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Supplementary Report
TO
THE PRESIDENT
BY THE
EMERGENCY BOARD

APPOINTED SEPTEMBER 10, 1941, UNDER SECTION 10
OF THE RAILWAY LABOR ACT

*Conclusions of the Board Based
on Reargument Hearing*

MEDIATION SETTLEMENT

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1941

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I. LETTER OF TRANSMITTAL TO THE PRESIDENT

WASHINGTON, D. C., *December 5, 1941.*

The PRESIDENT,
The White House.

MR. PRESIDENT: The Emergency Board appointed by you on September 10, 1941, and reconvened by you on Thursday, November 27, is pleased to submit herewith a report supplementing the one which the Board presented to you on November 5, 1941. This supplementary report sets forth the conclusions which the Board reached after hearing each side reargue the issues involved in the Board's report of November 5, 1941.

As you will note, the Board was not moved by anything which was said during reargument to modify in any material way the major recommendations contained in its report of November 5, 1941.

At the close of the second day of reargument the Board, with your approval, offered its services to the carriers and employees as a board of mediation. The official representatives of each side to the dispute accepted the Board's offer to mediate their differences. Mediation conferences started at 7:30 p. m. on Saturday evening, November 29, and they lasted with but brief recesses until 6:30 p. m., Monday, December 1.

Although at the beginning of the mediation conferences the parties were far apart in their points of view, they all agreed with your Board that the welfare of the country, as well as their own interests, made it imperative that they find some basis of compromise on which to settle their differences and thereby avert a paralyzing national railroad strike.

We are happy to be able to report to you, Mr. President, that the parties did not at any time during the mediation sessions fail to recognize that the country was expecting them to mediate their differences as industrial statesmen, keeping uppermost in their minds the fact that the special economic interests of individual groups within our society must in the last analysis give way to the common good of all. Motivated by this principle they joined with your Board in highly commendable cooperation throughout the mediation meetings.

As a result, when the chairman, under instructions from the Board, called all of the parties into a joint mediation session late Monday

afternoon, December 1, and summarized at length the various compromise proposals which in the judgment of the Board should constitute the framework of a mediation agreement settling the controversy, the parties, with the exception of the employer representatives of the Railway Express Agency, acquiesced in the Board's suggestions.

It should be stressed that the mediation proposals which the Board finally presented to the parties grew out of the many separate conferences which the Board had held with committees representing carrier and employee groups participating in the mediation proceedings. The Board did not make its specific suggestions for a mediation settlement of the controversy until it was thoroughly satisfied that there had been a complete meeting of minds as to the major provisions which should be contained in a mediation agreement.

The last section of this supplementary report, Mr. President, sets forth the major provisions of the mediation settlement acquiesced in by the parties on December 1.

Although the Board has succeeded in getting the parties to acquiesce in the major provisions of a mediation settlement, thereby averting a railway strike, there still remains much work to be done in drafting specific labor agreements based upon the general principles of the mediation settlement. This is understandable when it is remembered that the parties, as well as the Board, worked under great strain and stress during the mediation sessions. We all were striving for agreement upon general and major principles and we put aside for the time being slight differences over details.

However, these differences must be settled before the parties can sign the labor contracts. Such formal signing is always the last step in concluding a labor dispute. Hence, your Board, upon the request of the parties and in accordance with your instructions, is holding itself available to the parties for further conferences on questions and differences of opinion as to the meaning of the provisions of the master mediation settlement.

We are confident that within a few days every necessary paper for a complete settlement of the varied issues in this complex case will be signed by the parties with one possible exception. This exception arises from the refusal of the officials of the Railway Express Agency to accept the suggestion of the Board that they should join with the other carriers in the wage settlement.

It is not unlikely that if the Railway Express Agency persists in its refusal to join in the mediation settlement, there will be some strikes called upon its properties. However, these strikes, if they come to pass, will not involve the other carriers or the employees of the railroads generally. The representatives of the other carriers and those of their employees agreed with your Board on Monday,

December 1, that as between them the mediation settlement should not be affected by the possible refusal of the Express Agency to concur in it. As we reported to you in our letter of December 2, 1941, we believe that the mediation settlement is a reasonable one, even when applied to the Railway Express Agency, since from a practical standpoint the Express Agency is a financial subsidiary of the railroads which have acquiesced in the mediation settlement.

