors haven't been adequately concerned about the health of our employees. Instead, they've given time and talents to employees after disease or accident has manifested itself.

This isn't a blanket condemnation. Some railroads have good programs. There are no doubt favorable exceptions to every indictment I might make here. And just as people who need sermons least are usually the ones in church, the worthy programs are no doubt represented in this room. But many of the good examples remind me of a guy who winks at a girl in the dark. He knows what he's doing, but no one else does. I'm glad you come to meetings like this to share information about successful procedures. But this still isn't selling management.

Maybe new approaches are needed--not necessarily in your professional work but in your promotional efforts. There seems to be a communications gap between you and the corporate brass. Maybe the trouble lies in outmoded habits. Think about it! Reverence for the status quo no doubt has advantages. But we all need to be shook up once in awhile.

I'd like to throw out a triple challenge. Are you concerned mostly with the big wheels on your road? Or are you also looking after the health of assistant supervisors, assistant trainmasters, assistant finance officers and the whole second and third echelon who will some day have railroad destiny in their hands?

Secondly, are you letting the brotherhoods assume concern for the welfare of employees below top level, thus beating us to the punch in an area which properly should be a major management concern? And, third, what are you doing to make yourselves truly indispensable to the railroad industry?

I don't want any of this to sound like anything but probing questions. I won't presume to attempt answers. Even questions can be misunderstood. For example, a doctor, observing his waitress scratch her nose compulsively, asked, "Do you have exzema?"

And she said, "No special orders, mister--just what's on the menu." (Laughter)

Likewise, I want to stick with the menu and give no special orders. By the way, I see your program menu calls for

attention to the hallucinogenics on Friday. I'm told these drugs create a world where everything is blurred, unfamiliar or fantastic. But I wonder what's so unusual about that. It happens to me every time I misplace my glasses.

Speaking of hallucinogenics, I hear some pharmaceutical house has combined the pill with LSD so young couples can take a trip without the kids. (Laughter)

Of course, several authorities, including some doctors, are saying certain drugs are less harmful than alcohol.

A medical student once asked Sir William Osler, "Is it true alcohol makes people able to do things better?"

"Not at all," replied the famous doctor. "It just makes them less ashamed of doing them badly."

Many of us in the railroad industry have been doing a bad job with two important groups--our employees and the general public. With employees we've failed to generate a sense of excitement and optimistic enthusiasm. An atmosphere of gloom hangs over too many of our work force. And we've failed to persuade great segments of the public that we're not dead.

The old debate question--"When is a man dead?"--has been fanned to new flame by recent transplant techniques and publicity. Medical men believe the answer has more to do with the brain than with the heart muscle. In fact, doctors know when a man is dead. But what about an Iron Horse? And how do you persuade an apathetic public that an Iron Horse is very much alive, but struggling against quicksand?

We don't want to delay in finding remedies for our ills. I'm reminded of a doctor whose patient told him he'd gone to another physician.

"And what's more," said the patient, "he told me your diagnosis is all wrong."

"Is that so?" snapped the doctor. "Well, the autopsy will show who's right."

Doctors just can't win! I'm thinking of a patient who complained vigorously about his bill.

"Listen," said the doctor, "if you knew what a sacrifice I made for you, you wouldn't be complaining."

"What do you mean, sacrifice?"

"My friend," said the doctor, "there's never been a case just like yours. If I'd let it develop into a post-mortem, I

would have won worldwide fame."

We can't afford to let the case of the Iron Horse develop into a post-mortem. We must develop a better understanding and appreciation for what motivates employees. We must find out why many employees have lost their perspective, their sense of excitement about the industry. And we must get busy curing the ills we've already diagnosed in our industry.

An old Arabian proverb says: "No man is a good physician who has never been sick." And a bit of Latin wisdom advises that "the first step toward cure is to know what the disease is." On this basis, we should be able to heal ourselves. We've had our sick days, and we know what our troubles are.

Our trouble isn't old age, although we are venerable. This year we celebrate the Centennial of the Golden Spike at Promontory, Utah. But we're not suffering from hardening of the arteries; and that's important, because railroads are the arteries of the nation's commerce, and they shouldn't be permitted to suffer deterioration of any kind.

Railroads aren't on their last legs. But their situation isn't as good as reported in some magazines I read in my doctor's waiting room not long ago. I was greatly encouraged until I noticed the magazines were twelve years old.

We do have one big thing going for us. Railroads are important, perhaps vital, to our farms, factories, forests, mines and other aspects of productive America because of the essential transportation service they render. But they also have direct impact on the nation's economy through billions spent annually on wages, taxes, equipment, materials and supplies.

I don't need to recite statistics on ton miles of transportation service provided nor on the money spent in particular categories. You can read the details in the journals and other reference data of our industry whenever you like. Believe me, our industry is mighty important as employers, taxpayers, customers and purveyors of transportation service.

This importance is the core element in the story we must take vigorously to the public. If we believe in our industry, we've got to fan our story into every corner of the country. We've got to weld the railroads into a great organization. And we must render good service in a way that will win respect of the nation and patronage of customers. The key to our future is respected status in every community.

You men of medicine do a tremendously important job in the discharge of your professional responsibilities. You can also do a great extracurricular job by helping sell our industry to the public. You may not be aware of your major sales asset. Credibility is the secret of successful selling. Doctors have high

credibility with the general public--despite what the Wall Street Journal said ten days ago about your bad image. I'm convinced you can be of great help to the railroad industry, above and beyond the regular call of duty. And I urge you to do so.

You know about the restless, progressive activities in our industry--mergers, technology, diversification and so on. Many signs are good. Some signs are foreboding. We can capitalize on the good and fight the bad. But we must be ready and willing to change our minds and our objectives on short notice.

We don't want the Iron Horse to die because we stubbornly persisted in "treating" the wrong thing. The Medical Section of the AAR can help treat the right things. You can help shape the future of our industry.

Speaking of shape, have you heard of the wife who couldn't stick to a diet--and showed it? She knew she was losing her appeal and figured out a way to strengthen her will power. She pasted a Playboy pin-up on the refrigerator door as a reminder of the way she wanted to be.

It worked. She lost seven pounds the first month. But her husband gained eight pounds. He just couldn't stay away from the refrigerator. (*Laughter*)

There were very exciting developments in medicine and surgery in the past year. Successful heart transplants started the year. L-dopa showed great promise with Parkinson's disease. Possibilities for a syphilis vaccine brightened greatly in '68. Progress was made in cancer research.

Railroad developments aren't freighted with such direct human drama, but they've been exciting nonetheless. Our industry can have a very bright and healthy future, especially if we achieve legislative relief for some of our ills rooted in outdated regulatory policy.

But first, as I indicated earlier, we must do all we can for ourselves by ourselves. In other words, as it is written in Luke, "Physician, heal thyself."

Thank you. (Applause)

*CHAIRMAN LONGEWAY: Mr. Goodfellow, thank you so much for such an excellent address. You certainly helped show us where we are going.*

Now, so that the members of the Section will have time to really study the Committee reports, I have asked each Chairman at this time to very briefly--not over five minutes--give a resume of what he will present for action or consideration at the regular session Friday afternoon and Saturday morning.

Dr. Kaplan, Chairman of the Medical-Legal Committee, who is Director of Medical Services of the C&O-B&O, from Baltimore, Maryland, will lead off on this.

DR. KAPLAN: Mr. Chairman, Mr. Goodfellow, ladies and gentlemen: We have worked rather diligently during the past two or three years to try to formulate some final opinions as to medical-legal affairs. I was hopeful that someone from the Legal Section would be here to represent them and perhaps give a fifteen-minute summary of their work. However, as yet I haven't seen anyone and, if necessary, I will present such a report on Friday.

The report will be presented in four different parts. Three-quarters will be devoted strictly to the medical phase, and one-quarter will be devoted to the legal aspects. The first part of the medical will be a resume of the back study, which has been in progress now for four years. It is practically completed. I have a series of slides, which I am sure will be of great interest to the majority of you men and also to the ladies, because I have just been informed that the Rehabilitation Unit of Chicago has been given a grant of $100,000 to investigate the low back problem. So the back is not only a concern to the railroads, but is also bothering individuals and other industries. The heart study will be of interest to everyone, and the results of Dr. Dimond's cases will be delivered by Dr. Cyran, inasmuch as Dr. Dimond is unable to attend. This will be the culmination of five or six years' work by Dr. Dimond, who was supplied with material by the research section of the AAR's Claim Department. It will give the relationship of heart problems in railroad workers to actual work and will be a precursor of work that is to be done in the future, in which we will attempt to correlate the effect of stress and strain on the work effort of railroad workers. We have numerous recorded cardiac cases, and, if we can just apply them properly to the stress and strain problem, perhaps we can help our Claim and Legal Sections with one of its most vexing problems in the medical-legal field.

Dr. Rogers is also going to give a dissertation on various multi-phased problems in the railroad industry, with an attempt at program computation. We have started some of this work already.

I know that Dr. Cyran of the Penn Central has programmed some of his medical projects using computers. We have also utilized computers for individual programs, but unfortunately, there are so many other higher priority projects that Medical Department requests for computer time have invariably been indefinitely delayed. Dr. Rogers has the backing of his company, and his railroad may actually be the first to pioneer an organized AAR medical program. A successful venture will give us a foothold on future projects which we can present to our various managements, with the hope that there will be a centralized type of computer working arrangements for specific medical study areas. I am quite positive that this will, in the long run, save the railroad many, many thousands of dollars

and may also give us a solution to the accident-proneness problem, and to the individual variations of accident production.

To conclude the Committee reports, I intend to summarize very briefly what the Committee has completed during the past three to four years. The new Chairman will have ample work when he has been advised regarding the list of projects which are still under investigation.

Thank you.

CHAIRMAN LONGEWAY: Thank you, Dr. Kaplan.

The next is Dr. Harold Hammatt, Chairman of the First Aid Committee. He is Chief Medical Officer of the Chicago, Burlington & Quincy Railroad, Chicago.

DR. HAMMATT: Dr. Longeway, honored guests, ladies and gentlemen: As Chairman of the First-Aid Committee and other members, Dr. Edmonds, Dr. Hunter and Dr. Kieffer, we have considered the possibility of revising a book. There is not a great deal of progress in First Aid. However, we have found a few minor changes and we have printed this booklet, and every one of you may pick up one of the bulletins on the registration table for review. On Friday afternoon we will place the booklet for vote as to publication, whether it is acceptable for publication to replace the edition of July 1963 which was printed under the chairmanship of Dr. Olson at that time. Thank you.

CHAIRMAN LONGEWAY: Thank you. That will be on Saturday morning.

Next will be Dr. John Sharpley, Chairman of the Standards Committee, Chief Surgeon of the Central of Georgia-Savannah & Atlanta Railway, from Savannah, Georgia.

DR. SHARPLEY: Dr. Longeway, distinguished guests, ladies and gentlemen:

I have been asked to give a resume of the activities of the Standards Committee in five minutes. We have to review volumes, as Mr. Goodfellow brought out, and this is very difficult; in fact, it is impossible. But here goes. We will skip the interim meeting held in April for the time being, and also the one held in July.

