In response to a claim by the Southeastern Pennsylvania Transportation Authority (SEPTA) that the Federal Employers’ Liability Act (FELA) does not apply to its commuter rail workers, the Brotherhood of Locomotive Engineers and Trainmen and other unions on the property filed suit on January 16, seeking to halt SEPTA’s attempts to force affected workers on the job to submit to medical treatment from the agency’s Workers’ Compensation department.

SEPTA took this position in a January 15 letter to the General Chairmen for the various crafts in its Railroad Division, stating that FELA “does not apply to SEPTA,” and that injured commuter railroad workers would be handled “under Pennsylvania’s Workers’ Compensation Act.”

The suit was filed in the United States District Court for the Eastern District of Pennsylvania, alleging that SEPTA’s action violates (1) the FELA, (2) the section of last year’s Rail Safety Improvement Act prohibiting interference in a treatment plan developed by a worker and his/her treating physician, and (3) the Railway Labor Act.

Commenting on the situation, National President Ed Rodzwicz said, “SEPTA has taken an outrageous and untenable position. The case they’re relying on is contradicted by every other case that has decided this issue and is incapable of being applied in an across-the-board manner, as SEPTA suggests. "We will not allow SEPTA to interfere in the medical treatment of our members who are injured on the job, or to deprive our Brothers and Sisters of their rights under the FELA," Rodzwicz added. "SEPTA’s action would fully justify our withdrawal from service, but we decided that doing so would have cast an unfortunate and unnecessary pall over the pre-Inaugural activities in Philadelphia this weekend.”

Additional developments will be reported as they occur.

Continued on page 5...
A chapter closes on the Casey Jones legacy

He is the most iconic locomotive engineer in American history — John Luther “Casey” Jones, the brave engineer who sacrificed himself to save his passengers. Piloting the “Cannonball Express” on April 30, 1900, Casey Jones stayed at the throttle and gave his life in order to save his passengers as his train plowed into a stalled freight near Vaughan, Miss. His sacrifice reached legendary proportions when his roundhouse friend Wallace Saunders, an engine wiper, strung together “The Ballad of Casey Jones.” A professional songwriter picked up the ballad, polished the lyrics, and gave the world one of its most popular folk songs.

While almost everyone knows the story of Casey Jones, not many know that he was a dues-paying union member. Jones worked for the Illinois Central Railroad and belonged to the Brotherhood of Locomotive Engineers and Trainmen. He was a member of BLET Division 99 in Water Valley, Miss. That Division, unfortunately, is being closed after nearly 130 years of operation.

In accordance with Section 37(b) of BLET Bylaws, a Division with less than 12 active members must be merged with another Division. On December 2, 2008, the BLET National Division merged Casey’s Division 99 with Division 23, which is located in Southhaven, Miss. Even though Division 99 is no more, it will not disappear entirely, according to BLET National Secretary-Treasurer Bill Walpert.

“Due to the historical importance of Division 99 — the fact that it was the home division of Engineer Casey Jones, the most famous of all BLE members — Division 99 will remain a ‘de jure’ Division,” NST Walpert wrote in a letter to General Chairman John Koonce. “Although there will be no officers or active members of Division 99, retired members may elect to remain in Division 99, or transfer to any division of their choice.”

The BLET itself was founded as the Brotherhood of Locomotive Engineers and Trainmen after the 1880 charter was stolen. The Division was issued on December 11, 1878, after the 1880 charter was surrendered its charter 1874. The Division was re-formed and a new charter was granted on September 6, 1880. A duplicate charter was issued on December 11, 1978, after the 1880 charter was stolen.

“Casey Jones is an central component of railroad lore and we are proud to call him a member of our storied organization,” BLET National President Ed Rodzwicz said. “Although Division 99 is now merged with another Division, we are happy to preserve its historical significance.”

The Ballad Of Casey Jones

This version was considered by Janie Jones, Casey’s wife, to be the most accurate representation of Wallace’s original version. Mrs. Jones spent much of her life refuting some of the vulgar references other versions made about her husband.

