REPORT

TO

THE PRESIDENT

BY

EMERGENCY BOARD

NO. 210

Appointed by Executive Order 12558, dated May 16, 1986, pursuant to Section 9A of the Railway Labor Act, as amended.

To investigate disputes between The Long Island Rail Road and certain labor organizations.

(National Mediation Board Case Nos. A-11452, A-11453, A-11454, A-11455, A-11456, A-11457, A-11458, A-11459, A-11460, A-11461, A-11462, A-11463, A-11464, A-11465, A-11525, A-11549, A-11561, A-11564, A-11565, A-11566, A-11567, A-11568, A-11571, A-11579, A-11583, A-11590, A-11599, A-11600, A-11601 and A-11698)

Washington, D.C.

June 25, 1986

LETTER OF TRANSMITTAL

New York, New York
June 25, 1986

The President
The White House
Washington, DC

Dear Mr. President:

On May 16, 1986, pursuant to Section 9A of the Railway Labor Act, as amended, and by Executive Order 12558, you created an Emergency Board to investigate the disputes between The Long Island Rail Road and all the labor organizations representing its employees.

Following its investigation of the issues in dispute, including both formal hearings on the record and informal meetings with the parties, the board has prepared its Report and Recommendations for settlement of the disputes.

The Board now has the honor to submit its Report to you, in accordance with the provisions of the Railway Labor Act, and its Recommendations as to an appropriate resolution of the disputes by the parties.

The Board gratefully acknowledges the assistance of David J. Strom of the National Mediation Board's staff, who rendered aid to the Board during the proceedings, and particularly in the preparation of this Report.

Respectfully,

Arthur Stark
Arthur Stark, Chairman

Daniel G. Collins
Daniel G. Collins, Member

Herbert L. Marx, Jr.
Herbert L. Marx, Jr., Member

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I. CREATION OF THE EMERGENCY BOARD

Emergency Board No. 210 was created by President Reagan on May 16, 1986, by Executive Order No. 12558, pursuant to Section 9A of the Railway Labor Act, as amended, 45 U.S.C. Sec. 159a. The New York Metropolitan Transportation Authority (MTA), on behalf of its subsidiary, The Long Island Rail Road (LIRR), had requested the creation of such a board on May 15, 1986.

The President appointed Arthur Stark, an arbitrator based in New York City, as Chairman of the Board. Arbitrator Herbert L. Marx, Jr., and Professor Daniel G. Collins of the New York University School of Law, were appointed as Members of the Board.

II. PARTIES TO THE DISPUTE

A. THE CARRIER

The Long Island Rail Road is a Class I railroad subject to the jurisdiction of the Interstate Commerce Commission and the provisions and procedures of the Railway Labor Act. Every week day the LIRR carries approximately 283,000 passengers, a majority of them commuters, and more than any other Class I railroad in the United States.

The Long Island Rail Road is a public benefit corporation owned and operated by the Metropolitan Transportation Authority, an agency of the State of New York. The LIRR is the only mode of public transportation that provides through-service from the eastern end of Long Island to Manhattan, and is a vital link in the mass transportation system of the New York City metropolitan area. Its freight and passenger service operates over a system covering approximately 530 miles of track. The LIRR employs about 7,200 persons, 6,800 of whom are covered by collective

bargaining agreements. Presently the LIRR is engaged in a five-year, $1.1 billion capital construction program funded by state bond issues and designed to revitalize the railroad's physical plant and rolling stock.

Despite its importance to New York City's mass transportation system, the LIRR has long been a financially unsuccessful enterprise. From 1949 to 1954, while a wholly-owned subsidiary of the Pennsylvania Railroad Company, the LIRR was in bankruptcy. It subsequently became a railroad "redevelopment corporation", still owned by the Pennsylvania Railroad, receiving tax and financial incentives from the State. In 1966, the Metropolitan Commuter Transportation Authority (now the MTA), seeking to preserve this transportation link, acquired the LIRR as a wholly-owned subsidiary. The enabling legislation authorizes the MTA to establish and collect such fares, rentals, charges, etc., as may be "necessary to maintain the combined operations of the Authority and its subsidiary corporations on a self-sustaining basis."