In the October meeting there was a report on the discussion of the treatment of intervertebral disc lesions. Recommendations will be brought out on Saturday.

Also, there will be recommendations that the subjects chronic angina, myocardial ischemia, be added with reference to in-service Class A employees, to the guide pertaining to myocardial

WEDNESDAY AFTERNOON SESSION
February 19, 1969

The General Session of the Medical Section of the Forty-Ninth Membership Meeting of the Association of American Railroads reconvened Wednesday, February 19, 1969, at 1:30 o'clock p.m., Oval Room, Golf Club Building, Broadmoor Hotel, Colorado Springs, Colorado, DR. WALTER J. LONGEWAY, Chairman.

CHAIRMAN LONGEWAY: This session will now come to order.

I sincerely hope that everybody enjoyed the trip to NORAD this morning. Personally, I thought it was wonderful and instructive. (Applause) I will write a suitable letter to the officers who briefed us.

I want to introduce several guests here this afternoon: Mr. E. C. Ackerman, General Superintendent of the Colorado and Southern, and Mr. Williamson, Special Assistant, Southern Pacific Company, and Mr. S. P. Burton, Assistant General Manager, Southern Pacific Company.

Gentlemen, we welcome you to this meeting.

At an interim meeting it was suggested that we make a study of the status of cancer patients on railroads. It didn't take me very long to pick the man who could really help us.

Our next speaker, Dr. Eric Ratzer, was born in Illinois. As Greeley suggested, he came West. He, however, did attend DePaul University, Northwestern University, George Washington University with distinction. He has been assistant in surgery, University of Colorado and Cornell University, and now is Assistant Professor of Surgery at the University of Colorado.

He is Executive Director of Bonfils Tumor Clinic, University of Colorado Medical Center, Director of the Head and Neck Service, Colorado General and Denver General Hospitals in Denver, and Director, Tumor Clinic, Denver General. He is Chief of Oncology of Veterans Administration Hospital in Denver.

He has a very impressive list of publications.

It is a distinct privilege to give you Dr. Eric Ratzer. (Applause)

DR. ERIC RATZER: I see Dr. Rainer is here from Denver, so I want to correct one thing. I am not Chief of Oncology at the Veterans Hospital. I applied for that job but so far that has eluded my grasp. So I want to correct that in the program, too.

Also, in the program it says I am Assistant Chief of

surgery at the University of Colorado Medical Center. I haven't gotten that high yet, either.

Also, I am glad to be here because coming down it was really a job. I was driving a VW and I am afraid the headwind was almost faster than my speed. I left Denver two hours ago, and it normally takes about an hour to drive down. But it took me about an hour and forty minutes. I was really getting nervous as I was getting by the Air Force Academy. My car didn't go over forty-five miles an hour once during the trip and I had it on the floor.

Several weeks ago when Dr. Longeway called me and invited me to talk to you on the "Rehabilitation of the Cancer Patient," or more specifically, "The Return to Duty of the Cancer Patient," I accepted without any reservation, feeling I could handle the subject without any problem. For the past five years I have been involved almost exclusively in the care of cancer patients--diagnosis, treatment, and follow-up, which includes rehabilitation--and it would seem this experience would qualify me for the subject. However, a few weeks ago when I began preparing this presentation, I began to have some doubts about my qualifications.

I began to wonder if rehabilitation of a cancer patient as I envision it applies when relating it to an industry such as the railroads. The use of artificial legs or the training of esophageal speech did not seem to me to be the crux of the problem here. The problem seems to be what occurs or should occur when evaluating a railroad employee for return to work with regard to the company's obligation to him, and perhaps more importantly their obligation to themselves. This latter obligation can be difficult to define completely as it includes things like stockholders, efficiency of operation, safety, liability to society, etc.

In order to accurately evaluate this last point, it is necessary to know a lot about the railroads and present-day railroading. This obviously includes the unions as well as management, current operating procedures, and so forth. On this point I am no expert, so I went off to the Denver Public Library to look it up. Despite no little time there, I am still not an expert--the industry is much too complex to learn in a short period of time.

However, I was still committed to coming down here, so here I am. Admitting the problem is complex and that I am not an expert in the knowledge of the railroad, which one must be to have answers to the problem, I have prepared this talk with the aim of raising questions that I think must be considered by you as formulators of medical policy for the industry when cancer patients are evaluated for return to duty. In your capacity as men responsible for medical policy, I would suggest you first must consider if the problem of the treated cancer patient is important, and if you so decide, the next step would be to try to set up guidelines on how to handle it. This latter project may not be too easy.

Now, since the presentation that I have organized will only take about twenty to twenty-five minutes and since we are going to deal in generalities, Dr. Longeway suggested that maybe at the end if there are any specific questions referable to the cancer patient, the treated cancer patient, and a job on the railroad, we could hold them until then and then discuss them after the formal part of the presentation.

Each year in the United States we have 600,000 new cases of cancer and there are approximately 300,000 cancer deaths. Assuming the railroads employ around a million people--they may employ more, I don't know--I estimate the industry as a whole will find 3000 new cancer patients in 1969 and 1500 employees will die of cancer. This may be a little bit slanted as most of the employees, or many of the employees of the railroads, are in the older age group, so you may actually come in contact with more than 3000 new cases. Since you have about a hundred members in this group, each man conceivably could come in contact with thirty new cases of cancer in 1969.

Many patients with cancer follow a rapid downhill course after diagnosis and treatment. They frequently have considerable pain and develop multiple complications. Though palliation of these patients requires much time and effort, they rarely require evaluation for fitness to return to work.

The subject for presentation this afternoon concerns the cancer patient who after therapy has been returned physically and emotionally to a state where he wants to go back to work. Whether or not he is cured and for how long he will remain well, is not a prerequisite for evaluation of returning to work at that time. It is important and probably will influence us in our decision as to whether he should return to work, but many patients who are not cured live for months, even years, and are physically capable of working for a long period of time. What should be done with these patients will also be your problem.

It does not seem possible that this situation can be solved by rigid regulations, at least not and preserve the dignity of the individual and allow all those people who can return to work to do so. Actually, since the problem is complex, it may not be correct to say blanket regulations are improper, because after analysis of all factors it may be decided that they are best for all concerned. As far as I know, the entire scope of this problem has not been elucidated, and until this is done it will be impossible to make any specific recommendations.

Currently, several factors must be evaluated when deciding whether or not a man treated for cancer should return to his former occupation. These factors include: the patient himself, the job he wishes to return to, the effect of the cancer therapy on the patient's ability to do that job, the responsibility of the railroad, the type of cancer the patient had and its natural history,

the stage of the cancer at which it was treated, and the prognosis of the cancer in light of the cancer type and treatment.

Again, I would like to stress that the problem of rehabilitation that will face you is not esophageal speech education in a laryngectomee, or the use of an artificial limb in an amputee, but after treatment, can a particular cancer patient return to work and what restrictions, if any, should be placed upon him.

The patient himself is capable of influencing our thinking on the subject to a large degree. We are all aware that determined, highly motivated individuals will make every effort to return to work and very often are successful. Whatever their reasons may be, I should hope every reasonable opportunity is given them to allow them to return to the job they wish. Almost all prefer to return to their previous job; but if this is not possible, whatever the reason, perhaps other uses for their skills and experiences can be found.

The type of job the patient previously did must also be considered, especially if there has been some functional loss secondary to the cancer treatment. Anterior resection for carcinoma of the sigmoid colon causes no functional loss and a person should be able to return to his previous job regardless of what it was. However, a switchman who loses a leg from a soft tissue sarcoma operation would be unlikely to be able to do his former job, no matter how well he could use his artificial limb or, for that matter, how well motivated he is.

Many of our cancer treatments can affect the patient in such a way that he will be unable to do the same job as before. End colostomies after abdominal perineal resections are usually no problem, regardless of the job. But an ileal conduit after cystectomy is not as easy to care for. A job which requires a great deal of physical labor and secondarily results in a lot of perspiration would make it almost impossible to keep the ileostomy appliance on. Laryngectomy may or may not influence a man's ability to do his former job. If good esophageal speech can be achieved, there is no reason he can't resume his old job. About half of these patients can learn good speech. They can learn speech well enough to talk on the telephone or, for that matter, I would say, use the short-wave radio. However, if there is any question about a patient's ability to do his former job, perhaps a trial period under supervision could determine his ability to do the work.

When considering a particular person for return to work, the responsibility of the railroad to this employee, to the railroad itself, and the public must also be determined. It would be simple to say let all who want to go back to work, work, but I don't believe this is possible.

The company has certain obligations to the employee in maintaining his welfare, but it has options available to it in

order to achieve this obligation. In addition, the employee usually has the union to help protect his welfare. When all things are evaluated, the patient can be given his old job back or be given a new job with comparable compensation, or he can be retired.

Now, I have three slides that illustrate my only contact with a railroad employee treated for cancer and what has happened to him.

(Slide) This is a 64-year-old man who was referred down from South Dakota because of a recurrent basal cell carcinoma of his nose, the bridge of his nose. He had had previous surgery, he had previous radiation therapy, and now the biopsy underneath the scab on the bridge of his nose revealed basal cell carcinoma.

(Slide) We re-operated the patient and left him with this defect on the bridge of his nose. It is a through and through defect on the bridge of his nose.

This man works, as far as I know, on the section crew of one of the railroads up north, and I felt there would be no reason he couldn't return to work. We gave him a shield. We didn't want to make a prosthesis or cover this by plastic surgery because of the recurrent nature of his cancer. There was some question about the margins of the incision. We wanted to be able to explore the defect readily so if recurrences did develop we could take care of them promptly.

In fact, after this, about eight months later, he did develop a recurrence which required further resection underneath what looks like his left eye there. However, I had received several communications from his railroad stating that they would prefer to retire this patient because he was 64 years old, he was going to retire in eight months anyway, and this, as far as I know, is what happened to him.

I don't desire to get into whether or not they should retire the patient or not, or what their obligation should be as far as he is concerned. However, I don't think this man's ability to return to work was impaired. I think other reasons may have entered into the railroad's decision to retire him. He may have been fairly close to retirement age, anyway; maybe he didn't do a very good job, this was the easiest way to furlough him off, I don't know. But as far as his returning to work, there was no physical limitation imposed by his cancer treatment, and as far as his prognosis is concerned, I think it is still pretty good.

(May I have the lights?)

Well, actually, I apologize for not knowing any more about this patient but probably as much information as possible should have been collected in order to help make the correct decision as far as his management is concerned. If a man has a job, let's

..., that is being phased out gradually by automation, and he is ... year from retirement, it may be that, all other things being ...qual, it would be better to retire him early, I don't know.

Another point to consider in each situation is what will be the responsibility of the railroad when and if recurrent disease develops. Two areas need clarification here.

There should not be any question of medical care for recurrent cancer since most medical insurance covers the entire illness, and once the obligation has been assumed for this particular patient, it should be continuous. But to my knowledge, there has been no definite clarification in an industry-wide sense of possible relationships between certain occupations and the development of cancers. Would there be any legal responsibility here? And would this apply in any way to the development of recurrence? Perhaps this should be considered now rather than wait until a patient claims his recurrence is due to aggravation by his job. Since there are definite occupational hazards in some industries, for example, uranium miners, aniline dye industry workers, this should be at least evaluated by the railroad. As far as I know, it is unlikely any legal precedent has been set for any industry in this regard, but I believe it should be evaluated; maybe it has been, I don't know. It should be evaluated in the light of not excluding everybody who wishes to go back to work, the opportunity to go back to work. I think definite guidelines can be established, considering the patient as well as the railroad.