When endeavoring to reach a compromise settlement in mediation it is necessary to look behind and beyond legal corporate forms and to be guided by considerations of substance. Hence, once we became satisfied that the real owners of the Railway Express Agency are the railroads themselves, we saw no sufficient reason for refraining from suggesting to the officials of the Express Agency that the greater interests at stake should move the agency to follow the example of its controlling carriers.

Should the situation become one, Mr. President, which requires your further attention, we recommend that you urge the Railway Express Agency to join in the mediation settlement.

Mr. President, it has been an honor to serve you, and we await your further pleasure.

Respectfully submitted.

WAYNE L. MORSE, *Chairman.*

THOMAS REED POWELL.

JAMES C. BONBRIGHT.

JOSEPH H. WILLITS.

HUSTON THOMPSON.

SUPPLEMENTARY REPORT TO THE PRESIDENT BY THE EMERGENCY BOARD APPOINTED SEPTEMBER 10, 1941, UNDER SECTION 10 OF THE RAILWAY LABOR ACT

CONCLUSIONS OF BOARD BASED ON REARGUMENT HEARING—MEDIATION SETTLEMENT

II. INTRODUCTION

The record of this railway labor controversy shows that, after the Emergency Board filed with the President its report of November 5, 1941, the representatives of railway employees rejected some of the major recommendations set forth therein. The employees in both major groups strenuously objected to the recommendation of the Emergency Board that:

In view of the uncertainties confronting the economy of this country for the duration of the existing emergency, all increases in wages constitute a temporary addition to pay and not a change in basic wage rates, except for minimum rates hereinafter suggested for the railroads.

These temporary additions shall be effective as of September 1, 1941 and shall terminate automatically on December 31, 1942, unless the parties extend the arrangement by agreement.

The representatives of the Five Brotherhoods rejected the report on the further ground that an increase of 7½ percent in wages, as recommended by the Board in its report of November 5, 1941, is entirely too low. They also registered other objections to the report of the Board, but these two recommendations seemed to be the controlling factors which caused them to issue a notice that they intended to go out on strike on December 7, 1941.

The representatives of the 14 cooperating railroad labor organizations also held a meeting shortly after the release of the Board's report of November 5, 1941, and by formal action rejected it. They took the position that the restriction of the recommended increases to a temporary period could not be accepted by them but that wage increases should be in basic wage rates. They also announced that they could not accept the report because the wage increase of 9 cents per hour recommended by the Board was entirely insufficient. There were additional objections to the Board's recommendations concerning vacations, Short Lines, and the Railway Express Agency.

In fairness to railway employees it should be said that under the terms and provisions of the Railway Labor Act they have the legal

right to refuse to accept a report of an emergency board, and thereafter to resort to strike action in an attempt to secure for themselves economic benefits to which they think they are entitled. However, in equal fairness to the carriers, it should be said that it has been generally assumed, inasmuch as the Railway Labor Act was principally sponsored through Congress by railway labor, that the employees would follow and abide by the results obtained from the use of the peaceful procedures provided for in the act. Thus, great surprise, disappointment, and concern were expressed throughout the country when it was learned that the Emergency Board's report of November 5, 1941, would not be accepted by railway labor as a basis of averting the threatened national railroad strike.

Following the presentation of its report to the President on November 5, 1941, the Emergency Board announced that it had adjourned subject to further call by the President. The controversy then rested in the President's hands. The President held a series of conferences with Government officials and representatives of the carriers and railway employees. As a result of these conferences the President decided to reconvene the Emergency Board for the purpose of giving the parties to the dispute an opportunity to reargue the case by stating their exceptions and objections to the Board's recommendations and by presenting any new evidence which they might wish to offer to the Board for its reconsideration.

The Board reconvened in Washington, D. C., on Thursday, November 27, and, in conference with the President, suggested that there were two entirely different ways in which the Board might be of possible further service in attempting to settle the controversy. The Board explained that it might hear rearguments on the case and submit a supplementary report based exclusively upon the complete record made by the parties in the case. Second, the Board could, if the parties decided to have it act in such an emergency capacity, offer its services as a mediating body, in which capacity the Board would use its good offices in an endeavor to help the parties reach a mutual satisfactory compromise of their differences. The President approved the procedure, as outlined by the Board, and authorized it to offer to the parties the opportunity to enter also into mediation negotiations in addition to rearguing the case on the merits.

