Part 2

NORTHEAST RAIL TRANSPORTATION

HEARINGS

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,

United States. Congress. House.

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 6591, H.R. 4897, H.R. 5822, H.R. 5385, H.R. 6880, H.R. 7373, and H.J. Res. 50

LEGISLATIVE PROPOSALS DESIGNED TO ALLEVIATE THE PROBLEMS IN RAILROAD TRANSPORTATION IN THE NORTHEASTERN UNITED STATES, AND RELATED MATTERS

APRIL 16, 17; MAY 8, 9, 10, 21, 30, 31; JUNE 6 AND 7, 1973

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Association of American Railroads:
- Ailes, Stephen, president.
- Lang, A. Scheffer, director of special studies.

Brotherhood of Maintenance of Way Employes:
- Crotty, Harold, president.
- McGlaughlin, J. Raymond, national legislative representative.
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NORTHEAST RAIL TRANSPORTATION

THURSDAY, MAY 10, 1973

House of Representatives,
Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2322, Rayburn House Office Building, Hon. Brock Adams, presiding [Hon. John Jarman, chairman].

Mr. Adams. The subcommittee will come to order for the continuation of the public hearings on the northeast railroad matter.

We have remaining as a witness from yesterday, who was not heard and who will be the first witness this morning, Mr. Michael Walsh, vice president of the St. Regis Paper Co., accompanied by Mr. Joseph McGrath, vice president for Government Affairs, National Forest Products Association, and Mr. Roy E. Olson, director of Transportation and Distribution, American Paper Institute.

Is that correct?

Mr. Walsh. That is right.

Mr. Adams. Fine.

You may proceed.

STATEMENT IN BEHALF OF THE FOREST INDUSTRIES COUNCIL, PRESENTED BY MICHAEL J. WALSH, JR., VICE PRESIDENT, ST. REGIS PAPER CO. AND CHAIRMAN, TRANSPORTATION COMMITTEE, FOREST INDUSTRIES COUNCIL; ACCOMPANIED BY JOSEPH McGRATH, VICE PRESIDENT FOR GOVERNMENT AFFAIRS, NATIONAL FOREST PRODUCTS ASSOCIATION; AND ROY E. OLSON, DIRECTOR OF TRANSPORTATION AND DISTRIBUTION, AMERICAN PAPER INSTITUTE

Mr. Walsh. Mr. Chairman and members of the subcommittee, my name is Michael J. Walsh, Jr. I am a vice president of the St. Regis Paper Co. of New York City and I appear here today as the chairman of the Transportation Committee on the Forest Industries Council. Appearing with me are Mr. Roy Olson, director of Transportation and Distribution for the American Paper Institute and Mr. Joseph B. McGrath, vice president for Government Affairs of the National Forest Products Association.

We appreciate this opportunity to appear and to present the views of the Forest Industries Council on the northeastern railroad crisis which vitally affects our industry. The Council is a policy-coordinating body located in Washington, D.C., composed of organizations with nationwide interests in the growing, processing, production and marketing of wood and wood fiber forest products.

The term "forest products" includes fiber raw material from the forest—logs, pulpwood, chips, ground material for fuel. It also includes solid wood materials—lumber, plywood particleboard and the like. And it includes products made from wood fiber, such as pulp, paper, paperboard, cartons, shipping containers and other items.

The producing member organizations of the FIC all relate to one or more of these forest products. They are the American Paper Institute, American Plywood Association, American Pulpwood Association, American Wood Council, the National Forest Products Association, Southern Forest Products Association, and Western Wood Products Association. The NFPA is a federation of 25 regional species and product organizations in the solid wood products industry.

The FIC coordinates policy on national issues for thousands of member firms. In the paper industry, we represent 700 mills of all sizes, and in lumber, plywood and other wood products we represent over 2,500 mills. The forest products industry is one of the largest employers of manufacturing labor in the United States. It is without question one of the Nation's largest users of rail service—if not the largest—both in tonnage and in dollars. Paper and wood products together generate some $2 billion annually in rail freight revenue—more than 15 percent of the total.

We estimate that about 86 percent of the total mill volume of the paper industry goes by rail. In the solid wood products industries, roughly 78 percent of all lumber, plywood and other wood products is shipped by railroad. We are responsible for about 3½ million carload shipments a year of wood fiber products, and this does not include the inbound shipments of chemicals, et cetera, used in processing wood fiber. Collectively, as shippers, we represent the largest single source of revenue to the railroads in the United States.

On the eastern railroads, which are the ones dependent most directly on the solution of the northeast crisis, shipment data for forest products in the year 1970 show an equally great involvement as shown by the following:

	Revenue freight originated		Revenue freight terminated	
	Carloads	Tons	Cerloads	Tons
Pulp, peper and allied products	370,299	11,048,741	621,971	23,969,249
Lumber end wood products, except furniture	154,655	6,549,096	415,222	16,640,936
Total	524,954	17,597,837	1,037,193	40,610,185

In terms of revenue, these shipments totaled over $365 million to the eastern carriers. This represents almost 9 percent of their total revenue in 1970 of $4.139 billion. These figures do not include the incoming chemical and other raw materials used in the manufacture of paper and its allied products.

A GENERAL APPRAISAL

It seems apparent that legislation will be needed by mid-June to keep the bankrupt rail lines in the Northeast in operation following July 2, 1973, the deadline for court-ordered liquidation proposals. We therefore urge the Congress to act as promptly as possible on the proposals now pending on this matter.

SUPPORT FOR THE DOT PLAN

We believe the plan proposed in the report of the Department of Transportation, with certain amendments, provides the most practical solution for the bankrupt lines. In our opinion, it also offers to the courts, to creditors, to labor and to all others involved a means to resolve disputes and to negotiate issues toward mutually acceptable settlements.

We therefore support the DOT plan, with some very necessary amendments as outlined in the body of this statement. It seems to be the better of the possible alternatives. Furthermore, we believe it is essential for any corporation, any new corporation, to be formed without the loss elements now present which would destroy its chances of success with private funding.

We also believe the DOT plan is meritorious because the regulatory revision which it contains would free-up all railroads, and not just those in the Northeast. This would provide for a healthier and more efficient national system, which unquestionably would also redound to the great benefit of the Northeastern roads.

STUDY OF REPORTS AND PROPOSALS

The reports submitted to the Congress by DOT and the ICC are incomplete, according to their own statements, but the concepts proposed are clear. We have considered both of these reports, and also the bill introduced on February 28, 1973, by Representative Adams, H.R. 4897 and similar bills before arriving at our conclusions. We look forward to studying the bill or bills yet to be submitted by the DOT.

Prior to the two Government reports being made public, we should also advise the committee, the FIC filed a brief with the ICC in *ex parte No. 293*, on the Northeastern Railroad Investigation. A copy of this brief is attached and made a part of this statement. [See p. 354.]

In examining the proposals before the Congress, we have been especially conscious of who it is that must pay the costs of the various proposals, and the extent to which this burden can or should be borne by some or all of the taxpayers. These, we believe, are crucial points to consider in any resolution of this matter.

We see this crisis as an opportunity to improve the entire rail situation in the Northeast and possibly in the Nation. Only through congressional legislation, however, can all of the pieces be molded together which are necessary for a comprehensive, long-range solution to the rail problems. Congress is the focal point for all of the interests involved.

COMMON POINTS OF AGREEMENT

Our statement sets forth a series of specific comments on the ICC and DOT plans. Both agree, for example, that nationalization is not the answer. Also, both agree that there is a real need for the continuation of the Northeast rail service and that we must eliminate excess trackage and develop a core rail system. Both favor a restructuring of the system, really the creation of a third and new system. Finally, we are pleased that both plans recognize the need for rehabilitation of the bankrupt rail lines and for meeting some of the difficult labor and employee protection problems.

Beyond these common elements of agreement, the plans depart from each other on the means to implement the objectives on which both agree. Here they take different tracks. We would like to comment on each separately.

THE ICC REPORT

In general, we do not agree with some of the key proposals in the approach of the Interstate Commerce Commission as set forth in its submission to the Congress dated March 26, 1973. Specifically, we cannot support the proposals for massive Federal financial assistance to maintain services while longer range programs are set in motion.

The ICC was established as, and continues to be, a regulator—and not a manager of transportation services. Furthermore, we believe that every priority should first be given to working out the Northeastern railroad problems with as little further Federal funding or financial assistance as possible. If some form of Federal aid is necessary, we recommend this be done without ransfers of property and Federal ownership or operation of the rail lines.

We, therefore, oppose title II of the bill proposed in the ICC report, for a 3-year lease of rail properties to the United States, and subsequent supervision of operations by the Government. For these same reasons, we also oppose H.R. 4897 which would establish a Government-run Northeast rail line corporation with powers to own, possess, construct, control, maintain, rehabilitate and modernize rail lines.

We do agree with and support the proposal in the ICC report for cooperative effort in identification of the high-density corridors and selection of lines to be upgraded. We would expect that the DOT would draw upon the capabilities of the ICC in carrying out this selection process. Our view is that the ICC should be in the role of assisting DOT in this, but that DOT should have the primary responsibility.

The selected, high-density "core" of rail lines in the Northeast must be self-supporting and, to be successful, they must render first-rate transportation services to the public. Only in this way will they have the confidence of creditors, which is a necessity for success in the future. Selection of the core rail service should be, as set forth on page 39 in the DOT report, "based on the concept of long-term economic efficiency in the use of transportation services."

THE DOT REPORT—GENERAL COMMENTS

The report on the Northeastern railroad problem submitted by the Secretary of Transportation to the Congress on March 26, is, in our view, the main vehicle on which to build remedial legislation. This report, as we see it, tackles the basic problems of the bankrupt railroads and, most importantly, it includes much needed regulatory reform.

The DOT plan is simple, quick and practical. It promotes efficiency and contains the nucleus of success for the future.

Having said all this, we hasten also to note that the DOT report is based on assumptions, some of which, with respect to available financing, are questionable in our opinion. Moreover, we cannot support the DOT plan without emphasizing that there are essential modifications needed in it. Accordingly, the following general comments are directed to the merits of the plan and also the critical points which need further attention.

THE MERITS OF THE PLAN

The merits of the DOT plan are several, for it endeavors to utilize the present crisis to achieve simultaneously a number of worthwhile objectives. These could probably not be reached in any other way and not without the pressures of the current crisis.

Among the objectives of the DOT plan which we support are the following: restructuring of the bankrupt rail lines in the northeast, attracting private financing to the lines by freeing them of present encumbrances, providing creditors and claimants of the bankrupt railroads an opportunity for recovery on their claims, and providing an opportunity for resolution of difficult labor issues. A bold, integrated and sharply defined approach is essential under the current circumstances and the DOT plan best meets these criteria.

The plan announced by DOT seems to be dominated by a concern with fiscal matters, that is, the funding solutions wholly dependent upon private underwriting with an effort to avoid involvement of the U.S. Treasury through Federal expenditures in any form. We appreciate these concerns of the Treasury which are reflected in the DOT report. Yet the result is to put shipping groups as well as carriers into an extreme of choices.

If the plan announced by DOT does not work, we will all be faced again with a possible repetition of the current crisis. And there is certainly no relief to be found in the highly uncertain possibility that existing carriers in better financial shape might, in the event of a financial debacle, pick up the pieces and try at least to put some of Humpty Dumpty back together again.

We believe the DOT plan is overly optimistic in its anticipation of success amidst the intensively competitive funding forces of the private securities markets. Everything may not fall into place as hoped for in the DOT plan. There should be a recognition that there are elements involved for which it is not likely that a 100-percent privately financed approach can be found.

Quite frankly, the confidence of the economists and others in Government who have developed the DOT plan is greater than ours as to the completeness of their reliance of private financing. We admire and we support this courageous step toward full reliance on the free market economy, but we are also concerned that this complete reliance is not wholly realistic under the pressures of the economic, political and social forces which are bearing down upon this transportation crisis. This is the most critical point of judgment for this committee on the course of legislative action to be taken.

In our view, even though on principle we oppose Federal funding or subsidization of rail lines, there will have to be some kind of Federal financial assistance in order to resolve the northeastern railroad crisis. To some extent Government itself is responsible for this, with a history of overprotective concern for labor arrangements and heavy subsidies to competing modes of transport.

But Federal aid can be given in several ways. For example, we support the legislation pending in Congress which would provide a substantial program of Federal loan guarantees for the purpose of assisting financially weak carriers in the regulated rail, truck, and barge industries. This program is to be found under title I, section 102 of H.R. 5385. We testified in support of this proposal last year and it also received the support of the administration. We regret this is not the case this year.

The ICC report proposes a 1 percent transportation tax to be levied on all for-hire, domestic, surface freight transportation. Our industry is divided with respect to this proposed tax and its method of imposition and we do not support this ICC proposal as submitted. The objective, however, is to provide a means of supplying funds for the bankrupt northeastern railroads without calling upon the general tax revenues of the Federal Treasury. This objective is commendable.

As we see it, the need for funds which may not be satisfied from the private securities market is:

1. To meet any losses that occur through defaults under a loan guarantee program designed for the rehabilitation of the rail lines, and

2. To provide a subsidy for rail services which would otherwise be abandoned.

SPECIFIC RECOMMENDATIONS ON THE DOT PLAN—1. FULL COMPENSATION FOR PASSENGER SERVICE

We believe that losses on passenger service are, directly or indirectly, a burden upon the costs and expenses of freight service, and thus paid by shippers like ourselves. We regret that the DOT report, specifically pages 30 and 31, says very little on this point. Our position is that continuation of passenger transportation services by the Penn Central and other lines involved should be required only if passenger service will produce enough revenue to the carriers to cover its full cost.

The Northeastern railroad corridor is the largest rail passenger channel in the Nation with reportedly a 70-percent ratio of train miles for passenger service. The reference in the DOT report, at page 42, of "possible" separate arrangements with Amtrak and transit authorities may be pointed in the right direction. But without more specifics, this is difficult to assess.

Most freight traffic moving through this corridor could move over parallel trackage on other rail lines. This would avoid the inefficient and dangerous mix of freight and passenger traffic. Today this mix is causing undue freight delays and certainly creating hazards to passenger traffic of great concern to everyone. In the future, with high-speed passenger transport, the mix of freight and passenger traffic may become impractical if not physically impossible.

In any event, the problems of passenger service constitute a separate issue which ought to be handled by the Congress independently of the proposals for restructuring the bankrupt lines. Quite possibly this committee could devise a parallel bill to be acted on simultaneously with the legislation on the northeast roads.

There are characteristics to the passenger question which do not exist with respect to the other issues. For example, there is already a Federal subsidy for passenger service and, for the most part, this question is deeply involved with mass transit issues. We therefore strongly recommend that the question of passenger service compensation in the Northeast corridor be separated out from the freight and other transportation problems in the proposals for restructuring the northeastern rail lines. Passenger services should be handled separately but concurrently.

2. SUSPENSION OF SERVICE (ABANDONMENT)

We agree that the core rail lines cannot be expected to support uneconomic rail services. There must be some way of providing, by contract or otherwise, adequate reimbursement for services rendered. Further, we do not believe that the core lines, once established, will deprive too many communities of having at least the service of one rail line.

The large-scale savings from suspension of service or abandonments should come from the elimination of duplicate main rail lines, not the branches.

The problem is recognized in the DOT report, on pages 42 and 48, but the DOT plan does not go far enough. The DOT proposal states that localities or shippers who want additional facilities should be willing to subsidize fully any deficits involved. This is simply not realistic.

We favor the proposal contained in the recommendations of the ICC report for Federal payments to States to help with financing of continuations of rail service on lines which otherwise would be abandoned.

The matching grant program proposed by the ICC should be limited to a temporary measure to bridge the gap between the time of the selection of the core rail system and the time in which it will take States, communities, and shippers to develop alternative transportation services. These can be either through creation of sufficient commerce on the rail lines involved or through the utilization of other modes.

We urge this committee to give serious consideration to the ICC proposal and to adopt the approach recommended in the ICC report. We see no other feasible alternative at this time with respect to the suspension of service or abandonment of rail lines.

3. IDENTIFICATION OF THE CORE

Related to the general question of rail service suspensions or line abandonments, and an important point in itself, is the question of procedure for identification of the core rail service, which can be found on page 39 of the DOT report.

Apparently, during a 90-day period following enactment of the enabling legislation, the DOT would prepare and make available for public comment a report on its selection of the core. Following public comment, DOT would make a final identification of the core. This decision would not be subject to judicial review. A time schedule of 90–120 days is given in the DOT timetable for this procedure, which may be found on page 59.

We object to the peremptory nature of this time schedule. There should be at least 90 days for general public comment following the announcement of the initial DOT selection of the core. Certainly the States involved, and their communities and the shippers who would suddenly find themselves losing rail services—all should be given adequate time to protest and to make their case to DOT.

This is especially important because under the DOT plan, once final core rail service is identified, the bankrupt railroads would be permitted to terminate rail service, but not abandon track, in all of those areas not included in the identified core, within a specified time period and without ICC approval. The proposal should therefore contain a provision for a 90-day "public comment" period.

4. REHABILITATION OF RAIL LINES

We agree that the rehabilitation of the basic rail systems which are involved in the Northeast must be accomplished at the earliest possible date. Also it is clear that this cannot be done at once, and more than likely it involves a 5- to 10-year program. Both time and money are needed.

We support Federal financial aid for the rehabilitation of trackage, yards, terminals, and other facilities. These must be brought up to the physical condition which will enable the carriers to compete effectively with other modes of transport.

We urge the committee to adopt a financing approach for rehabilitation on the bankrupt northeastern rail lines comparable to the provisions of title I of H.R. 5385. This would be a Federal guarantee of loans for financing or refinancing of expenditures made in the acquisition, construction, maintenance, or development of needed railroad facilities. These could include track, structures, communications and power transmission systems, signals, terminal facilities, and all of the capital items related thereto.