The LIRR's financial position, however, has steadily declined. Its commuter operation has a large annual operating deficit, and receives substantial subsidies from the Metropolitan Transportation Authority and the Federal Government. In 1985, government transfer payments to the LIRR amounted to $250 million, or 50 percent of the carrier's total railway operating revenues.

The freight operating revenues were approximately $8.5 million in 1985, which represents a decline from recent years. In 1982 freight operating revenues were $13 million. The LIRR, however, is undertaking a major effort to increase volume and operate freight service on a break-even basis.

The last time the emergency dispute procedures of Section 9A were invoked on the LIRR was in 1984 when four emergency boards were created. Emergency Board Nos. 202 and 205 were created to

investigate a dispute involving the Brotherhood of Locomotive Engineers. Emergency Board Nos. 203 and 206 were created to investigate a dispute involving the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes. The last strike on the LIRR occurred in 1980.

B. THE ORGANIZATIONS

Thirteen labor organizations are parties to these disputes:

1. ARASA Division - Brotherhood of Railway and Airline Clerks (ARASA), representing Technical Engineers, Architects, Draftsmen and Allied Workers; Supervisors and/or Foremen in the Maintenance Departments; and Train Dispatchers.

2. Brotherhood of Locomotive Engineers (BLE), representing Locomotive Engineers.

3. Brotherhood of Railroad Signalmen (BRS), representing Signalmen.

4. Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes (BRAC), representing Clerical, Office, Station and Storehouse Employees.

5. Brotherhood Railway Carmen of the U.S. and Canada (BRC), representing Carmen and Coach Cleaners.

6. International Association of Machinists and Aerospace Workers (IAM&AW), representing Mechanics.

7. International Brotherhood of Boilermakers and Blacksmiths (IBB&B), representing Boilermakers.

8. International Brotherhood of Electrical Workers (IBEW), representing Electricians.

9. International Brotherhood of Firemen and Oilers (IBF&O), representing Laborers and Stationary Engineers.

10. Police Benevolent Association (PBA), representing Police Officers below the rank of Captain.

11. Sheet Metal Workers International Association (SMWIA), representing Sheet Metal Workers.

12. United Transportation Union-Railroad Yardmasters of America Division, representing Yardmasters.

13. United Transportation Union (UTU), representing Conductors and Trainmen; Special Service Attendants; Maintenance of Way Supervisors; and Maintenance of Way Employees.

III. ACTIVITIES OF THE EMERGENCY BOARD

The Board held an organizational meeting prior to conducting on-the-record hearings with all the parties. Hearings were held on June 9 and 10, 1986, in New York City. The parties submitted preliminary statements of position at the first day of hearings on June 9, 1986. Additional written evidence and oral testimony were presented at the hearings. The Board held informal meetings with the parties on June 11, 12, 16 and 17 in an attempt to narrow the disputes in issue. Subsequently, the Board met in executive session on June 17, 18 and 23, 1986, in New York City.

IV. HISTORY OF THE DISPUTES

The Board has before it two sets of disputes. The first pertains to changes in the LIRR pension plans, and the second to changes in rates of pay, rules and working conditions.

In June 1984, the organizations involved in these disputes, pursuant to Section 6 of the Railway Labor Act, individually served on the railroad notices of demands to amend provisions of their collective bargaining agreements with the carrier pertaining to the LIRR pension plans. These Section 6 Notices were served as follows:

ARASA 5076 AND 5078	June 6, 1984
ARASA 5077	June 11, 1984
BLE	June 1, 1984
BRAC	June 1, 1984
BRCUSC	June 15, 1984
BRS	June 11, 1984
IAM&AW	June 6, 1984
IBB&B	June 5, 1984
IBEW	June 22, 1984
IBF&O	June 6, 1984
PBA	June 6, 1984
RYA	June 6, 1984
SMWIA	June 1, 1984
UTU	May 24 and June 6, 1984 (2 notices; notice of May 24 served by prior representative)