At 10 a. m. on Friday, November 28, the representatives of the disputants met with the Board in executive session. At this meeting the Board pointed out to the parties the two distinctly different approaches which the parties might make in seeking a settlement of their disputes. It was agreed at this executive session that the parties would proceed with a 2-day reargument hearing on the record and at its close decide whether or not they desired to accept the Board's offer to help them mediate their differences.

At 10:30 a. m., Friday, November 28, the reargument hearings commenced on the record, and the rehearing ended at 4 p. m. Saturday, November 29. At the close of the reargument hearings the chairman stated:

The Chair is about to close this hearing, and in doing so he wishes the record to show the following remarks:

Under instructions from the President, this Board is duty-bound to make a supplementary report to the President on Monday, December 1. That report may be on the arguments or rearguments which the parties have presented to the Board yesterday and today. That report may, however, under instructions from the President and with his authorization, be a report made upon mediation.

Therefore, this Board here and now offers its mediation services to these parties and notifies them that it will be available between now and Monday, when it makes its report to the President, to serve the parties in any way it can in mediation, to the end of attempting to reach a settlement of this dispute.

* * * * *

This Board continues to sit as servants of the President and it is willing to do what it can in the interests of the President and in the interests of the country to help you gentlemen reach a settlement of this dispute without a paralyzing and, in the chairman's opinion, an unjustifiable railroad strike.

We are at your pleasure.

I hereby formally close the hearing on reargument of this Board held Friday and Saturday, November 28 and 29, by direction of the President of the United States.

We will now go into executive session to discuss the procedure which you gentlemen wish to follow, should you decide that you wish to make use of the services and the offer of this Board as servants in mediation.

At the executive session following the reargument hearings the representatives of all the parties to the dispute accepted the Board's offer to assist them in reaching through mediation a settlement of their differences. Mediation conferences were held, starting at 7:30 p. m. Saturday, November 29, and continued until 6:30 p. m. Monday, December 1, 1941, at which time the Board called the President and informed him that a national railway strike had been averted through a successful resort to the processes of mediation.

III. THE DUAL ROLE OF THE EMERGENCY BOARD AS A FACT-FINDING TRIBUNAL AND AS A BOARD OF MEDIATION

The material differences between the terms of settlement proposed in our original report and the terms finally agreed upon in later mediation conducted by us creates a situation so unusual as to require a clear explanation. The absence of such an explanation would be likely to create the false impression that the results of the mediation agreement reflect our own considered judgment of the equities and that, to this extent, we have, in effect, reversed our original recommendations.

In submitting our original report, we were acting in the role of a quasi-judicial body and not in the role of mediators. This former

role called upon us to weigh the pleadings, the evidence, and the arguments presented by the parties, and on the basis of the record to make recommendations that, in our judgment, not only would be fair as between the parties but would also serve the broader public interest.

In the light of these functions of a quasi-judicial body, we did not and do not believe that we should modify our recommendations, in any material respect, under pressure by either party that a modification must be made in order to buy a peaceful settlement. An emergency board, when assuming a quasi-judicial role rather than a role as mediator, should not permit such considerations of expediency to dictate a recommendation which it would not feel warranted in making purely on the merits of the case. If the Board were to do otherwise—if, in its very capacity as a fact-finding body it were to mix its judgment of the equities with the claims and assertions of the parties as to the terms needed to secure their acquiescence—the value of its findings and recommendations would be almost completely destroyed.

Public officers, however, when called upon by parties to help them settle a controversy by the process of mediation, cannot ignore the acceptability of any proposed settlement to the particular party which has the greatest economic power to enforce its demands in a labor dispute. In mediation the object is to aid the parties in settling a dispute on the basis of compromise and the equities of the settlement, from the standpoint of the independent judgment of a quasi-judicial body cease to become the sole criterion.

In speaking of the role of mediator as one of giving assistance to the parties in reaching an agreement, it is not intended to imply that this role is a purely passive one. While, as members of the Board, we did much of our work by acting as mere messengers between the parties, we also made suggestions to them. Both parties wished to know our own judgment as to the degree of determination with which each advanced their opposing positions. Both parties listened to our suggestions that some concession on one side should be met by appropriate concession on the other. Both parties appreciated that there might come a point where our suggestions might have behind them such weight in the public mind that to disregard them further might subject the parties to a public condemnation that could not be compensated for in terms of dollars. But the fact remains that the agreement finally reached, even though as a formal matter it was done on the Board's last-minute suggestions, was an agreement reflecting a resultant of forces playing on the two parties and not a settlement reflecting what the Board did or would recommend in a judicial capacity.

