

MINUTES OF THE ONE HUNDRED TWENTY-FIRST MEETING
November 5, 1957

Pursuant to bylaws, the Ohio Turnpike Commission met in regular session at its headquarters at 8080 Prospect Road in Berea, Ohio, at 11:40 a.m. on November 5, 1957, with the key members of its staff, representatives of the Consulting Engineers, the Special Counsel to the Committee on Service Plazas, the Secretary to the Governor, members of the press and others in attendance.

The meeting was called to order by the Chairman, the roll was called and the attendance was reported to be as follows:

Present: Chastang, Teagarden, Shocknessy.

Absent: Beightler, Director of Highways. The Secretary to the Governor represented the Director of Highways.

The Chairman announced that a quorum was present. He said General Beightler had had difficulty with one of his eyes requiring him to remain at home and quiet so that he could not attend the meeting.

A motion was made by Mr. Teagarden, seconded by Mr. Chastang, that the minutes for the meeting of August 28, 1957, which had been examined by the Members of the Commission and on which the corrections suggested by the Members had been made be approved without reading.

A vote by ayes and nays was taken and all Members present responded to roll call. The vote was as follows:

Ayes: Teagarden, Chastang, Shocknessy.

Nays: None.

The Chairman declared the motion carried.

The Chairman reported that revenue from operation of the Ohio Turnpike for October 1957 was approximately 18% more than the same month of 1956. He said the month of October 1957 was the second highest month with respect to commercial revenue since the turnpike was opened. He read an excerpt as hereafter follows from an article

by Mr. Paul Heffernan which appeared in the New York Times of November 3, 1957 and which he said contained some statements with respect to toll roads generally and some specific references to the Ohio Turnpike, which he described as rather heartening: "Earnings of the nation's major toll turnpikes last summer make a checkered and inconclusive picture, but on balance the record should give reassurance to holders of turnpike bonds" and "It may develop that the summer was a crucial period for the Ohio Turnpike. This facility, a marginal one in the first year of operation, seems to be established as a moneymaker, alongside its Pennsylvania and New Jersey fore-runners. The only reservation is the Ohio Turnpike's dependence on commercial traffic, a factor that would make its earnings position vulnerable in the event of a substantial business recession." The Chairman interpolated that the original expectation of the traffic and revenue report was that the Ohio Turnpike would depend in a large measure on commercial traffic and that the Commission's early disappointment was that it did not have the revenue from that source. He continued to read from the article as follows: "The 'hot seat' occupied by the Ohio Turnpike in its first year of operation is being shared by a number of new facilities, namely, the Kansas and Kentucky Turnpikes, the Indiana Turnpike, the Scranton and Delaware River extensions to the Pennsylvania Turnpike, and the Will Rogers Turnpike extending the Turner Turnpike to Joplin, Mo. These roads are not yet earning debt charges. While most of these roads were under construction, their sponsors followed with dismay the disappointing monthly reports of the Ohio Turnpike's first operations. Today the same sponsors are still rushing to see the reports from Ohio, but this time they are looking for reassurance. The record of the Ohio Turnpike supports the argument that it is unreasonable to judge a new expressway until after its first year. It takes at least that long for the 'induced traffic' envisioned by engineers to become visible in any substantial way. The Ohio Turnpike's business is about 40 percent above that for its first year. For the first nine months of 1956, the expressway cleared \$8,500,000; this year the earnings hit \$11,500,000 for the corresponding period. The 1956 interest coverage was 1.05 times; the indicated 1957 coverage is 1.35 times. In January of last year, 111,000 trucks used the Ohio Turnpike; in the corresponding month this year the total was 147,000. By August it had reached 185,000, against 134,000 in August, 1956. The Ohio experience for this reason is heartening the unproved expressways. An example is the Indiana Turnpike, which opened in September, 1956, and which will probably fall short of covering interest charges for the first year. The estimated coverage is about 0.7 times."

The Chairman reported further that during October the Commis-

sion brought to the attention of its employees the Commission's policy with respect to political activities. He said the Executive Director, addressing the employees of the Commission had said: "While employees of the Ohio Turnpike Commission are not civil service employees and are not subject to the restrictions of civil service employees with respect to political action, it is the view of the Commission that the employees should respect the spirit of the restrictions even though they are not bound by the law of the restrictions. You are reminded that your employment by the Commission is in no respect related to partisan politics and the contribution of money or services to political parties will not improve your position with the Commission."