The LIRR did not serve its Section 6 Notice with respect to pension matters at the same time as the organizations, but chose to hold its proposals for the full round of negotiations. Following a joint meeting with the organizations, the carrier filed for mediation of the pension dispute. The pension cases were all docketed by the National Mediation Board (NMB) on July 24, 1984, as follows:

ORGANIZATION	NMB CASE NO.
BRAC-ARASA	A-11452
BLE	A-11453
BRS	A-11454
BRAC	A-11455
BRCUSC	A-11456
IAM&AW	A-11457
IBB&B	A-11458
IBF&O	A-11459
IBEW	A-11460
UTU	A-11461
PBA	A-11462

RYA	A-11463
SMWIA	A-11464
UTU	A-11465

On October 1, 1984, the LIRR served its Section 6 Notice with respect to rates of pay, rules and conditions of employment on each of the organizations. Included were the carrier's pension proposals. By the end of 1984, 13 of the 15 organizations served their Section 6 Notices. By early 1986, all of the organizations had served their notices. These Section 6 Notices were served as follows:

ARASA 5076 AND 5077	November 28, 1984
ARASA 5078	November 5, 1984
BLE	December 1, 1984
BRAC	December 12, 1984
BRCUSC	November 29, 1984
BRS	November 30, 1984
IAM&AW	November 1, 1985
IBB&B	December 21, 1984
IBEW	December 20, 1984
IBF&O	December 27, 1984
PBA	January 27, 1986
RYA	December 1, 1984
SMWIA	December 1, 1984
UTU	October 23, 1984 and November 26, 1984 (2 notices; notice of October 23, 1984, served by prior representative)

Negotiations took place between the LIRR and each of the organizations throughout 1985 and the early part of 1986. At various times applications for mediation were filed with the NMB. The order of docketing of mediation cases is as follows:

DATE OF APPLICATION	ORGANIZATION	NMB CASE NO.
January 7, 1985	BLE	A-11525
January 28, 1985	UTU	A-11549
February 7, 1985	UTU	A-11561
February 13, 1985	SMWIA	A-11564
February 13, 1985	BRAC/ARASA 5078	A-11565
February 13, 1985	BRAC/ARASA 5077	A-11566
February 13, 1985	BRAC/ARASA 5076	A-11567

February 13, 1985	RYA	A-11568
March 1, 1985	BRAC	A-11571
March 12, 1985	IBEW	A-11579
March 18, 1985	BRS	A-11583
April 4, 1985	BRCUSC	A-11590
April 30, 1985	IBF&O	A-11599
April 30, 1985	IBB&B	A-11600
April 30, 1985	IAM&AW	A-11601
February 12, 1986	PBA	A-11698

Mediators Robert J. Brown and Paul Chorbajian commenced mediation on all the pension cases on May 16, 1985. On that same date, mediation was also commenced on the work rules cases with all the organizations except the IBF&O, the IBB&B, the IAM&AW, and the PBA. Mediator Chorbajian commenced mediation on Case No. A-11599 and A-11600 on June 25, 1985. Mediation began on Case A-11601 on November 1, 1985, and on Case A-11698 on March 24, 1986.

Subsequently, the NMB determined that the parties were deadlocked, and on April 8, 1986, the NMB proferred arbitration in accordance with Section 5, First of the Railway Labor Act. Arbitration was rejected by the UTU, RYA, IAM&AW, IBEW and BRS. The Carrier rejected the proffer of arbitration with respect to all the disputes on April 11, 1986. Therefore, on April 16, 1986, the NMB released the parties from mediation, and the statutory 30-day "status quo period" began to run.

Although the parties were freed from formal mediation, on May 13, 14 and 15, 1986, the NMB engaged in intensive mediation sessions with each of the parties. These meetings were conducted under the auspices of NMB Member Charles L. Woods and Mediator Chorbajian.

