

4-1-1955

## Collective Bargaining in the Railroad Industry. by Jacob J. Kaufman.

Mark L. Kahn  
*Wayne University*

Follow this and additional works at: <https://digitalcommons.law.buffalo.edu/buffalolawreview>



Part of the [Labor and Employment Law Commons](#)

---

### Recommended Citation

Mark L. Kahn, *Collective Bargaining in the Railroad Industry. by Jacob J. Kaufman.*, 4 Buff. L. Rev. 369 (1955).

Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol4/iss3/22>

This Book Review is brought to you for free and open access by the Law Journals at Digital Commons @ University at Buffalo School of Law. It has been accepted for inclusion in Buffalo Law Review by an authorized editor of Digital Commons @ University at Buffalo School of Law. For more information, please contact [lawscholar@buffalo.edu](mailto:lawscholar@buffalo.edu).

## BOOK REVIEWS

COLLECTIVE BARGAINING IN THE RAILROAD INDUSTRY. By Jacob J. Kaufman. New York: King's Crown Press, Columbia University, 1954. Pp. x, 254. \$3.75.

Threatened or actual work stoppages on the nation's railroads have long been a source of public concern, a concern which first received legislative expression in the Arbitration Act of 1888. Since that time, there have been six major revisions in federal legislation designed to promote peaceful union-management relationships in this industry. The latest occurred in 1934, when the Railway Labor Act of 1926 was substantially modified.

This Act, as amended, provides a relatively elaborate procedure to which railroad unions and managements must submit before work stoppages over new contract terms become legally permissible: (a) private bargaining; (b) bargaining under mediation; (c) a formal proffer of arbitration by the National Mediation Board; and (d) the creation of an emergency board, at the discretion of the President of the United States, to investigate the dispute and make non-binding recommendations. The Act also requires that unresolved disputes arising under existing agreements be submitted to a bipartite National Railroad Adjustment Board which, assisted when necessary by a neutral referee, may issue binding awards.

Professor Kaufman's monograph is a timely and helpful effort to evaluate the amended Railway Labor Act in light of two decades of experience. The context in which railroad industrial relations has developed is briefly described in the four chapters of Part I. These point up the poor financial condition of the carriers and the secular decline in railroad employment, and summarize the complex nature of the present "working rules," the structure of labor organization, and the history of federal legislation dealing with railroad labor disputes. Part II, the major portion of the book, reviews and appraises the operation of the Railway Labor Act. Part III is a one-chapter discussion of the right of railroad workers to strike. Part IV provides us with the author's conclusions.

His major finding is that collective bargaining on the railroads has virtually collapsed. This unhappy condition is attributed primarily to three considerations: (a) a deterioration in the relative wage position of railroad workers; (b) a breakdown of the grievance procedures; and (c) the very existence of the Railway Labor Act itself.

## BUFFALO LAW REVIEW

The failure of railroad workers to maintain their former relative wage status is explained largely "by the fact that the emergency boards . . . have not followed any consistent, objective set of standards for the purpose of wage determination" and also because there has been compulsory arbitration, *de facto* but not *de jure*, in the industry, which has placed the workers in an inferior bargaining position.

The breakdown of grievance procedures is traced to a basic conflict over working rules, to which the unions cling stubbornly as part of their fight for job security and which the carriers seek to revise or eliminate because of the costs involved.

Finally, a great deal of responsibility for the present state of collective bargaining is placed directly on the Act because "as long as specific procedures exist for the resolution of disputes which cannot be resolved through collective bargaining, such procedures themselves destroy collective bargaining." Professor Kaufman would eliminate the emergency board provisions from the Railway Labor Act and place major reliance upon mediation, although his review of the record doesn't generate much confidence in the capacity of mediation to dispose of basic issues. He believes the Act should remain silent about the nature or timing of government intervention when stoppages are imminent or actually take place, because the resulting uncertainty will induce the parties to rely more heavily upon their own efforts to reach a settlement.

This reviewer also subscribes to the virtues of uncertainty, and agrees that the ready availability of emergency boards whose judgments are non-binding discourages earlier efforts to reach a solution. But Professor Kaufman places too little emphasis upon the difficult environment in which railroad collective bargaining has functioned. No legislative approach could have resolved the underlying insecurities and conflicts which have produced a hostile and inflexible relationship. The Railway Labor Act, whatever its deficiencies, should not be held significantly accountable for the more basic influences at work.

The best part of the book is its careful analysis of the wage criteria employed by the emergency boards (Chapter IX), but I can find no adequate basis for the author's conclusion that the failure of these *ad hoc* boards to develop *uniform* standards "may well have played a part in the deterioration in the economic position of the railroad workers and the increasing dissatisfaction of the railroad workers with the wage recommendations of the emergency boards." Surely the unions would have objected to any set of standards, uniform or not, which justified this relative

## BOOK REVIEWS

deterioration. And recommendations which satisfied the unions would have been unacceptable to the carriers. In any event, this reviewer cannot accept a changing inter-industry differential as a major *cause* of the collapse of collective bargaining. I agree that governmental pressures, including presidential intervention, have inhibited the bargaining power of the unions (while obtaining more for them, however, than they could have gotten without striking). But again I feel that Professor Kaufman underemphasizes the contribution of the underlying economic forces: the railroads' financial difficulties, the high proportion of labor costs, and the general tendencies under relatively high employment conditions for wage differentials to diminish.

This should have been a larger book. Because it isn't, some topics are neglected or dealt with in too hasty a fashion. The reader won't learn much about the history or the character of the brotherhoods (some of which are almost a century old) or about the non-economic aspects of railroad employment. Those portions of the Railway Labor Act which deal with the determination of labor representation on a "craft or class" basis and with unfair labor practices are largely ignored. Some serious defects of the National Railroad Adjustment Board set-up, apart from its huge backlog of cases—such as its denial of representation to non-standard unions—are overlooked. The important political role of the brotherhoods is not adequately covered or accounted for. The chronicle and appraisal of railway disputes legislation prior to the Railway Labor Act is too sketchy to warrant the reader's confidence.

But what the book contains is useful. It leaves this reviewer doubtful that there is any real opportunity for collective bargaining to work effectively in the railroads as long as the right to strike must be inhibited, because the parties will continue to dodge ultimate responsibility for working out their own problems.

*Mark L. Kahn*

Assistant Professor of Economics  
Wayne University