So different is the role of mediator from that of a fact-finding and quasi-judicial tribunal that the former role might best have been taken by new actors had there been time in which to prepare a new

script for the new play. Unhappily, this was not the case. The parties knew that, if mediation were to succeed in averting a strike, it would have to begin immediately and conclude in a very few days. No strangers to the facts of the controversy could have been of great assistance in such a crisis. For this reason, the members of the Emergency Board consented to act as mediators notwithstanding their awareness that persons unfamiliar with the procedural situation might charge them with being willing to put themselves in a position calling for a compromise of principle. The members felt that such personal considerations should not move them to refuse to offer their services as an aid to the parties in coming to an agreement.

IV. THE REHEARING

In the rehearing of this case counsel for the employees failed to present any new evidence. They urged, however, larger wage increases than those recommended by the Board and the incorporation of these increases in basic wage rates. In support of their appeal, the employees' representatives repeated the arguments presented at the original hearings and claimed that the recommendations by the Board were inconsistent with its findings. They also stressed the dissatisfaction of the employees with the recommendations, they threatened to enforce their demands by striking (transcript of proceedings, vol. 33, pp. 6835-6; vol. 34, p. 7004), and they reiterated that the Board's report had failed to win the approval of the President (transcript of proceedings, vol. 34, pp. 7003, 7008, 7034).

The threat of a strike did not influence the Board's judgment on matters of equity. The other contentions have been weighed by the Board, but have not been found sufficient to alter its judgment on the main issues in the dispute. The recommendations of the Board involved an average increase of approximately 12 percent in the wage rates of employees on class I railroads. This addition is more than sufficient to make up for the decline in the relative status of railroad labor since 1937, when the last general adjustment was made in railroad wages. Average hourly earnings of manufacturing labor are now about 17 percent higher than in 1937. If the increases recommended by this Board in its report of November 5, 1941, were put into effect, average hourly earnings of railroad employees would be about 19 percent higher than in 1937. In the light of these facts the wage increases recommended by the Board are still regarded by us as entirely reasonable in the light of the record.

The Board's recommendation for the nonoperating employees was for an increase of 9 cents per hour. This meant an increase of 14 percent on the average for this group of employees. Since the operating employees, as a class, have been favored by wage adjustments in the

past, and now enjoy much higher wages than do the nonoperating men, the Board recommended smaller increases on a percentage basis for the former group. Such increases for the operating men were, however, larger in absolute amount than those for the nonoperating men, with the exception of men in a few classifications. On these exceptional classifications we comment later. For men in highly paid classifications an increase of 7½ percent is a substantial addition to pay, even in these days of rapidly rising wages.

The Board rejects the contention of counsel for the operating employees that the 7½-percent increase in their pay is unjust in view of the increase in the cost of living. During normal times there is every justification for labor to seek not only to maintain but to improve its standard of living. But if the defense program undertaken in this period of national emergency is to meet with success, workers and employers alike must be prepared to make sacrifices. Unless this hard fact is clearly recognized, our country faces disaster.

The Board shares the apprehension of the employees that the cost of living may rise swiftly during the coming year. Yet the Board believes that it is not sound policy to grant wage increases in anticipation of a continued rise in prices. Such a policy can only aggravate the very difficulty that it aims to overcome. The difficulty can best be dealt with by the adoption of a comprehensive plan in regard to wages, profits, and the prices of both agricultural and industrial commodities.

The Board has considered the employees' contention that if labor is to obtain wage increases, it must do so in periods of prosperity. This contention, however, does not justify the request that the adjustments recommended by the Board in its report of November 5, 1941, be incorporated into basic wages—that is, that they be made of indefinite duration. In 1932-34 wage contracts of limited duration were entered into between the carriers and the employees. If this principle was sound then, it is no less sound today. We are living in a time of great political and economic uncertainty. The Board felt that it is problematical whether the wage increases could be maintained once the defense boom is over and the struggle of the railroads against the onslaughts of competitors is resumed. For these reasons it seemed unwise to freeze the recommended increases into basic wages. The Board reaffirms this position.

The Board also reaffirms its findings and recommendations in the vacations case, the Railway Express Agency case, and the Short Lines case. As to the Short Lines case, the Board appreciates the fact that because of an inadequate record presented by both sides to the dispute there is some confusion on the record as to the applications of the Board's general recommendations with respect to said Short Lines. However, the parties agreed to resolve these difficulties in mediation conferences with the Board.