Casey Jones in the cab of Engine No. 638 Shown in the window of the cab, his hand on the throttle, is John Luther “Casey” Jones, the “brave engineer” who lost his life on April 30, 1900, when the 638, pulling the Illinois Central “Cannonball,” was wrecked near Vaughan, Miss. In the gangway is J.W. “Bull” McKennie, who fired for two years for Casey. Photo taken in 1900 shortly after he was assigned to this engine, which was equipped with a six-chime whistle, glistening bell and glittering hand rails. Legend has it that Casey could make the whistle almost sing.

Casey’s body lies buried in Jackson, Tennessee, Close beside the tracks of the old I.C. Till they all meet together in that heavenly place.

Casey Jones, he died at the throttle, With the whistle in his hand.

Casey Jones, he died at the throttle, But we’ll all see Casey in the Promised Land.

Casey Jones, he died at the throttle, May God through His goodness keep them by His grace.
Increased risk for switching fatalities around the holidays

Weather Advisory

Injuries resulting from slips, trips and falls spikes during winter months.

Winter weather brings risk to switching operations, and all BLET members who work in yard operations are reminded to recognize special switching hazards during winter months.

The Switching Operations Fatality Analysis (SOFA) Working Group recently issued its quarterly advisory for December, January and February. The report noted that switching fatalities and 93% of severe injuries are historically higher in winter months and members are urged to take caution.

“Risk takes no holiday on the railroad.”

The SOFA Working Group has analyzed statistics dating to 1992, and has concluded that the period from December 22 to January 14 is particularly problematic.

“While realizing that fatalities occur at all times of the year, there seem to be a cluster in this 24-day period,” the report reads. “It is not clear to the SOFA Working Group why this should be. However, unfortunately, employees engaged in switching operations have lost their lives around the holiday season.”

Members are reminded to remain focused on the tasks at hand during the busy holiday season.

“The SOFA Working Group also reported that injuries resulting from slips, trips and falls always increase in winter months. Of 1,448 severe injuries, 605 — 41.8 percent — resulted from slips, trips and falls. Slips, trips and falls can occur due to many things (oil, grease or other slippery substances, ballast, spike, etc.). However, members should be increasingly aware of climatic conditions (snow, ice, etc.) during winter months.”

NASLBC announces annual meeting

The National Association of State Legislative Board Chairmen (NASLBC) will convene their 2009 annual meeting in Philadelphia, Pa., at the Hyatt Regency-Penn’s Lending from June 30-July 3.

The meeting is scheduled to coincide with the Eastern Union Meeting Association (EUMA) annual convention, which will take place at the same hotel from July 5-9, 2009. The BLET State Legislative Board Chairmen convene annually for the purposes of sharing legislative issues and ideas as well as offering assistance to newly elected Chairmen. Meetings are conducted in an open forum and associate BLET officers are always welcomed to attend and partake in the activities (except closed meetings).

It is expected that officers from the National BLET Division will be in attendance to make several informational presentations at the meeting, including National President Ed Rodzwicz, First Vice President Paul Sorrow, National Secretary-Treasurer Bill Walpert, and Vice President & National Legislative Representative John Talman.

The NASLBC was first established by a small group of concerned former BLET State Chairmen in 1975, and it has grown to meet the demands of the membership through the years. The NASLBC is comprised of 38 State Legislative Boards across the United States and represents thousands of hard-working members of the BLET.

More information can be secured by contacting Tim Smith, NASLBC Chairman at: tsmith@ble-t.org, or Ken Kertesz, NASLBC Secretary-Treasurer at: kkertesz@comcast.net.
A significant piece of art history was returned to the Brotherhood of Locomotive Engineers and Trainmen in late October.

A magnificent mural, titled "History of United States Locomotives," originally commissioned by the BLET in 1937, came home to the Brotherhood after nearly a decade “on loan.” It is a unique and interesting story.