On May 15, 1986, the LIRR requested that President Reagan create an emergency board pursuant to Section 9A of the Railway Labor Act, which governs publicly funded and operated commuter authorities. The Brotherhood of Locomotive Engineers also invoked Section 9A on May 15, 1986. This Board was created on May 16, 1986, and a new status quo period was established.

Approval of the President was sought and granted to extend the deadline of the Board's report to June 25, 1986 without, however, interfering with the time periods initiated under Section 9A of the Railway Labor Act by the Board's creation on May 16, 1986.

V. REPORT AND RECOMMENDATIONS

A. INTRODUCTION

At the outset, the Board expresses its deep concern that too heavy reliance has been placed on the procedures and built-in time constraints provided by Section 9A of the Act, under which this Board has been convened. As will be seen in the discussion below, there are convincing reasons why it is advantageous for the parties both to reach agreement through intensive and flexible bargaining on their own and to do so sooner rather than later.

The employees represented by the various organizations are, on any relevant comparative basis, well compensated as to wages, benefits and working conditions. The carrier is seeking to move forward in the quality and variety of services it provides. While the efficacy of many existing working rules is in sharp dispute, none of the affected parties is critically at risk. As a result, there is ample space for compromise to reach mutually satisfactory bargaining results, as each party has frankly admitted to the Board.

Neither this Board nor a "final offer" Board can supply magical answers. It is our initial finding, therefore, that the carrier and each organization must now meet their responsibilities by vigorous bilateral bargaining, recognizing that perceived needs can only be satisfied by addressing the equally pressing requirements of the other party. The Board calls upon the

parties to resume promptly, with mediatory assistance as warranted, the process of collective bargaining -- and to do so without the assumption that a further Emergency Board is required to bring matters to a conclusion.

There are already available -- to this Board and to the parties themselves -- a wide variety of other settlements within the industry and within the Metropolitan Transportation Authority as models for the fashioning of wage and benefits settlements. The parties should recognize that rules changes sought by the carrier and by individual organizations cannot all be accommodated. On the other hand, there is ample room to provide each side with some of the dearly sought improvements by mutual accommodation. The difficulty is that the passage of time robs both sides of the benefits of such changes. Continued delay impedes progress for all.

Although not currently in an unfavorable position, the employees deserve some reasonable measure of wage adjustment in line with that accorded others in comparable work. The carrier's need for improved productivity in all its operations must be met to a measurable degree for the benefit of the carrier's riders, the taxpayers, and indeed the employees in terms of future job security and expansion. What follows is not intended as a prologue to review by yet another Emergency Board; rather the Board offers the framework for long overdue resolution of the issues which have divided the parties and, up to now, have sidetracked progress and harmony.

B. WAGES

No wage settlements have been reached. The carrier's November 1, 1985, proposal to BRAC was to increase wage rates and salaries by 5% on January 1, 1985, 6% on January 1, 1986, and 6% on January 1, 1987, subject to acceptance of various work rule and other proposals by the carrier. That would have been in

accord with the settlement reached in April 1985 between the MTA's Transit Authorities and the Transport Workers Union and other unions. The organizations proposed a variety of very substantial increases for a three-year contract, ranging as high as 25% a year. On April 14, 1986, the carrier revised its proposal to provide for increases of 3% upon ratification of the Agreement, 3% a year later, and 3% two years later. It also proposed to pay 40 hours pay to each employee who received 2088 hours pay (excluding sick leave) since January 1, 1985. Following release from mediation, UTU, BRS and the six shop crafts revised their proposals to provide for increases of 9% a year in a 3-year contract. ARASA reduced its proposal to 6%, 7% and 7%.