EMPLOYMENT AND LABOR RELATIONS

It is impossible, we believe, to separate from the transportation and financial issues the problems of labor relations and employment as they are affected by solutions to the northeastern rail problem. Obviously, the political and social considerations governing labor relations policies are also realities in relation to legislative solutions in the Congress.

CONGRESSIONAL ACTION NECESSARY

Nevertheless, any plan must provide for legislative changes which will permit the resolution of labor disputes during bankruptcy proceedings. Disputes on the bankrupt rail lines must be resolved without serious strikes or work stoppages. These could wreck the chances of success under any plan.

These employment and labor relations problems are intertwined with the general financial and operating problems of the bankrupt lines. Congress should act in a manner which will protect both the rights of labor and of management—and which, at the same time, will preclude the catastrophe of serious strikes. In doing this Congress should also make it possible for the courts and companies involved to adjust work forces so as to match reduced services and facilities.

Alternatives to strikes as a means of resolving disputes involving common carries have been proposed in the Congress during the past 2 years. A strong case can be made for such proposals. Certainly during bankruptcy proceedings the courts responsible should have the necessary powers to protect the financial position of the bankrupt lines.

AMENDMENT OF BANKRUPTCY ACT

Specifically we recommend statutory changes to the Bankruptcy Act. The power of trustees under section 77 of that act to reject executory contracts should be changed so that it is the same as now held by trustees under chapters X and XI of the act.

At the present time, under chapter VIII of the act, in case of certain labor agreements, this power by section 77 trustees, is then restricted by section 205(n) of section 77, 11, U.S.C. 205(n). This states that with respect to railroad corporations, no judge or trustee "shall change the wages or working conditions of railroad employees" except in accord with detailed provisions of the Railway Labor Act. This restriction should be eliminated.

We believe that the ability of the bankrupt northeastern railroad to reorganize, or to be reorganized, in a successful fashion, may depend in large measure on this change in the bankruptcy laws. The railroads must be able to make adjustments in existing labor agreements especially as to work rules, work forces, and other conditions of employment.

EMPLOYEE COMPENSATION—AN UNRESOLVED ISSUE

A major issue is left unresolved in the DOT report by its failure to provide a reasonable plan to deal equitably with labor forces affected by the DOT plan.

If, as DOT states, the six bankrupt railroads in the northeast employ approximately 116,000 persons in 1971, then there are possibly 300,000 or more men, women, and children dependent upon the wisdom of the Congress in protecting their contract rights from arbitrary or capricious Government action.

The DOT report simply says that, "Specific plans must be developed." We believe this should be done with expedition and with full concern for the costs involved and for the principles of justice and humanity which come into play.

We therefore support the DOT report which states an intention to develop a specific plan "to provide adequate job protection or compensation to affected employees." No estimate of precise figures as to the costs of such compensation or the numbers of employees involved can be determined until the core is identified. Because employment attrition in the east is high, it is possible that this may not be as great a problem as some evision. Also, if the core plan is successful, employment rates may go up, not down.

The discussion of railroad labor in the ICC report, on pages 36 through 39, is also helpful. As in the DOT report, page 24, it is emphasized that rail labor-management relations must be improved. We agree with the ICC report that changing the traditional practices governing that use of the work force "need not be at labor's expense, but that it should instead be to labor's ultimate benefit."

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As noted in the ICC report, there has been a consistent Government policy of protecting railroad labor. Now, with respect to the northeast lines, because of these past policies, there may be no alternative—as the ICC report states—except a Federal program to provide for the contract-guaranteed separation payments. Hopefully, in the future, there will be no need for continuing such specialized protective arrangements for railroad workmen as compared with other employees in the Nation.

ENVIRONMENTAL PROBLEMS

The impact of heavier traffic from core rail lines, and the equally significant impact of traffic from lines scheduled to be abandoned and shifted to highways, will both create environmental problems. The highway traffic will be increased with resultant air pollution and depletion of oil resources. The noise and traffic levels will be increased on both rail lines and highways.

Meeting these environmental problems will undoubtedly call for some form of Federal assistance which may or may not involve financing. Certainly the problems cannot be overlooked. This committee should address itself fully to this point.

In the case of the forest products industry, for example, even if a portion of the wood fiber products could be transported by trucks, this would thrust upon the highways inordinate and possibly intolerable additional increments of traffic, congestion, gas fumes, and consequent air pollution, plus further utilization of scarce energy supplies.

The existing levels of air pollution in metropolitan areas have become of overwhelming concern to the entire populace. Further, at this very moment, it is a source of great national concern whether present trucking operations can be continued at present levels because of shortages of essential fuels. Clearly these are matters which must be weighed very carefully in arriving at solutions in the course of these proceedings.

Some of the considerations with respect to energy, the environment, and the full utilization of our railroad systems were mirrored in the President's message on energy to the Congress, April 18, 1973. In this he emphasized that:

> . . . Our energy demands have grown so rapidly that they now outstrip our available supplies, and at our present rate of growth, our energy needs a dozen years from now will be nearly double what they were in 1970.
>
> . . . In the years immediately ahead, we must face up to the possibility of occasional energy shortages and some increase in energy prices.
>
> Clearly, we are facing a vitally important energy challenge. If present trends continue unchecked, we could face a genuine energy crisis. But that crisis can and should be averted, for we have the capacity and the resources to meet our energy needs if only we take the proper steps—and take them now.

Obviously, as the increasing shortages of domestic fuel supplies, the higher price of imported fuels and tighter air pollution requirements bring about higher total energy costs, the use of rail lines increasingly will make more sense from the standpoint of both economics and ecology.

These and other related findings were recently set forth in an independent study sponsored by Amtrak, the National Railroad Passenger Corporation. We urge the committee to give careful attention to this study and to the data which argue strongly for expansion of rail use in contrast with other modes of transportation. This would comply with the thought expressed at the end of the President's energy message, where he states:

> Today, the energy resources which have fueled so much of our national growth are not sufficiently developed to meet the constantly increasing demands which have been placed upon them. The time has come to change the way we meet these demands. The challenge facing us represents one of the great opportunities of our time—an opportunity to create an even stronger domestic economy, a cleaner environment, and a better life for all our people.

REGULATORY REFORMS

One of the reasons we favor the DOT report and its plan in contrast with other alternatives is the inclusion of regulatory revisions, found on pages 49 through 55. We strongly favor some of these and we look forward to seeing more precise legislative language in order to assess others.

Last year in extensive testimony in both the House and Senate on surface transportation legislation, we presented a series of recommendations for regulatory reforms which we believe would be helpful to the future success of railroads generally. A copy of excerpts from our testimony is attached and made a part of this statement. [See attachment B, p. 366.] At this point we would like to comment specifically upon the regulatory revisions as they are proposed in the DOT report:

LIBERALIZED RAIL ABANDONMENT PROCEDURES

We favor changes in the abandonment process so as to speed up the cases and provide standards for their resolution. Rapid investigation by the ICC and quick disposition of contested abandonment cases would be helpful. Continued operation of rail lines should not be required where they must operate at a loss. Detailed advance notice requirements are essential.

MAKING RATEMAKING MORE FLEXIBLE

We support efforts to make the ratemaking process more flexible and to improve the range of services offered without undue ICC delay.

We take exception, however, to the proposal that rail carriers be required to raise all below-cost rates to the variable cost level. Before any such proposal is acted upon, there should be a thorough resolution of what constitutes "variable costs". We supported last year, and we are pleased to see the DOT propose, on page 51, that any new rate which is a reduction from current rates should go into effect without ICC delay.

Flexibility in ratemaking is a matter considered at length by this committee in relation to the proposals last year in H.R. 11826, some of which have been reintroduced and are now pending before this committee under titles IV and V of H.R. 5385. We will examine with care the exact legislative proposals which are to be introduced at the request of the DOT to carry out the flexible ratemaking recommendations in the DOT report. At this point, however, we want to make our views on this matter very clear.

We believe a satisfactory zone of reasonableness for rates already exists today. It is to be found in the appropriate sections of the Interstate Commerce Act and in numerous interpretations by the courts and by the Interstate Commerce Commission. The floor, in noncompetitive rate situations, is the test of the variable costs specifically applicable to the movement in the issue.

Legislation establishing a floor and a ceiling would attempt by statute to provide cost criteria affecting transportation situations which essentially are fluid and changing. This approach is unwise in our opinion. So, too, could be "regulatory changes," as proposed in the DOT report, on page 50, to permit the same result.

It is important for "variable costs" as well as "fully allocated costs" to be better defined. The Interstate Commerce Commission should be provided with adequate funds and competent staff to allow it to improve materially its costing techniques on a continuing basis.

The Commission rather than DOT should be directed to promulgate rules and regulations covering accounting and costs within 1 year. We believe this should include a basic revision in the uniform system of accounts and improved methods for joint cost allocation. This is just as important to the decisions which must be made on the northeastern lines as it is for all railroads in the Nation.

ELIMINATE SUBSIDIZATION OF GOVERNMENT SERVICE AT THE EXPENSE OF OTHERS

We support the proposal that Federal, State, and local governments pay the same rate as other shippers.

RESTRICT CERTAIN PRACTICES OF RATE BUREAUS

We do not support the proposals on page 52 which would eliminate antitrust immunity in certain areas. We agree that changes can be made in the ratemaking procedures under section 5a of the Interstate Commerce Act, but to eliminate antitrust immunity in ratemaking could result in a chaotic situation for both shippers and carriers. We do, however, support independent action by individual members of rail rate associations. [See our further views in attachment B, p. 366.]

PROVIDE PROCEDURES TO EXPEDITE MERGER DECISIONS AND THE ACQUISITION AND JOINT USE OF COMMON FACILITIES, AND TO FACILITATE INTERMODAL OWNERSHIP

On this proposal, we prefer to see the precise legislative language before arriving at a policy decision. We are uncertain as to what the proposal means with respect to facilitating intermodal ownership.

PERMIT EASY ENTRY OF MOTOR AND WATER CARRIERS TO FILL GAPS CREATED BY LIBERALIZED RAIL ABANDONMENTS

We support this proposal. It is an especially important matter for lumber, plywood and paper mills which often exist in isolated areas.

AMEND SECTION 77 OF THE BANKRUPTCY ACT TO GIVE COURTS ADEQUATE AUTHORITY TO ACT PROMPTLY AND RATIONALLY TO SOLVE RAILROAD BANKRUPTCIES

We have already stated our views above on the necessity to amend section 77 of the Bankruptcy Act with respect to labor agreements. We do not support that portion of the proposal which would require trustees, with court approval, to raise rail rates to cover variable costs.

This proposal is one where we would prefer to see the exact statutory language before arriving at a complete policy position. Accordingly, we would like to reserve judgment on the wisdom of the other amendments proposed to the Bankruptcy Act until we see the legislative language.

ELIMINATE DISCRIMINATORY STATE AND LOCAL TAXATION OF RAIL ASSETS

We support this proposal.

ELIMINATE DELAYS IN STATE APPROVAL OF INTERSTATE RATES THAT COORDINATE WITH CHANGES IN INTERSTATE RATES

In general we support this proposal but we do not believe Federal law should mandate the timing of final action by State authorities. We prefer that only the initiation of action be required, in its final disposition.

CONCLUSIONS

We have devoted the major portion of this statement to a critique of the DOT and ICC proposals now pending in the Congress. However, we emphasize again that there are many common positions taken in both reports, and it is upon these common gounds which we believe the Congress must hold a final legislative solution.

Time is pressing and it seems unlikely that further delay will result in any more innovative, more potentially successful proposals. Therefore, we urge this committee and the Congress to adopt a bill along the general lines outlined in the DOT report.

It seems clear, no matter what the final legislation will be in detail, that refinements and corrections in the legislation adopted this year will be a matter of concern in the Congress next year and in the years thereafter. Only a broad outline of the proposal can be shaped in final form at this time. Some of the detail will have to be changed in the months and years ahead and others must be left for administrative resolution. Thus, the solution to the northeastern railroad crisis can and should be considered as a continuous legislative and executive process for both Congress and the administration.

We express our desire to cooperate in every way possible toward constructive efforts now and in the future.

Thank you, sir, for listening to us.

[Testimony resumes on p. 371.]

[Attachments A and B referred to follow:]

Attachment A

BEFORE THE

INTERSTATE COMMERCE COMMISSION

EX PARTE NO. 293

NORTHEASTERN RAILROAD INVESTIGATION

VERIFIED STATEMENT BY ROY E. OLSON
ON BEHALF OF THE FOREST INDUSTRIES COUNCIL, A POLICY COORDINATING BODY COMPOSED OF THE NATION'S ORGANIZED PRODUCERS OF PULPWOOD, PAPER, LUMBER, PLYWOOD AND OTHER WOOD FIBER PRODUCTS. THE COUNCIL'S PRODUCING MEMBERS ARE THE NATIONAL FOREST PRODUCTS ASSOCIATION, THE AMERICAN PULPWOOD ASSOCIATION, THE AMERICAN PAPER INSTITUTE, AND THE AMERICAN PLYWOOD ASSOCIATION

Roy E. Olson
Director of Transportation
and Distribution
American Paper Institute
260 Madison Avenue
New York, New York 10016

Attachment A

STATEMENT FOR SUBMISSION AND CONSIDERATION
BY THE
INTERSTATE COMMERCE COMMISSION
IN EX PARTE NO. 293
NORTHEASTERN RAILROAD INVESTIGATION

In response to the Order dated February 9, 1973 in Ex Parte No. 293, Northeastern Railroad Investigation, before the Interstate Commerce Commisaion, the Forest Industries Council herein submits its evidence with respect to matters appropriate to the purposes of this inquiry as described in the Order.

In compliance with the Order, the interests of a number of groups within the wood fiber industry have been consolidated so that thia submission represents a joint statement on behalf of the American Paper Institute, the American Pulpwood Association, the National Foreat Products Association and the American Plywood Asaociation.

This statement, to the extent that it reflects the interests of the groups herein ia specifically directed at the points mentioned in the Order, namely,

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(1) whether the operations, financial condition and practices of the railroads named in the Order are adequate to the transportation needs of the public and sufficient to the implementation of the National Transportation Policy; and

(2) whether there is a basis for determining that the Northeastern section of the country should be limited to service by a single railroad system or whether adequate service to the public requires operation by two or more competing rail systems; and

(3) what orders of the Commission or legislative changes would be appropriate in the premises.

STANDING AND INTERESTS OF
FOREST INDUSTRIES COUNCIL

In accordance with the Order, the standing and interests of the Forest Industries Council, composed of the organizations named above, is herewith set forth in relation to the Commission's request that evidence be supplied from interested participants in the proceeding on operating and financial affairs of the respondents subsequent to filing under the Bankruptcy Act, "including but not limited to all efforts at joint use of facilities, consolidation of properties, or coordination of operations with other carriers, and of such other matters as may be appropriate to the purposes of this inquiry."

As stated above this submission is presented on behalf

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of a large and significant block of shippers who account for about one-sixth of the total freight use of all of the railroads in the United States.

According to the best available data last year, roughly 86 percent of the total mill volume of the paper industry is shipped by rail. In the solid wood products industry, about 78 percent of all lumber, plywood and other wood products travel by railroad. Collectively, as shippers, this statement is therefore submitted on behalf of one of the largest single sources of revenue to the United States railroads.

On the eastern railroads, as to which Ex Parte No. 293 is specifically addressed, shipment data for forest products in the year 1970 show an equally great involvement as shown by the following:

	Revenue Freight Originated		Revenue Freight Terminated	
	Carloads	Tons	Carloads	Tons
Pulp, Paper, and Allied Products	370,299	11,048,741	621,971	23,969,249
Lumber and Wood Products, except Furniture	154,655	6,549,096	415,222	16,640,936
Total	524,954	17,597,837	1,037,193	40,610,185

In terms of revenue, these shipments totalled over $365 million to the eastern carriers. This represents almost nine percent of their total revenue in 1970 of $4.139 billion.

(Note: These figures do not include the incoming chemical and other raw materials used in the manufacture of paper and its allied products.)

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ESSENTIALITY OF CONTINUED SERVICE

On behalf of all elements in the Forest Industries Council, the central point here emphasized to the Commission is that a continuation of freight service is absolutely essential throughout the rail systems under examination in this proceeding. The Northeastern Railroad Investigation must encompass the far-reaching economic impacts and dislocations to the forest products industriea which would follow at once from any widespread or significant stoppage of shipments over the rail lines currently in reorganization. Specifically in this matter the Forest Industries Council wishes to make the following major points.

I. Substitute or Alternative Freight Transportation Service is Impossible.

For the total tonnage of shipments accounted for by elements of the forest products industries located on, or otherwise dependent upon, the Northeastern rail lines, substitute or alternative freight transportation service is a physical impossibility.

First, the capacity, availability, and location of the rail lines in the Northeast which are not in reorganization are simply inadequate to meet the shipping requirements of the forest products industries.

Availability of rail lines in terms of locations of plants and of customers is the controlling factor. Furthermore, the capacity and availability of alternative modes of freight transportation are even more inadequate. Indeed, for many planta

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the feasibility of any alternative mode is highly questionable. In addition, the transfer of forest products shipments from one mode of transport to another, through intermodal transit arrangements, is ruled out almost completely because of the difficulties in handling pulp, paper, solid wood and allied products.

II. Adverse Impacts of Alternative Methods of Shipment.

Beyond the impossibility of substituting alternative methods of shipment for the existing transport of the total tonnage of forest products, there are also serious and adverse impacts on the economy and the environment which must be considered in this proceeding.

Even if a portion of the wood fiber products could be transported by trucks, for example, this would thrust upon the highways inordinate and possibly intolerable additional increments of traffic, congestion, gas fumes and consequent air pollution, plus further utilization of scarce energy supplies. The existing levels of air pollution in metropolitan areas have become of overwhelming concern to the entire populace. Further, at this very moment, it is a source of great national concern whether present trucking operations can be continued at present levels because of shortages of essential fuels. Clearly these are matters which must be weighed very carefully in arriving at solutions in the course of these proceedings.