While the reargument developed nothing to alter the Board's findings or recommendations on the above issues, the employees made a few contentions which would have led the Board to alter its report on two points of minor significance.

(1) Under the Board's recommendations the addition to pay was less for the lower paid operating employees than for the highest paid nonoperating employees. The inequality in the recommendations grew out of the failure of the operating employees to argue for a minimum wage increase, as their counsel has graciously acknowledged on the record.

(2) It was no part of the Board's intention to forestall demands on the part of the employees for wage increases during 1942 in the event of a substantial change in their economic position, such as would ensue if the cost of living should rise rapidly. Not until the rehearing were we told that the effect of a termination date to our proposed increase would be to prevent a change prior to such date. We still do not see why contracts may not provide that while an increase shall not by agreement continue beyond December 31, 1942, it may be given reconsideration prior to that date. Our recommendation for a temporary increase was with the object of facilitating reconsideration and not of impeding or postponing it. It should not have been construed as a prohibition against change upward prior to the terminating date.

V. THE MEDIATION SETTLEMENT

At the last meeting of the mediation conference on Monday, December 1, 1941, the chairman, in accordance with instructions from the Board, suggested that certain specific mediation proposals for settlement of the dispute might be acquiesced in by the parties. He pointed out to the representatives of the carriers and of the employees at the joint meeting that the proposals which the Board was about to suggest seemed to be reasonable compromises and were largely based upon the suggestions which the parties themselves had made to each other during various stages of the mediation conference. The chairman stated on the record:

When you decided to accept the offer of the Board to mediate your differences, the chairman, under instructions of the Board, endeavored, and I think did make clear to the parties, that the Board wasn't going to make any recommendations early in those proceedings, but was very hopeful that the parties themselves would be able to negotiate a compromise settlement.

* * * I want to say here and now that we are entirely honest and very sincere when we tell the parties to this case that we appreciate the efforts that you have made to compromise your differences and to reach an amicable settlement. Although our own value judgments, based upon the merits of the case,

as we see them from the official record of the Chicago hearing, differ materially as you well know from some of the premises involved in the proposals of various parties to this case, nevertheless, we recognize that you certainly have the right, and we felt, in view of the position in which our report found itself upon our return to Washington, an obligation in the interests of the parties themselves, of the Railway Labor Act, and of the President, as well as in the interests of the country, to compromise your differences into a mediation settlement without a strike. That has been our position throughout the rendering of our services to you the last couple of days and nights in mediation. You have been able to get together on some points and you have not been able to get together on other points. * * *

I think I shall tell you, although we shall not at this time discuss the details of part one of the report, that as far as the reargument phase of the case is concerned, the Board has not changed in any major part, or any major way, the conclusions which it reached in the Chicago case. There are certain minor modifications of that report that the Board will state to the President, but that is now pretty much a matter of a historical report, and one that should be made to the President in order to keep the record clear.

The second part of the report is what is of vital importance to you parties now; namely, that part which sets forth the principles which this Board feels should be incorporated in a mediation agreement, and those principles will be released by the White House after the President has had time to study the principles in detail, although he has been informed this afternoon as to their chief characteristics, and I am at liberty to say that there is every reason for believing that the President will tell the parties after further study of those suggestions, that he believes that those principles and those suggestions are the ones which should constitute a mediation settlement of this case.

With that by way of preface, I turn immediately to those suggestions which the Board believes have really been dictated by your own negotiations. Not that you have agreed to them all in whole or, in some cases, even in part, but that as we look upon your negotiations, and as we weigh what was said to us in these negotiations and evaluate what you said to each other, as we balance your mediation interests, as we look upon the compromises, the proposals, and the counter-proposals which you passed back and forth, we think that as a mediation agreement, which as I have already said is necessarily one which is based upon the principle of give and take and compromise, that these suggestions, or these principles, are the ones which should constitute your mediation agreement * * *.

The chairman, on behalf of the Board, then suggested that the following provisions be accepted as the basis of a mediation settlement of the case:

(1) All wage increases set forth in the mediation agreement shall be increases in basic rates of pay and not temporary wage increases.

(2) That the carriers agree in the mediation negotiations to increases in basic rates of pay on condition that the railway labor organizations would in turn agree to a moratorium for the period of the national emergency on proposals for changes in rules. This moratorium should create dual obligations in that both labor and management agree that they will not press for rules changes during the emergency period. The exact details and conditions of the agreement for a moratorium shall be worked out by the parties in accordance with

the terms as expressed to the Emergency Board during the mediation negotiations.