The record before us reveals several recent national settlements which provided for lump sum increases during the first year of a four-year contract. The BLE agreement, for example, calls for a payment of $565 in 1985, 4.5% in 1986, 3.75% in 1987, and 2.25% in 1988. The BRAC national agreement provides for $565, 2%, 2.25%, and 2.25% plus $975 in lump sums. The UTU national agreement calls for $565 for 1984-85 and 1% on November 1985, 3.5% in 1986, 3.75% in 1987 and 2.25% in 1988.

The lump sum provisions in these settlements reflect the parties' recognition that increases in pay scales should be limited because of their cumulative effect. We believe that a similar logic applies to the pay scales on the LIRR. We do not, however, agree that these settlements establish a pattern in terms of the increases themselves. The members of Emergency Board No. 199, in their 1983 Report, noted that the LIRR wage package was comparable to agreements between MTA and the unions representing bus and subway employees (as well as the recommendations of an emergency board with respect to the MTA-operated Metro-North Commuter Railroad).

As already noted, in the current round of negotiations the MTA has agreed to grant increases of 5%, 6%, and 6% to Transit Authority employees for the years 1985, 1986, and 1987. A very recent (June 6, 1986) settlement between Metro-North and BRAC (subject to ratification) calls for increases of 5%, 4.5%, and 5% for 1986, 1987 and 1988. (Metro-North employees received 7% in 1985 under the previous contract.)

We recommend that, with several important provisos, the carrier put the 5%, 6%, and 6% Transit Authority pattern back on the bargaining table.

The first proviso is that the 1985 increase of 5% be paid in a lump sum and not be added to the pay scales. (This figure represents 5% of employees' regular pay as of December 31, 1984.)

The second proviso is that the Agreement be for a 4-year term and that the increase for the final year, 1988, be 5%. In making this recommendation we have given consideration to the passage of time (two years) since Section 6 notices were served, the desirability of having at least some negotiation-free period, the magnitude and timing of the increases as covering employees at other MTA affiliates, and other relevant factors.

The third proviso is that the shift differentials for night and weekend work, which range from 4.5% to 10%, be converted to the cents-per-hour which existed on the last day of the previous agreement and that the organizations withdraw their proposals for increasing these differentials and for increasing the covered hours from 12 to 16 per day. A conversion of this kind was made part of the recent Transit Authority package.

The fourth proviso is that the progression for new hires, which generally calls for an entry level of 80% and four steps to reach the full rate, be revised to provide an entry level of 70%

and five annual steps; i.e., 70%, 75%, 80%, 85%, 90%, 100%. This progression, incidentally, conforms to the progression negotiated by Metro-North and BRAC. As noted by the carrier, the 70% entry rate should generate substantial savings to be applied to the wage increases and have little impact on its ability to recruit new employees.

The BLE has proposed that Engineers be given a differential which would assure them of 115% of the compensation received by any other crew member. As the result of a similar proposal in 1983, a joint LIRR/BLE Study Commission was established. Its September 28, 1984, recommendation was that "wages and productivity be examined together...during negotiations." It found that a "variance in the wage structure could be justified", that the pay equalization which has existed since 1972 is not "chiseled in granite", and that if the parties wished to pursue the matter, they should do so at the bargaining table. The BLE seeks a recommendation that such negotiations proceed.

In 1983, Emergency Board No. 199 found that there was no basis for recommending a higher increase for Engineers in order to restore an "historical differential" above Conductors. We concur. Nevertheless, the carrier is willing to grant some additional allowance if the BLE consents to a variety of productivity improvements. Among the basic work rule changes it identifies are these: (1) define engine service as a single class of service, thus enabling the carrier to assign a single Engineer to perform many types of service in a day without making penalty payments; (2) require Engineers to perform duties which may be covered by the scope rules of other crafts in connection with the use of locomotives and trains without additional penalty payments; (3) abrogate switching limits; (4) eliminate penalty payments for unused meal periods and overtime payments for a second tour within 22 1/2 hours; (5) require that all assignments from the extra list be for a minimum of 8 hours; and (6) require equal numbers of Engineers to use vacation throughout the year.