RESTRUCTURING OF ALL EASTERN RAILROADS

The Forest Industries Council strongly recommends that

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two or more economically viable and competitive railroad systems be maintained in the Northeast. They are absolutely required, in our view. This is the minimum necessary to maintain a reasonable level of competition within the rail industry and with respect to other modes of transportation.

In brief, therefore, we oppose limiting rail service in the Northeast to a single railroad system.

It is essential that a plan be formulated which would require elimination of duplicate, uneconomic and unneeded operations. Consolidation of facilities, joint trackage arrangements, abandonment of uneconomic lines, suspension of service and other means are necessary to restore rail service in the Northeast within the minimum criteria mentioned above.

To achieve this, amendments to the Interstate Commerce Act and to Sec. 77 of the Bankruptcy Act appear to be needed. These should provide additional authority for coordination of individual court actions and for elimination of the present case-by-case approach.

We do not presume to specify the details of such amendments. Nor do we believe it within our province in this submission to be involved in technical solutions. However, our response to the primary question posed in the Order as to limitation of rail service in the Northeast, is as set forth above: two or more economically viable and competitive systems are required.

COMPENSATION FOR PASSENGER SERVICE

The Forest Industries Council believes that losses on passenger service are directly or indirectly a burden upon the costs and expense of freight service. Accordingly, it is our position that continuation of passenger transportation services by the Penn-Central and other lines involved in this proceeding should be required only if passenger service will produce enough revenue to cover its full cost.

SETTLEMENT OF LABOR DISPUTES

The Forest Industries Council believes that any plan for solutions to the crisis in the Northeast railroads which are the subject of this proceeding must provide for legislative changes which will permit a resolution of labor disputes during bankruptcy proceedings. We believe it is imperative that such legislation be recommended by the Commission and be acted upon expeditiously in the Congress so that disputes on the bankrupt rail lines will be resolved without serious strikes or work stoppages.

Interruptions of service will cripple any chances for solutions to the complex transportation problems facing the railroads in this proceeding.

Alternatives to strikes as a means of resolving disputes involving common carriers have been proposed in the Congress during the past two years. A strong case can be made for such proposals. Certainly during bankruptcy proceedings the courts responsible should have the necessary powers to protect the financial position of the bankrupt lines.

These labor problems are intertwined with other facets of the general financial and operating problems now before the Commission. It seems to us that the Congress must be urged to

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act in a manner which will protect both the rights of labor and of management but will, at the same time, preclude the catastrophe of serious strikes.

FEDERAL FINANCIAL ASSISTANCE

The Forest Industries Council believes that every priority should be given to working out the Northeastern railroad problems without any further federal funding or financial assistance. Should this be impossible, however, and some form of federal financial assistance became an absolute necessity, we strongly recommend that this be done without property transfers, federal ownership or federal operation of the rail lines, rolling stock or other properties.

We oppose any federal acquisition of rights-of-way or other railroad properties.

We believe the Commission should urge the Congress to limit any federal financial assistance to security devices such as loan guarantees. Ownership or operation of railroad properties would, in our view, commit the federal government to outlays which could in a short time become an enormous burden upon the people of America. Every other solution should be fully explored and implemented.

CONCLUSION

The Forest Industries Council strongly recommends that the outcome of Ex Parte No. 293, at least in part, be the development of a legislative proposal or proposals along the general

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outline of the major points detailed above to carry out a plan for the continuance of the Northeast rail lines in this proceeding. Certainly we join the Commission and other parties to this proceeding in the hope that such a legislative plan would receive the most expeditious action in the Congress.

Should the Commission desire additional data or supplemental views on any of the points mentioned in this Statement, the undersigned on behalf of the Forest Industries Council will do everything possible to comply and cooperate promptly.

Respectfully submitted,

Roy E. Olson
Director of Transportation and Distribution
American Paper Institute

on behalf of the

Forest Industries Council

REGISTERED PRACTITIONER

Affidavit under Rule 50 and Certificate of Service attached hereto.

Attachment A

AFFIDAVIT UNDER RULE 50

The affidavit appearing below is herewith submitted as an attachment and integral part of the Statement filed in Ex Parte No. 293.

STATE of New York ,
County of New York , ss:

I, Roy E. Olson being duly sworn, depose and say that I have read the foregoing statement, know the comments thereof, and that the same are true as stated.

Roy E. Olson

Subscribed and sworn to before me this 7th day of March 1973

Notary Public of
My Commission expires

LILY KIENZLE, Notary Public
State of New York, No. 43-2109685
Qualified in Richmond Co
Certificate filed in New York County
Commission Expires March 30, 1973

Attachment A

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all respondents in this proceeding and upon all those listed in the first further ordering paragraph of the Order dated February 9, 1973; that I have this day served the foregoing document upon all parties which have given notice prior to this date of their intention to participate as provided in sub-paragraph 2 of the second further ordering paragraph of the said order, by mailing a copy in accordance with the provisions of Rule 22 of the Commission's General Rules of Practice. I further certify that I will have service made of the foregoing document on any other party which complies with the provisions of the said sub-paragraph of the Commission's Order.

Roy E. Olson

Roy E. Olson
American Paper Institute
260 Madison Avenue
New York, New York 10016

Dated: March 12, 1973

96-474 O - 73 - pt. 2 - 3

Attachment B

EXCERPTS FROM STATEMENT OF THE
FOREST INDUSTRIES COUNCIL ON
SURFACE TRANSPORTATION LEGISLATION BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
U.S. HOUSE OF REPRESENTATIVES
MARCH 29, 1972

Flexibility in Ratemaking

"We have carefully considered the proposals in H.R. 11826 for greater ratemaking flexibility as set forth under Title II, for railroads, and in the related parts of the bill for other modes. (Sections 201 (b), 204 and 205; Sections 304, 401 and 402.)

"These sections would legislate an arbitrary formula for a zone of reasonableness in ratemaking. But we believe a satisfactory zone of reasonableness for rates already exists today. It is to be found in the appropriate sections of the Interstate Commerce Act and in numerous interpretations by the courts and by the Interstate Commerce Commission. The floor, in non-competitive rate situations, is the test of the variable costs specifically applicable to the movement in issue.

"We believe that Congress wisely recognized the dynamic character of transportation and, quite rightly, delegated enforcement of transportation policy to a permanent, expert body, the ICC. Legislation establishing a floor and a ceiling would attempt by statute to provide cost criteria affecting transportation situations which essentially are fluid and changing. This approach is unwise in our opinion.

"It is important, however, for variable costs as well as fully allocated costs to be better defined. The Interstate Commerce Commission should be provided with adequate funds and competent staff to allow it to improve materially its costing techniques on a continuing basis. The Commission rather than DOT, should be directed to promulgate rules and regulations covering accounting and costs within one year as provided for in Section 202(b) of the bill.

"We support the general objective of permitting competitive forces to substitute for rate regulation. Furthermore, in meeting intermodal competition we recognize the carriers' need for flexibility to meet competitive prices. There are benefits from healthy competition and there are dangers in destructive rate cutting. Also, there is a point below which a carrier should not go to meet competition from another mode.

"The urgent need is to amend Section 15 a (3) of the Act to allow carriers to reduce rates to meet competitive situations without Interstate Commerce Commission approval, provided they meet the variable costs of providing the specific transport service to which the rate is applicable. This would allow carriers to compete for traffic based on true, inherent advantage.

"The railroads generally have been barred from doing this because of the present rule of rate making in Section 15 a (3) of the Act, which was enacted in 1958 as a compromise measure. It has caused great difficulty for the Commission and for the courts in its interpretation. Fourteen years after the 1958 amendment it is entirely possible that we may be back in the approximate posture of the law prior to that date. For example, it remains unsettled what is a proper test of the low-cost carrier and, even if a cost advantage can be demonstrated, how far a carrier may go in asserting that advantage in its rate.

"Meanwhile, the rail share of freight traffic has continued to decline especially in respect to the more remunerative types of business. The condition of the industry has worsened to a degree that makes the mounting of a competitive offensive considerably more difficult. Unless the railroads are according some degree of flexibility in the use of ratemaking initiatives, we see little hope for a redress in the industry position."

* * * * *

Rate Bureau Provisions -- Section 5a Immunity

"We support continued antitrust immunity in rate making. We agree that changes can be made in the rate making procedures under Section 5a, but Title V of H.R. 11826 goes too far. Moreover, we believe the provisions under Title V, if enacted, could result in a chaotic situation for both shippers and carriers.

"Long haul shippers rely heavily upon the services provided by rate bureaus. Removal of antitrust immunity, in our opinion, could place restrictions upon rate bureau actions so severe as to render them ineffective in the areas of service needed by shippers. In lieu of this proposal, we think that the objectives of increasing competition among railroads could be accomplished much more effectively by a relatively few and minor changes in the existing law.

"Rate bureaus could perform a more valuable service, and competition would be enhanced, if their procedures were more clearly prescribed. What is needed, we believe, is to strengthen ICC's enforcement authority over rate bureaus. We recommend, therefore, that this transportation legislation contain amendments to the ICC Act to cover the following:

(1) Assurance of the free right of independent action by carriers must be strengthened. Carriers should have authority to establish rates which are local to their own line or in a joint action with a connecting carrier.

(2) Rate bureaus should not be permitted to oppose such freight rates established independently and announced by individual carriers. The total strength of a rate bureau should not be used against an independent action by any carrier.

(3) It should be required that procedures of all rate bureaus be made uniform and provide for public hearings and appropriate appeal of bureau action.

(4) Only those carriers which participate in traffic involved in a rate action should be eligible to vote on the matter. Carriers which do not or will not participate in traffic should be ineligible to vote in any rate bureau action on the matter.

(5) The value and need of total publication of all rate bureau actions, including independent agreements between shippers and carriers, has been demonstrated throughout our industry. Any new legislation should certainly carry clear requirements for publicizing procedures to assure that all rate setting decisions are kept in the public domain.

"Some parts of these recommendations are now included in the language of subsections of H.R. 11826 under Title V (Sections 602(6), (7) and (12)), and other elements were included within antitrust guidelines offered by the

Department of Justice in its testimony. We would be happy to work with the Subcommittee and its staff, therefore, in developing our recommendations as appropriate amendments to H. R. 11207 or H. R. 11826 in place of the proposal to remove antitrust immunity. This proposal is far too drastic a measure, in our opinion, and would do more harm than good."

* * * * *

Mr. ADAMS. If there is no objection to the record being held open? Is there objection? Hearing no objection, that will be so ordered. Thank you very much for an excellent statement.

Mr. Podell?

Mr. PODELL. Thank you, Mr. Chairman.

I am sorry that I was a little detained and missed the earlier part of your statement, but I was very much interested in knowing as a shipper, and obviously you use the rails substantially, is there any significance to the fact you were the only shipper requested to testify before the committee?

Mr. WALSH. Mr. Podell, we couldn't understand it ourselves. We thought there would be greater shipper interest. I have no way of knowing why other shippers did not request time to appear. We thought it was important to us.

Mr. PODELL. Now your industry—and if I am wrong please correct me—cuts lumber, cuts trees, and delivers them?

Mr. WALSH. That is right. We manufacture, well, everything from the tree, from the wood fiber product including plywood, lumber, paper, corrugated containers, and such things.

Mr. PODELL. Isn't it possible that under DOT proposal there is a substantial amount of branch lines that will have to be eliminated and your industry will be most adversely affected because yours is probably the most remote of all branch lines and the least used by passenger services or most industries. You are out in the forest, yet you support the DOT proposal?

Mr. WALSH. We support it because it identifies the core and in most cases the traffic generated at the stations would justify the continuation of a line from the revenue point of view with the exception of losses where small operations exist.

Mr. PODELL. But isn't it a fact that the branch lines that go out to your forests are probably the least used of most branch lines totay?

Mr. WALSH. Probably when you consider the passenger element, yes; but not the freight element.

Mr. PODELL. And therefore wouldn't you say that these branch lines that you use are perhaps more expendable than others in the fact that they are less used than others, and wouldn't that be a normal followthrough?

Mr. WALSH. It would be normal if you only considered passenger aspects, but these lines are heavy freight-generating points and I think the railroads rely in many cases on those lines as revenue producing. It is true we have pulpwood operations in isolated areas and we believe we would lose some service unquestionably.

We are also interested in a healthy viable industry, so we have to forgo some service in order to accomplish this.

Mr. PODELL. Did you have a meeting with the DOT to discuss what branch lines may or may not be cut down under their proposal as yet?

Mr. WALSH. We have talked to them, but we have not been able to determine exactly what would be cut down.

Mr. PODELL. They have not given you any indication at all?

Mr. WALSH. No. They have not provided information.

Mr. PODELL. I notice on page 8 you stated that under the DOT proposal it will attract a great deal of private financing. You, sir, are a businessman and I am sure that on occasion you have invested in various enterprises as an individual. Would you invest your capital in such a railroad, or buy stock in such a railroad, as an individual?

Mr. WALSH. Mr. Podell, did you understand we had a favorable impression as far as the availability of capital?

Mr. PODELL. Yes.

Mr. WALSH. We do not. We don't believe capital from private sources would be available to the carriers.

Mr. PODELL. It is not what you said unless I misread your statement. I will refer to it.

Mr. WALSH. That is what I meant to say.

Mr. PODELL. "Among the objectives of the DOT plan," and this is page 8, "which we support are the following: restructuring of the bankrupt rail lines in the Northeast; attracting private financing to the lines by freeing them of present encumbrance" and so on and so on.

That indicates to me you feel somehow along the line the DOT proposal will attract private financing.

Mr. WALSH. Somewhere along the line at a future date, it would. However, we said later on in the statement we did not think at the outset private capital would be available, but perhaps as the lines became viable by virtue of restructuring, capital could be made available to them.

Mr. PODELL. Right now you wouldn't put your hot iron into it, though, would you?

Mr. WALSH. No, sir.

Mr. PODELL. And is it true you have 9 percent of the total amount of freight that is transported?

Mr. WALSH. In terms of tonnage and revenue, it is 15 percent actually. We are talking nationwide.

Mr. PODELL. And in the Northeast?

Mr. WALSH. The Northeast, we have about 389 paper operations on the northeastern railroads. On page 3 we give statistics and we have over 700 or 800 lumber operations on the northeastern railroads.

Mr. PODELL. Too bad we can't get wood.

Mr. WALSH. We need it. Yes.

Mr. PODELL. Now, some industries are subsidizing some of the railroads and I think the Central of New Jersey does get subsidy from private industry.

Would you consider subsidizing some of these branch lines or underwriting some of the operations that might be needed?

Mr. WALSH. Where it is essential that the line be continued for our own operations, we have entered into arrangements with the carriers to provide a differential over and above the normal freight rate to continue those lines.

Mr. PODELL. Now, what happens if they knock out your branch lines? What are you going to do?

Mr. WALSH. I think at that point we would have to find some alternative, which is normally trucks, piggyback or some other means of moving the freight.

If we could not find an economical system of doing it, we would have to close down a particular operation or consider other alternatives, but, generally speaking, there are alternatives.

Mr. PODELL. You also said in the statement there should be some days for public comment after the core routes are announced. Don't you think before the Congress acts, these core routes should be announced?

Mr. WALSH. I did interrupt the statement for a minute and we really recommended that the idea suggested yesterday concerning the identification of the core should be made to this committee prior to the time legislation is adopted.

We did say that.

Mr. PODELL. All right, I must have not been here. You also indicate that the mortgage trustees of a railroad would be willing to exchange their present secured obligations for the stock of the new corporation.

Do you really believe that?

Mr. WALSH. I think it is one alternative for them and I think it is perhaps a better alternative than just liquidation of a nonoperating facility.

Mr. PODELL. Let's say, for example, there is 4½ billion of secured creditors of Penn Central, and I think if the Penn Central were to go down or were to be sold at such a good price that the secured creditors would get their money; do you think any one of the secured creditors would change their secured position for a plain stock, no matter who issues it?

Mr. WALSH. It would be hard for me to judge it. It depends on what is involved.

Mr. PODELL. Well, would you as an individual?

Mr. WALSH. I might do it rather than getting nothing. There is at least a possibility if the new system becomes viable that that stock would be worth something.

Mr. PODELL. You mean everyone of these people that lost money in the stock, generally the average fellow that bought railroad stock is not Mr. Laborman or the guy on the street or the middle class, but he is usually the guy that got himself a little tax writeoff along time ago for the stock he bought, so he is even and the Government pays for it one way or another.

The fellow who loses his secured interest, of course, will do the same. Is he going to jeopardize the possible tax writeoff he would be able to achieve by his loss to take paper that you yourself agree is not worth very much at this point and may be worth something years from now?

I wouldn't think so, really.

Mr. WALSH. It is questionable.

Mr. OLSON. That would depend on everybody's individual tax situation, would it not?

Mr. PODELL. Yes; I just assumed for the moment that most people who get involved with railroads and railroad stock are in a pretty good bracket.

Secretary Brinegar had indicated that about 53,000 jobs, or about half of the northeast railroad employees, would be eliminated during the first year of the core system.

Now, could you tell us how we could improve the rail system—and obviously it must be improved—if we are going to fire half of the people that work there? Do you have any thoughts on that?

Mr. WALSH. I think if the core system were designed to attract additional freight that might be moved by other modes of transportation today and improve its position—well, with regard to the lessening of jobs I don't know, I think there should be a relationship to the number of jobs required and if half of the jobs are required to operate this efficient system, I think the overall public interest would be improved.

Mr. PODELL. No; you know what disturbs me is this: You indicate you now transfer your lumber by rail and obviously if there is no rail you can use piggy-back or use the trucks and the highways and so on.

But the fellow working on the railroad for 20 years cannot now drive a truck, and the individual that requires the railroad for personal transportation to get to where he is going on the branch line will find it difficult hitchhiking on one of the piggyback truck or trucks on the highway. I think the Congress has to be primarily responsible to the passengers, as the first order of business, and, of course, second, to see to it that the freight and that the appropriate goods are delivered from one point to another to satisfy the needs of our consumers.