(3) That the retroactive dates for wage increases shall be as follows:

(a) The employees shall receive retroactive pay for the period from September 1 to December 1, 1941, said retroactive pay based upon the wage recommendations as set forth in the Emergency Board's report of November 5, 1941.

(b) The pay increases provided for in the mediation agreement shall be effective December 1, 1941.

(4) That the wage increases provided for in the mediation agreement shall be as follows:

(a) The five operating organizations shall receive a wage increase of $9\frac{1}{2}$ cents per hour in basic hourly wage rates. Translated in terms of an increase per day this amounts to an addition of 76 cents per day.

(b) The employees of the fourteen cooperating organizations shall receive an increase in basic hourly wage rates of 10 cents per hour, or a basic daily wage increase of 80 cents.

(c) The 10 cents per hour increase for the employees of the fourteen cooperating organizations shall apply also to the employees of the Railway Express Agency.

(5) That the recommendation in the report of November 5, 1941, that there shall be a vacation of 6 consecutive workdays with pay for all employees in the fourteen cooperating organizations who work substantially throughout the year, or who are attached to the industry as a result of reasonably continuous employment, shall be approved, with the additional provision that employees in the clerk and telegrapher classifications who have given 2 years of service shall receive a 9-day vacation with pay, and those who have a record of 3 years of service or more shall receive an annual vacation of 12 days with pay. The parties shall agree that the details covering the rules, conditions, and arrangements which shall govern the granting of vacations shall be worked out by the parties in negotiations immediately following the acceptance of the mediation settlement.

The parties shall agree with the Emergency Board that if they are unable to reach an agreement within a reasonable time upon all the details of the vacation proposal, they will submit all disagreements to a member of the Board selected by them, or to some other third party agreed to by them, for final settlement. They shall agree that the decision of any such referee shall be binding upon them as to vacation arrangements and as to the formula which shall determine what particular employees shall receive vacations.

(6) That the wage increases provided for in the mediation settlement shall apply to all of the class II and class III railroads represented in the Chicago hearings by the carrier conference committees. However, the wage increases shall not be made applicable to the so-called Short Lines which were not represented by the carrier conference committees, and which did not join with the carriers in a national handling of their disputes. For the most part these Short Lines were those represented by Mr. C. A. Miller and Mr. J. M. Hood.

As to these latter Short Lines, the recommendations covering them as set forth in the Emergency Board's report of November 5, 1941, shall continue to govern the final settlement of their disputes. Briefly, this means that a basic minimum wage of 40 cents per hour shall be fixed for their employees, and such other wage increases as can be agreed upon through direct negotiations between management and the employees or which are arrived at through the future operations of the procedures of the Railway Labor Act shall govern.

In explaining the Board's proposal as to the Short Lines it was stated in effect that the Board is satisfied that the employees of the Short Lines should receive some increase in wages at this time. But in view of the fact that there are so many differences between the Short Lines and the class I railroads, and because in the opinion of the Board it has never had presented to it sufficient evidence or information to justify its making a specific recommendation on the amount of the wage increase which should be granted to the employees in the Short Lines, it has taken the position that the matter should be referred to the parties for further negotiations.

The Board is satisfied that the parties themselves should have little difficulty in reaching a negotiated wage settlement for the Short Lines, but if they should become deadlocked over it, the procedures of the Railway Labor Act are available to them.

The representatives of all the parties, save and except the spokesmen for the Railway Express Agency, stated for the record that they would acquiesce in the proposals for a mediation settlement of the dispute as announced by the Board, or recommend to their principals and constituents an acceptance of the proposals. The representatives of some of the labor organizations did not have authority to then and there accept the proposals, but they did without exception state to the Board that they would recommend that the proposals be approved by those who did have authority to accept them on behalf of the employees.

At the same meeting the Board agreed to make itself available for a few days to answer any questions or help solve any disagreements that might arise when the parties sat down together for the purpose of writing the mediation proposals into formal labor contracts.

Thus, Mr. President, in accordance with the foregoing proposals arrived at through the orderly procedure of mediation, the threatened national railway strike was averted on Monday, December 1, 1941.

The Board wishes to commend the representatives of the parties for the patience, many courtesies, and untiring assistance which they extended to the Board throughout the mediation proceedings. The railroad employees and railroad management have demonstrated again their faith in democratic processes.

Respectfully submitted.

WAYNE L. MORSE, *Chairman*.