The second item under railroad responsibility concerns the risks assumed for the treated cancer patient in case he is involved in an accident. This applies to injuries he may receive, but also, more importantly, to injuries and damage he may cause. This seems most important for persons concerned with actual movement of trains. Recurrent cancer announces itself almost always in an insidious manner, that is, its symptoms and signs develop slowly over a rather prolonged period, and this allows proper investigation and treatment long before the patient is unable to do his job effectively.

Only rarely does recurrent cancer manifest itself in a catastrophic manner, that is, unconsciousness or convulsion, or, for that matter, sudden death. However remote such an occurrence is, it would seem undesirable to me to have happen with a locomotive engineer, especially if he is working. Lung cancer and melanoma come to mind as possible types of cancer where brain metastasis can be the first sign of recurrence. Usually there are warning signs such as lethargy and headaches, but in rare instances the first manifestation is convulsion. As admittedly rare as it is, the possibility must always be considered in evaluating a patient for returning to work.

One other area that is related to this concerns the patient receiving chemotherapy for cancer. This rarely would

apply to those with extensive disease receiving drug therapy, as they usually do not feel like working at all. But at least at the University of Colorado Medical Center, we are starting chemotherapy as soon as possible on many patients who have poor prognosis from their cancers even though the treatment they initially received has been for cure and there is no definite evidence of recurrent or residual cancer present at the time of initiation of therapy.

An example of this would be a Dukes' C adenocarcinoma of the sigmoid colon treated surgically by anterior resection. One month after operation we would start 5 -FU and Coumadin and continue this for an indefinite period. The five-year salvage of these Dukes' C carcinoma of the sigmoid colon is only 20 percent and the chemotherapy is added in hopes of improving this figure.

The long-range effect of this chemotherapy given in a chronic way is presumed to be innocuous, but it is not known for sure. Just this morning I read in the paper about this ammonia gas cloud that killed eight people in Nebraska as a result of a derailment of a train in Crete, Nebraska. I don't have any idea what the cause of the derailment was, but yet supposing someone who was getting chronic long-term cancer chemotherapy was involved in some way in the derailment, what would be the obligation of the railroad in this regard? I think before these situations do arise, possibly policies can be set up to handle either when they do arise or possibly to avoid having the situation come up.

At least one-fifth of the patients who are getting our chronic chemotherapy for the Dukes' C adenocarcinoma of the sigmoid colon really don't need it because they are cured anyway.

In order to set up meaningful guidelines as far as the railroad and the cancer patient are concerned, two other factors must be considered. The first is the natural history of the particular cancer under consideration, and the second is the effect of the therapy on the cancer at the particular stage of disease it was treated.

It is well known that lung cancer affects patients differently than skin cancer; it would not seem fair to apply the same rules and regulations to each when their long-range outlook and effect on the patient are so dissimilar.

Also, a 1.0 cm. cancer of the anterior two-thirds of the tongue has a different prognosis than a 4.0 cm. cancer in the same area, especially if the latter has cervical lymph node metastasis. The former has a cure rate over 80 percent, the latter less than 15 percent, regardless of treatment. To apply the same regulations to each would seem unfair.

As I mentioned in the beginning, this subject initially seemed simple and straightforward. But, on closer inspection, I found this not to be true, and I feel reasonably confident you

...ill reach the same conclusion. I am not sure the problem raised ... these patients is significant enough to the industry to warrant ...plete evaluation, and this would seem to be the first thing that ...ould be done. It would seem to me that the railroads themselves ...re to determine how significant the problem is to them. After ...is has been done, that is, after the determination of the problem ...as been elucidated with all of its ramifications, then I should ...ink that possibly your group should set up a committee to try to ...rmulate some guidelines that could apply to the industry as a ...ole.

Thank you. (Applause)

CHAIRMAN LONGEWAY: The doctor will entertain questions from the floor. Dr. Kaplan, do you have something to ask on this problem?

DR. KAPLAN: I don't have anything to ask. I might comment a little bit. Dr. Ratzer probably isn't in the unfortunate position of being the examining surgeon who is being forced to decide whether or not the employee is able to resume duty. However, there are so many extraneous factors that the medical examiner has to consider, that you just can't establish any fixed policy.

In the surgeon's opinion, the employee is able to return to duty. However, a chief medical examiner may disagree, for many reasons. First, the employee may work under a craft agreement whereby it is mandatory for him to retire at 65. Such being the case, he has but six to eight months more of working service. It is not unusual for an employee to claim that undue exposure to strong sunlight over an extended period of time might be the responsible factor for a recurrence of a skin cancer. Or he might maintain exposure to some trauma while at work--a piece of ballast struck him in the nose, and as a result he developed a recurrence of the lesion.

Looking at it from another standpoint, on our railroad we do not have a mandatory 65 retirement age and theoretically this employee could work until he is 80 or more, if he is physically qualified to do so. If he had been a good, faithful employee and had worked 40 years, had never given the claim department any problems, and if his examining surgeon would recommend return to duty status, we might discuss the case with his managing supervisor and claim department. He could be considered able for duty, with the understanding that, as a trackman, he would not be permitted to go out on derailments or train wrecks or work more than an average of eight to ten hours per day. Also, he would protect himself against excessive exposure to sunlight.

So you cannot establish a fixed rule that an employee with a carcinoma can or cannot return to duty. It varies with each and every railroad and with the individual nature and location of the

FRIDAY MORNING SESSION
February 21, 1969

The General Session was called to order at 9:00 o'clock ... Friday, February 21, 1969, Copper Room, Broadmoor Hotel, ...rado Springs, Colorado, by DR. W. J. LONGEWAY, General Chair-...

CHAIRMAN LONGEWAY: This session will now come to order.

The Symposium this morning is very timely and a very ...rtant one. So as not to lose valuable time, I will present the ...l. The only thing, before I do I would like to announce any-... who is talking from the floor or asking a question, please ...tify himself so that the reporter can get his name and the ... of the railroad.

"The Parameters of Periodical Medical Examinations." The ...el will consist of Mr. E. T. Horsley, National Railroad Adjust-... Board, Division 1, Chicago, Illinois; Dr. C. R. Harper, M. D., ...nal Director, United Air Lines, Denver, Colorado; Dr. C. ...haw, Southern Pacific Company, San Francisco; Mr. James Wolfe, ... President, Labor Relations, Chicago & North Western Railroad, ...cago, Illinois; and the moderator is Dr. Ben Stockwell, Chief ...geon, Grand Trunk Western.

I will turn this over to Dr. Stockwell.

... Dr. Ben Stockwell then assumed the Chair...

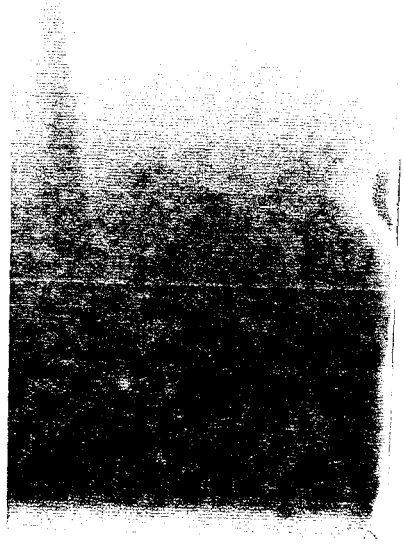
CHAIRMAN STOCKWELL: Thank you, Dr. Longeway.

You may notice that we are one man short. I understand ...ere is a bad snowstorm between Colorado Springs and Denver and ... are hoping Dr. Harper makes it in time to participate in this ...eting.

First, I would like to make a personal comment concerning ...e meeting that we are attending. This is, I believe, the finest ...eting of the Medical Section of the AAR that I have ever attended. ...ile I am sure we will comment about the meeting and what our ...airman has done for us tomorrow, I did want to start off by say-...g that he has done a tremendous job and we're all with him. (Applause)

It is a real pleasure to moderate a panel with such dis-...guished panelists, and as our Chairman has suggested, it is a ...ely subject.

This is a discussion of preventive medicine and is our ...swer to the remarks of Mr. Thomas Goodfellow, the President of ...e AAR, who told us in his address on Tuesday that preventive ...edicine was really our primary function. I don't know of any



better way of getting into preventive medicine in railway med than through a good periodic medical examination program.

The title of our panel was suggested by a good friend mine, a linguist with a tremendous vocabulary, and so I think I will start out by asking Mr. Chick Horsley to define "Parameter" Mr. Horsley.

MR. HORSLEY: Thank you, Dr. Stockwell.

I'd like to say first it is such a distinct privilege for me to be invited to attend a meeting of a group of your profession. My work is post-medical examination, post-litigation, and wholly in the field of arbitration. Our decisions usually flow from the ivy-covered brains, if I may say so, of professors of economics and such, so that I'm sure that such decisions have touched most, if not all of you, at one time or another, and therein lies the problem after the preventive steps by you have been taken.

I will get around to defining my concept of parameters in a moment, but I would like to say that we are in the business of custodial transportation of people and property, and in spite of all the technology, the cybernetics that we have engaged in in recent years, this business of transporting people hasn't changed our character, which has been defined as an extraordinary bailee of the property and an extraordinary insurer of the lives and safety of the people. So that this position of ours is still discharged, in spite of the machines and computers, by men, employees and now to get to the real point, and that is, that the ability of these men, these employees, to discharge this business under the supervision of those appointed to that position, is owing to an appraisal by your exclusive profession of their ability to discharge that business that we are engaged in. So that's most important, their ability to discharge it, and therein comes the preventive medicine that Dr. Stockwell and President Goodfellow spoke of.

The parameters of periodic physical examination are those that it seems that I have had to deal with in the past many years that I have been in this aftermath business, so to speak. These parameters are in the form of, let's say, questions. I don't think that a physical examination really is based upon any metric system but there are side measurements which is loosely what parameters mean to me--perhaps not to you gentlemen in the puristic sense. But the parameters of periodic physical examination are best expressed in my end of the business by such questions as, can a man be examined at all unless there is permission to examine him in the collective bargaining agreement, and that is the labor agreement--we will call it that for short. And the answer to that, I think, is very definitely that without the carrier having given it up, it is the carrier's not only prerogative but the carrier's obligation, in view of our character as bailee and insurer, to

make these physical appraisals through the activities of your profession. So that we may, unless we bargain it away, examine the men.

The second question, the second parameter, one might say, is whether or not he may be examined after he comes back from an absence.

The third is whether or not he may be examined after he has been discharged from private medical care.

The fourth could be whether he may be physically examined periodically as a program of examination, annually or quadrenially, and so on down the line as to whether there should be a reasonable division of this work of examining by age limit groups or by craft or class employee groups.