I think that the railroad is a quasi-public responsibility. It is not the kind of private business such as yours, cutting trees down and getting paper. Railroads are important for the needs of our country and of course in times of defense needs it is taken over by the Government for top priority.

I was thinking that it might improve the situation, and I would like your reaction, sir, if there could be some sort of amalgamation in the northeast area. We have six or seven bankrupt railroads now. I was amazed to find out yesterday that these fellows never even sat down together over a table with a cup of coffee to discuss their common problems. Don't you feel it wouldn't be a bad idea if the six or seven got together and determined that maybe together "We could solve one of these problems"?

Mr. WALSH. We happened to be here and heard that part of the presentation yesterday. I would think they should. I believe Mr. Nash indicated he has been in contact with his connecting lines of Reading and the CNJ.

Mr. PODELL. Individually?

Mr. WALSH. Yes, and we happen to have a plant located on the CNJ that went out of business and was taken over by Lehigh so they have worked out some agreements between themselves.

Mr. PODELL. My time is about up, but I would like to make a further point with you first.

Do you feel it would be beneficial for the Federal Government to buy or take over the rail lines itself, the rights-of-way, and pay for them?

Mr. WALSH. It is our position that we prefer they do not, but devise some sort of loan guarantees and keep the railroads under private enterprise.

Mr. PODELL. Yesterday Mr. Nash testified it was his hope the Government would do that. What about the yards and all of the appurtenances which Mr. Nash testified to that he hoped the Government would buy?

Mr. WALSH. We would prefer they remain as private enterprise and that loan guarantees be modified.

Mr. PODELL. Well, I thank you very much.

Mr. ADAMS. Thank you, Mr. Podell.

Mr. Harvey?

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Walsh, I have one observation to make and I am not sure it is even a question, but on page 12 of your statement I notice you stated that you did not believe that the core plan once established will deprive too many communities of having service on at least one rail line. Yet, Penn Central claims its system should be cut from 20,000 to 11,000 miles or almost 50 percent.

Then I note you said you believed DOT should have to make public the core plan prior to adoption of any legislation.

Mr. Walsh. Yes.

Mr. Harvey. My observation is that if Penn Central has to cut their lines from 20,000 to 11,000 miles, we are going to have 10,000 miles of unhappy disgruntled mayors, city councilmen, businessmen, and others who are going to descent upon this committee after which we will not have any legislation whatsoever.

I can tell you that we have been through this abandonment business before and the trouble that it causes, and basically that is why the ICC has such a difficult time wrestling with it and the railroads have such a tough time doing it.

I don't think DOT can possibly set forth the specifics of a core plan before legislation is enacted establishing the criteria under which such a plan is to be drawn.

Mr. Walsh. Mr. Harvey, we meant to indicate a general indication of the plan. We know you can't be too specific on it.

In our off-the-cuff comment which was not in the printed statement, a general indication of the plan prior to enactment of the legislation.

Mr. Harvey. You do agree it would cause great disruption?

Mr. Walsh. Yes. We have one other point, though, certainly the 11,000 miles announced by Penn Central is more than we contemplated. They were talking about 5,000 miles originally of excess track.

In many cases you do have two railroads either in a town or city or village that could extend their line and operate into those plants formerly served by Penn Central, a major point I think you would have to clear up.

Mr. Harvey. No further questions.

Mr. Adams. Mr. Kuykendall?

Mr. Kuykendall. It is good to have you with us, gentlemen.

Could you summarize what the DOT anticipates, and the part that you generally approved by saying that you took the guts out of the system and put it back together as a viable institution?

Mr. Walsh. That very much describes it under the private enterprise system.

Mr. Kuykendall. Under the private enterprise system.

Then and only then can we stay private?

Mr. Walsh. Yes.

Mr. Kuykendall. Let's talk for a minute about who gets rescued if you go to nationalization or seminationalization. Is it not correct that in the order of priorities, in any sort of receivership, the common stock is last in order?

Mr. Walsh. I believe so.

Mr. Kuykendall. That whatever little people are involved in the Penn Central receivership are probably involved through common stockholdings from profit-sharing trusts, pension plan ownership of stock, and so forth?

Mr. Walsh. Yes. I have to believe that, yes.

Mr. KUYKENDALL. So is it not true that the huge financial institutions of this country will primarily be the ones rescued if the Government goes in and buys and pays off?

Mr. WALSH. That is a logical conclusion, yes.

Mr. KUYKENDALL. I think we ought to get on record as saying that.

Mr. OLSON. But aren't the facts on the record on this point as to who the creditors are, and their size, and stockholders?

Mr. KUYKENDALL. Yes.

Mr. OLSON. So it is not speculation.

Mr. KUYKENDALL. No, it is not speculation except in the talk of people who do not bother to read the record and that accounts for ninety-nine and ninety-nine one-hundreths percent of all of the people.

When you saddle any institution with a continuing loss, what is your inevitable result—other than the Federal Government?

Mr. WALSH. That would be the inevitable result, Federal Government.

Mr. KUYKENDALL. Bankruptcy, right?

Mr. WALSH. You have the same situation in Canada, where you have Canadian Pacific operating at a profit, $28 million last year.

Mr. KUYKENDALL. There is also Southern with a stock split last year. I happen to feel that railroads can be successful. I happen to feel that railroads can be profitmaking organizations. We have proof all over the United States except in the northeast corridor that they can be.

Now, I like your comment a while ago that our free system can come up with alternative solutions.

I am sorry that truck lines are not scheduled to be witnesses in the hearing at all. Is that not so?

Mr. ADAMS. They have not been scheduled as yet.

Mr. KUYKENDALL. There are many rescue operations to be handled by them and I would like their opinion of their ability to do it. I happen to think their ability to do it is very great.

Mr. WALSH. We find it is very great under some circumstances.

Mr. KUYKENDALL. I believe you said flatly that you did not see any way that passenger service, could be part of a viable corporation?

Mr. WALSH. Yes, I don't think it pays its way.

Mr. KUYKENDALL. No way it can?

Mr. WALSH. Unless you raise the charges to the point they cover the expenses and then people wouldn't ride the trains.

Mr. KUYKENDALL. So there is no way?

Mr. WALSH. That is right.

Mr. KUYKENDALL. You are the biggest single user?

Mr. WALSH. We believe we are.

Mr. KUYKENDALL. You are both heavy and bulky, so you take a lot of space and weight both.

Mr. HARVEY. Nothing personal.

Mr. WALSH. I was not sure where he was going.

Mr. KUYKENDALL. Well, "slim and trim" might be an insult.

OK. So can we summarize by saying this, that the necessity of being tough in cutting down to the bone is because this is the only way that the thing can survive and not be back in our laps?

Mr. WALSH. Right. We believe that, Mr. Kuykendall.

Mr. ADAMS. Thank you, Mr. Kuykendall.

Mr. Shoup?

Mr. Shoup. Thank you, Mr. Chairman.

Mr. Walsh, you state you support the DOT plan with amendments and as I go through all of your testimony it appears as though the only thing left are the letters "D-O-T." I would say that in your testimony you do not show any optimism for private-risk capital bailing out the railroads.

It seems to me that this is the core of the DOT plan, this is the entire thrust of the plan.

Mr. Walsh. Yes.

Mr. Shoup. I don't believe after reading your testimony that you really do support the DOT plan.

Mr. Walsh. I think there is one basic part of the DOT plan we do believe in, and that is ability to keep the railroad in private enterprise rather than any Government corporation or Government operation at that point.

Mr. Shoup. That leads me to the next question.

Have you had the opportunity to review the suggestion made by the president of the Union Pacific on a solution of the overall problem of railroads?

Mr. Walsh. I know he made a statement recently, but it is in connection with RFT-type operation.

Mr. Shoup. Yes, but may I suggest you get familiar with it and perhaps you may find it will be more to your liking, and I know it is to mine, and I think the answer is within the private enterprise field with possibly some assistance.

I have no further questions.

Mr. Podell. Will you yield?

Mr. Adams. Yes.

Mr. Podell. Mr. Kuykendall, in questioning you, indicated that in nationalization the common-stock owner is the last to be satisfied. Mr. Kuykendall makes a very good point, as he usually does. Under the present system, is it not a fact that the only way the rails can survive is by an infusion at this time of Federal assistance in one form or another?

Mr. Walsh. Yes, I believe so.

Mr. Podell. Now, the only distinction between that and nationalization is, as was put by one of my southern colleagues some time ago, that under the program of infusion Federal funds without nationalization, the Government pays for the barn, the Government pays for the feed, and the Government pays for the fodder and the railroad gets the cow.

Under nationalization, the Government gets the entire operation that is just about the entire distinction.

I am not much on farming, but I thought it sounded pretty good in any event.

Mr. Walsh. You got the wrong end of the business.

Mr. Adams. The cow?

Mr. Kuykendall. As a representative of the heart of the farm belt, I would like to welcome to the farm bloc Mr. Podell.

Mr. Podell. The Borough of Brooklyn in New York, if the chairman will yield for a moment, was at one time great farming country, by the way.

Mr. Adams. Gentlemen, we want to thank you very much for your testimony this morning. It was very helpful and we will certainly examine your whole statement which has I notice a number of other specific comments which I referred to, such as that perhaps we should give the Secretary of Transportation the authority to carry out his plan, but provide a financial basket in the event it does not work. We will actively work on that.

Thank you very much.

Our next witness this morning is Mr. Stephen Ailes, president of the Association of American Railroads.

Mr. Ailes, the subcommittee welcomes you to the witness stand this morning. Would you announce to the subcommittee, so we have it for the record, the name of the gentleman who is with you. As regards your statement, I notice that you have a written statement and you can certainly give a summary of it or you may proceed to read through it, whichever you prefer.

I have just one thing to indicate to you. I know the committee members will be very interested in questioning you about the position generally of the American railroad industry, because we have had the trustees here and I might also announce to you that we are scheduling representatives of the major brotherhoods as soon as possible and we, of course, are hopeful of having other trustees and other people who are involved in this situation.

Now, if you want to proceed, the committee will be happy to hear your testimony.

STATEMENT OF STEPHEN AILES, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS; ACCOMPANIED BY A. SCHEFFER LANG, DIRECTOR OF SPECIAL STUDIES

Mr. AILES. Thank you very much, Mr. Chairman.

I am accompanied by Mr. Scheffer Lang, who is the director of Special Studies of the Association of American Railroads and is also known to this committee as a former and the first Federal Railroad Administrator.

My name is Stephen Ailes. I am president of the Association of American Railroads. The members of the Association of American Railroads are class I railroads representing 97 percent of railroad mileage and 97 percent of railroad revenues received in the United States. The membership also includes some railroads other than class I as well as members from Canada and Mexico.

This committee has received a number of analyses in varying depths, some of which propose and recommend specific courses of action. Among them have been those presented by the Interstate Commerce Commission, the U.S. Department of Transportation, and the trustees of various carriers in section 77 bankruptcy proceedings. All contribute toward a better understanding of the problem, of its underlying causes, and all contribute to the search for the best possible solution. I commend this committee, the Senate Commerce Committee, DOT, and the Commission for their constructive efforts in this regard.

This statement will not offer still another set of recommendations but, instead, will attempt to focus on what we consider to be the salient facts involved, and will offer some conclusions which seem basic to whatever resolution may finally be adopted.

At this point, I should emphasize that the railroad industry fully recognizes the magnitude and seriousness of the problems of the

Northeast and the extensive impact that any course of action will have on the industry. We, like many others, are extremely gratified that the principal proposals fall far short of proposing permanent Government ownership or operation of the Northeast system, a development which would alter the course not only of the railroad industry, but of the Nation. We are satisfied that in the Northeast, one or more privately owned and operated railroad systems can succeed. We do believe, however, that some form of Federal financial assistance, at least on an interim or transition basis, will be needed. We are dedicated to making the plan work once the course is charted. I do not suggest that there is only one appropriate course of action—I do suggest, however, that there are a few fundamental concepts which must be essential features of any plan of action.

One of those concepts which appears most fundamental and most important, and with which there seems virtually no disagreement, is that the problem is not one railroad alone, just the Penn Central, or indeed six bankrupt railroads—the problem is the entire Northeast region.

The causes are general throughout the region and affect each of the separate railroad companies which serve the area. The solution must create a viable railroad system for the region and include all of the railroads in it, both those in bankruptcy and those which are not. The highly important point is that a solution cannot be based solely on the problems, needs and rights of the bankrupts and those they serve but must deal with the problems, needs and rights of the nonbankrupts and those which they serve.

Indeed, the rail system nationwide is extremely sensitive to what happens to the railroad system in the Northeast. The scope and significance of the railroads now undergoing section 77 Bankruptcy Act proceedings compared with those in the entire eastern district and with the total rail system of the United States can be seen from the table in exhibit A. The railroads of the eastern district comprise around one-third of the U.S. railroad industry and the section 77 railroads represent about one-half of the system operating in the eastern district. Railroads in the eastern district receive 35 percent of total rail freight revenues nationwide. A large portion of the transportation service represented by such revenues involves interregional shipments and other railroads.

What has been happening in the Northeast? The railroads of the eastern district, as railroads have collectively, lost money every year for at least the last 5 years.

Mr. PODELL. Will you yield at this point?

Mr. AILES. Surely.

Mr. PODELL. Will you provide us with a population ratio as well?

Mr. AILES. I am sure we can. Yes, sir.

Mr. PODELL. Population of individuals per square mile per route mile.

Mr. AILES. Certainly.

[See letter dated May 15, 1973, to Chairman Jarman, p. 379, this hearing.]

Mr. AILES. The railroads of the eastern district as railroads have collectively lost money every year for the last 5 years. Even as freight railroads their operations have been marginal or worse throughout that period. The chart in exhibit B [See p. 387] indicates that, compared with freight revenues for all class I railroads, the freight revenues of both the section 77 Northeast railroads and five other selected Northeast railroads have declined rather steadily over the last 6 years.

Exhibit C [See p. 388], "Eastern District Freight Income," shows a steady decline since 1966 in net ordinary income attributable to freight service for the eastern district railroads, and that in the past 3 years such railroads collectively have been unable to earn income, suffering substantial losses, even disregarding passenger operations.

One of the factors both resulting from the financial situation and contributing to the problem, and one which tends to have a pyramiding effect, is described in exhibit D [See p. 389] which shows that the capital replacement rates of section 77 bankrupt roads for the past 10 years have been seriously behind the national average for the industry. When it is considered that the national average is depressed because of the relatively low earnings of the industry as a whole, the low capital replacement rates of the bankrupt carriers become still more significant.

In spite of this grim recital, it is extremely important to note that the economy of the Northeast is not itself in desperate condition. Beyond a doubt, there is an adequate business base in the northeast region to support a privately owned railroad system. There has been a steady growth in the economy of the northeast region. The constant dollar value of shipments—exhibit E [See p. 390] for the New England region and the mid-Atlantic region for the years 1965 through 1971 have followed the same upward trend lines as for the United States as a whole. Measured in terms of real personal income—exhibit F [see p. 390]—the northeastern region shows little variation from the United States as a whole.

The conclusion is inescapable that the region has not collapsed economically, but that it has grown steadily and prospered during the last 6 years. The difficulty, however, is demonstrated by exhibit G [see p. 390], which shows that while the economy of the region improved in terms of value of shipments, the share of such shipments handled by rail as shown by tonnages originated has declined steadily. Essentially the same conclusion is apparent from exhibit H [see p. 391], which shows that while the constant dollar personal income increased steadily during the 6-year period, rail freight tonnage received in the region declined. And lastly, a similar conclusion is apparent from exhibit C showing a steady decline in net ordinary rail income from freight service.

The railroad financial record in the northeast, moving in an opposite direction from the economy of the northeast, simply reflects the fact that within eastern territory there is today an overexpanded railroad system. A partial cause is Government policy which is developing the interstate highway system, and in concentrating a significant part of it in this area, produced tremendously effective truck competition.

Yet, as the Commission, in its report, stated:

> The maintenance of high quality railroad service in the northeast, capable of meeting the reasonable transportation requirements of the users and of the communities in the region, is essential to the economic health of the region as a whole.

Because this region is still heavily dependent on rail service, as is so clearly demonstrated every time a strike occurs or is threatened, because the national rail network cannot function without an efficient northeast segment, and because a privately owned and operated system represents the optimum end result, some way of solving the current economic problem of railroad operations in the northeast must be found.

It is the conviction of the railroad industry that a private enterprise solution is possible and that a privately owned and operated network can render the needed service, be self-supporting, and function smoothly and efficiently as part of the national system.

Heaven knows, that is a goal worth striving for.

The Department of Transportation report shares this view:

"Quite clearly there is a healthy rail system trying to crawl out of the northeastern wreck. All of us working together can help it escape."

Gentlemen, we have talked about this subject for the last 6 months continuously and it is a major item of discussion at all of our board meetings and at every conference I have with any railroad president anywhere in the country.

I am confident, based on these extensive discussions in the industry, that solvent railroads are prepared to cooperate in the achievement of a private enterprise in the northeast solution and to undergo reasonable enterpreneurial risks toward that end.

Some matters need to be solved, however, before that solution can be achieved. And their solution may well require participation by the U.S. Government. Thus, passenger transportation in the northeast corridor, particularly between Washingron and Boston, must be recognized as a special problem and dealt with as such.

The portion of the Penn Central which extends from Washington, D.C., to New York City and on to Boston, comprises some 450 route miles of high-quality, high-capacity railroad line. It is a very good railroad. This is predominately a passenger railroad in the sense that more than two-thirds of the train miles are represented by commuter and intercity passenger trains. The best and most heavily patronized passenger service in the United States uses this route. Yet, the corridor passenger services fell substantially short of providing adequate compensation to Penn Central in 1972.