THOMAS REED POWELL.

JAMES C. BONBRIGHT.

JOSEPH H. WILLITS.

HUSTON THOMPSON.

APPENDIX A

DECEMBER 2, 1941.

The PRESIDENT,
The White House.

MR. PRESIDENT: Your Emergency Board is honored and pleased to report to you that its proposals for a mediation settlement of the threatened railway strike have been accepted or acquiesced in by the representatives and spokesmen for the contending parties.

It will be necessary for the representatives of some of the labor organizations to submit the proposed settlement to meetings of their general chairmen for final approval. These meetings will be held in Chicago on December 4. However, your Emergency Board has been assured that the representatives of these organizations who participated in the mediation negotiations will recommend the approval of the proposals contained in the mediation agreement. We are confident that the specific proposals for settlement of the railway dispute which we submitted to the parties will be formally approved without change by all of the parties. The railroad officials have already accepted the mediation proposals.

The provisions of the mediation settlement are as follows:

(1) All wage increases set forth in the mediation agreement shall be increases in basic rates of pay and not temporary wage increases. You will note that the Board's recommendation on this point in its report of November 5, 1941, was that wage increases should be for a temporary period running to December 31, 1942, at which date the wage structure of the industry should be reviewed in light of the then existing economic conditions of the industry and of the country.

The carriers agreed in the mediation negotiations to increases in basic rates of pay on condition that the railway labor organizations would in turn agree to a moratorium for the period of the national emergency on proposals for changes in rules. This moratorium creates dual obligations in that both labor and management agree that they will not press for rules changes during the emergency period. The exact details and conditions of the agreement for a moratorium are to be worked out by the parties in accordance with the terms as expressed to the Emergency Board during the mediation negotiations.

(2) The retroactive dates for wage increases shall be as follows:

(a) The employees shall receive retroactive pay for the period from September 1 to December 1, 1941, said retroactive pay based upon the wage recommendations as set forth in the Emergency Board's report of November 5, 1941.

(b) The pay increases provided for in the mediation agreement shall be effective December 1, 1941.

(3) The wage increases provided for in the mediation agreement are:

(a) The five operating organizations shall receive a wage increase of $9\frac{1}{2}$ cents per hour in basic hourly wage rates. Translated in terms of an increase per day this amounts to an addition of 76 cents per day.

(b) The employees of the 14 cooperating organizations shall receive an increase in basic hourly wage rates of 10 cents per hour, or a basic daily wage increase of 80 cents.

(c) The 10 cents per hour increase for the employees of the 14 cooperating organizations shall apply also to the employees of the Railway Express Agency.

Your attention is called to the fact that the spokesmen for the Railway Express Agency who participated in the mediation negotiations have informed the Board that the Railway Express Agency will not agree to a mediation settlement calling for a wage increase of 10 cents per hour for its employees. However, inasmuch as all of the other employer groups have agreed to such a wage increase, and in light of the fact that the representatives of the employees have assured the Board that they will recommend to their men an acceptance of the proposed mediation settlement and the calling off of the strike, it is the view of the Board that the management of the Railway Express Agency should be requested to join in the mediation settlement.

It should be distinctly understood by you that the Board makes the above suggestion simply because it believes that a balancing of all interests warrants it. It should be remembered by all concerned that mediation negotiations are characterized primarily by principles of compromise.

The employee groups, as well as the carriers, made many concessions and offered many compromises which constituted recessions from original positions. It would seem best under all the circumstances for the Railway Express Agency to become a party to the mediation settlement. However, it appears that the Railway Express Agency believes that it can make a more satisfactory settlement by negotiations, even though such a policy may involve the risk of a strike of its employees.

We call your attention to the fact that the Railway Express Agency constitutes but a very small portion of the employer interests involved in this dispute. Furthermore, it is to be noted that the other carrier groups did not insist that the completion of a mediation settlement be held up until the Railway Express Agency could negotiate what it considered to be a better settlement or could see its way clear to join in the mediation settlement which the other carriers were willing to accept.

It also should be stated that the Railway Express Agency is a financial subsidiary in all practical effects to the carrier organizations, and hence the Board felt that there should not be any further delay in settling the major disputes until such time as the Railway Express Agency might see fit to join in the settlement or negotiate another one. This view was shared by the other carriers.

However, as we shall state in our official report which will be submitted to you tomorrow, there is a marked difference between what your Emergency Board has approved as a mediation settlement and what it would recommend on the basis of the formal record submitted to it by the parties at the long hearings in Chicago from September 16 to October 22, 1941, and at the 2-day reargument in Washington, November 28 and 29, 1941.