The Chairman reported further that under date of November 4, 1957 the Executive Director had advised the employees that pursuant to law every employee should be permitted to take time off for voting in public election to the extent necessary in each case. He read from a memorandum on that subject under that date signed by the Executive Director as follows: "Accordingly, you are advised that you may give employees under your supervision reasonable time off to vote in the coming election on November 5, 1957. The time off shall be so arranged that none of the essential operation functions is unattended."

The Chairman reported further that he had been advised the Commission had received its supply of flu vaccine and a program of inoculation would be undertaken on a purely voluntary basis.

The Chairman reported further that during October 1957 the New York Times had carried an article under date of October 6, and the Cleveland Plain Dealer had had a series of articles beginning October 23 and running through October 27 on the subject of the gas tax refund law in Massachusetts. He said he had been asked many times what he thought personally and what the Commission thought about the subject. He said that for himself he could say it would seem only fair and just that persons who paid to use a toll highway should not in addition to the toll pay a penalty for not riding free roads. He said he was not seeking to take any money away from the Department of Highways in Ohio but that in Ohio the gasoline tax was earmarked so it was understandable. He said the Massachusetts turnpike gas tax refund law was finding interest in Ohio and he had been asked at least twice how the Turnpike Commission would feel about a suit brought by a user to recover gasoline taxes paid for fuel consumed on the turnpike. He said the obvious answer was that the Turnpike Commission had no position and should not have a position. He said anyone who wanted to seek a refund of any taxes paid, however, paid,

that he considered refundable should seek it as he choose without any inspiration or approval by the Turnpike Commission.

The Chairman reported that since the last meeting he had received from Governor C. William O'Neill a letter which had been addressed to the Governor under date of September 26, 1957 by Edward P. Dailey, Regional Director of the American Federation of State, County, and Municipal Employees AFL-CIO, with which had been enclosed a so-called history of Ohio Turnpike employee unions. He said he had replied to Governor O'Neill by letter under date of October 8, 1957. He read his reply as follows:

"17 South High Street
Columbus 15, Ohio
October 8, 1957

"The Honorable C. William O'Neill
The Governor
State House
Columbus 15, Ohio

"My dear Governor:

"We have received your memorandum under date of October 1, 1957 enclosing the letter under date of September 26, 1957 signed by Edward P. Dailey, Regional Director of the American Federation of State, County, and Municipal Employees, with its attachment, 'History of Ohio Turnpike Employee Unions'.

"Even if the 'History' as set forth by Mr. Dailey were not disputable, as it most certainly is, Mr. Dailey in his address to the status of employees of the Ohio Turnpike Commission has chosen to overlook a fact which is indisputable, that employees of the Ohio Turnpike Commission are employees of an agency of the State of Ohio and are 'public employees' within the definition of the Ferguson Act. No legislative sanction has been given in Ohio to the recognition by agencies of the state of anyone as exclusive bargaining agent for any of its employees. The Commission is now and ever has been powerless, regardless of any disposition it might have in the matter, to recognize any agency as an exclusive bargaining agency to contract for employees of the Ohio Turnpike Commission, an agency of the State of Ohio. The Commission at all times has fulfilled its commitments as made to its employees at the time of their employment and has regularly

granted increases in compensation and adjustments in conditions of employment based upon valid considerations in fulfillment of its duty as a body acting for the sovereign state in constructing, maintaining and operating the Ohio Turnpike.

"Sincerely,

"James W. Shocknessy

"Chairman

"cc Members of the Ohio Turnpike Commission
Executive Director
General Counsel
Squire, Sanders & Dempsey
Ohio National Bank, Trustee
The First National City Bank of New York, Co-Trustee
Blyth & Co., Inc.
B. J. Van Ingen & Co., Inc.
The Ohio Company"

He said that since the last meeting a request had been made to the Executive Director that the Commission at its meeting on November 5, 1957 allow Mr. Dailey to appear before the Commission. The Chairman said he had told the Executive Director the Commission would be glad to have Mr. Dailey appear before it as anyone could come before the Commission if he had a color of right to do so. He said the Executive Director told Mr. Dailey he could appear and arranged a time for his appearance, and Mr. Dailey said he would appear. The Chairman said that subsequent to that arrangement there had been brought to the Commission's attention an undated memorandum addressed to employees of the Ohio Turnpike by Ed. Dailey, Regional Director. He directed that that memorandum be incorporated in the minutes. It follows:

"AMERICAN FEDERATION of
STATE, COUNTY, and MUNICIPAL EMPLOYEES

"Affiliated with the American Federation of Labor
Federation Building - Madison 1, Wisconsin

"TO EMPLOYEES OF THE OHIO TURNPIKE.