A solution to this problem is regarded by the trustees as one of the basic conditions for a successful reorganization of the company. Continued operation of the corridor by the Penn Central under present conditions substantially impairs the prospects for a successful reorganization of that company under section 77 of the Bankruptcy Act. Indeed, I believe most consider a solution to the corridor problem to be an essential part of any solution to the northeastern problem generally.

It is inconceivable that the Congress or the public would permit the abandonment of these passenger operations. For instance, if the Penn Central were to be ordered to be liquidated. I am confident no private railroad would want to purchase the corridor if it incurred the rendering of passenger service with it.

If that is true, the only choice would be abandonment of that service unless the Government would be prepared to buy the corridor itself in front of the courthouse and continue the service.

I just can't believe—Mr. Harvey was talking about abandonment a while ago—I can't believe that that passenger service could be terminated in view of the use it receives and the important function it serves.

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That is why I say it is inconceivable to me that this Congress or the public would permit the abandonment of it. This problem of the corridor must be considered in that context.

On the contrary, there is growing demand for more and better service, particularly in terms of the speed of intercity trains. Projections of the travel market by the Federal Department of Transportation point to a very substantial growth potential, and—quite apart from considerations of ecology and the conservation of energy resources—the prospect that improved passenger services could eventually be made economically self-supporting. To achieve this potential, however, will call for major expenditures for improvement of the plant, and this in turn leads to consideration of the acquisition of the corridor right-of-way by Government, either through purchase or long-term lease. Such a transaction could not only resolve the problem of inadequate compensation for present service but could also make much needed funds available to the trustees—subject, of course, to the rights of creditors.

As I said earlier, no other railroad has indicated an interest in acquiring this right-of-way, and in all circumstances, no such offer can be expected. On the other hand, the so-called northeast corridor project developed by the Department of Transportation contemplates the purchase or lease of this property by the Federal Government or one of its agencies.

There seems to be a growing consensus in the railroad industry, and I must say on many other sides, and certainly on the part of both management and labor that Federal acquisition of the corridor would be a logical step, and if proceeded with immediately, could make a significant contribution to the prospects for a successful reorganization of Penn Central.

I must say as long as the Penn Central is in reorganization the options available to the Government with respect to how that corridor could be acquired are substantially greater than they would be on liquidation.

Mr. ADAMS. What was that again, Mr. Ailes?

Mr. AILES. As I say, as long as the Penn Central is in reorganization, the options available to the Government as to the manner in which the corridor could be acquired are significantly greater than they would be if the property were up for sale in front of the courthouse.

Mr. ADAMS. Which would be cheaper.

Mr. AILES. Well, this option could include a lease. It is perfectly conceivable, to me at least, that a lease arrangement could be worked out with the trustees of Penn Central, perhaps loaded at the front end if necessary, but I don't know how that could ever be done if the property were up for sale in an ordinary equity receivership situation in front of the courthouse.

Mr. ADAMS. Wouldn't it be cheaper to buy it after the court receivership sale, rather than buying it while operating?

Mr. AILES. I don't think so at all. In the equity receivership situation, you are going to have other bidders who are not saddled with the problem of running the passenger service.

In other words, I think there is one thing quite clear under the law and that is that if the railroad is to be liquidated, because the reorganization has failed, that property is to be sold free and clear of any obligation to render common carrier service. Therefore, we are talking about its value as real estate.

I am, you know, not thoroughly familiar with everything on that line, but I am fairly familiar with what is in the city of Washington in that passenger business and I can tell you it is worth a tremendous amount of money as real estate.

If the Government sought to condemn it out from under the sale at liquidation, the price that the Government would pay would be based on the market value on liquidation of that property as real estate unencumbered by any obligation that the common carrier service be rendered.

Mr. PODELL. Will you yield?

Mr. ADAMS. Yes; I am sorry I interrupted because I am going to limit everybody to 5 minutes, because I know everybody wants to question.

Mr. PODELL. On that one point?

Mr. ADAMS. Yes; but I will take it out of your time.

Mr. PODELL. Isn't what you are saying that the Government, if it does, under one form or another, take over the rights-of-way, that it is best to take it in liquidation, rather than buy in at the sale and wipe everybody out?

Mr. AILES. I think those last two things are the same. What I am saying is it would be much better, and I am going to so recommend when I get to the end of my statement, that a corporation be created today to take over the corridor and operate it and that it be a Government corporation and be authorized to go ahead and negotiate with the trustees on the manner in which it is to be taken over.

My point is that it would be a lot better for the Government to take it now under an agreement made with the trustees and approved by the court, on perhaps some sort of lease basis, something negotiated and worked out carefully, than it would be to take it on liquidation, because at that point they have to either go in and outbid everybody else piece by piece, which is obviously no way to take a railroad, or condemn it. At that point a valuation proceeding follows which raises not only the question of, "What is this property worth when sold in front of the courthouse unencumbered by this obligation to render common carrier service" but also other principles of law that grow out of the *Hudson Tube* case which Bob Blanchette talked to the committee about 2 days ago. That is a case, if I am thinking about the same one that he is and I think I am, where the tubes under the river with zero salvage value and a losing value as a going concern were held by the courts to be worth a great deal of money because the city of New York wanted to buy them to operate a tube, or a subway through them.

So, you can end up in that kind of proceeding owing not only the liquidation value but a going concern value as well as all of these principles come into play.

I am just saying, in terms of price the Government would be so much better off to undertake to negotiate some sort of arrangement with Penn Central while in reorganization.

Another fundamental concept is that the eastern railroad freight system must be restructured in order to be self-supporting. The system is incapable of supporting itself in its present configuration even if the burden of passenger service were to be removed entirely. This is demonstrated in exhibit C portraying the inadequacy of income of the northeastern railroads from freight service today.

This restructuring undoubtedly will make possible the abandonment of some railroad mileage. It has become clear, however, that the mere abandonment of light density lines will not generate enough savings to solve the problem. Neither will the mere abandonment of redundant main line trackage generate enough savings.

The industry recognizes, moreover, that the wholesale discontinuance of rail service to thousands of communities throughout the Northeast is neither in the public interest nor in the long-run interests of the viable U.S. railroad system.

What is necessary and desirable is the elimination of the wasteful duplication in railroad operations that persists in the overbuilt eastern district of our national system. Thus, the "restructuring" to which I refer would be intended not to abandon service, but to make that service more efficient and effective through a drastic reduction in circuity of routing, unnecessary train-yard and industrial switching, unnecessary freight car delays, and duplication of management functions. The resulting improvements in public service and elimination of unnecessary costs is the only answer to the Northeast railroad problem short of massive, continuing Government subsidization of an anachronistic collection of railroad operations which are incapable of a satisfactory job for the public.

Note here that any plan which provides Government financial assistance only to bankrupt railroads will inevitably put any presently solvent railroads, and their employees, in an impossible competitive position. The inevitable result of any such differential Government financial assistance is that those companies which are still solvent will be forced to sell their properties to any Government-created entity set up to provide financial assistance to their competitors or go bankrupt and go on the Government dole along with their competitors.

This process of "creeping nationalization" will, in its turn, eliminate the interrailroad competition which so many insist must be maintained in any private enterprise solution to the Northeast railroad problem. An entity supported directly or indirectly by tax dollars will not abide the economic inefficiencies inherent in the present pattern of widespread railroad-to-railroad competition in the Northeast. It will inevitably take over the operations which compete with it.

If restructuring, which I have discussed before, is essential to financial viability, it seems clear that we should get on with that job forthwith. It is too early, moreover, to talk in detail about the legislative provisions and the corporate arrangements appropriate to such a restructuring; inasmuch as we still do not have a clear idea of what it would involve. Specifically, the creation of the ultimate plan to deal with the Northeast railroad problem requires three inquiries at the outset:

1. A reasonably detailed specification of how railroad operations in the eastern district, including those of both the bankrupt and nonbankrupt carriers, should ideally be reconfigured.

2. Based on the restructuring plan, a reasonably detailed estimate of the costs associated with labor displacement and relocation.

We just don't know what it is unless you know how this system should be restructured.

3. A preliminary estimate of the subsidies that might be required for continuing operations on lightly used but socially necessary branch

line mileage, if indeed it proves to be desirable, but you have to know what that problem is before you know what the cost of solving it is.

Once such information is in hand, the need for Government financial assistance can be properly assessed and the need for new or revised corporate structures can be identified. In other words, then and only then will it be possible for Government and the responsible railroad companies, present and future, to work out a plan that will satisfy all of the widespread public interests which are so clearly involved.

Finally, I should point out that any workable plan for thus restructuring and revitalizing this crucially important segment of our national transportation system could not go forward except to the extent an expeditious procedure is provided for Government approval of the changes required. Lengthy proceedings are out of the question in this context.

Clearly, the interests of present railroad employees must be recognized and dealt with fairly in whatever we propose. The diversion of intercity freight and passenger travel to other modes of transportation has caused a steady and substantial reduction in railroad employment needs. The vitally important restructuring process which I have discussed above will predictably reduce those needs even further, at least in the short run.

Hopefully, that situation will bottom out if what we are talking about here really works.

As the report of the ICC emphasized, this problem derives most importantly from our national policies and programs of recent years. Thus, the cost of protecting the employment rights of labor now or prospectively rendered excess, as well as the cost of the substantial restructuring of work assignments and relocation of employees required by the restructuring now so clearly in prospect, can be viewed as "social costs" for which Government logically bears a major responsibility.

Against the backdrop of these fundamental considerations and requirements as we see them, let me go on to give you my personal observations on how this whole problem should be dealt with at this point in time. First, I think prompt and immediate steps should be taken to create a Northeast Corridor Corporation, wholly Government owned, that would be authorized to acquire, by lease or by purchase, the railroad facilities extending through the Northeast corridor from Washington to Boston that are necessary to the operation of improved intercity and commuter rail passenger service.

As I have already suggested, this is a natural and inevitable evaluationary development which must take place independently of any resolution of the Penn Central bankruptcy or of the other problems of our eastern district railroad system. All the Penn Central bankruptcy says about this problem is that, if it is to be done inevitably, it should be done now. As I said earlier, the options are greater if it is done now.

Second, a special study commission should be created forthwith under the aegis of the Department of Transportation to prepare a report on the required restructuring of our northeast railroad system, together with estimates of the social and capital costs attendant thereto. This commission should be instructed to report back to the Congress within a period of no more than 3 months, or 4 or 5, whatever it really looks like is required.

I am sure that the major railroad companies owning and operating property in the eastern district would contribute time and effort to and participate in such a commission study with enthusiasm.

I visualize that the proposals emanating from the work of such a commission would provide a basis for such congressional action as is required to enable a group of private railroad companies to create an efficient, high-quality railroad freight transportation network spanning the entire region east of the Mississippi and north of the Ohio and Potomac Rivers.

Congessional action may involve:

1. Prompt approval of facility transfers and new operating arrangements among railroads.

2. Possible interim Government financial assistance for dealing with the social problems of displaced and relocated labor.

3. Possible Federal and local government assistance for the continuance of uneconomic but necessary branch line service.

4. A program of loan guarantees for the restructuring and rehabilitation of the necessary fixed plant.

Such a program, the whole program, would obviate the need for any program of continuing Federal subsidies and would not require the Government to undertake the financial risks of railroad property ownership other than for the Northeast corridor passenger railroad.

As a final word, I would point out that the financial assistance provisions of H.R. 6880, the Surface Transportation Act, provide for one part of the Government assistance that this overall scheme would require. And, in my judgment, financial assistance of this character should be available to all who can qualify under the terms of that statute rather than being limited to bankrupt carriers.

That is why I think it is so important it be done that way

Mr. Chairman, that completes my statement.

[Testimony resumes on p. 391.]

[Exhibits A through I, referred to, follow:]

EXHIBIT A

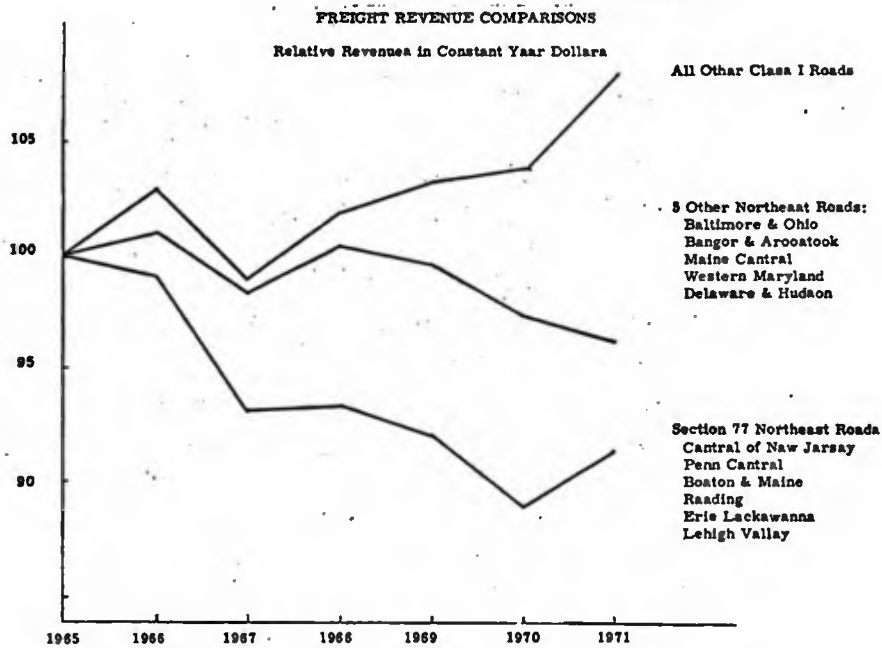
EASTERN DISTRICT RAILROADS (1972)

	Total, United States	Eastern district	Sec. 77 roads
Route miles	204,000	52,000	27,000
Freight revenue (millions)	$12,600	$4,300	$2,400
Net ton miles (millions)	800,000	237,000	106,000
Employees	523,000	207,000	109,000
Route miles/square mile	5.72	12.25	

EXHIBIT B

FREIGHT REVENUE COMPARISONS

Relative Revenues in Constant Year Dollars



Source: Transport Statistics in the U. S. (I.C.C.)

EXHIBIT C

ESTIMATED EASTERN DISTRICT FREIGHT INCOME [1]

	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972
Total revenues assignable to freight service	3,251	3,309	3,450	3,613	3,708	3,624	3,830	3,977	4,163	4,342	4,521
Total operating expenses assignable to freight service [2]	2,452	2,454	2,547	2,593	2,672	2,723	2,895	3,052	3,337	3,463	3,476
Net rents for freight equipment and facilities	(174)	(187)	(198)	(226)	(232)	(277)	(313)	(325)	(366)	(407)	(411)
Railway tax accruals for freight service [3]	295	300	304	308	293	287	305	311	355	346	365
Fixed charges on freight facilities and equipment [4]	152	152	162	179	189	202	215	243	267	273	263
Total expenses assignable to freight service	3,073	3,093	3,212	3,307	3,386	3,489	3,728	3,930	4,325	4,489	4,515
Net ordinary income attributed to freight service	178	217	238	306	322	136	102	46	(162)	(147)	7

[1] Including C. & O., N. & W., and R. F. & P.
[2] Allocated between passenger and freight (as per ICC).
[3] Passenger proportion (as per ICC) deducted.
[4] Allocation between passenger and freight estimated on basis of split in depreciation accounts.

Source: Transport Statistics in the United States (ICC).

EXHIBIT D

CAPITAL REPLACEMENT RATES (1962-71)[1]

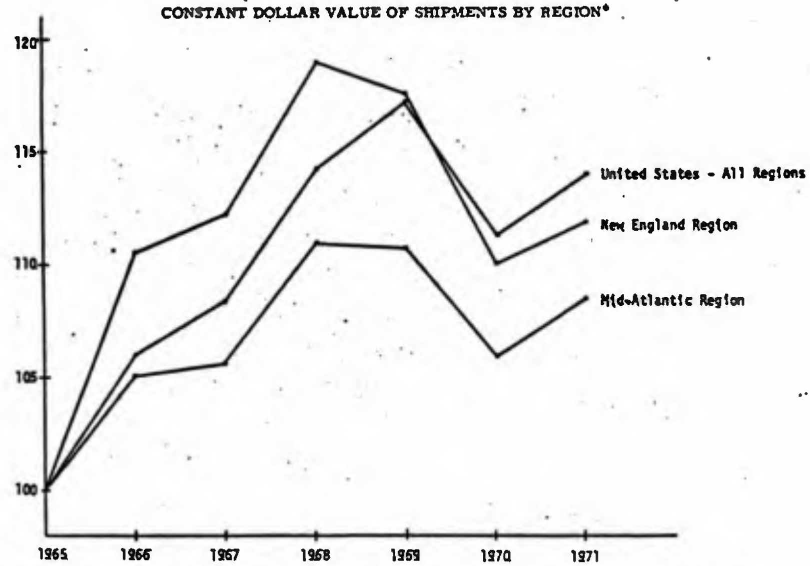
	1962-66 average	1967-71 average
		2
Boston & Maine	1.3	1.1
Central of New Jersey	1.9	1.2
Erie-Lackawanna	3.0	3.9
Lehigh Valley	1.1	1.7
Penn Central	3.5	2.7
Reading	3.8	1.
Eastern district—all	4.5	4.0
Southern Railway	5.4	8.9
Southern Pacific	5.8	5.3
Class I roads outside eastern district	5.7	5.4
All class I roads	5.2	5.3

[1] Rate in percent of net investment replaced per year (capital expenditures per net investment).

Sources: Transport statistics (ICC); annual reports of class I railroads.