CHAIRMAN STOCKWELL: Well, now, Mr. Horsley, as reluctant as I am to interrupt such a fine speaker, we are going to ask you to elaborate on each of the points that you have mentioned in considerable detail as this panel develops. And in order to do that, so that we will all get the most out of it, we are making this what you might call a workshop session, and we are going to ask that everyone in the room participate and ask you to interrupt, as I just did in a very impolite way, ask questions or take exception to any of the remarks made by the panelists. I think this will make it more valuable for all of us and we ask your participation.

To illustrate why we think this subject is timely and why the panel is being presented today, I can mention two things that have occurred. First is the relatively touchy subject, as far as the AAR is concerned; it is the National Transportation Safety Act of 1968. This was presented to Congress by Mr. Alan Boyd, the Secretary of Transportation last year, and there was considerable feeling on the part of members of the AAR that this was very restrictive legislation.

In the bill and in the letter of transmittal from Mr. Boyd to the Senate, there was no specific reference to physical condition of employees except this--and I will now quote from the letter of transmittal from Mr. Boyd to the President of the Senate, Hubert Humphrey:

> "The Secretary would also have authority to regulate the qualification of rail employees as required in the interest of safety."

Now I am told that in the discussions of this bill, it was assumed by the people considering it that the railroads did have a suitable, proper periodic physical examination program to determine that their employees were able to safely perform their duties. It seems that this is probably a false assumption, and we will go into that a little bit more in a few minutes.

At this point I will ask Mr. Risendal to tell us what present status of the bill is. We are all aware of the fact ... is a new Secretary of Transportation, Mr. Volpe. We know that Transportation Bill of 1968 was sidetracked and we do not kn... what the present attitude is of the Secretary of Transportati... As a man who has been in Washington a good deal and is going ... there in the future all the time, possibly Mr. Risendal can te... us something about this.

MR. RISENDAL: Doctor, I am not sure that I can. Per... some of these other gentlemen are better informed than I am, b... asked that question last week. The answer I received was that ... Department has prepared a new bill, the bill has been presente... the labor people but has not yet been presented to the manageme... group for consideration or for review. I understand that Mr. Goodfellow has made a request for advance copies of the bill be... it is introduced but has not yet received it. So there is a bi... What it says we don't know as yet.

CHAIRMAN STOCKWELL: Thank you, John.

The second thing that stimulated my personal interest in this problem was something that occurred on our railroad, Grand Trunk Western. The Brotherhood of Locomotive Engineers served us with a Section 6 Notice to limit the scope of our periodic medica... examination program, actually to eliminate it.

I think at this point I will ask Mr. Wolfe to tell us what a Section 6 Notice is. Most of you know, but I'd like to have him define it at this time. Mr. Wolfe.

MR. WOLFE: Like Mr. Horsley, gentlemen, I want to thank you for the invitation to be here. I consider it a privilege and I might say that I feel very comfortable among you. When I first graduated from law school and went to work I was assigned--I think they didn't like me--they put me in personal injury work. After serving a tenure, which I enjoyed and which was extremely challenging, I might say, I then became a specialist in labor law and again was involved quite intimately with a number of the members of your profession. And I also have a father-in-law and brother-in-law who are doctors. So I feel quite comfortable in being here.

To answer the question, a Section 6 Notice gets its title from the fact that it stems from Section 6 of the Railway Labor Act. All it is is simply a request by one party or the other to change existing contracts or practices. In other words, it looks prospectively to the future and seeks to make an affirmative or negative change in the rules or practices that presently govern the relationships between the parties. That's all it is.

The Railway Labor Act establishes a series of procedures for those notices. We must have local bargaining on the property, and if that doesn't succeed, then either party may ask for the

services of the National Mediation Board, and if that doesn't work, then arbitration may be proffered, and if arbitration is rejected, an emergency board may be certified, and eventually you get to the point where one side or the other may exercise self-help. Self-help in the case of a brotherhood usually means strike. Self-help in the case of a railroad means promulgating new rules or locking out.

CHAIRMAN STOCKWELL: Thank you, Mr. Wolfe.

Now, this specific Section 6 Notice that we were served with says, in the first two paragraphs, and I'll quote because I think this is the crux of the problem:

> "Paragraph 1. The proper performance of duties by an engineer covered by this Agreement will be considered as a satisfactory test of his physical ability to perform such service and such employees will not be subjected to physical re-examination except as provided for in this Agreement."

I think it is obvious this means we can't examine locomotive engineers if we become a party to this type of an agreement.

> "Paragraph 2. At two-year intervals engineers who have not reached 60 years of age will be required to report to the company doctor for re-examination as to vision, color sense and hearing only" (only, I stress only), "subject to Paragraph 1 of this Agreement."

In other words, we were locked out, as far as making any periodic physical examinations of our own locomotive engineers.

The procedure that develops then is that a mediator, who is appointed from the National Mediation Board in Washington, presides over a joint meeting between the brotherhood and the railroad.

On our railroad, when we have a discussion of a labor relations problem concerning the Medical Department, fortunately we are notified and we participate in it, and that's going to be one of the recommendations, I think, of the panel: When your railroads are having discussions of labor relations problems concerning Medical Department matters, you will be notified and you will participate.

We have had two meetings with mediators, two different mediators. The first one resulted in no agreement and we were then advised that the Brotherhood of Locomotive Engineers had the legal right--and we will ask for advice about that from other panelists--the legal right to strike after 30 days. Of course, this is quite a club over the head of the railroad. Management became considerably perturbed at this point. They didn't want

the railroad tied up over a labor relations matter involving t... Medical Department.

However, with the second mediator, which was a rather ... longed meeting, and the Brotherhood of Locomotive Engineers ... represented by the GTW General Chairman as well as by national officers, we were able to prevail upon them to withdraw this s... cific Section 6 Notice, but we were told that we were going t... served with another notice with a little different terminology ... which they thought they would have a little better chance to w...

Our attitude concerning a Section 6 Notice and concern... periodic medical examinations I think could be pretty well cov... by a letter that my company wrote to the National Mediation Boa... in which we quoted First Division Award 1591, for example, whic... stated that the physical standards which are established by the company are not negotiable; it is a matter that you can't bargain about.

I am quoting now from the First Division Award. Possibly Chick, I should ask you to discuss that award before I quote it. Is it all right if I quote the award?

MR. HORSLEY: Please do.

CHAIRMAN STOCKWELL: Quote:

> "We think management has the right to require their employees to submit to periodic physical examinations. The law requires the carrier to exercise the highest degree of care in the operation of its trains. How can management fulfill this duty unless they take appropriate measures to ascertain that their employees are physically fit to perform their duties?"

In Award 13859 the Division said:

> "We find that the institution of a regular periodic physical examination program to assure the continued good health of its employees in the interest of the protection of the public and the equipment handled is a managerial function and the same may be unilaterally imposed."

The term "unilateral" is used frequently by the brotherh... representatives in discussing our program. Would you elaborate on that, Mr. Horsley?

MR. HORSLEY: First as to the bargainability. The bargainability of subjects is becoming broader and broader all the time. I am afraid that if we refuse to bargain on even the right of management to periodically examine employees, we might find

:urselves faced with what Mr. Wolfe has discussed, the Section 6 ;tice and the possibility of running out to the point of self- elp.

So in being realistic about it, I think it is a discuss- :le subject and it has been reduced to agreement by so many, many -ilroads that it is still debatable as to whether it is bargain- :le or not. The original, pristine sense of that field is that it s non-bargainable and I think it should have been held to be non- :argainable all the way through, such as the award that Dr. Stock- ell has just cited to you. There are two others that hold the ame way and there is no deviation from those awards since that ime, and those are old ones. But we should be careful in bargain- ng on the subject; we'd have to bargain on it, but it must be with ne area of reasonableness and, of course, with the tenacity of olding back as much as possible.

I am sorry that I can't be helpful on it, but I'm afraid it could be made realistically bargainable even though someone may say, as has been said, it is not legally bargainable.

CHAIRMAN STOCKWELL: Our legal advisers suggested that we should discuss this matter but specifically state at the outset of the session that we were not bargaining, because if we did bargain and the mediator then reported to the National Mediation Board that agreement could not be reached, they did have the legal right to strike and might not be enjoined.

Mr. Wolfe, would you comment on that?

MR. WOLFE: If you don't mind, I prefer not to use the microphone. I don't like microphones. Can all of you hear me in the back? If you can't, just let me know.

What they are saying is that if you don't use every means available to settle a dispute when it comes time to seek an injunction the unions may claim that the Norris-LaGuardia Act applies and you are prohibited from gaining injunctive relief. Therefore, even though you say that this is not bargainable, you'd better go ahead and sit down with them until you get to the point where they strike you, and then you can come into the court and say, "I have clean hands. My hands are clean, and therefore this court of equity can issue an injunction because this is an unlawful strike."

If you say, "I am not going to sit down with you at all," then, of course, you make yourself liable to that kind of an argument on the part of the brotherhoods, and I think that's what your people had in mind.

While I have the floor, I would for a moment like to address myself to the first question that you and Mr. Horsley discussed, namely, is it necessary for a railroad to periodically examine its train service employees? And in order to answer that

question, it seems to me you have to examine the objectives of railroad company, its goals; what are the goals of a railroad pany?--quite obviously, to make a profit. Railroads are profit oriented companies, and, therefore, does it serve that goal to periodically examine your train service employees? The answer unquestionably yes. That's the first reason.

Secondly, it seems to me it is in the public interest, and it is also in the interest of your employees, that your tra service people be examined periodically. So I don't think anyo can argue sensibly the negative of that question.

CHAIRMAN STOCKWELL: Maybe not sensibly, but they can argue.

MR. WOLFE: I wanted the chance to go back to the first question.

CHAIRMAN STOCKWELL: Thank you. Because of the questi that are raised by these two things that I have mentioned, the p sibility of some restrictive legislation or some specific legisla tion concerning periodic physical examinations that may be in the National Transportation Safety Act, and this attempt on the part the Brotherhood of Locomotive Engineers to eliminate our program, contacted a group of railroads. This isn't a complete survey. I is possible that we should make a complete survey. But I discovered some very interesting and discouraging things.

I think first I'll comment on what the AAR Medical Section's specific recommendations are concerning a periodic physical examination program, because what I will say following this I think will pretty well demonstrate how far we are deviatin or varying from what the recommendations are.

We are all fully aware that the Medical Section's recommendations are recommendations only. There is no necessity for a railroad to follow specifically the recommendations of our Committees and our Section. But they are a pretty good guiding rule, a when one sees very extreme degrees of variation, one wonders why. One wonders whether the periodic physical examination is a necessity, one wonders whether it is economically feasible.

To return to what our recommendations are, I will refer you to "The application of medical standards by occupational profile" as recommended by the Committee on Medical Standards and approved by the Committee of Direction of the Medical Section of the AAR on pages 10 and 11, "Instructions to Employing Officers":

> "Routine periodic medical examinations will be given employees according to the following occupational classifications:

CLASS A
a) Less than 50 years of age--every two years
b) Age 50 and less than age 65--annually
c) Age 65 and over--every six months
CLASS B
a) Less than 50 years of age--every two years
b) Age 50 and less than age 65--annually
c) Age 65 and over--every six months
CLASS C
Every two years
CLASS D
Routine periodic medical examination not required"

If this recommendation of the Medical Standards Committee and approved by this Medical Section is not proper, then I think it should be changed, and I think we should have some discussion of it.