"All Turnpike Employees are urged to meet Tuesday, November 5th, in the Parking Lot of the Turnpike Administration Building in Berea, Ohio. Meeting time 11:00 A.M. This PROTEST MEETING is being called because administrators of the Turnpike have failed to respond to our many requests for changes in discriminatory employment practices. Further, administrators of the Turnpike have admitted they have not referred the discussions of our meetings with them to Members of the Turnpike Commission, for their consideration. The Turnpike Commissioners will meet at the Berea Administration Building on Tuesday, November 5th, and since the administrators of the Turnpike have failed to convey our problems to the Commissioners, we will make our appeals in person. Following our September meetings in Elyria, Youngstown and Maumee, we wrote to Mr. C. W. Hartford, Executive Director, listing our requests for changes in working conditions. When there was no reply from Mr. Hartford after ten days, he was contacted by telephone. Mr. Hartford stated that another meeting would serve no purpose since they contemplated making no changes. (A copy of our letter to Mr. Hartford, dated September 26th is attached.)*

"It seemed to be apparent that Mr. Hartford, et all, have decided to put the employees desire for organization to a test. It would also seem to be apparent, that Mr. Hartford, et all, have decided that the employees organization is too insistant in seeking correction of unfair employment practices, and they have now decided to pay no attention to the employee organization. It is now apparent, that if employees are ever going to have a voice in corrrecting these unfair practices, and a voice in determining, at least to some extent, employment conditions in the future, **THAT NOW IS THE TIME**, to let Berea know how you feel about your organization, and how you feel about the lack of consideration Berea has been giving to your problems. Your attendance at our PROTEST MEETING will show your dissatisfaction with the ways things have been going. Whether state employees, or not, there is no question about your right to membership in an organization such as ours. Whether state employees, or not, you have the right to expect sincere consideration of grievances -- much more than just a listening post. If not State employees, you are entitled to certain benefits -- if you are state employees you are entitled to certain benefits as state employees. Somewhere along the line, Turnpike employees must stand up and demand the rights and benefits due them. Somewhere along the line, the Turnpike Administration must be made to realize that employees have problems and grievances, and these are deserving of consideration and prompt adjustment. It has been decided that November 5th will be that "somewhere along the line".

"EVERY TURNPIKE EMPLOYEE SHOULD, WITHOUT RESERVATION OR HESITATION, ARRANGE TO BE IN BEREA AT 11:00 A. M. ON NOVEMBER 5th. It is realized that this is bold action, but bold action seems to be the only way to get our story across.

"Ed. Dailey,

"Regional Director"

*The attachment referred to in Mr. Dailey's memorandum was as follows:

"Septebmer (sic) 26, 1957

"Mr. C. W. Hartford, Executive Director
Ohio Turnpike
Turnpike Administration Building
Berea, Ohio

"Dear Mr. Hartford:

"Since our last meeting between the employers committee (sic) and the employees committee, we have held three meetings for employees across the pike. One meeting was held in Elyria, one in Youngstown and the last meeting was held in Maumee, Ohio. Reports on our last meeting were given to the employees attending these three meetings. At each of the three meetings there was general expression of dissatisfaction (sic) with your response to the employee grievances. The employees feel that your approach to their problems is not sincere and that there is no real desire to adjust their grievances, remove inequities, or supply them with information important to their understanding of their employment status. It is their feeling, that be they public employees, or non-public employees, they are deserving of much better treatment than has been accorded to them.

"At our three meetings the employees took action to press for definite answers to their grievances and the following are listed as grievances which demand satisfactory settlement at this time.