EXHIBIT E

CONSTANT DOLLAR VALUE OF SHIPMENTS BY REGION*



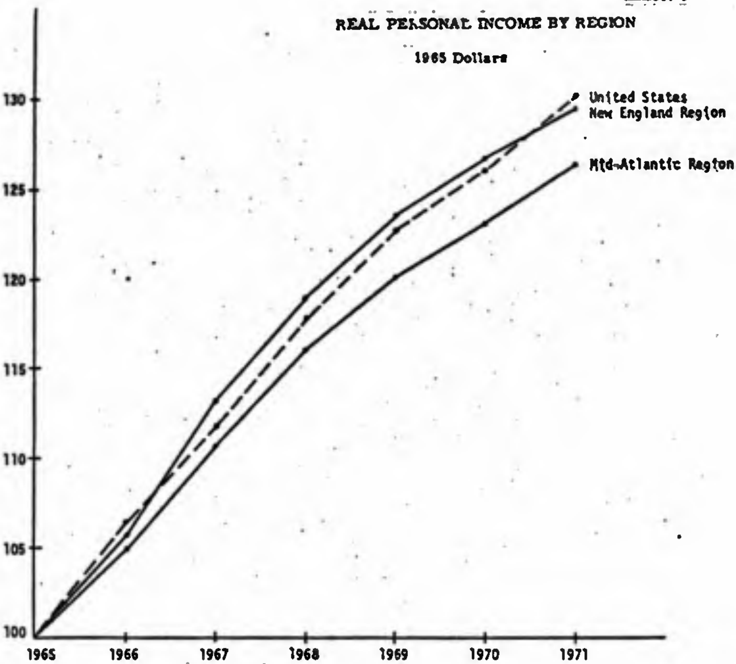
* Value of Shipments deflated by Wholesale Price Index. 1971 values by Region estimated from Department of Commerce data.

Source: Census of Manufactures and Annual Surveys of Manufactures (U. S. Bureau of the Census)

EXHIBIT F

REAL PERSONAL INCOME BY REGION

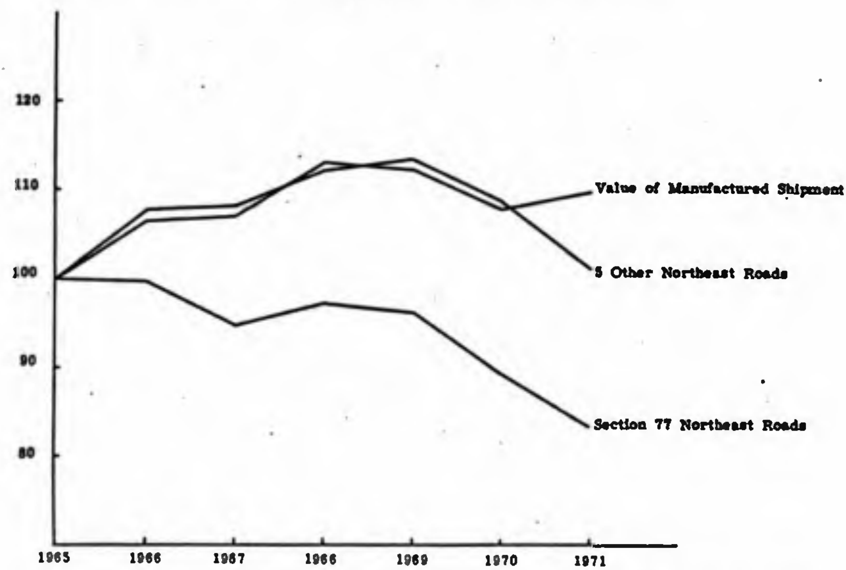
1965 Dollars



Source: Department of Commerce, Office of Business Economics

EXHIBIT G

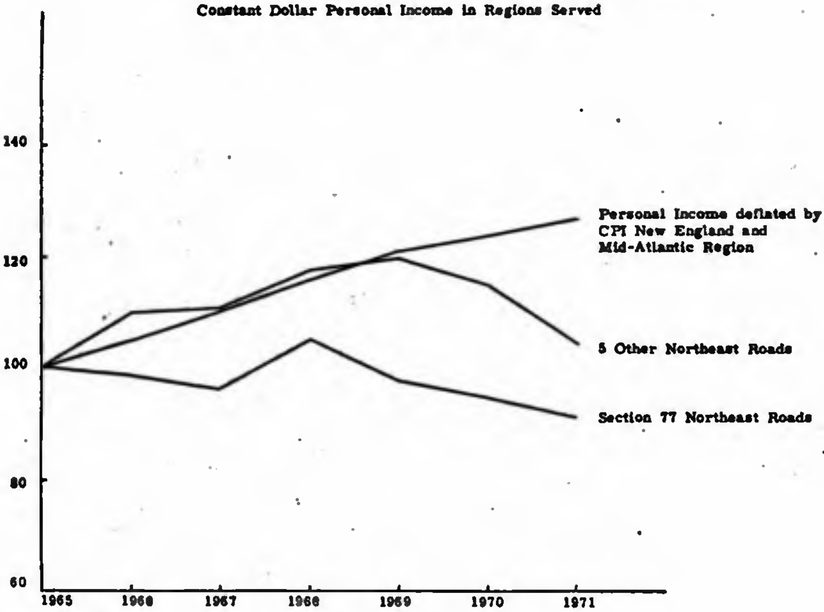
Rail Freight Tonnages of Manufactured Commodities Originated
vs
Value of Manufactured Shipments in New England & Mid Atlantic Regions
(1965-1971)



Source: Census of Manufactures and Annual Survey of Manufactures (U. S. Bureau of the Census)
Freight Commodity Statistics: Class I Railroads of the U. S. (I.C.C.)

EXHIBIT II

Freight Tonnage Terminated *
vs
Constant Dollar Personal Income in Regions Served



*Excluding coal and ores.

Sources: Office of Business Economics (Department of Commerce)
Freight Commodity Statistics: Class I Railroads of the U. S. (I.C.C.)

EXHIBIT I

INTERCITY RAIL AND TRUCK, REGULATED VERSUS PRIVATE CARRIAGE MARKET SHARE

[In billions of dollars]

	1961	1971
Rail	8.7	11.7
Regulated intercity truck	7.5	16.8
Private and unregulated truck	11.7	21.7

Source: All figures from TAA "Facts and Trends," January 1973, quarterly supplement.

Mr. ADAMS. Thank you very much, Mr. Ailes.

I would like to say to the committee members I can see that with the available members, I will have to limit everybody to 5 minutes the first time around and that everyone will have an opportunity. Since I broke in, I will not question at the early stages until everybody else has and I recognize Mr. Podell.

Mr. PODELL. I agree, Mr. Ailes, with a great number of things you spoke about in your statement. You know in New York State we have a program that we have some 8,500 different units of local government, each operating independently, and with a multiplicity of operations and duplication of efforts there has been a proliferation of local governments over the years. The same thing is true of the railroads, and I think we can agree some consolidation of effort is required.

Mr. AILES. Right.

Mr. PODELL. Do you agree further we should consolidate the operations perhaps of these seven railroads under this governmental umbrella that you mentioned?

Mr. AILES. What I say, sir, is you can't look at this problem in terms of the seven railroads or six that are in bankruptcy but you have to look at all of the railroads in the Northeast.

Mr. PODELL. You would expand it even further?

Mr. AILES. Yes, sir. I think if you put all of the seven bankrupt railroads together, that you would have a permanent Federal subsidy for them and probably put the other railroads in the Northeast out of business in the process and that is a pretty poor solution to the problem.

What we are talking about here is that it would make a lot more sense to rationalize the operation in the Northeast.

To put it another way, what we need is operational rationality as well as system rationality. The only way to do it is get the right people around the table under the aegis of the Government to figure out what the final system would look like.

Mr. PODELL. You would agree the long-term solution would be a consolidation of the rail systems in the Northeast area under one umbrella, isn't that exactly what you are saying really?

Mr. AILES. I am with you until you say one umbrella. I think you might end up with three or four railroads operating under private ownership and that would involve a lot of consolidation and furthermore it involves some trades among those systems.

Mr. PODELL. Wouldn't it result, as you suggested, that this rather small umbrella would put into bankruptcy the other private railroads which would not be able to compete truly with a railroad that gets all of the rights-of-way paid for by the Government?

Mr. AILES. I don't want to see anything like that happen. I think really, if you worked out a system in the East where you had genuine operational rationality, as we said here over and over again, you would have a railroad system that would be as healthy as the railroad systems in the South and West, which are very healthy.

Let me say this: The Government may have to do some things to facilitate getting from here to there, but that is the goal.

Mr. PODELL. Our problem is substantially different in the Northeast corridor than in the South.

Mr. AILES. When you say "Northeast Corridor," those problems are entirely different, but I put this corridor to one side, I would take it out of the problem today by buying it for the Government and saying, "let's now worry about the freight network for the rest of the northeast, which is really a different problem."

Mr. PODELL. In other words, what you would want the Government to do is in one form or another to buy the rights-of-way?

Mr. AILES. For the corridor and the corridor only. That means the old Pennsylvania line from here to New York, the commuter lines around there and the old New Haven line from New York to Boston.

Mr. PODELL. Won't you include the other six bankrupt lines?

Mr. AILES. No, sir.

Mr. PODELL. Then you disagree with Mr. Nash who testified here yesterday?

Mr. AILES. If he said the Government ought to buy the other six bankrupt railroads, I disagree with him.

Mr. PODELL. He said the Government ought to buy his railroad, at least buy the rights-of-way to his railroad and then they ought to buy the buildings and terminals.

Mr. AILES. Then I disagree with him.

Mr. PODELL. Then he just said he would like to run it.

Mr. AILES. I am sure he is one of my members, but I am compelled to disagree with that conclusion. I don't think the Government has to buy anything but the corridor to do this job.

Mr. PODELL. The chairman just looked at me and my time is up.

Mr. ADAMS. The time for the gentleman has expired.

The gentleman from Michigan is recognized for 5 minutes.

Mr. HARVEY. Mr. Ailes, I want to ask some questions about the passenger service between Washington, New York, and Boston.

Mr. AILES. Right.

Mr. HARVEY. You discussed it on pages 6 and 7 of your statement.

You say: "The best and most heavily patronized passenger service in the United States uses this route, and, yet, the corridor passenger services fell substantially short of providing adequate compensation to Penn Central in 1972."

Mr. AILES. Correct.

Mr. HARVEY. If this is true, why has it fallen short? Isn't the best route in the United States the most heavily populated and heavily used and why has it fallen short in providing passengers?

Mr. AILES. I suspect, Mr. Harvey, the passenger business loses money everywhere in the world no matter how it is operated.

Mr. HARVEY. Give that to me again.

Mr. AILES. I said I suspect that the passenger business loses money everywhere in the world no matter how it is operated. All of the railroads of all of the other nations of the world which are with one exception, as you know, operated by the government, and most of which are heavier in the passenger business than we are, have very substantial operating deficits and the simple reason is that it is almost impossible to support a passenger operation out of the fare box. The contracts that the U.S. railroads have with Amtrak does not begin to pay the railroads for the costs they incur in rendering the service to Amtrak, and yet Amtrak loses money.

The Penn Central situation is worse than most, because in the corridor their railroad is predominantly a passenger railroad and to try to put all of the maintenance of way costs on the freight end of it is really grossly unfair.

There is a modification of their contract for that and a proceeding before the ICC to do something about it, but they are underpaid in terms of what it is costing them to render the service today.

Mr. HARVEY. Is this true of the Metroliner also?

Mr. AILES. Yes, sir.

Mr. HARVEY. Even though it is running 100 percent, if you have to wait 2 weeks to get a reservation?

Mr. AILES. Sure. The Metroliner produces positive cash flow but it does not—I have to be careful, because the Penn Central contract is a little different than the others—but it does not begin to pay the full cost of rendering that service.

Mr. HARVEY. On page 11 of your statement your first recommendation is "to create a Northeast Corridor Corporation, wholly owned, authorized to acquire by lease or purchase the railway facilities."

What do you have in mind—that this corporation in turn lease these facilities to Amtrak?

Mr. AILES. Yes.

Mr. HARVEY. Why do we have to set up a separate corporation? Why shouldn't Amtrak itself own it? Why spend money to establish another corporation if one corporation can do the job?

Mr. AILES. There is only one reason to say it should be separate from Amtrak and that is because Amtrak is privately owned in part. Three of the railroads own stock in Amtrak and I have a little trouble, and I am sure you do, with the Government stepping in and buying a huge piece of property that is valuable property, which is going to appreciate in price and turning it over to a privately owned corporation.

That is the only problem I have. If there is a way to work it out legally in total fairness to the taxpayer who buys that right-of-way, then I would say "Give it to Amtrak."

As you know, the Government also has to purchase some lines from the Erie Lackawanna and Central of New Jersey and others that are heavily used in this commuter business, which is vitally important to the people involved.

Mr. HARVEY. The cost of purchasing that right now would be almost prohibitive, would it not?

Mr. AILES. Yes.

Mr. HARVEY. You are talking about extremely valuable properties.

Mr. AILES. Yes; it is huge.

Mr. HARVEY. And in probably the highest priced areas in the United States.

Mr. AILES. That is exactly right, but it is just inconceivable to me—again you were talking about abandonment here a minute ago—it is inconceivable to me if Penn Central goes into liquidation and the choice is buy or abandon that passenger service, that Congress will be willing to abandon it.

Mr. HARVEY. If Penn Central went into liquidation, wouldn't this be one of the first areas that would be grabbed up by one of the other roads?

Mr. AILES. No, sir. No; I tried to make that clear and there is a sentence in the statement that so states. I don't believe for a minute, and I have heard it from all of the people involved—Graham Clayton has said it publicly—that another railroad will come forward to put up $1 billion to buy a piece of property that projects about $90 to $100 million loss a year to them. There is no way you can get that done.

So the people that are going to buy this property are the real estate speculators, the fellow who would like to develop the coach yard down in back of the Union Station which is worth about $70 million. He is the buyer that is going to buy it, but if the Government lets that happen, it will shut down the Metroliner and all other corridor passenger service which is so heavily patronized.

I am of the view when that happens Congress is going to decide we have to continue this service.

Mr. HARVEY. But that real estate you talked about is for use of the movement of freight as well as passengers?

Mr. AILES. No, sir.

Mr. HARVEY. Is it strictly a passenger line?

Mr. AILES. For instance I talked about the coach yard near Union Station and under agreement there is no freight that goes in there. No; there is a freight and passenger mix all of the way up, but they should be separated and divorced for the reasons Bill Moore stated 2 days ago, for reasons of efficiency. He can't operate the freight system efficiently now because he has only 500 trains between 9 a.m. and 9 p.m. on that system.

Mr. HARVEY. Thank you very much.

You have been helpful and very informative.

Mr. ADAMS. Thank you, Mr. Harvey. The gentleman from Tennessee.

Mr. KUYKENDALL. Mr. Ailes. for the matter of the record, let's clarify this. Government owner hi) of the property between here and New York would include leasing to a freight-hauling railroad as well as to Amtrak?

Mr. AILES. It depends upon what property this Government acquires.

Mr. KUYKENDALL. But you do anticipate freight service between here and New York?

Mr. AILES. Yes, sir.

Mr. KUYKENDALL. Who is to run it?

Mr. AILES. I anticipate extensive freight service on that system. There is a lot of industry whose freight goes westbound out of the corridor.

Mr. KUYKENDALL. Would the owner of this strip of track and all of the property lease a service to Amtrak?

Mr. AILES. Yes.

Mr. KUYKENDALL. Will they not also be leasing service to a freight-hruli ıg railroad?

Mr. AILES. The only reason I don't categorically say yes is that I don't know whether you can split out of that six, five, four, three, two track system between here and New York a separate passenger system.

Mr. KUYKENDALL. Do you think there is a viable freight business between here and New York?

Mr. AILES. Yes; if it is not rendered impossible by the passenger business.

Mr. KUYKENDALL. In other words, you say if Penn Central would come in between here and New York, and New York did not have so subsidized allocated costs between then and Amtrak, they would break even or better on the freight service?

Mr. AILES. Yes. One other point. There is a substantia' expenditure required to divorce that freight business from the passenger business in operational terms.

If you assume that is done, the answer is: "Yes, that is an excellent freight business."

Mr. KUYKENDALL. I heard a story the other day by a knowledgeable man. Somewhere slightly east of Philadelphia there was an imaginary north-south line that east of which, railroads, even without passenger service, would make no money and west of which they would make money.

Have you heard of such a thing, a kind of dividing line that over here they can make money and over here they can't.

Mr. AILES. Have you ever heard of that?

Mr. LANG. No.

Mr. AILES. Even he does not know about that.

Mr. KUYKENDALL. So you are saying that there is no part of the whole eastern quadrant that could not be made into a viable freight hauling area if you had your choice?

Mr. AILES. That is right. I think that is right. What I am saying is, if you rationalize the plant, rationalize the operations and get them in tune with the economy of the area it would be a highly successful railroad freight operation.

Mr. KUYKENDALL. I am sorry I didn't hear more testimony the other day because I have tremendous respect for the gentleman, particularly his home base.

Mr. AILES. May I say something?

Mr. KUYKENDALL. Yes.

Mr. AILES. What Bill Moore said was that he operates 638 trains a day between New York and Washington, and over two-thirds are passengers and commuters, intercity passengers and commuters, and as a result his freight operation is in real difficulty.

He gives the passenger trains priority, of course, but it takes forever to move his freight on that line.

One of the things that has to be accomplished is that division and severance of the two services.

Mr. KUYKENDALL. You and your predecessor in the testimony before the committee, have stated there is a question of whether a heavy passenger and freight operation can operate on the same tracks effectively at all. What is your answer to that?

Mr. AILES. You have two or three problems there.

Mr. KUYKENDALL. They wear up the track badly, for one thing.

Mr. AILES. Yes; but that can be handled in the normal situation around the country generally.

I think you have a difficult problem in a heavily congested area of running high-speed trains.

If you have a lot of congestion and you are giving the passenger trains priority, your freight operation then may be in serious difficulty. Another is the problem of safety when running trains at speeds that some of these studies contemplate, in close proximity to freight service. That will be a serious problem.

Mr. KUYKENDALL. Are you suggesting that there be a completely separate nonfreight entity between here and New York?

Mr. AILES. Yes, sir.