Since both the carrier and BLE are prepared to negotiate on this matter, the Board recommends that they do so.

We also recommend that the carrier and ARASA adapt our general wage-increase formula to the special circumstances presented by the relationship between the wages of supervisors and the managers to whom they report.

Finally, we re-emphasize our belief that the wage package recommended here is contingent on the organizations' willingness to accede to the suggested modifications and to the cost saving features which will be described in the sections which follow.

C. PENSIONS

Many of the cases before the Board concern the carrier's supplemental pension plan. The organizations seek a number of changes expanding and liberalizing the plan. The carrier seeks relief from its heavy and growing accrued liability in sustaining the plan. There is no disagreement that the carrier's pension plan, applicable as well to its non-represented employees, is a particularly generous one and is certainly so in relation to supplementary pension benefits, if any, available in the industry generally.

In its latest proposal, the carrier has expressed a willingness to continue the present plan unchanged for current employees but seeks to provide a substantially modified, contributory supplementary pension plan for employees hired henceforth. While some of the organizations have expressed a willingness to consider such a change, they continue to propose a variety of changes in the plan applicable to current employees.

In view of the rapidly growing liabilities of the supplementary pension plan, the Board recommends adoption of the carrier's proposal to initiate a revised plan for new employees.

The savings which can be anticipated from this should aid in offsetting the wage increases recommended by the Board over the next three years.

The Board believes this new plan should be made effective without the changes recommended by the organizations in the plan for current employees. First, we note, as did Emergency Board No. 199, the existence of litigation to determine whether the Employee Retirement Income Security Act (ERISA) applies to the present plan. This case is still in court. We agree with Emergency Board No. 199 that "further negotiations...be held in abeyance during the litigation." Second, the Board notes again that the present plan provides generous benefits, with accompanying high costs. Changes such as improved vesting provisions which might well be appropriate in more modest plans are thus not recommended here.

D. HEALTH AND WELFARE

The carrier has a medical reimbursement plan whose benefit levels, in the opinion of all parties, are at the very least quite adequate. Unfortunately, the cost of the plan to which employees do not contribute has risen sharply; since 1980 the average monthly cost per employee has risen 175%. Realistically, such increase must be viewed as a serious threat to the carrier's ability to maintain this plan.

We are impressed by the scope and ingenuity of the carrier's proposals to contain its medical costs without unduly restricting medical benefits. These proposals include a cap on out-patient mental health and chiropractic visits, requiring a second opinion for certain surgery, and establishment of hospital pre-admission and concurrent review programs. These measures could produce significant savings without cost or risk to the employees. We recommend their adoption. The recent Metro-North/BRAC settlement supports this conclusion.

The carrier also proposes to institute a 10% employee co-insurance requirement based on reasonable and customary fees for a range of services. Further, it would increase the present $100 employee deductible to $400--$800 for a family, and increase the present $1000 stop-loss to $4,000. These measures would, of course, have a financial impact on the employees, though the precise impact as well as precise savings to the carrier are not now capable of calculation. We believe these proposals should be negotiated in the framework of an overriding need to mitigate any further increase in medical plan costs.

In light of the above, we recommend that the organizations withdraw their health and welfare proposals.

E. ON-DUTY INJURY SICK LEAVE

The carrier seeks amendment of the present rule which reads as follows:

> Sick leave allowance will be granted employees absent from work while incapacitated by injury received in performance of duty and will not be charged against sick leave allowable under this agreement.
>
> On-duty injuries will be treated like any other illness.

According to the carrier, this rule has come to provide the opportunity for employees who have had on-duty injuries to remain out of work indefinitely under full pay. The carrier argues that this provides a disincentive to return to work upon full or partial recovery. The organizations deny any general abuse of this provision.

As a substitute, the carrier proposes that sick leave be applicable to on-duty-injury absence and that pay for such absence be limited to an appropriate duration schedule according to the nature of the injury.