The mural was commissioned in 1937 to hang in the lobby of the Engineers Building in downtown Cleveland, the former national headquarters of the union. The massive mural stands nearly four feet tall and stretches 102 feet in length.

In 2006, the Cleveland Artists Foundation published a report titled “Covering History: Revisiting Federal Art in Cleveland 1933-1943.” The author describes the BLET mural as follows:

"This monumental work consists of 15 panels, each depicting a stage in the development of railroad transportation in the United States. The simple figures, strong compositional patterns and the sheer size of the mural (approximately 100 feet running) make it quite dramatic."

The Artists

Artists Earl J. Neff and Leo Nowak were hired for the project in 1937. The mural shows the progression of locomotives in America, from a legendary race between a steam powered rail car and a horse drawn wagon, to the sleek streamlined steam engines of the mid 1930s.

Neff, a prominent artist, painted many other murals in the Cleveland area during the Depression era. Nowak rose to fame shortly after completion of the BLET mural. He became one of the earliest illustrators of the Superman comic books, working out of the DC Comics studio in Cleveland (the city where Superman was created).

Neff and Nowak were paid $700 for their murals.

Mural’s History

The mural graced the lobby of the Engineers’ Building for more than 50 years. In the late 1980s, the city of Cleveland was enjoying a renaissance. Tax payers had just approved funding for a new major league baseball field and a new indoor arena for the city’s professional basketball team, the Cleveland Cavaliers.

As good as this was for the city, it spilled bad news for the BLET. Development was looking to capitalize on the building boom in downtown Cleveland convinced members of City Council that the location of the Engineers’ Building would be a perfect location for a new hotel. They successfully convinced city leaders to aggressively pursue acquisition of the Engineers’ Building from the BLET with the threat of imminent domain.

Rather than spend millions in a lengthy lawsuit, BLET leaders at the time agreed to sell the building to the city and move forward with their facilities. If they were to remove it, then it had to be returned to the union. The BLET’sStandard Building, decided to sell it at a loss. They offered the building to the NBA franchise for a donation to the non profit organization.

Following a legal challenge, the Cavaliers National Basketball Association eventually donated $500,000 to the BLET. However, a new owner brought change to the franchise. And while the fortunes of the team have improved, the mammoth BLET mural wasn’t part of their rebuilding program.

Mural Mistakenly Donated

The new owner, Dan Gilbert, renovated “The Depot Room” and removed the mural. The Cavaliers organization, clearly unaware of their legal obligation to return it to the BLET, donated it to a local Cleveland art gallery. That gallery, in turn, donated it to another gallery. The mural exchanged hands several times before it would up in the hands of the Cleveland Artists Foundation.

Unaware that the mural had been mistakenly donated, Tom Godina, Manager of the BLET’s Standard Building, decided on a whim to contact the Cavaliers regarding the mural. After finding out it was no longer in their possession, Tom played detective for several weeks, making countless telephone calls to track down the location of the beloved mural.

On a whim to contact the Cavaliers regarding the mural. After finding out it was no longer in their possession, Tom played detective for several weeks, making countless telephone calls to track down the location of the beloved mural.

After retrieving it from the Cleveland Artists Foundation, the BLET made a $500 donation to the non profit organization.

The BLET hired a moving company to retrieve the mural, and it was returned to BLET headquarters on October 30.

Back Home

It is unlikely the BLET will let the mural out of its possession again. It is a powerful piece of art that evokes awe and wonder in those who view it.

Temporarily, the mural is in storage while renovations are made to put it on permanent display at BLET headquarters in Cleveland. The BLET is also considering ways to reproduce the mural, such as calendars, post cards, and high quality prints.

“We’re ecstatic to have the mural back home where it belongs,” BLET National Secretary Treasurer Bill Walpert said. “I encourage all BLET and Teamster members to come see it in person as photos do not do it justice because of its immense size and scale.”

NST Walpert also thanked Tom Godina for his dogged determination to track down and reclaim the mural.
Former BLE Chiefs depicted in mural?