- "1. Holidays for Toll Collectors.
- "2. Clarification of the status of turnpike employees.
- "3. Time and one-half pay for maintenance employees not now receiving such pay when over-time is required.

- "4. Over-time opportunities for regular employees before the use of part-time employees.
- "5. Acceptable understanding before a toll shift is made a one-man operation.
- "6. An understandable 'Employees Manual' which provides a grievance procedure in keeping with the employees needs.
- "7. Supervisory employees cease anti-union statements and activities.

"The employees committee, and myself, would be pleased to meet with you again, if our discussions on the items contained in this letter will produce something more satisfying and acceptable to the employees, than our last discussions produced.

"The employees feel that these grievances are of a major kind of grievance and are well within their rights in requesting immediate relief from them.

"I would appreciate an early reply.

"Sincerely,

"Edward P. Dailey

"Regional Director
"A. F. S. C. & M. E. "

The Chairman said that over a period of time the Commission had had the matter of recognition of a bargaining agent for its employees brought to its attention and the Chairman of the Commission had conferred about it at some length with a man named Antonino Fiorello several years before. He said the matter had been officially dropped when information and advice promised by Mr. Fiorello had not been provided and it had remained in that status until revived by Mr. Dailey.

The Chairman said he had no question but that Mr. Dailey's undated memorandum constituted an invitation to strike under the terms of the Ferguson Act. He said that under date of October 31, 1957 the Executive Director, with the total approval and authority and at the direction of the Chairman of the Commission, had addressed a memorandum to all employees, as follows:

"October 31, 1957

"TO: "All Employees, Ohio Turnpike Commission
"FROM: Executive Director

"It has come to the attention of the Commission that a letter signed by Ed. Dailey, Regional Director of the American Federation of State, County and Municipal Employees, has been issued inviting all employees of the Commission to a mass meeting in the parking lot of the Commission's headquarters in Berea on November 5, at 11:00 A. M.

"You are advised that under provisions of law the Commission is not empowered to recognize any bargaining agent for its employees and you are advised further that under the provisions of the Ferguson Act employees of the Ohio Turnpike Commission are employees of an agency of the State of Ohio and 'public employees' within the definition of the Act. The Commission will not tolerate any employee abandoning his post of duty for the turnpike must be kept open to the public at all times.

"You are further advised that a mass meeting of employees of the Commission in the parking lot of the Commission at its headquarters in Berea would likely cause congestion and jeopardize the safety of travelers on the turnpike. The Commission, therefore, will not make its facilities at the headquarters available for such a mass meeting.

"Mr. Dailey has asked time to speak to the Commission at its meeting on November 5 and the Commission has agreed to allow adequate time for him to address it without in any respect recognizing him as a representative of the employees for the purpose of bargaining.

"As an agency of the State of Ohio, the Commission, like the State itself, establishes conditions and terms of employment and has at all times fulfilled its commitments as made to its employees at the time of their employment and has regularly granted increases in compensation and adjustments in conditions of employment based upon valid considerations in fulfillment of its duty as a body acting for the sovereign state in constructing, maintaining and operating the Ohio Turnpike.

"C. W. Hartford
"Executive Director"

The Chairman said also that subsequent to the memorandum of October 31 the Executive Director had sent to all of the employees an introduction of the language of the Ferguson Act. He said the Commission was a deliberative body and would listen thoughtfully to any person who appeared before it and would show him honest consideration within the abilities of the Commission to do so under the law.

The Assistant Secretary-Treasurer reported for the Secretary-Treasurer that since the last meeting the following had been sent to all Members:

1. Detail of investment transactions for September 1957 and October 1957.
2. Traffic and revenue report for September 30, 1957.
3. Unaudited financial statements as of September 30, 1957.

The Assistant Secretary-Treasurer reported further that a more detailed method of keeping records on maintenance inventories had been developed and had been made effective November 1, 1957. He said that as a necessary part of this change a complete physical inventory of all maintenance supplies and parts had been taken October 24 and 25, 1957. He said the new method would permit partial inventory counts at irregular times without having to take a complete inventory of all maintenance buildings at the same time. He said the program was set up with the cooperation of the Maintenance Engineer and his staff and was considered to be a substantial improvement in the Commission's record keeping.

The Chairman said that in the absence of any questions the report of the Assistant Secretary-Treasurer offered in the absence of the Secretary-Treasurer, who was ill, was accepted as offered.