Among the railroads that I contacted concerning their program and whether or not they had working agreements concerning physical examinations, I can mention one of the largest in the west. They have no agreement with any of their brotherhoods concerning periodic physical examinations. For their locomotive engineers, they examine, for the first time, at age 44; that is, after their pre-employment they are not examined again until they are 44 years old. They are examined again at the age of 50, and they are examined again at the age of 56; then they are examined annually from 60 to 64, and from 65 to 69 they are examined semi-annually. When they are 70 years old they are examined every three months.

Other operating employees working past age 70 are examined semi-annually. This means that the only train service employees examined by this railroad are locomotive engineers and in a very restricted way this deviates widely from the recommendations of this Section.

The second railroad faced a situation that we are facing now some years ago. There was a strike involved. This is quite a large railroad. As a result of an agreement entered into with the brotherhoods at the time of their strike, periodic physical examinations were completely eliminated. The employee who is off on account of illness doesn't even have to have a release from his personal physician when he comes back to work. All he has to do is book up and say, "I'm going back to work," and he doesn't have an examination by the company doctor.

Examinations are permitted when the superintendent considers that the employee is unable to do his duty. In other words, the responsibility here is performance of duty as determined by a layman.

Other railroads have better agreements. One of the l... railroads in the East, for example, has agreements with sever... their brotherhoods permitting periodic physical examinations, annual physical examinations up to age 65 for all their train service employees. This is a more strict requirement than rec... mended by the Section. Examination after 65 until age 70 is e... six months, and after 70, every three months.

Another large railroad has an agreement. This permits periodic physical examinations, but it specifically states in the agreement that the employee doesn't have to drop his drawers; in other words, he can be examined to the waist only. This agreem... was entered into some years ago and whether the employees cover... by the agreement still object to taking their clothes off or not don't know, but it raises an interesting question.

A large southern railway does have an agreement. All their engineers are required to have an examination when they re... the age of 65. Before that they are only examined for vision, color sense and hearing. Supervision, however, and the Chief Medical Officer have the right to order physical examination if there is a question concerning job performance.

Another of the larger railroads has no agreement, but they are making periodic physical examinations about as recommende... by the Medical Section of the AAR.

In view of this situation, I thought that we should discuss very frankly reasons why these periodic physical examinations are worthwhile; and, if not worthwhile, why not? What should be done about it, what can Chief Medical Officers that are not permitted to have a program do about it? I have a specific question from one of our members: Supposing our railroad has a restrictive agreement that will not permit these physical examinations, what can I do about it and what can my railroad do about it?

Mr. Wolfe, will you answer that question?

MR. WOLFE: Yes, sir. The first thing you can do, of course, is serve a Section 6 Notice; the railroad can serve a Section 6 Notice, to eliminate that restrictive rule. Now, of course, that means that if the union is unwilling to agree, which they unquestionably will be, you eventually will get down the line to the point where you have to put it on the line, and that's what this business that I'm in is all about. You have to put it on the line, your willingness to take a strike. If you don't have that willingness to take a strike and tenaciously assert it, you might as well fold up your tent to start with because the unions will soon find it out and they'll push you to the wall and through it.

If you are going to be put against the wall, I suggest this: I think that the rule, the contract rule, which that management agreed to is unlawful. I think it is contrary to public

policy, it's against the public interest, because it permits people who unquestionably are physically unqualified to operate trains and to work in and around trains. This affects the public as well as the private interest, and therefore I would simply refuse to enforce the rule. I would violate it, and then I would put the status on the union to do something about it; and when they threaten to strike you, I would then go into court to enjoin application of the rule on the grounds that it is unlawful.

That's a second remedy which you may consider.

CHAIRMAN STOCKWELL: Mr. Horsley, will you comment on this, particularly on Mr. Wolfe's suggestion, from the point of view of the railroad member of Division 1, Railroad Adjustment Board.

MR. HORSLEY: At the outset we have the action of the First Division with respect to the decisions called Awards that Dr. Stockwell has spoken of. Those are memorialized in the record as recording the fact that the carrier has the unilateral right; and I think, as Mr. Wolfe said, that that unilateral right of the carrier to examine is consistent with public policy so that in view of our character as insurers of safety, that unilateral right is further supported. And any rule that flies in the face of or flouts the safety of property and persons is contrary to public policy. And I agree, not because we are in the same business, but I agree with the logic, and the legal logic, of the statement made by Mr. Wolfe.

MR. WOLFE: There will be those who will disagree with me. But you stick with it for it will get you in the courthouse door and you very well may win.

CHAIRMAN STOCKWELL: Dr. Wight of the Canadian Pacific.

DR. E. EARLE WIGHT, Canadian Pacific: I'd like to ask a theoretical question. Unions are the same for all railroads, but they make different agreements with different railroads. Supposing Railway A does not subscribe to medical examinations, like the one you mentioned. Railway B follows the recommendations of this association. Very often it happens that trains from Railway A run over trackage of Railway B, or there is interchange or something else. Why couldn't Railway B say, "No, no, we can't let your trains run over our lines. We don't think your men are qualified. Your engineer might die and tie up our trackage and cause a wreck or something like that"? Couldn't there be some little thing like that?

CHAIRMAN STOCKWELL: Your question is a good one. This has occurred, and I can't give you a specific example but it has occurred.

DR. PAUL PRETTER, Union Railroad: First of all, I'd like to congratulate Mr. Wolfe. In my three-and-a-half years working for a railroad, he is one of the few members of management I have

ever heard with guts enough to get off the fence and say somethi of value--rather than refer it to the Medical Department. But I have a question:

Why do we limit this to train service employees? Do other members of railroads' work force sue less? Do they have a other reason why we shouldn't examine them periodically? Do the have less sicknesses or cause less of a problem for the railroads

CHAIRMAN STOCKWELL: I think your question is a good one.

MR. HORSLEY: I'd like to take a swing at it, Dr. Stockwell, when you have finished.

CHAIRMAN STOCKWELL: I think it would be very desirable examine all of the employees, offer them the privileges of a periodic physical survey. That would be very good preventive medici

DR. PRETTER: I may add that on our railroad until recently no one ever had an eye examination after the pre-employm exam. They could come to work and work for 35 years and be blind, and I found them blind, and be deaf, and I found them deaf.

The interesting thing is, management will always turn around and say, "Well, that's a medical problem." You're supposed to find them when you don't see them.

My feelings really are that most of the ills that go on i the railroads are because management has been blind themselves, in not looking forward enough and anticipating some of the problems. They have not tried to do anything about hearing conservation, about eyesight, about periodic exams. I think perhaps this Medica Section should do something to further this purpose.

I have discussed this sort of individually with some of the members here, and the feeling I get is that many departments of the AAR and the individual railroads are not interested in this because it doesn't further their own good--and I particularly speak of the Claims Section. I have the feeling that many of them are no interested in changing anything or improving the situation in the railroads, because they feel this might be a threat to their own good. I am speaking from my own personal experiences.

CHAIRMAN STOCKWELL: After Mr. Horsley makes a comment, we will ask Mr. Risendal to comment from the claims aspect.

MR. HORSLEY: The doctor has referred to other than on-train employees. Let's just call them off-train or non-operating employees. The subject hasn't been as rife with the non-operating employees. However, there is a jurisprudence, if you could dignify the other divisions of the National Railroad Adjustment Board with that term. The Second Division has to do with shop men for

classification; the Third Division has to do with clerical crafts and telegraphers.

The Second Division recognizes that the carrier has a right to require physical examinations, and then they have a qualification "in proper cases." There is an instance, for example only, of a dining car waiter whose condition had to go all the way to a syphilologist to resolve the question, and I think it had to do with the validity of various tests that were used to determine his condition. And all of the Second Division cases have gone only to individual or ad hoc situations, not the general question as to whether the blanket periodic physical examination may be installed.

On the Third Division, it recognizes that the carrier must take precautionary measures to determine the physical fitness of employees, and the Fourth Division likewise. But the First Division has to do with the on-train employees; and it is not, Doctor, that the other Divisions sue less or are less of a threat, but I think it is properly divided on the basis of the service that they perform and the importance to the public of the service that the crafts perform in the different Divisions.

MR. WOLFE: Dr. Stockwell, may I cut in here a minute?

CHAIRMAN STOCKWELL: Certainly, at any time.

MR. WOLFE: I think that question was really addressed at railroad managements, and since I represent railroad management in a fashion, at least I'm of them, I'd like to answer that. In my own personal view, and I think it probably represents the view of my company, we definitely should have a complete program, a program of qualifications, a program of standards--of specifications, if you will--for each job, and how often the person occupying that job should be examined, and the physical qualifications or disqualifications as a result of the examination. That is something I don't think we have. I don't know how many do have it, but I hope we will have it soon.

CHAIRMAN STOCKWELL: John, could you make any comment concerning the attitude of the Claims Division?

MR. RISENDAL: Yes, sir. I think that no one, other than perhaps the doctors, within the railway companies has a greater interest and concern in the adoption and insistence upon high physical standards for all employees than do members of railroad Claim Departments. They know full well what happens when people with inferior physical standards are accepted into railroad service. They know from day-to-day experience how many physical conditions which are completely unrelated to any occurrence on the railroad they wind up paying for, either because there is no real program of pre-employment and periodic physical examinations which would weed

cases which permit acceptance of those people who do not meet standards which may have been prescribed.

There is plenty of work for a railroad claims man in handling the justifiable claims which arise from on-duty accidents to employees; and they are willing, and must, handle those on their merits. But they are sick and tired of paying for conditions for which the railroad is not and was not responsible.

So I can say perhaps the views of Claims Department representatives have not been listened to as they should be. Perhaps railroad claims men are not as persuasive, in some cases, as they should be, but they all recognize the need for the adoption and implementation of high physical standards.

CHAIRMAN STOCKWELL: Thank you, John.

In order to demonstrate even further why it is necessary and essential that we have periodic physical examination programs, I plan to quote at some length from an address that was given by Mr. Owen Clark, then Commissioner of the Interstate Commerce Commission, to this group on March 28, 1957, at a very fine meeting of the Section that was held at White Sulphur Springs, West Virginia. I recommend his speech in its entirety to all of you, and it would be of particular value to you in discussing the necessity for the program with your management if you are having problems. I will only give his last statement in his speech. Quote:

> "At the very least, however, gentlemen, your recommended standards should apply uniformly throughout the railroad industry as an absolute minimum."

We have already discussed the question that was asked by several men in the group, and that is, does the railroad have the right to periodically examine its train service employees; and if there are any questions from anyone in the group as to whether or not we have the right, I wish you would say so now.

DR. ARTHUR J. SUTHERLAND, L&N: I had an experience here last August and September when we took over a section of the old [illegible] and we offered jobs to 67 of them, these men that were working; and 42 of them out of the 67 were able to pass. So it demonstrates the necessity or the feasibility of periodic exams.

CHAIRMAN STOCKWELL: Dr. Kaplan.