We are convinced that the present rule, as it has come to be interpreted, is too all-encompassing and does not permit reasonable control over extended absence of injured employees in some instances. The Board recommends some modification of the rule in order to restore more return-to-work incentive. The Board further recommends that the organizations address the carrier's related proposal to provide restricted work opportunities to employees able to return to work but not to their full pre-injury duties. While the scope of the carrier's latest proposal may be too broad, there is clearly room for accommodation which would continue to provide protection for injured employees during the period of their recovery from disability.

F. JURISDICTIONAL ARBITRATION

The opening of new facilities as part of the LIRR's Capital Improvement Program has spawned several costly jurisdictional disputes. The carrier expresses concern about further such disputes as that campaign comes to fruition. It proposes that there be binding jurisdictional arbitration.

The organizations' responses -- that arbitration machinery is already in place and that such disputes have been or are in the course of being resolved -- do not fully address the problem. Under the existing procedures, arbitration cannot be initiated by the carrier and in any event is not expeditious. Furthermore, we believe that simple prudence requires that the parties attempt to preclude any possible recurrence of this problem. We therefore recommend adoption of the LIRR's arbitration proposal, but with two modifications to meet legitimate concerns expressed by the

organizations. First, we think the carrier's proposed timetable should be expanded so as to give the affected organizations greater advance notification of changes and more ample time to register an informed objection. In this connection we think the timetable should be adequate to permit an arbitral award prior to the date of any proposed change, thereby precluding damage to any party. Second, because the organizations have varying abilities to shoulder even a portion of arbitral expenses, we recommend that the carrier be responsible for the full costs of the procedure it has proposed. We believe this will not adversely influence the neutral's role in that these disputes, in most instances, will address competing claims of various organizations, rather than involve a direct carrier-organization conflict.

G. SENIOR JOURNEYMEN

The LIRR proposes to create an appointed Senior Journeyman classification within each of the six shop crafts -- BRC, IAM, IBB&B, IBEW, IBF&O and SMWIA. The Senior Journeyman - who would receive $.50 per hour differential -- would have lead responsibility and high-level expertise and would perform the work of other crafts incidental to his own craft, in emergencies, and at outlying points where there was insufficient work to justify using another craft employee. The carrier disclaims any intention to create a "composite mechanic" classification and assures maintenance of craft representation and work rules.

Emergency Board No. 199 indicated that it looked favorably upon the "incidental work" rule proposed by the LIRR, but that Board made no formal recommendations because the proposal had not been adopted in the then emerging pattern settlement. That, of course, is not the situation here. We believe that the carrier's proposal represents a reasonable effort towards greater efficiency without constituting a threat to the welfare of individual craft employees or their organizations.

H. UTU-MAINTENANCE OF WAY EMPLOYEES

In reference to the UTU Maintenance of Way Employees, we recommend resolution of two issues on a basis of mutual accommodation between the organization and the carrier.

The carrier notes the inefficiency inherent in Maintenance of Way rules which prescribe a Monday-Friday work schedule, with all work on Saturday and Sunday as overtime, regardless of the number of days worked during the week. In continuous railroad operations, this is a highly unusual provision and prevents the carrier's establishment of other than Monday-Friday schedules without payment of premium time, even if work schedules are on a five-day a week schedule. The carrier seeks to eliminate this restriction, although it is willing to limit the percentage of employees who would be regularly assigned to a Tuesday-Saturday or Sunday-Thursday schedule. Such schedules are, of course, common in railroad operations.

A separate Maintenance of Way Health and Welfare Fund is maintained and administered by the UTU, stemming from these employees' previous affiliation with another union. To finance benefits under the Fund, the organization seeks a substantial increase in the carrier's previously provided fixed contribution. In exchange for revision of the rule covering weekly schedules, the carrier has offered to take over the Maintenance of Way Health and Welfare program and to provide the same level of benefits applicable to other non-operating employees.

The Board recommends that, after bargaining as to precise method of implementation, the parties resolve these two issues in the above-described manner.