The Chairman said he had a letter from the Chairman of the Committee on Service Plazas, General Beightler, addressed to the Executive Director under date of November 1, 1957, as follows:

"One November
1957

"Mr. C. W. Hartford
Executive Director
Ohio Turnpike Commission
8080 Prospect Road
Berea, Ohio

"I had fully expected to attend the Commission meeting on Tuesday, November 5th, until I suddenly was confronted with the loss of sight in my right eye due to the breaking of a blood vessel, and my doctor advises me there will be no chance of my attending this meeting.

"I should like for you, as Vice Chairman of the Service Plaza Committee, to present to the Commission the report of the Committee and the specifications in final form for the taking of proposals for the operation of the six restaurants presently being operated by the Turnpike Commission.

"These specifications are the result of several meetings of the Service Plaza Committee together with much work by the Commission staff and by the Committee Special Counsel, Mr. John Lansdale. They represent the majority thinking of the Committee and as Committee Chairman I recommend the approval of the report and specifications by the Commission. I also want to be recorded as favoring the approval as a member of the Commission.

"Sincerely yours,

"Robert S. Beightler

"Major General USA Ret'd

"RSB/b
"c/ Chairman"

The Chairman said all the Members had seen the revised restaurant specifications but probably they should be brought to a vote when General Beightler was present. He said he did not want to take a lot of time on the specifications unless they were acceptable as they stood to the three Members present. Mr. Teagarden said he had read the specifications and was in favor of adopting them immediately.

A resolution approving, adopting, and ratifying the contract documents for Contract TR-1B was moved for adoption by Mr. Chastang, seconded by Mr. Teagarden, as follows:

Resolution No. 30-1957

"WHEREAS there are before this meeting the forms of contract documents, to wit: Form of notice to bidders, proposal for bidding on either or both of two alternative contracts with accompanying question-

naire, terms and conditions of bidding, affidavit, and contract, for Contract TR-1-B (together with Exhibits A, B, C, D, E and F, a part thereof) which is a contract for the operation of six restaurants along the Ohio Turnpike located at service plazas Nos. 1, 2, and 3 in Mahoning, Portage, and Cuyahoga Counties, respectively, and constituting a pair of restaurants on opposite sides of the turnpike at each of the above three locations;

"WHEREAS the Commission's executive director and general counsel have approved the form of the aforesaid contract documents; and

"WHEREAS the Commission has duly and fully considered said documents and said recommendations;

"NOW, THEREFORE, BE IT

"RESOLVED that the Commission hereby approves, adopts and ratifies the form of contract documents before it at this meeting, being for and in connection with a contract for the operation of three pairs of restaurants to be located at the three dual service plazas on the Ohio Turnpike, located two in Mahoning County, two in Portage County, and two in Cuyahoga County;

"FURTHER RESOLVED that any changes which are in the nature of adding or changing headings, captions, and style of writing, or in the nature of filling in blank spaces, or correcting typographical, clerical, or arithmetical errors, may be made upon the authorization of either the executive director, or general counsel;

"FURTHER RESOLVED that the executive director and general counsel shall cause to be published advertisements of notices for the taking of bids for the aforesaid contract, and that the executive director shall take and open bids for same and report the results thereof to the Commission; and

"FURTHER RESOLVED that any addendum or addenda to the aforesaid contract documents which are by them deemed to be necessary or desirable may be issued by the executive director and general counsel."

A vote by ayes and nays was taken and all Members present responded to roll call. The vote was as follows:

Ayes: Chastang, Teagarden, Shocknessy.

Nays: None.

The Chairman said the resolution was adopted with three Members voting in the affirmative. He said the Secretary to the Governor had given his approval. The resolution was identified as No. 30-1957.

The Chairman of the Committee on Claims, Mr. Teagarden, reported that currently five claims were in litigation and eleven were under analysis. He said six claims settled a short time before were in the process of having details worked out. He said the Committee was meeting following the conclusion of the meeting of the Commission to go over all of the claims with the purpose in mind of getting them completed as soon as possible.

The Chairman said that in the absence of questions the report of the Chairman of the Committee on Claims was accepted as received.