DR. ISADORE KAPLAN: I would like to address this to Mr. Wolfe, please, because in the spring of 1967 we had an actual situation present itself at the Huntington car shop. I am certain you are familiar with it, in that we actually had a strike as a result of a physical examination requirement. One of the car men, who is a sky diver, had been on one of his air circus shows the Sunday

preceding the date he was supposed to go to work. His parachute opened too close to the ground. As a result, he sustained rather serious injuries to the lower extremities, back and shoulders, and he came to work on crutches. Management refused to permit him to go to work. He was referred to the local surgeon, who also refused to permit him to go to work, and, as a result, a strike was called. It lasted about one week. The entire shops at Raceland, which employ about 2000 employees and laborers, went out in a sympathy strike, and, as a result, all operations in the Huntington-Raceland area practically stopped.

The management, of course, maintained that they had the right to request a special examination and, based upon disability, felt he should be disqualified. The labor organization countered by saying it had a contract with management, whereby the only time a car man was supposed to be examined was at time of original employment, and thereafter he is not required to submit to examination.

Can you now enlighten the group as to what finally was resolved in that problem?

MR. WOLFE: I really don't know the final resolution of it, Doctor. I lost track of it after we got the people back to work. At that time I was with the National Railway Labor Conference. That was before I joined the North Western; and your C&O lawyers got in touch with me, and I discussed what legal action they should take to get the men back to work. And, of course, it presented a classic case: It was a minor dispute, that is, a dispute over what your existing rules are; therefore the strike should have been enjoined immediately. And I think they tried but they had some difficulty, time-wise, getting to the right judge, as I recall it.

How it eventually came out I really don't know. After they went back to work I lost track of it. That was an interesting case.

CHAIRMAN STOCKWELL: Thank you, gentlemen. At this time I think we will leave the labor relations aspects of this problem, temporarily. There are many more questions I want to ask of our panelists, and I'm sure some of you do, too. But at this time we'd like to get into the physical examination itself, and I think the first obvious question is, what constitutes a good periodic physical examination?

I think we will ask Dr. Hinshaw to tell us a little bit about this now.

DR. HINSHAW: Thank you for the opportunity of being here. Most of us are doctors and I would like to discuss some of these problems from the standpoint of the treating physician. The question of preventive medicine has arisen here on several occasions.

I should like to think that if this were the best of all worlds we could develop a relationship between the doctor and the patient, be he "company doctor" or "personal physician"; a relationship so productive, so compassionate, so efficient, that the patient would seek to have examinations carried out at his own instigation and consider this a privilege, not a requirement.

I should like to think that the doctor is not engaged in what you might call "medical espionage" or even medical surveillance, but he is there to detect ailments which are in a developing stage, which might be prevented. I would like to think that the employee wants to be examined in the hope of lengthening his life, in the hope of improving his earning capacity, in the hope of being a happier and better person.

It is true, of course, that there is a conflict of interest occasionally, but I'm not so sure that conflict of interest between what is best for the patient and what is best for the company should arise as frequently as it appears to arise. In other words, in most of these circumstances what is best for the company, what is best for the public, is also best for the individual.

Ideally, in this best of all worlds, the company doctor, if you want to call him that, also would be the personal physician to that particular patient. When he or members of his family develop symptoms or desire medical consultation they should go first to this physician, as a personal physician who is in the best position to determine whether or not the employee is capable of carrying on his work, whether or not he should continue to do so.

The average employee resents what I called a moment ago "medical espionage," but he doesn't resent examinations when he can be convinced that the examinations are for his own welfare and for the protection of his own future earning capacity. I know that this sounds idealistic, but I think it can be attained; and in our system at Southern Pacific it usually is attained. A large share of the employees choose to come to our hospital, having sought the advice of our on-line physicians, when they are ill. We have a relationship with these patients which puts us in an ideal position to know when any man should be restricted in his activities or when he should be disqualified.

When we do run into a conflict of interest, if we are true physicians, I think we should frankly admit it to the patient and say, "I can understand why you would like to continue to work and support your family in this particular position, but as company doctor I have to advise you otherwise." In other words, if we can frankly admit our conflict of interest to the patient, we can retain that doctor-patient relationship which is so valuable. But this is best attained when doctors care for patients over a period of years. A well designed, all inclusive medical care plan, well organized and well executed, facilitates the growth of a proper doctor-patient relationship. The time may come when the employer considers his employees much as he considers his mechanical equipment.

the man is an asset to the organization, he is earning money for the company, he is a "machine" that has to be serviced occasionally, he is a machine that has to be repaired occasionally and eventually replaced; and if the servicing, repairing and retirement were part of the same program, many of these conflicts shouldn't arise. But they do arise, even in this best of all worlds.

CHAIRMAN STOCKWELL: Dr. Strange, would you like to comment?

DR. VANCE STRANGE, Southern Pacific: I think under our program that we are in a constant screening process for our employees. We do have good relationships both with our membership and with our employees as a group. If this continues, and if we improve the type of people we have, people like Dr. Hinshaw, I think we can offer service to both the company and the employees.

We have been interested in health inventories and Dr. Hinshaw has been in charge of that program. We were in hopes that we might be able to start a health inventory plan along with certain laboratory work, on-line. This could be carried out on a year's basis for all employees. We have run into difficulties; I will say that most of the difficulty so far is educating our own doctors on-line that this is a good program.

The way we are attempting to do it now is to have the people admitted into our hospital from on-line, pre-admitted with the health inventory coming in with it.

Now, the health inventories that we used in our own office downtown, subject to the railroad, United States Steel management people, worked out extremely well; cut down on doctors' time, and I think they will have statistics some day that will be of great value. I just hope we can say the same thing for our approach.

CHAIRMAN STOCKWELL: Thank you. In connection with the relationship between the examining physician and the employee, I think it's most important that he be assured that this is a confidential relationship, that this medical record that is sent back to some place in the railroad is a confidential document. Medical privilege is respected, in my opinion, and should be retained in the Medical Department and not be available to management and labor or any other inquiring individual, without first obtaining the specific authorization of the employee to divulge that information.

Dr. Hinshaw, would you like to comment on that phase of it a little more?

DR. HINSHAW: I don't think that is impractical, and, indeed, if you are to have a proper doctor-patient relationship, clinical data must be confidential. I can't remember any important circumstance when a patient has refused to let us divulge the results of a medical examination. Usually the patient who has an ailment, of whatever nature, is perfectly willing to have it

divulged in order to have it corrected and treated, the same ... other patient. The nature of these examinations deserves fu... comment, I think.

Dr. Strange mentioned the "health inventory" which ... essence, a medical history, a self-prepared medical history, ... series of questions, about 200 in number, not unlike the Cor... Medical Index, with which some of you may be familiar and wh... been tested very widely over the country. This series of que... informs the physician about the health experiences, the healt... hazards and the medical and social background of the individu... what amounts to an excellent medical history.

Later on this morning I see we shall have a discussi... the subject of multiphasic screening programs for the detecti... disease, so I shan't go into that now because I am sure Mr. S... will be giving us the details of this system of examination.

But a thorough medical history, a physical examinatio... and a series of laboratory tests and X rays can tell us a great deal about potentially disabling illnesses, some of which are capable of being remedied, many of which are not known to the patient, many of which would not have been revealed to the pat... but for such a comprehensive examination. Who should be examin... how expensive it should be, how practical it is to apply on a u... versal basis, is another topic that we can't settle here. But I should like to think that preventive medicine is tied to curati... medicine. I should like to think that employees can be encoura... to regard periodic physical examinations as a privilege and not a necessity, that they may seek this and ask for it in negotiat... their contracts with management.

CHAIRMAN STOCKWELL: Mr. Wolfe.

MR. WOLFE: I am going to get into this doctor discussi... for a minute. Your inventory program, Dr. Strange, is a very interesting one. I would hope that you continue that. It sounds to me as if it has many possibilities.

As an outsider looking in, as a labor relations officer who occasionally glances at these files as they come in from mem... bers of my staff, I throw out to you to think about because I do purport or assume to have the answer--but it does seem to me to present a problem where you have the personal physician of a man who is one of your local doctors examining an employee for quali... cation purposes. Human nature being what it is, I think it is impossible, in most cases, when it comes down to the basic fact whether that guy is going to be permitted to earn his living, for that doctor to say, "You are disqualified."

We have had cases where our Medical Department in Chica... has had to overrule our local physicians for that very reason ...

it presents a difficult situation when that happens, difficult for our people in Chicago and difficult for the local men.

We had a recent case; in a recent heart attack case our file indicates that two local company doctors on one district actually decided that our Medical Department in Chicago was wrong and furnished the employee with statements in support of his contention that he was qualified.

Now, I am sure Dr. Stack and Dr. Speer probably no longer use those lads who did that. But this is a case where our local doctors, because they were the personal physicians of the men, actually turned on us.

This seems to present a problem to me, and I say, I don't know what the answer is. Perhaps you can come up with it.

DR. HINSHAW: May I ask for a moment to say that in our own system we have what might be considered as a supreme court in that the local treating, on-line physician is not necessarily the one who makes the final decision as to disqualification or restriction. He obviously sees the situation from the patient's standpoint and, indeed, as I said in the beginning, in most circumstances the patient's best interest is also the company's best interest, and vice versa. But there must be a supreme court, a final agency of unimpeachable quality, an agency which has the medical experience and facility and know-how to obtain documentary proof of disqualification when that can be obtained, and usually it can be obtained, so that the on-line doctor does not make the final decision necessarily.

CHAIRMAN STOCKWELL: Dr. Strange, and then Dr. Stack.

DR. STRANGE: The on-line doctor we give no responsibility to in returning people to duty in problem cases; they are all referred to me. We have letters on them. We have reports on them. Then we will bring that man in from on-line and he will go through the clinic examination that we have afforded him. The final decision is made in San Francisco.

No "injury on duty" case can be put back to work by a local physician; he can only be put back by the attending physician in San Francisco. It makes a lot of trips back to the city but we think it is well worthwhile. Never leave that responsibility to the local physician.

DR. HINSHAW: It requires a rather complex group type of medical organization, from the clinical standpoint, too, doesn't it?

CHAIRMAN STOCKWELL: Which, I may say, many of us do not have.

Dr. Stack.

DR. JAMES STACK (C&NW): We operate in nine states. We have about 500 doctors. All of them are on a fee-for-service basis, and all of my professional life I have been wearing not two hats but three--as a teacher and a chief surgeon and a practitioner. And an awful lot of these people working on our railroad are graduates of our school; I have had them in class. This is a very important thing, to have this kind of a relationship; and when this subject comes up, and let's say that there is some serious disagreement, I can pick up the telephone and say, "Now, Joe, what in the hell did you do this for? You know better than this."

But the thing that we try to do is protect these men because the doctor in many instances is in the town of, let's say, Escanaba, Michigan, or Pierre, South Dakota, or Long Pine, Nebraska, and he is our doctor and he is the patient's doctor, and we must protect the doctor and we must get him off the hook, so that he can go to the patient and say, "Now, look, John, I want you to get back to work, I think you can go back to work, but that son of a gun in Chicago is the one that's keeping you from work."

I think this is a healthful way of solving the problem you brought up.