Some locomotive engineers in the mural bear a striking resemblance to two past leaders of the organization. While many engineers in the mural are non-descript, a few were painted with great detail.

For example, the engineer in one panel looks remarkably like former Grand Chief Engineer Warren Stone. In another case, an engineer looks a lot like former Grand Chief Engineer Peter M. Arthur.

Arthur was the longest-serving and most highly respected Chief in the BLE’s history. He served from 1874-1903. Stone was Chief during the tenure of Grand Chief Engineer Alvanley Johnston, who served from 1897-1903. Stone is credited with building the union into the wealthiest and most powerful union in the world when he died in office in 1924.

The mural was commissioned during the tenure of Grand Chief Engineer Alvanley Johnston, who served from 1897-1903. It is possible that Johnston chose to honor these past leaders in some small way by including them in the mural. However, this is merely speculation. All BLE officials from that era have passed and no one is left to confirm these suspicions.

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**FMLA headline Continued from page 1**

The two. The carriers are therefore not permitted to require substitution of paid personal leave and/or single vacation days for FMLA leave before those days are set.

Regarding the second, the arbitrators wrote that they: “similarly see no distinction that would vary the impact of our Award, which we intended to apply to [the BLET] agreement’s subject matter just as it does to all the others. Our Award therefore bars substitution of paid personal leave under the BLET personal leave agreement.”

The unions are now preparing for the remedy phase of the arbitration. It is expected that a decision on that issue will be issued sometime this spring. Attorneys Mike Wolly and Margo Pave of the firm Zwerdling, Paul, Kahn & Wolly, P.C., are handling the case for BLET and several other Rail Labor unions.

More information regarding subsequent hearings will be made available on the BLET website.

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Members of BLET Division 421 (Buffalo, N.Y.) held a retirement party to honor William P. “Bill” Brady following his Last Run on November 7, 2008

Brother Brady hired out on the Lehigh Valley Railroad in February of 1966 and earned promotion to Locomotive Engineer in March of 1968. He joined the BLET on November 1, 1973.

“He has worked for the Lehigh Valley, Conrail and then CSX for 42 years with a spotless safety record,” said Jim Louis, Chairman of the New York State Legislative Board. He served the Brotherhood as Local Chairman of Division 544 prior to its merger with Division 421.

“He one of the priceless assets of Division 421,” said Chairman Louis, also a Division 421 member. “Bill rarely missed a meeting and was always there to mentor many of the officers and the members of our division.”

His son Ryan, has followed in father railroad footsteps and is now a conductor for CSX.

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Job Protection Headquarters for Transportation Employees

Since 1910
An inaugural journal

By William C. Walpert
National Secretary-Treasurer

It was with excitement and a little trepidation that my wife Janet and I loaded our bags in our minivan and headed east to Washington, DC. We were on the road to share in history— the inauguration of the 44th President of the United States—Barack Obama.

Upon arrival in Washington, the anticipation of a momentous event was palpable as we drove through the crowds. Patience was a necessity as we waited for the waves of tour buses to maneuver through the congested downtown streets. We checked into our hotel on Capitol Hill, only blocks from the site of the inauguration ceremonies on the Capitol Mall. After a quick dinner with First Vice President Paul Sorrow who had also just arrived from Ohio, we called it an early night once we had reviewed the jam-packed itinerary for the next few days.

On Sunday we were fortunate enough to get tickets to the Ohio Gala held at the Mayflower Hotel, thanks to Vice President and National Legislative Representative John Tolman. At the gala we ran into several BLET members, including Bill Vreden, Indiana State Legislative Board Chairman, and his wife Sue, Herb Harris, Chairman of the District of Columbia Legislative Board; Bob Hagan, member of Division 757 and Ohio State Representative. The effervescent mood of those present augured the feeling of the city as it readied for the historic inauguration.