I. BRAC AND PBA BARGAINING

BRAC

The Board finds that the parties were close to agreement in November of 1985. It is recommended that intensive negotiations continue along these lines, adopting where appropriate the recommendations made in this report. Although there are particular issues relating to adoption of computer technology, the Board believes that such issues are not insurmountable and further recommends establishment of a study commission as proposed by the carrier.

PBA

The parties have engaged in extensive negotiations during early 1986 and appear close to agreement. During these talks, the PBA has sought to obtain a contract similar to that of the police officers employed by the New York City Transit Authority. In return the carrier expressed willingness to accept this, provided the agreement continues to include provisions pertaining to managerial flexibility.

The Board believes these negotiations are at a point where, with some further exchange, the parties will be able to reach an agreement. They are encouraged to do so.

J. MISCELLANEOUS PROVISIONS

Numerous other proposals have been advanced by the organizations and the carrier covering items not discussed in this Report. While some of these have merit and others are clearly unrealistic, we wish to record our concern as to the lack of specific bargaining between the carrier and many of the individual organizations on these items. We have been assured by at least some of the parties that these matters can be resolved

within the framework of the major issues covered in our recommendations. We believe that these miscellaneous provisions are best left for resolution without further comment from us. Where accommodation and/or compromise are possible, agreement should not be withheld. Where other items are found to be impractical, disproportionate or of minor significance, the time is at hand for their withdrawal in the interest of early settlement.

VI. CONCLUSION

The Board offers here a set of guidelines upon which the parties may fashion agreements to govern their relationships until December 31, 1988. To achieve this goal, both the LIRR and the organizations must determine that further delay of these protracted negotiations will work to the detriment of all parties. Our study of the extensive testimony and evidence before the Board convinces us that such agreement is obtainable.

Respectfully,

Arthur Stark, Chairman

Daniel G. Collins, Member

Herbert L. Marx, Jr., Member

EXECUTIVE ORDER

12558

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ESTABLISHING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE LONG ISLAND RAIL ROAD AND CERTAIN LABOR ORGANIZATIONS REPRESENTING ITS EMPLOYEES

A dispute exists between The Long Island Rail Road and certain of its employees represented by the labor organizations named on the list attached hereto and made a part hereof.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (the "Act").

A party empowered by the Act has requested that the President establish an emergency board pursuant to Section 9A of the Act (45 U.S.C. §159a).

Section 9A(c) of the Act provides that the President, upon such a request, shall appoint an emergency board to investigate and report on the dispute.

NOW, THEREFORE, by the authority vested in me by Section 9A of the Act, it is hereby ordered as follows:

Section 1. Establishment of Board. There is established, effective May 16, 1986, a board of three members to be appointed by the President to investigate this dispute. No member shall be pecuniarily or otherwise interested in any organization of railroad employees or any carrier. The board shall perform its functions subject to the availability of funds.

Sec. 2. Report. The board shall report its finding to the President with respect to the dispute within 30 days after the date of its creation.

Sec. 3. Maintaining Conditions. As provided by Section 9A(c) of the Act, from the date of the creation of the board and for 120 days thereafter, no change, except by agreement of the parties, shall be made by the carrier or the employees in the conditions out of which the dispute arose.

Sec. 4. Expiration. The board shall terminate upon the submission of the report provided for in Section 2 of this Order.

RONALD REAGAN

THE WHITE HOUSE,
May 16, 1986

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LABOR ORGANIZATIONS

ARASA Division, Brotherhood of Railway, Airline and Steamship Clerks

Brotherhood of Locomotive Engineers

Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes

Brotherhood Railway Carmen of the United States and Canada

Brotherhood of Railroad Signalmen

International Association of Machinists and Aerospace Workers, AFL-CIO

International Brotherhood of Boilermakers and Blacksmiths

International Brotherhood of Electrical Workers

International Brotherhood of Firemen and Oilers

Police Benevolent Association

Sheet Metal Workers' International Association

United Transportation Union

United Transportation Union - Railroad Yardmasters of America Division