CHAIRMAN STOCKWELL: Gentlemen, we will continue this same discussion, because there are several who would like to be heard, after a 10-minute break.

(Recess from 10:30 to 10:40 a.m.)

CHAIRMAN STOCKWELL: Gentlemen, we will continue; and in connection with examining locomotive engineers, I will start this part of the session by reading a quote from The Detroit News of February 12, 1969:

> "Melbourne, Australia. The engineer of the Southern Aurora Interstate Express was dead before hurled into a train Friday, killing nine persons. . . . They said a post-mortem showed that Engineer John Boden, age 50, suffered a heart attack before the 80-mile-an-hour crash near 'Bila' Town 160 miles from here."

The next question that I think we'll get into is a matter of how to handle the individual that is examined as a result of our periodic program and who is found to have an impairment that would make it unsafe for him to be continued in service.

The question is: Should there be a standard operating procedure developed on the railroad for the handling of the disqualification? How should the employee be handled who is found to have a defect which requires disqualification, either temporary or permanent?

I think several individuals here may want to discuss this and I think it is very important. I think it is important for this reason, that if it is improperly handled you're going to have a hundred percent objection. If it is properly handled I think many of the objections can be avoided.

Specifically, how should this individual be notified that he isn't physically fit to be continued on the job?

The one thing that we want to avoid is for him to receive the impression that he is fired. So often that is the case. They get a short message from their immediate supervisor, "You're through, Joe. Turn in your equipment," period. It does happen, gentlemen, and it shouldn't happen.

Dr. Hinshaw, would you make a comment on this?

DR. HINSHAW: Yes, I'd like to comment on that because I believe that one of the principal jobs of every attending physician, under every circumstance, whether it be industrial or otherwise--one of his principal jobs is what might be regarded as "salesmanship." He has to sell his diagnosis to the patient.

In the first place, he has to have unimpeachable evidence. He has to prove to his own satisfaction first and then to the patient's satisfaction that he has a correct and precise diagnosis. He must be able to sell the patient that idea, and I would feel very strongly that it is the doctor's duty to sit down with Joe and tell Joe exactly what he has, explain to him the mechanism of it, explain to him what might happen if he did not accept the recommendation.

I spoke of "unimpeachable evidence." Take coronary artery heart disease, for example. Too often in the past we have been forced to rely upon symptoms, upon what the patient tells us, upon his testimony as to what his sensations were under certain conditions of exercise. But as time goes on it becomes more and more possible to put this on an objective basis, and as some of you may know, within the last few months Dr. Strange has arranged to have installed the full facilities for coronary arteriography to deal with these problems. Take the case of a locomotive engineer who seeks an examination because of symptomatic or electrocardiographic evidence of coronary heart disease. If he can be subjected to coronary arteriography it will be easier to tell him, "You mustn't run a train any more because you might collapse at the throttle, and you will be the first one to be killed in the event of a collision."

So I think it is the doctor's job to explain in full detail the reason for and nature of medical impairment. The doctor has to be compassionate, in his approach to the problem, but nonetheless firm, and he must have the evidence, he must have the support

of convincing medical authority and the very best equipment and facilities.

CHAIRMAN STOCKWELL: Thank you, Doctor.

My specific recommendation is that an established proce... be arranged, handled in the same way in all cases. Specifically, on our railroad our periodic examinations are made on a medical ... by a physician who travels around from yard to yard, and he take... no action if he finds a man that he thinks is physically unfit b... simply sends his report to our office.

At that point we contact the supervisor, generally the superintendent, and advise him that this man has a physical condition that might interfere with the safe performance of his duties, and that he should be further medically examined--by his personal physician, or, if he chooses, he can come to the Detroit Clinic (and with some emphasis on coming to Detroit if he will do so). Then we will have the opportunity of talking with him, and many times it is most helpful, with his wife, and explain to them, as Dr. Hinshaw has suggested, the necessity for taking some type of actio... that is going to result in reduced income for him for a period.

I suggest that some established procedure is of value. Mr. Wolfe, would you like to comment on this?

MR. WOLFE: I personally feel that an established procedure is almost necessary. There are many people in the field, however, who disagree with me. I asked six of my staff officers to give me their views on this question, and all six of them said that they thought we should have no established procedure but handle it case by case. So you aren't going to find the labor relations people in agreement. I feel, however, that it is desirable. I feel that eventually it probably will come to be, and I expect it to come to be on the North Western.

CHAIRMAN STOCKWELL: Mr. Horsley.

MR. HORSLEY: Just very briefly, I don't believe I diametrically disagree, but I would like to say this, that in the experiences I have had, the lay experiences that I have had, this is the greatest area for, you will pardon the expression, that bedside manner that I have heard about since a child. This is the area of contact between the doctor and the man who has this condition. So that if there is any diagrammed procedure, I certainly urge that it be this confrontation between the doctor and the patient himself, and this bedside manner be employed, if I may say so, because of this reason. And I will conclude in a second, that when the train master tells this man that he has a physical condition that necessitates his being removed, you don't know what else that train master will say; and I know of several instances of what else he has said, that "We haven't been able to get you up to now, but by God we got you now and you can't work any longer." And that is what happens

...what should be the bedside manner--and again I apologize for ...at term, as such--it's the only one I know--but, as a substitute ...r it, there isn't any. So that we get into a lot of trouble by ...e confrontation between the employer and the employee, rather ...n between his loving doctor and himself.

One more second: When one railroad put out an announce...nt of periodic physical examinations, there was no problem with ...; but when they took them by age groups they said in a letter, ...r. Johnson, because you have now reached 65 years of age, it will ...e imperative that you go to Doctor So-and-So, on or before the ...th of next month," and the fellow doesn't want his age actually ...eferred to.

These are the little areas of tact and diplomacy that are ...ssing and should be employed. If it is diagrammed it should be ... something like that, other than letting the employer tell him ...ething, because he'll tell him more.

Thank you, Dr. Stockwell.

CHAIRMAN STOCKWELL: We have a specific question from the ...udience, which is this: Does it make any difference in the han...dling of a disqualified employee if the railroad does or does not ...ave the provision in their working agreement with the brotherhood concerning re-examination of a disqualified employee?

Mr. Horsley.

MR. HORSLEY: Unfortunately, it does not make any difference, according to the decisions from the courts on this point, and I won't give you any chapter and verse. But it has come about in this fashion, that there is a dispute about the physical condition, and when it comes to a tribunal and this is a lay administrative tribunal and the referee or the neutral is looking for an out or basis upon which to make his decision, he adopts this three-doctor panel as a nostrum by which he can decide or reach a decision as to what should be done.

Now, that has been approved by the courts on the basis that the tribunal, the arbitration tribunal to which this dispute comes, has the right, because it cannot decide the medical question, to seek the aid of medical advice; and there is a dispute between two medical men concerning this man's condition, so we must draw in a third--and that has been characterized as being the right of a deciding tribunal to the aid of your profession in reaching a conclusion.

But let me say in one more second, this: that there is no right, gentlemen, to a medical panel, with or without rule in the agreement, unless there is a medical challenge to your opinion; and that does not mean a statement from Doctor Joe Blow saying, "I think he is able to return to his regular occupation." Such a

statement is not, in my opinion, evidence challenging your medical opinion after examination of the man's condition--so that the condition precedent to any medical panel must be diametric opinions of the medical condition of the man. Without that it should be challenged as being an improperly constituted or ordered medical board.

CHAIRMAN STOCKWELL: Mr. Horsley amazes me. He uses the term "diametric" in a manner that I didn't quite understand. Specifically, what evidence does this employee that has been disqualified require to dispute our decision that he is physically unfit?

MR. HORSLEY: Let's go to a case we are both familiar with, the reported syphilitic condition of a dining car waiter; and it is reprehensible that an organization should take it up as not being in existence, but that is my example of two medical opinions that the man has, the man has not, a trace of syphilis in his blood.

CHAIRMAN STOCKWELL: Mr. Horsley, are you saying that the medical panel should decide only on the physical condition of the employee and not decide whether he should go back to a specific occupation?

MR. HORSLEY: That'll keep us here all day. I think that standards of physical fitness are inescapably necessary. I think that a carrier doctor should decide whether or not the subject meets the standards of physical fitness and that any other doctor should be told that his decision must relate to the standards of physical fitness; and I am afraid that his ability to rejoin the ranks of free, full-swinging brakemen riding high, as we say, on these cars and jumping on and off and flipping ground switches, and so forth, is a matter for the railroad doctor only, because you would have to qualify some other doctor who knows nothing about it, and then ask him to give an opinion as to whether a man could return to work. And he should say "I have no opinion on that." So I believe it relates to standards of physical fitness.

CHAIRMAN STOCKWELL: I certainly have to disagree.

MR. HORSLEY: I know, I know. I am too dogmatic.

CHAIRMAN STOCKWELL: With the three-doctor panel discussing the problem, there is very little medical disagreement--the man has diabetes, he is taking 40 units of insulin, there is no medical disagreement, he has no unusual complications of his disease.

MR. HORSLEY: You see how easy I am trying to make it for you, sir. You have in your standard of physical fitness this degree of diabetes, and if he falls within that and that is taboo, as far as his work is concerned, that's all the foreign doctor would have to decide upon and he would naturally agree with you.

CHAIRMAN STOCKWELL: Well, that's real easy. If he would

naturally agree with me, it would be the easiest thing in the world. I would love that.

MR. HORSLEY: But you just said there is no disagreement as to his medical condition.

CHAIRMAN STOCKWELL: No, but there is a lot of disagreement as to whether he ought to get on the top of the box car.

MR. HORSLEY: So we will keep that out of the area of dispute.

CHAIRMAN STOCKWELL: But how do you keep it out of the dispute, because this panel has to decide, does the man go back to work or does he stay on sick leave?

MR. WOLFE: Well, the answer, it seems to me, is fairly obvious. You must have specifications, and the panel has to determine whether the man fits within them, and that's the job of the medical panel. The specifications are established by management with their medical advisers' assistance.

CHAIRMAN STOCKWELL: In other words, you're talking about the job now, not his physical condition?

MR. WOLFE: I'm talking about the job and his physical condition for being able to do the job. That's all part of the specifications that should be established beforehand. The panel gets those specifications. The only question that they answer is, does the man come within them or doesn't he? Then you have taken care of your panel in the proper way. Your panel doesn't get into the management side of it, the panel doesn't get into this area of bargainability and non-bargainability that we are talking about.

CHAIRMAN STOCKWELL: Yes, Bob?

DR. ROBERT EDMONDS, Norfolk & Western Railway: I have a specific case I am involved in now that I would like to address to Mr. Horsley. This concerns an engineer whom I disqualified. He had a coronary thrombosis in 1961. He had bilateral cataract operations in January of 1968. He had a second infarction in August of 1968.

By labor agreement, should I downgrade him from a road engineer to a yard engineer? He has the right of appeal to a three-man board located in the city of Peru, Decatur and Moberly, Missouri. I can't have him come to Cleveland where we can have an adequate examination, and, furthermore, the decision of the three-man board is binding by agreement 1941.

DR. SUTHERLAND: You don't get to approve who that board is?

DR. EDMONDS: I appoint one man.

MR. WOLFE: How is the neutral selected?