After attending several preliminary events, including a reception for Senate Majority Leader Harry Reid and a breakfast for the Democratic Governors’ Association at the IBT headquarters, it was finally inauguration day. On the sunny albeit bitterly cold day, we walked the few blocks to the National Mall and joined the boisterous but polite crowds as they lined up for blocks.

I was astonished at the demeanor of those who waited patiently in the long lines. There was no shoving or cutting in line. Everyone of the diverse multilingual throng was in high spirits and participating in the spirit of cooperation and the sense of a new beginning. A young couple ahead of us in the line talked of the great opportunities available to America as the father held their weeks-old baby. He commented that she was a part of history.

Once we made our way to the assigned area where we were to watch history in the making we could only barely make out the stage, but the excellent big screen and public address system allowed us to see and hear everything that was going on. It was my impression that President Obama’s speech was not designed to be an oratorical masterpiece, but a down-to-earth account of the obstacles America faces and how we must address those hurdles in a steadfast and unwavering line of attack.

Walking back from the Mall after the conclusion of the ceremonies, the multi-trade, estimated to be two million people, was in a buoyant mood, graciously allowing lines to merge, smiling and flashing the peace sign. They were tired, some standing since four a.m., and cold, but their spirit was unflagging.

That evening, thanks to Christie Bai ley of the IBT, we were able to procure tickets to the Midwest Ball held at the convention center. People from all walks of life were there, sharing in the jubilant atmosphere. When President Obama and his wife Michelle entered the large hall, everyone crowded to get a glimpse of the new president. They danced to the sounds of the National Coast Guard band and the President spoke to us, saying “let’s now get to work putting this country back on track.”

Emotional and poignant words spoken by our new Commander-in-Chief.

Think spring!

Plan ahead for SMA in Gatlinburg, Tenn.

It may still be winter, but it’s an excellent time to plan ahead for the first BLET regional meeting of the year — the 82nd annual BLET Auxiliary Southeastern Meeting Association (SMA) in Gatlinburg, Tenn. Slated for June 7-11, 2009, guests will stay at the Park Vista Hotel & Conference Center, a destination in itself with rooms offering 360-degree views of the Great Smoky Mountains.

Reservations can be made by calling the hotel — which is located at 705 Cherokee Orchard Road, Gatlinburg, TN 37738 — at (865) 436-9211. More information about the hotel is also available online at www.parkvista.com. Room rates are $103 per night. Deadline for room reservations is May 1 — after that, rooms may not be available, or may be significantly more expensive than $103 per night.

The 2009 SMA will offer the traditional leisure time activities, including the annual motorcycle ride and golf tournament, as well as numerous family fun opportuni ties unique to the Gatlinburg area (Dollywood theme park and Splash Country in nearby Pigeon Forge; a hay ride through the Great Smoky Mountains National Park; and a barbeque with live bluegrass music).

“Gatlinburg is a great family vacation,” said SMA Chairman John Mason, who is organizing the convention with the help of his wife Lori and the members of BLET Division 239 (Knoxville, Tenn.). Brother Mason is Local Chairman of Division 239.

He also noted that a free trolley service runs between Gatlinburg and Pigeon Forge every 30 minutes all day long.