The Chairman invited Mr. Edward P. Dailey, Regional Director of the American Federation of State, County, and Municipal Employees AFL-CIO, to address the Commission.

Mr. Dailey thanked the Commission for extending him time. He said he was present for the purpose of addressing the Commission on behalf of Local Union No. 166 of the American Federation of State, County and Municipal Employees AFL-CIO which was composed of the Commission's employees on the Ohio Turnpike who were members of the Federation. He said that present with him were the important officers of the local union.

The Chairman said the Commission recognized Mr. Dailey as a spokesman but not as a bargaining agent.

Mr. Dailey said that in that case it should be said he had never made a request nor had the union made a request of the Executive Director of the Committee on Employee Relations or of the Commission that the union be recognized as exclusive bargaining organization for turnpike employees. He said the union at all times had requested only that it be recognized as representing the Commission's employees who were members of the organization.

Mr. Dailey said he wanted to bring to the attention of the Commission seven requests he said were contained in a letter sent by the union to the Executive Director under date of September 26, 1957. He described the requests as (1) that holiday pay be included among

the working conditions for toll collectors; (2) that the status of the Commission's employees as to whether or not they were state employees be clarified; (3) that maintenance employees on the western part of the turnpike be paid at the rate of time and one-half for work done in excess of eight hours in one day on all occasions on which they should be entitled to be so paid; (4) that overtime work, when required, be given to regular employees of the Commission rather than to call-out or temporary employees; (5) that one-man operation of toll booths be eliminated; (6) that the grievance procedure provided in the employees' manual be altered to provide final appeal to the Commission rather than to a committee of three top administrative employees; (7) that the Commission require its supervisory employees not to make anti-union statements or express anti-union views and that it recognize organizations of its employees and extend such organizations the everyday courtesies and acknowledgements practiced by other agencies of government in Ohio.

The Chairman said Mr. Dailey could always be assured that the Commission was a deliberative body and that it received him in the fullness of good will and good faith. Mr. Dailey asked whether there would be a reply from the Commission. The Chairman said the Commission's reply would take the form of action at meetings of the Commission.

The General Counsel reported that since the last meeting four cases that were active had been disposed of and three new suits against the Commission had been filed.

A resolution ratifying actions of administrative officers was moved for adoption by Mr. Teagarden, seconded by Mr. Chastang, as follows:

Resolution No. 31-1957

"WHEREAS the executive director, deputy executive director, chief engineer, general counsel, assistant general counsel, secretary-treasurer, assistant secretary-treasurer, comptroller, maintenance engineer, and the director of information and research of the Commission have, by various written and oral communications, fully advised the members of the Commission with respect to their official actions taken on behalf of the Commission since the Commission's last meeting, and the Commission has duly reviewed and considered the same;

"NOW, THEREFORE, BE IT

"RESOLVED that all official actions taken by the aforesaid administrative officers of the Commission on its behalf since the Commission's meeting on October 1, 1957, hereby are ratified, approved, and confirmed."

A vote by ayes and nays was taken and all Members present responded to roll call. The vote was as follows:

Ayes: Teagarden, Chastang, Shocknessy.

Nays: None.

The Chairman declared the resolution adopted, with all Members present voting aye. The resolution was identified as No. 31-1957.

The Chairman adjured the Committee on Employee Relations to continue its best efforts to maintain harmony and good will among the Commission's employees and between the employees and the Commission. He said the Commission had always had good will and he hoped the Commission always would have it. He assured the Committee on behalf of the Commission that the Commission would give it every assistance it could. He said members of the Committee had heard the remarks made by the spokesman who appeared before the Commission who declared himself speaking for the employees. He directed the Committee to give consideration to those things the spokesman had asked and to bring to the Commission such of those things as were worth adoption or further consideration.

There being no further business to come before the Commission, a motion was made by Mr. Teagarden, seconded by Mr. Chastang, that the meeting adjourn subject to call of the Chairman. A vote by ayes and nays was taken and all Members present responded to roll call. The vote was as follows:

Ayes: Teagarden, Chastang, Shocknessy.

Nays: None.

The Chairman declared the meeting adjourned. The time of adjournment was 1:11 p. m.

Approved as a correct transcript
of the proceedings of the
Ohio Turnpike Commission



Robert S. Beightler, Secretary-Treasurer