DR. EDMONDS: The second man is appointed by the patient, or labor, the third man by mutual agreement. I don't have that many friends in Peru that their friend could be my friend.

CHAIRMAN STOCKWELL: You wouldn't want to prejudice anyone, would you?

DR. EDMONDS: I certainly wouldn't, but I would want the safety factor to be on my side.

CHAIRMAN STOCKWELL: There is a question for Mr. Horsley.

DR. EDMONDS: Mr. Horsley, you say I don't have to accept that?

MR. HORSLEY: I don't remember saying you didn't have to accept that. Your procedure is diagrammed all the way through to a final and binding conclusion by a three-doctor panel.

DR. EDMONDS: In other words, labor has bargained away this right.

MR. HORSLEY: But do you have a dispute in the first place with respect to his physical condition, a medical challenge to your doctor's opinion? That's what I just stated a moment ago. I think therein lies your objection to going through with this final and binding putting of a man back at work at which you don't think he should work.

DR. EDMONDS: You mean I have the right to refuse to put it to a third man, that three-man board?

MR. HORSLEY: Well, if there is no dispute as to his physical condition.

DR. EDMONDS: There's no dispute.

MR. HORSLEY: He has this coronary thrombosis, he has this later infarction. He has the--

DR. EDMONDS: Bilateral cataracts.

MR. HORSLEY: All right, everybody agrees to that?

DR. EDMONDS: There is no question.

MR. HORSLEY: So there is no dispute, is there?

DR. EDMONDS: There is a labor dispute because in the labor agreement should I either disqualify him or put him in a position of lesser importance--a three-man board may be appointed.

MR. HORSLEY: Then I say you're bound by the terms of your agreement, and that's something from which you can hardly be extricated if your procedure is all diagrammed in that immutable fashion. But you might find that you put him back on an eight-hour short-switching yard engine and if he dies at the throttle because of the very condition that there's no dispute about existing, you're liable for suit under the Wrongful Death Act, for putting him back--and there are two cases on that point in the courts. This is something to be looked at very, very carefully.

CHAIRMAN STOCKWELL: You see, Dr. Edmonds, these gentlemen are avoiding the issue. Our problem is, that when a medical board is convened, we have to make the decision as to whether or not that man goes back to his job.

DR. EDMONDS: I hate to put it this bluntly, but it's happened in this case--our labor people have bargained away my right to establish medical standards?

CHAIRMAN STOCKWELL: Well, now, I will ask Mr. Wolfe to answer that question. Have they bargained away his rights?

MR. WOLFE: To a certain extent they have. I agree they have bargained away a certain part of the rights that you had by creating this panel, in the first place, and limiting it to doctors from that particular area. But to get back to avoiding your question--I take issue with that; we don't say that the medical panel doesn't have the job of making the decision. What I say is that the medical panel should have guidelines which have been established by the company in conjunction with its medical experts for the medical panel to use.

We had a case not too long ago, which involved a mental condition, and it went to a panel. The neutral doctor was a psychiatrist out on the road some place, and he was simply presented with this conductor who had a history of mental difficulties and going in and out of various sanitariums; and the question was, could he return to work?

Could he return to what kind of work? This neutral doctor didn't know other than the fact that he was a railroad conductor. He ruled that the man was able to work, hold a job. But that didn't answer my question at all as to whether he was able to work as a conductor in charge of through freight trains on our main line and all that goes with it. And I say that these panels must have guidelines which are pre-established in order to assist the panel in making its decision.

We have another case where we disqualified a man because he was overweight. It went to a board and the board said --it didn't go to a panel, we went right through a board proceeding a Special Board of Adjustment on that case--and the board said, "You must have qualifications and specifications because that man was entitled to know what your weight requirements are."

Well, if that principle is true, these men should know what your specifications are in general, from a medical standpoint. And if your management presents it to them, then they know. If you don't, you are rendering yourself vulnerable. Am I not right?

MR. HORSLEY: Yes, sir.

CHAIRMAN STOCKWELL: I can assure you that we have medical standards.

MR. WOLFE: Do you have medical standards--

CHAIRMAN STOCKWELL: For each specific job.

MR. WOLFE: And do you have job specifications?

CHAIRMAN STOCKWELL: Job specifications well outlined; but the difficulty is that the neutral may not agree with our job specifications and standards and he is the one that is entitled to make the decision.

MR. WOLFE: Not if the agreement which sends that case to a three-man panel includes your job and medical specifications.

CHAIRMAN STOCKWELL: It is handled differently in all cases. In our case I personally participate. I meet with the physician for the employee and the neutral, and we discuss it, and that's why we win our cases. Actually, sending a long letter to the neutral outlining the job specifications, as you say, is frequently a useless procedure because he doesn't read it. He just talks to the patient and asks the patient what does he have to do, and Joe says, "It's real easy. I ride in the caboose from Chicago to Detroit; no problem."

MR. HORSLEY: There's a case now where the railroad has an engineer of 340 pounds who can't get his fat apathy into his seat, but there's a dispute about it and no regulation as to the degree of obesity on the part of any employee.

CHAIRMAN STOCKWELL: In Canada it is real easy. Dr. Wight will tell us about this.

DR. WIGHT: Thank you. I have listened with considerable enjoyment to this discussion this morning. I think we're getting down to basics. But there are a few things that have disturbed me quite a bit, listening to all the talk this morning. Mr. Horsley

referred to medical standards. I don't know what he means by medical standards. Ben, you say you have medical standards. Maybe you have them.

CHAIRMAN STOCKWELL: I hope we have.

DR. WIGHT: But they vary from railroad to railroad, and the thing that is a little disturbing to me is, from what I have listened to this morning, that our medical standards are being downgraded. You referred to examinations not below the waist, examinations not before the age of 60, examinations, et cetera et cetera. There doesn't seem to be any uniformity at all. Now, here we're moving into an era when we have bigger trains, trains moving faster, and we are lowering our standards. I find this very, very disturbing, and I am going to suggest a Utopia. Maybe it will be many years before we get there, and I know that we hate legislation (we are surrounded by legislation now), but we have backed ourselves into a corner right now. Medical standards seem to be one of the biggest bargaining sticks that are wielded by labor. "If you want to examine this man, we won't let you or we'll strike you," and it is a very potent weapon; and I can't see any reason why in a field of endeavor such as we are in, that the government couldn't lay down minimal standards for running trains.

This would not be creating a precedent. They have done it already with airlines; it's being agreed to nationally and internationally. Set minimal standards below which no railway could go, and if we had standards such as this laid down, one of the most potent weapons that labor has would be taken away from them. They couldn't threaten to strike you if you insisted on examining your locomotive engineer every two years or every three years or every year.

I don't think it would be at all out of place if this Committee made a recommendation to the AAR that they in turn lobby--"lobby" seems to be the word now--that Washington lay down minimal standards for the running trades of railways. They're supposed to be interested in safety; and yet you have stated--and I hate to quote you--but you have stated that one major railway in this country has abolished medical examinations. Others might just as well have abolished them, they are doing them at such infrequent intervals. Others, you have no right to examine a man when he has been off sick.

The case here somebody cited, struck me as so absolutely ridiculous. When a man comes back on crutches, this, that and the other thing, he must be allowed to go to work because there is nothing in the labor union that says he has to submit to an examination.

I don't think we would be far out of field at all if we recommended something along this line to Washington.

We haven't reached this stage of Utopia in Canada, but I hope we will some day. In our country, the only binding regulations laid down cover the field of vision, color vision, and hearing, and these are laid down by government, so we have no problem. Union, nobody else, can argue. If a man's vision is below a certain standard, that's that.

I throw this out for what it's worth.

CHAIRMAN STOCKWELL: Dr. Wight, early in this panel I suggested that one of the reasons for our concern was the National Transportation Safety Act of 1968. This is a very restrictive legislation. It might or might not include what you have suggested, some required periodic physical examination program. Obviously, that would be good for us, but I think from the point of view of railway management and the AAR, that there would be accompanying regulations; there will be more regulation under the guise of safety that they have been opposed to. I think Mr. Risendal can attest to that. There's been no unanimity of thinking as to the value of many of the provisions of the National Transportation Safety Act.

DR. WIGHT: But if they are thinking of revising it now, wouldn't this be a time to let them know that an august body such as this is interested in safety, and quoting Mr. Horsley, the government is interested in certain aspects of safety. They lay down regulations covering the distance of the cow-catcher from the top of the rail, as to the mechanical equipment; but they are apparently not interested in the man who is in charge of all these things.

CHAIRMAN STOCKWELL: Dr. Wight, we have a problem. We are all cognizant of it; that's why we are having this panel.

I'm sorry; our time is up. I thank the members of the panel for their participation, as well as all of you. Thank you very much. (Applause)

(Dr. Longeway resumed the Chair.)

CHAIRMAN LONGEWAY: Gentlemen, there will be about a three-minute break while we set this up.

While we are waiting, we have a very distinguished guest that I would like to introduce. Mr. Manion just came in a few minutes ago. Mr. Manion, would you take a bow? (Applause)

(Recess)

CHAIRMAN LONGEWAY: If everyone will take their seats, we will start this next session.

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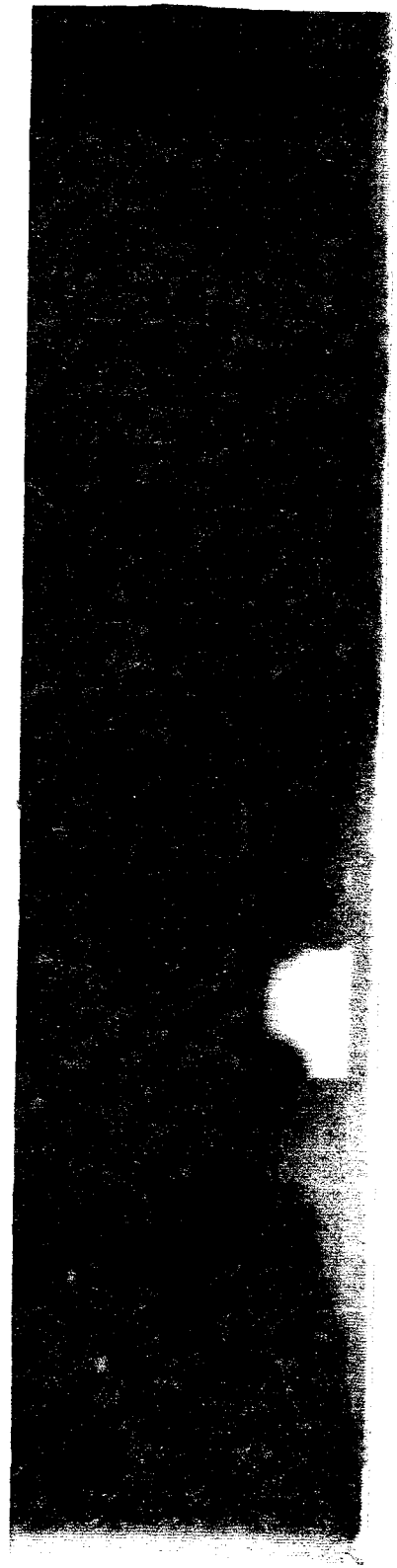

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