Registration information and specific convention details will be made available soon. For more information, please contact Brother Mason at (865) 323-2684; or email scooterloco@comcast.net or JNM67@comcast.net.
The Supreme Court in Eichel left no doubt, in reversing the Second Circuit, that receipt of disability benefits under a Federal Statute, the Railroad Retirement Act, was to be excluded in all FELA trials as possible misuse by the jury out-weighed the value of such evidence. Eichel has been good law since 1963 and it has not been changed. Our firm has noticed railroads now want to place the Tier I and Tier II Rail- road Retirement tax before the Court and/or the jury seeking a set-off with the intent of prejudicing the plaintiff by claiming he is not working because he receives disability payments. The railroads want to encourage the jury to speculate on whether or not plaintiff is properly receiving a disability and/or a regular annuity pension under the Railroad Retirement Act and therefore improperly reduce his damages and lost wages accordingly. The Tier I and Tier II tax setoff and/or the annuity itself which the railroads want to eventually introduce in all FELA trials is a ploy to alert the jury to plaintiff’s receipt of an annuity. The defendant railroads hope that the annuity amount will then be used to reduce plaintiff’s wage loss or to paint him as a “free loader” in direct contradiction to the Eichel holding and the legislative intent of the FELA. In CSX Transportation, Inc. v. Gardener, 874 N.E.2d 357 the Court of Appeals of the State of Indiana, in applying Eichel and the federal collateral source rule held: (1) Disability annuities received by employees from the RRA (Railroad Retirement Fund) were from a collateral source, such that railroads payments to the RRA fund based on employee’s employment could not be set off against employee’s FELA award. (2.) FELA set off provi-sions did not apply to RRA benefits. The defendant, CSXT’s, position was unanimously rejected and Gardner’s position was sustained. CSXT’s argument for a setoff claiming that Gardner got a windfall at CSXT’s expense was rejected by the Gardner Court. In effect, CSXT claimed that it was, in effect, required to pay twice for Gardner’s lost wages; first, by contributing to the fund used to pay Gardner’s disability annuity; and second, by paying Gardner for his lost wages as part of the FELA award. Gardner, on the other hand, argued that the annuity he received pursuant to the RRA Fund should not be regarded as payment from the tort feasor CSXT, but as payment from a federal “collateral source” and thus not deductible. Gardner was successful in showing that the trial court properly disallowed the setoff. Gardner and Eichel are good law and a railroad’s request for a set off should be denied in all cases. Conclusion Based upon CSXT’s tactics it is clear that the railroads are still attempting to undermine FELA and attempting to limit the rights of their workers. Luckily, BLET designated counsel are opposing these attacks on the rights of our railroad clients. Submitted by: John Collins and Pat Donoghue Collins, Collins & Donoghue, P.C. 267 North St. Buffalo, NY 14201 Phone: (716) 885-9700 or (800) 933-8195 Fax: (716) 885-9770

BLET Auxiliary offers 2009 scholarships

Editor’s Note: Due to a printer’s error, out of date scholarship information from 2008 was accidentally published last month in the 2009 BLET Scholarship Directory. Be advised the following is the most up-to-date scholarship information from the BLET Auxiliary, and members should disregard the Auxiliary information published in the January issue.
No president since Franklin D. Roosevelt has had the opportunity to positively impact the lives of every American that Barack Obama has before him. He has inherited quite a mess, but I know that he is up to the challenges that lie ahead.

Working families across the Midwest have been told they live in a place where financial planners were rewarded lavishly and work was no longer respected. In 2007, the top private-equity and hedge fund managers earned more in 2 minutes than the average full-time worker earned all year. It wasn’t important anymore to make sure middle-class workers earned decent wages.

Nor did it matter any more if people were killed or maimed on the job or in transit or in their homes. OSHA simply quit enforcing workplace safety rules. We opened our borders to dangerous Mexican trucks and our markets to Chinese goods, but we didn’t require them to meet U.S. standards.

Somehow we forgot that our prosperity and growth depended on a solid infrastructure that went all the way behind. Regulatory agencies created to serve and protect the middle class were allowed to atrophy. Our infrastructure crumbled.

You could say that President Obama understands the cause and the consequence of our decay. He said he would help make bad trade deals like NAFTA, and I believe him. I also expect him to sup-port reforms that set standards for trade agreements, restore congressional oversight and require review of existing trade pacts.

I expect him to look long, slow process of restoring our regulatory agencies so they do what they are supposed to do. He has, for example, pledged that he will close the border to dangerous Mexican trucks.

He is the most significant labor law reform in decades: the Employee FreeChoice Act. Passage of that bill will restore some balance to the relationship between Wall Street and workers. Incoming Labor Secretary Elaine Chao ignored flagrant union busting and the widespread theft of wages and benefits.

In short, he will effect change that we can believe in.