As the Board stated to the parties yesterday, it is still of the opinion that all of the major recommendations set forth in its report of November 5, 1941, are amply supported by the official record, and flow from an application to that record of the "preponderance of the evidence" test. Therefore, if the Railway Express Agency issue were to be determined on the basis of the formal record, the Board would reiterate the recommendation which it made in its report of November 5, 1941.

(4) The recommendation in the report of November 5, 1941, that there shall be a vacation of 6 consecutive work days with pay for all employees in the 14 cooperating organizations who work substantially throughout the year, or who are attached to the industry as a result of reasonably continuous employment, shall be approved, with the additional provision that employees in the clerk and telegrapher classifications who have given 2 years of service shall receive a 9-day vacation with pay, and those who have a record of 3 years of service or more shall receive an annual vacation of 12 days with pay. It has been agreed by the parties that the details covering the rules, conditions, and arrangements which shall govern the granting of vacations shall be worked out by the parties in negotiations immediately following the acceptance of the mediation settlement.

The parties have agreed with the Emergency Board that if they are unable to reach an agreement within a reasonable time upon all the details of the vacation proposal, they will submit all disagreements to a member of the Board selected by them, or to some other third party agreed to by them, for final settlement. They have agreed that the decision of any such referee shall be binding upon them as to vacation arrangements and as to the formula which shall determine what particular employees shall receive vacations.

(5) The wage increases provided for in the mediation settlement shall apply to all of the class II and class III railroads represented in the Chicago hearings by the carrier conference committees. However, the wage increases shall not be made applicable to the so-called Short Lines which were not represented by the carriers' conference committees, and which did not join with the carriers in a national handling of their disputes. For the most part these Short Lines were those represented by Mr. C. A. Miller and Mr. J. M. Hood.

As to these latter Short Lines, the recommendations covering them as set forth in the Emergency Board's report of November 5, 1941, shall continue to govern the final settlement of their disputes. Briefly, this means that a basic minimum wage of 40 cents per hour shall be fixed for their employees and such other wage increases as can be agreed upon through direct negotiations between management and the employees or which are arrived at through the future operations of the procedures of the Railway Labor Act shall govern.

The Board is satisfied that the employees of the Short Lines should receive some increase in wages at this time. But in view of the fact that there are so many differences between the Short Lines and the class I railroads, and because in the opinion of the Board it has never had presented to it sufficient evidence or information to justify its making a specific recommendation on the amount of the wage increase which should be granted to the employees in the Short Lines, it has taken the position that the matter should be referred to the parties for further negotiations.

The Board is satisfied that the parties themselves should have little difficulty in reaching a negotiated wage settlement for the Short Lines, but if they should become deadlocked over it, the procedures of the Railway Labor Act are available to them.

The foregoing, Mr. President, is a brief résumé of the provisions of the mediation settlement which was submitted to the parties by the Board late yesterday afternoon. It is submitted to you at this time because the Board appreciates the fact that it is important that an early release announcing the provisions of the settlement should be made to the American people.

This letter will be followed by a much more detailed report which the Board hopes to have ready for submission to you some time Wednesday, December 3. The final Report of the Board will set forth the conclusions which it reached on the record of the reargument hearings, and the conclusions which it reached in the mediation proceedings.

The parties are continuing to work with the Board in the preparation of a formal mediation agreement based upon the provisions of settlement which the Board submitted to them yesterday. The formal agreement will undoubtedly be signed by the parties later on this week.

You will find attached a copy of the transcript of record which was made at the final mediation session. It contains the proposals of the Board and the commitments of the parties.

It should be said that neither side obtained all that it wanted out of the mediation proceedings, but it was gratifying to see that all of them recognized that when they went into mediation it was essential that they demonstrate a willingness to compromise their differences and adopt a give-and-take policy.

Their attitudes and sincere efforts to reach a settlement which characterized all of their relations with the Board during mediation are a credit to themselves and their principals, and their final willingness to join in the settlement represents a distinct service to their country in this time of great emergency.

Mr. President, your Board awaits your further pleasure.

Yours respectfully,

WAYNE L. MORSE, *Chairman,*
THOMAS REED POWELL,
JAMES C. BONBRIGHT,
JOSEPH H. WILLITS,
HUSTON THOMPSON,
President's Emergency Board.

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