Mr. KUYKENDALL. Thank you, sir.

Mr. ADAMS. Thank you, Mr. Kuykendall.

Mr. Shoup of Montana is recognized for 5 minutes.

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Ailes, up until this morning I have been lacking the position of the Association of American Railroads because the answer I received from your organization has been that you preferred not to get involved, you didn't want to preside at the funeral of one of your members.

Mr. AILES. That is not a direct quote, sir.

Mr. KUYKENDALL. It is a pretty good one, though, isn't it?

Mr. SHOUP. I see that this morning you have recognized the fact, it is a fact, that something must be done, and for this I congratulate you.

Mr. AILES. Mr. Shoup, I have to say this. This is not a new stance with us. We have been working on this problem night and day for months. We have been determined that we are not going to do anything to interfere with the ability of Penn Central to be reorganized and we have also felt that it didn't make a lot of sense for the railroad industry to have a plan that it was fighting for in competition with a lot of other plans.

Mr. SHOUP. My disappointment, Mr. Ailes, was this: You people certainly have more expertise in operating a railroad and I look to you in the industry as advisers as to the best way to operate the rail transportation system that we need. To go along with this, there is one of your member railroads, I think only one, that has put forth a somewhat detailed plan and suggestion.

Mr. AILES. Right.

Mr. SHOUP. Have you any comments on that?

Mr. AILES. No, sir.

Mr. SHOUP. I am speaking for the record of the plan proposed by the Union Pacific.

Mr. AILES. We, of course, are quite familiar with the plan and have had extensive discussions with Frank Barnett and Bill McDonnel, general counsel, who worked on it extensively.

There are a lot of aspects of that that I am sure are useful. Our basic feeling is that there is an earlier problem that has to be solved before one really knows which of the various available routes to a solution should be used.

That earlier problem is the problem of how to restructure the whole northeast and how to cut back on interrailroad competition in the northeast to the extent that it is plainly required—if any resulting set of railroads is going to operate successfully there.

Mr. SHOUP. I would agree with you very much, that certainly his thrust is for the long run, the healthy revitalization.

Mr. AILES. Right. It may very well be when we know more about the problem really is, that he has some mechanics that would be highly useful toward achieving the desired end.

Mr. SHOUP. You say, and I do agree with you, there we are faced with two problems and I think probably we could fall into a trap if we attempt to solve them both with only one plan.

One final question.

Mr. Ailes, I am somewhat surprised with your statement on page 12, you have been around long enough and I do criticize this with tongue in cheek, but I think we must be practical, you speak of a special study commission and I find nothing wrong with that, but this commission should be instructed to report back to Congress within a period of no more than 3 months.

Mr. Ailes, it takes more than 3 months to choose the members of the commission, you know that.

Mr. AILES. I just wanted to make it clear we thought it ought to be done quickly. There are those among my associates who would say that this time is a terribly brief time. The pressure comes in part from the fact that I would hope that if a step like this were taken that the Penn Central would not have to be forced into liquidation until the conclusions of that study came out. That is why I tried to put a short time on it.

Mr. SHOUP. The study commission, will you clarify it. Is it to study the short term or long term problem?

Mr. AILES. No, we are trying to solve the long term problem. What the commission may come up with is the mechanism for doing it, but what has to be done is a reduction in interrailroad competition in the whole northeast.

How much of that can be done in the first bite I do not know, but when the process is begun you are aiming toward financial viability for all of the carriers.

Mr. SHOUP. Again, my congratulations for your taking a positive stand now in working toward a better transportation system.

I yield back the balance of my time.

Mr. ADAMS. Thank you. I will try to proceed for 3 minutes and then go to you, Mr. Podell.

Do you think, after, and I am asking this in the structure of your organization, that after the years and the fights that have gone on in the railroad industry, take the Rock Island case, for example, take the rate division case of South versus East and so on, that your organization could come up with a plan, even if we authorize the Department of Transportation to have the railroads meet together or we provided some kind of antitrust immunity?

Mr. AILES. Mr. Adams, I don't think our organization can if you mean of the AAR, although we have done a lot of work on the problem, but I do think the railroad could individually.

Mr. ADAMS. You say the railroads could. We asked the trustees of the Penn Central and the other bankrupt railroads whether they could give us their plan as to how this would work.

In your judgment, do you think that if we asked the solvent lines plus the bankrupt lines to come in and tell us what the plan is, that they could make such a presentation to the committee?

Mr. AILES. No, sir. They don't have such a plan, because this is something that has to be worked out cooperatively. You have to start with the idea that you want to find out what a rational efficient railroad operation in the Northeast would be and that requires some technical work by competent people who really know the properties.

After you do that, then you sit down and try to work out by agreement who would do what. This is something that you can't do individually.

Mr. ADAMS. I have complete agreement with you, such a process has to be gone through. I have the same problem Mr. Shoup has with a commission. We just went through a commission on railroad retirement and after 2 years they came back and told us the same thing that Mr. McNutt told us in 1946, that basically it ought to be fixed, but they were not quite sure how to do it.

What we are trying to decide in this committee and what we keep asking about is: We are worried about the fact it may devolve on us if nobody does this for us.

The Secretary of Transportation has not given us a plan. Industry has not given us a plan. Maybe we should just try to create a process, maybe another corporation, as some have talked about, and let the process go forward as part of what you suggest.

Is that a way to approach it?

Mr. AILES. I don't have any firm conviction that the only way to do this thing is through a commission. I frankly have never been able to understand why the recipient of this responsibility has to be incorporated, if you see what I mean, as in the DOT plan or I think in the proposal you made.

What is important here is that we get around the table, under the aegis of Government authorities somehow, and with the appropriate antitrust community, the people who are affected in the situation.

Mr. ADAMS. Shouldn't the ICC have authority presently to do that?

I understand they have an investigation with which supposedly they are going forward and we have been awaiting a plan from them as to what this structure should be. Don't they have it pending and can't they ask the various parties in to state their position?

Mr. AILES. Yes. I would be confident that the Interstate Commerce Commission has the authority to provide the necessary waivers, the necessary immunities and the necessary approvals, let's say for everything that anybody would have in mind here.

I don't think though we have the time in this situation to work through the procedures and processes of the Commission.

Mr. ADAMS. Suppose we put a time limit on them?

Mr. AILES. I don't think they can do it. In the first place you just can't do this sort of thing in an adversary proceeding with extensive hearings and all of that.

You know we are talking about a monstrous job in the number of things that have to be worked out here.

Mr. ADAMS. Two quick questions which perhaps you can submit for the record.

Mr. Nash, the trustee of the Lehigh Valley gave us an analysis yesterday of employees on that railroad who are over 60 and might qualify under H.R. 7200 provided it is passed in some form and we hope it will be, for retirement.

Could the AAR, through its membership, provide such an analysis for all of the railroads in bankruptcy in the Northeast?

Mr. AILES. We will try to get that. I have looked at those figures which I believe Al Chesser showed me.

Mr. ADAMS. You understand we are inviting Mr. Chesser to appear before the committee on May 21 but we would like to develop this information so we have some idea of the problems. If you can submit that to us.

Mr. AILES. If it is all right I will get it from Mr. Chesser and submit it.

Mr. ADAMS. You can submit it to Mr. Dixon so we will have it.

Mr. AILES. Yes.

[The following letter and attachment were received for the record:]

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., May 15, 1973.

Hon. JOHN JARMAN,
Chairman, Transportation and Aeronautics Subcommittee, House Interstate and Foreign Commerce Committee, 2125 Rayburn House Office Building Washington, D.C.

DEAR MR. CHAIRMAN: You will recall that during the course of Mr. Ailes' testimony in your May 10 hearings on the Northeast situation, he was asked by Mr. Podell to supply for the record supplemental numbers for Exhibit A which was attached to his prepared statement. This information is as follows:

	Total, United States	Eastern district
Route miles per 1,000 population	1.00	0.52

Additionally, Mr. Adams requested that we submit for the record the number of employees age 60 or more, and who might qualify for early retirement under H.R. 7200, for all of the Northeast railroads in bankruptcy. That statement is attached. You will note that the statement also lists those employees age 55 or more with 25–29 years of service.

Should additional information be desired, we will be glad to furnish it.

Sincerely,

E. F. WALDROP, Jr.,
Vice President.

Attachment.

SUMMARY OATA—RRB 4 PERCENT SAMPLE OF EMPLOYEES IN ACTIVE SERVICE IN THE YEAR 1971, MAJOR NORTHEASTERN ROAOS IN RECEIVERSHIP—EMPLOYEES AGE 60 OR MORE WITH 30 YEARS OF SERVICE, ANO EMPLOYEES AGE 55 OR MORE WITH 25 TO 29 YEARS OF SERVICE

Item	6 roads[1]		Penn Central	
	Number	Percent of total	Number	Percent of total
1. Total employees	130,775	100.0	99,775	100.0
2. Employees with 30 years of service and attained age of 60:				
(a) 60 to 64	11,800	9.0	8,650	8.7
(b) 65 to 69	1,300	1.0	775	.8
(c) 70 to 74	175	.1	175	.2
(d) 75 and over	25		0	
Total	13,300	10.2	9,600	9.6
3. Employees with 25 to 29 years of service and attained age of 55 or more:				
(a) 55 to 59	8,150	6.2	6,725	6.7
(b) 60 to 64	6,000	4.6	4,775	4.8
(c) 65 to 69	1,050	.8	550	.6
(d) 70 to 74	300	.2	175	.2
Total	15,500	11.9	12,225	12.3

[1] PC, B. & M., CRRNJ, EL, LV, Rdg.

Note: Ages and length of services as of the end of 1971 for all employees in service in 1971 who were alive and not retired at the end of 1971.

Source: RRB tabulations.

Mr. ADAMS. My last question, and this goes back to Mr. Podell's and my original question, if you have two solvent railroads, the Northwest and the Chessie system and perhaps the Southern Railway system.

Mr. AILES. You mean the Norfolk & Western, right?

Mr. ADAMS. Yes, the Norfolk & Western and the Chessie system and perhaps the Southern, why wouldn't it be to their advantage to just wait for liquidation of the Penn Central and others and go up and buy pieces of it.

Mr. AILES. I think it might be. But I think that if the only thing they had in mind on this subject was what can they do best on a short-range basis as a purely financial matter that might make some sense but it does not make any sense at all in long-range terms for them or for the rest of the industry.

Mr. ADAMS. In other words they would buy just certain things that would be of—and I am trying to get some idea of how they bid into this process if we create a corporation that is bidding in, too.

Mr. AILES. I think on that assumption they would just go by and say, "Well, I would like to serve this town, I can get this piece of line to do it."

I don't think it would solve the problem at all in the long run and I don't think they think it would solve the problem. They are very interested in solving this problem.

Let me just say this: There was a time in my own experience when I worked in the airline industry and I watched airlines desperately anxious to add service to one community after another or just to increase the total amount of route mileage they had.

The railroad industry has gotten a little past that. They are now interested in having a rational system with the bottom line on the financial statement with the right kind of number. That is what is really important.

Mr. ADAMS. Thank you, Mr. Ailes.

I yield to the gentleman from New York for 5 minutes.

Mr. PODELL. Mr. Ailes, you mentioned earlier something about value and you chose a particular example of some $70 million worth of real estate.

I would like to point out some area of disagreement.

Mr. AILES. All right.

Mr. PODELL. I think the value of real estate is based upon that which a seller is willing to sell and a buyer is willing to buy and one of the reasons Penn Central has been unable to sell itself very valuable real estate on paper is because of the fact that the real estate is encumbered by long-term leases which are of no value; so the so-called valuable real estate that the Penn Central owns is in truth not valuable at all because it cannot be operated at a profit.

Mr. AILES. Sure.

Mr. PODELL. So I don't know that all of this real estate that railroads seem to own is as valuable as it may seem to be, because most of it is valuable only insofar as running a railroad over it.

Mr. AILES. No, no, sir. I disagree there. It used to be the case. It used to be that the going value of a railroad was always more than the value in liquidation, certainly with the western railroads. A lot of railroads were bought up in front of the courthouse for 5 cents on the dollar.

Not any more. These railroads have a lot of downtown real estate. Certainly here in the East that is true. There is a wonderful example of a railroad, and maybe Mr. Lang can say the name, going from Baltimore to York, Pa., which on liquidation turned out to pay everybody off including stockholders and because the real estate downtown in two or three cities including Baltimore was highly valuable.

Mr. PODELL. I tried to explain a moment ago that while it may seem on its face to be valuable, the railroads sometimes can't find buyers.

I think the Penn Central owns the Waldorf yet the property is subject to 100-year lease.

Mr. AILES. Yes. But all of this has been appraised.

Mr. PODELL. It is not so valuable?

Mr. AILES. And it should be appraised at what the equity is worth in view of the 100-year lease.

Mr. PODELL. I can't determine the value of an equity until you determine the value of return on capital, and return on capital investment is so insignificant that no buyer is ready and willing to buy the property because he cannot get a return, and you do not have any longer a valuable piece of real estate.

Mr. AILES. Agreed, agreed, but when they have appraised the property and put that kind of real estate in at zero, they still find a huge value for the tremendous amount of real estate left, unencumbered except by the liens which are wiped out in the bankruptcy process.

Mr. PODELL. When an appraiser appraises real estate, among other things, he does appraise it at the current market value and the current market value is that which a buyer is ready, willing, and able to pay.

Mr. AILES. Agreed.

Mr. PODELL. Let me go to another point.

Assuming liquidation of Penn Central there is no reorganization. There is a lot of talk about other railroads coming in or people buying in at the sale. There is no reason for us to assume that this sale would be a piecemeal sale or that the maximum here would indicate that there is a railroad up for sale, "Come on in and buy it" and one guy comes in and makes an offer for the entire package.

Now the court may very well decide in its wisdom to sell the whole package and I am not so sure that I think the proper vehicle for the Government here is to go in and buy in at the sale and wipe out the creditors and go ahead and run a railroad and let the people have something to go on.

So I think there is a big distinction between eminent domain and in buying in at a sale when there is nobody going to bid against you. You know, it is a possibility in any event.

I think the Government is the only one capable of bidding in. We have a vote coming up so I will stop there.

Mr. ADAMS. Thank you, Mr. Podell.

Thank you, Mr. Ailes very much for your time. We appreciate your appearing before the committee. The committee will stand adjourned because there will be a full committee operation next week, until May 21 at 10 o'clock when representatives of organized railroad labor have been asked to appear and testify.

The committee will stand adjourned until that time.

[Whereupon, at 12:10 p.m. the committee adjourned, to reconvene at 10 a.m., Monday, May 21, 1973.]

NORTHEAST RAIL TRANSPORTATION

MONDAY, MAY 21, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. John D. Dingell, presiding [Hon. John Jarman, chairman].

Mr. DINGELL. The committee will come to order.

This is a continuation of a hearing on H.R. 6591, a bill introduced by Mr. Staggers of West Virginia and Mr. Devine of Ohio, H.R. 4897, introduced by Mr. Adams of Washington, and H.R. 5822 also introduced by Mr. Adams et al., to create a nonprofit corporation to acquire and to maintain rail lines in the northeast region of the United States, to provide financial assistance for the acquisition, rehabilitation, and maintenance of such rail lines; also, H.J. Res. 50, introduced by Mr. Eckhardt of Texas having to do with the continued operation of the Penn Central; H.R. 5385, introduced by Mr. Adams of Washington, and H.R. 6880, also introduced by Mr. Adams on the Surface Transportation Act, and H.R. 7373, introduced by Mr. Podell on the operation of bankrupt railroads.

Our witnesses today will be Mr. A. H. Chesser, president of the United Transportation Union, Washington, D.C., and I understand Mr. Snyder is appearing in his stead.

Also, we have Mr. L. E. Dennis, executive director of the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express, and Station Employees.

The Chair calls for the first witness, Mr. Jim Snyder, appearing on behalf of Mr. Al Chesser.

STATEMENT OF J. R. SNYDER, NATIONAL LEGISLATIVE DIRECTOR, UNITED TRANSPORTATION UNION; ACCOMPANIED BY W. R. WILSON, ALTERNATE LEGISLATIVE DIRECTOR, AND EDWARD FRIEDMAN, COUNSEL

Mr. SNYDER. Good morning, Mr. Chairman.

My name is J. R. Snyder, national transportation director of the United Transportation Union. On my left is Mr. W. R. Wilson, alternative legislative director to the United Transportation Union, and on my right is Mr. Edward Friedman, attorney for the UTU.

Mr. DINGELL. You may proceed with your testimony.

Mr. SNYDER. Mr. Chairman, we have two statements here, one on behalf of Mr. Chesser and one that relates to H.R. 5385, the Surface Transportation Act on which we testified last year and which is before your subcommittee here today.

We will not read this. We would request it be inserted in the record at what point would be entirely up to the Chair.

Mr. DINGELL. The subcommittee will be glad to receive it for the record.

Mr. SNYDER. This relates to H.R. 5385, this was after a tremendous amount of work last year and after testimony last year before your distinguished committee, meetings with the carriers and the UTU and other railroad labor organizations.

Late in the session we arrived at a compromise bill relating to trackage amendments and this is a complete statement.

Attached to it is an agreed-on bill and I would like to insert it in the record at this time, also.

Mr. DINGELL. Certainly, we will be glad to receive both the statement and the attachments and they will be incorporated into the record.

[Testimony resumes on p. 445]

[Mr. Snyder's prepared statement and attachment re H.R. 5385 follow:]

STATEMENT OF J. R. SNYDER NATIONAL LEGISLATIVE DIRECTOR UNITED TRANSPORTATION UNION

My name is J. R. Snyder. I am tbe National Legislative Director of the United Transportation Union witb my office located at 400 First Street, N.W., Washington, D.C.

My organization is vitally concerned with the continued well-being of the Nation's railroads. We represent the large majority of the railroads' operating employees, the conductors, firemen, trainmen, switchmen and many engineers. In addition, we represent many yardmasters and dining and sleeping car employees.

I am appearing here, today, in connection with the abandonment provisions of H.R. 5385, Sec. 302, an related bills. We are strongly opposed to the provisions of these bills wbich permit easy and rapid abandonment of what is conservatively stated to be more than 10% of United States railroad mileage but which will much more realistically be in the neighborhood of ⅓ to ½ of present mileage. Tbe figure of ½ comes to us, admittedly, through rumor of a year old husb-hush Department of Transportation study of "skeletonizing" American railroads in the same fashion as passenger service was "skeletonized" by AMTRAK.

The biggest losers under such a scheme will be many of those who have testified before this Subcommittee last year and this in favor of easy abondonment procedures. Instead of low tarffic branch lines being the only lines abandoned, tbey will find traffic diverted from lines on which they are located to one chosen route, and the artificial and senseless guidelines of "gross ton annual miles" or "variable costs" will place their service in jeopardy if, indeed, they do not lose it.

The American railroad network can be compared to a tree with a main trunk and large and small brancbes. All are connected, and tbe shipper can ship and receive witbout transfer to any other part, be it branch or main line. When enough of the tree is hacked off, it will die. In tbe case of railroads, when expensive transfers have to be made because part of the all rail route has been abandoned, the traffic will go to a mode not requiring transfer and all parts of tbe system suffer from the loss. For this reason truckers and barge operators beartily endorse rail abandonment.

One of the outstanding features of the American rail network bas been tbat nearly every place in the country could be reached. Now, tbe competitive enemies of railroads have advetrised on television that there are 25,000 places in this country reached exclusively by them. Abandonment is to their advantage; it is not in tbe interest of the public and shippers who wish to enjoy the lowest possible competitive rates.

This is a matter in which it should be obvious to the Members of this Subcommittee that a carefully thought out regulation for handling abandonment applications should be adopted only after study. There is no existing crisis which can stampede the Subcommittee into setting up standards which may benefit a few financially at the present moment and lead to national loss as the country grows in the future. We consider the proposals in the bills before the Subcommittee to be extremely unwise and shortsighted. If adopted, they will do irreparable harm to the future of railroads in any national transportation plan.

It is interesting to note that the claim is always made, as much so in pre-Amtrak passenger train discontinuance proceedings as in the present subject of line abandonment, that if allowed, shippers will get lower rates. *Yet, rates are not lowered regardless of trains off or lines abandoned.* We would urge that the future needs of the United States for rail transportation are paramount to relatively small dollar savings effected by abandonment of presently marginal or submarginal rail lines.

We are not negative in our thinking on this subject of rail line abandonment. We know that there are cases of two carriers paralleling each other through light traffic territory and that there are many spur lines which were built to serve one particular industry or shipper. When two lines are not profitable, but one would be, or the sole shipper on a line ceases to use it with no reasonable prospect of resumption of use, we realize that it is not in the public interest to require such lines to be kept in service unless it is the desire of the owning carrier to do so for reasons of its own. But where lines are the sole rail link of different towns and shippers, we believe that even break-even service should be maintained.

As minimum protective conditions for public and shippers in a new abandonment procedure, we believe the following conditions should be required. The rail carriers and labor have arrived at these conditions after long study and you will find the agreed upon provisions in the nature of a substitute for Section 302 which has been furnished each Member of this Committee, and is attached hereto for inclusion in the record. We have also agreed on mutually acceptable language for labor protective conditions and loan guarantees in Title I of H.R. 5385 which we include herewith for the record.

We do believe that in cases where line abandonment has been granted, as per our suggested Title III, Section 302, that all salvage rail, buildings, and other appurtenances should be sold and funds received should be earmarked for use in maintenance of the company's remaining trackage.

Further, that the right-of-way should be retained intact by the carrier for a period of 25 years for re-establishment of a rail line when growth conditions make it economically sound to do so. Should the carrier desire to convey the title to the intact right-of-way to the state in which the land is located, it may do so; but, the state shall maintain it intact for future rail line use and use it for recreational purposes and sports activities in the interim period.

These rights-of-way must be considered for what they are—valuable national natural resources which were obtained in an age when land was cheap or free and which now can only be obtained by right of eminent domain at staggering cost. When once abandoned, these rights-of-way are, as a practical matter, irretrievably lost to the future transportation needs of the Nation when changed conditions will require the rebuilding of rail lines where they are now not sufficiently profitable.

We do not believe that consideration should be given to what has become a common recitation in present abandonment applications wherein the applicant alleges that the track has deteriorated to the point where an enormous expenditure will be required to put the track back into safe operating condition.

In the true public interest, we think this Subcommittee should give serious consideration to subsidizing the maintenance of track on those lines which are being operated on a "break-even" basis to perhaps a 10 percent deficit under "break even". We would suggest that it is in the public interest to subsidize part of the maintenance to keep such trackage in safe condition for 25 m.p.h. operation. It must be remembered that these lines are generating and receiving traffic from any part of the national rail network.

Serious consideration should also be given to removing all taxes from such lines until they become positively prosperous. Some states have already done this, but we believe it should be done nationally and in the first legislation on abandonments to be passed.

I cannot too strongly emphasize to this Subcommittee that skeletonization of America's railroad network will result in its death. It will not necessarily be a slow death. Our highways, today, are glutted with huge pollution-emitting, pavement-destroying and traffic-jamming trucks. The pressure is on in every session of Congress to permit the use of ever wider, higher, heavier trucks pulling not one, but two, three and eventually more trailers. It is high time that Congress enact a national transportation policy that will effectively use the vast, low-polluting capacity now existing in our rail network. It is time the average motorist is allowed to enjoy his highways in safety.

I wish to thank the Subcommittee for asking me to present our views on this most serious problem in America today.

[UTU's proposed amendments to H.R. 5385 follow:]

[H.R. 5385 is printed in full on p. 78. The following indicates proposed amendments to that bill.]

"(a) The Secretary shall determine that the prospective earning power of the enterprise, together with the character and value of the security pledged, if any, furnish reasonable assurance that the enterprise will be able to repay the loan within the time fixed and afford reasonable protection to the United States.

"(b) (1) No loan, including renewals or extensions thereof, may be guaranteed under section 606 for a period or periods exceeding fifteen years: *Provided*, That any loan guarantee may be extended for an additional five years beyond the fifteen-year limitation period if the Secretary determines that the carrier's financial condition is improving significantly and that such carrier will be able to repay the loan within the additional five years: *Provided further*, That the foregoing restriction on maturities shall not apply to securities or obligations received by the Secretary as a claimant in bankruptcy or equitable reorganization or as a creditor in proceedings under section 20b of this Act, as amended.

"(2) The aggregate amount of loan guarantees to any common carrier shall not exceed 15 per centum of the guarantees provided ~~amount appropriated~~ for such purpose under the provisions of ~~section 615~~. this part.

"(3) The total amount of loan guarantees made after the date of enactment of this part which the Secretary may guarantee with respect to a common carrier by railroad unless satisfied that the expenditures in the foregoing categories will improve the utilization and distribution of rolling stock and materially contribute to the efficiency of rail operations.

"(d) The Secretary shall determine that the management of the enterprise is efficient and is actively pursuing programs designed to upgrade and develop plant facilities and operations sufficient to meet the needs of the public.

"(e)(1) The Secretary may not authorize any such loan guarantee with respect to a common carrier by railroad unless the railroad has certified to the Secretary that it will utilize to the maximum extent its existing facilities for performance of work described in Sec. 607(b)(5) for which the loan guarantee is sought.

"(2) The Secretary may not authorize any such loan guarantee with respect to a common carrier by railroad unless there shall first be presented to him an executed agreement or agreements between said carrier and the representatives of its employees providing fair and equitable arrangements for the protection of the interests of such employees which may be affected thereby; provided, however, that where such executed agreement or agreements are not presented to the Secretary as a part of an application for a loan guarantee or presented within 60 days of the filing of such loan guarantee application, the Secretary of Labor shall certify to the Secretary who shall prescribe, at the time of guaranteeing said loans, the protective arrangements to apply in connection with such guarantee. Any such protective arrangements certified by the Secretary of Labor and prescribed by the Secretary shall provide no less protection for the interests of employees than is provided in Section 1, Paragraph (27) of the Interstate Commerce Act, as amended by Title III, Section 302 of this Act.

"(3) The Secretary shall require that work to be financed by a loan to a railroad guaranteed under this title shall be performed with the maximum use of its existing facilities and its employees, including employees on furlough, and not subcontracted, except to the extent that the Secretary finds in writing that such railroad lacks existing facilities or a sufficient number of employees, including employees on furlough, to perform all of the work financed by such a guaranteed loan. In the event that the Secretary makes such a finding, the railroad shall be permitted to subcontract only that part of such work which cannot be performed in its existing facilities by its employees, including employees on furlough.

"(4) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any loan guaranteed under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act."

"LOAN GUARANTEE APPROVAL AND REVIEW

"SEC. 608. (a) All applications for loan guarantees must be approved by the Secretary. In any instance where such an application is approved over the adverse recommendation of the Board of Review provided for in section 609, or disapproved over the recommendation of said Board, a memorandum shall be placed in the loan guarantee file setting forth the Secretary's reasons for such approval or disapproval.

"(b) Each loan guarantee made by the Secretary under this part to any lender shall be conditioned upon the execution of an agreement between the Secretary and the borrower by which such borrower shall undertake that it will not, within two years after the date of the making of such loan, employ, tender any office or employment to, or retain for professional services any person who on the date such loan

"TERMINATION OF AUTHORITY

"SEC. 619. Except with respect to such applications as may then be pending, the authority granted by this part shall terminate at the close of June 30, 1983: *Provided*, That its provisions shall remain in effect for the limited purposes of guarantees made by the Secretary and any five-year extensions permitted pursuant to section 607 (b) (1).

"SEPARABILITY CLAUSE

"SEC. 620. If any provision of this part or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this part, and the application of such provision to other persons or circumstances, shall not be affected.".

SEC. 103. ESTABLISHMENT OF A RAILROAD EQUIPMENT OBLIGATION INSURANCE FUND, DEPARTMENT OF TRANSPORTATION.

The Interstate Commerce Act, as amended, is amended by inserting immediately after part VI the following new part:

"PART VII

"PURPOSE

"SEC. 701. The purpose of this part is to assist railroads, and their car furnishing subsidiaries ~~and leasing companies~~ in building, rebuilding, leasing, and otherwise ~~acquiring and utilizing~~ rolling stock, and thereby encourage the maintenance and growth of a private national transportation system adequate to meet the needs of the commerce of the United States, and of the national defense.

"DEFINITIONS

"SEC. 702. For the purposes of this part—

"(1) 'Secretary' means the Secretary of Transportation.

"(2) 'Railroad' means a common carrier by railroad, as defined in section 1 (3) of this Act, as amended, and includes, where determined appropriate by the Secretary, any railroad controlled by a railroad within the meaning of section 1 (3) (b) of this Act.

"(3) 'Car furnishing subsidiary' means a corporation at least 80 per centum of the voting stock of which is owned or controlled by one or more railroads and which furnishes rolling stock to one or more railroads owning the voting stock.

~~"(4) 'Leasing company' means a corporation which leases rolling stock to one or more railroads.~~

"~~(5)~~ 4 'Rolling stock' means new or rebuilt standard gage railroad freight cars, including cabooses, suitable for use by more than one railroad in normal interchange under the Interchange Rule of the Association of American Railroads, and standard gage railroad locomotives.

"~~(6)~~ 5 'Equipment obligations' means bonds, notes, conditional sale agreements, equipment trust certificates, equipment leases and other obligations issued or guaranteed by railroads or car furnishing subsidiaries to lease, finance or refinance rolling stock.

"(~~7~~ 6) 'Holder' means the holder of an equipment obligation, except that where a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, the bank or trust company shall be deemed to be the holder.

"(~~8~~ 7) 'Obligor' includes the original borrower, guarantor, or lessee under an equipment obligation and his successors and assigns approved by the Secretary. An obligor must be a railroad or car furnishing subsidiary.

"FEDERAL RAILROAD EQUIPMENT OBLIGATION INSURANCE FUND

"SEC. 703. There is created a Federal Railroad Equipment Obligation Insurance Fund (hereafter in this part referred to as the 'fund') which shall be used by the Secretary as a revolving fund for the purpose of carrying out sections 704 through 707 of this part. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of the fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States for the account of the fund.

"AUTHORIZATION TO INSURE EQUIPMENT OBLIGATIONS

"SEC. 704. (a) The Secretary is authorized to insure the lessee's obligations under an equipment lease and the interest on, and the unpaid principal balance of, any equipment obligation offered to him which he determines is

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"(1) the equipment obligation is secured by the rolling stock ~~to be financed or refinanced thereby;~~ built, rebuilt, leased or otherwise acquired by the obligor;

"(2) the terms of the equipment obligation require full payment within fifteen years from the date thereof;

"(3) the ~~financing or refinancing~~ building, rebuilding, leasing or other acquisition of the rolling stock is justified by the present and future demand for transportation services to be rendered by the railroad or car furnishing subsidiary for which the rolling stock is ~~procured~~ acquired;

"(4) the common carrier operations of the railroad or operations of the car furnishing subsidiary are sufficiently efficient at the date of any such ~~financing or refinancing~~ building, rebuilding, leasing or other acquisition to assure economic utilization of any rolling stock in which the obligor then has a beneficial interest or in which the obligor may obtain such an interest, as a consequence of such ~~financing or refinancing:~~ building, rebuilding, leasing or other acquisition;

"(5) the ~~purchase~~ building, rebuilding, leasing or other acquisition of the rolling stock will contribute toward a national ~~car~~ rolling stock supply adequate to meet the needs of shippers and the economy;

"(6) the probable value of the rolling stock will provide reasonable protection to the United States in the event of repossession of the rolling stock by the holder of any equipment obligation insured under this part; and

"(7) the obligor has certified to the Secretary that it will utilize to the maximum extent its existing facilities for the building and rebuilding of rolling stock.

"(8)(a) There has been executed an agreement or agreements between the obligor and the representatives of its employees providing fair and equitable arrangements for the protection of the interests of such employees which may be affected by equipment obligations insured thereunder; provided, however, that in the absence of such executed agreement or agreements the Secretary of Labor shall certify to the Secretary who shall prescribe, at the time of insuring any equipment obligation, the protective arrangements to apply in connection with such insurance contract. Any such protective arrangements certified by the Secretary of Labor and prescribed by the Secretary shall provide no less protection for the interest of employees than is in Section 1, Paragraph (27) of the Interstate Commerce Act, as amended by Title III, Section 302 of this Act.

"(8)(b) The Secretary shall require that work to be financed by an equipment obligation insured under this title shall be performed with the maximum use of the obligor's existing facilities and its employees, including employees on furlough, and not subcontracted, except to the extent that the Secretary finds in writing that such obligor lacks existing facilities or a sufficient number of employees, including employees on furlough. to perform all of the work financed by such an equipment obligation. In the event that the Secretary makes such a finding, the obligor shall be permitted to subcontract only that part of such work which cannot be performed in its existing facilities by its employees, including employees on furlough.

"(8)(c) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of building or rebuilding of rolling stock financed with the assistance of funds received under any equipment obligation insured under this title shall be paid wages at rates no less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary shall not enter into any such contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements, except any construction work performed by a railroad employee. Wage rates provided for in collective-bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

"(b) The Secretary shall fix a premium charge for the insurance of equipment obligations under this part of not to exceed 1 per centum per annum of the principal amount of the equipment obligation outstanding. Premium payments shall be made when moneys are first advanced by the holder under ~~the~~ an equipment obligation or when the rolling stock is first made available to the lessee under the equipment lease, and on each anniversary date thereafter.

"(c) All moneys received under sections 703 through 707 of this part shall be deposited in the fund. Not to exceed 5 per centum of the sums collected each year under subsection (b) of this section may be used to pay administrative expenses incurred by the Secretary incident to the administration of sections 703 through 707 of this part.

"(d) The total number of rebuilt freight cars financed acquired or leased pursuant to the provisions of this part shall not exceed one-third of the total number of all cars acquired or leased ~~financed pursuant thereto~~.

"ISSUANCE OF NOTES OR OBLIGATIONS

"SEC. 706. (a) If at any time the moneys in the fund are not sufficient to pay any amount the Secretary is required to pay under an agreement made under section 704 of this part, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. The notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration pursuant to the provisions of any equipment obligation, shall have first been obtained.".

SEC. 104. ROLLING STOCK SCHEDULING AND CONTROL SYSTEMS.

~~(a) The Secretary is authorized to assist in the design of a national rolling stock information service and to contract with and provide technical and financial assistance to individual railroads or a group of railroads working together, including the sharing of costs and the funding in part of demonstration projects, to assist in the establishment of a national rolling stock information system of approved design. Such national rolling stock information system shall use computer and communication techniques and equipment which will facilitate equitable distribution and efficient and economical utilization of rolling stock. Such system shall be capable of furnishing information about all rolling stock owned directly or indirectly by the railroads such as the Secretary and railroads determine to be useful for the equitable distribution and efficient and economical utilization of rolling stock. The Secretary shall consult with shippers, railroads, and the Interstate Commerce Commission, before finally approving the design of the system. The Secretary shall prescribe rules to insure the confidentiality of certain types of competitive information supplied for use in connection with the system.~~

(b) ~~Financial assistance under this section shall be approved by the Secretary only where he finds that the individual project, program, or activity on which such funds are to be expended—~~

~~(1) is consistent with development or operation of a national information system;~~

~~(2) can reasonably be expected to promote technological advance or more rapid development and establishment of a national information system; or~~

~~(3) will assist in the establishment of part or parts of the national system which are essential to its effective use and which needs financial assistance for timely development consistent with development of a national system.~~

~~(c) The Secretary shall report semiannually to the Congress with respect to the progress made by railroads in implementing the national system provided for in subsection (a). Such report shall include recommendations for such additional funding as may be necessary to make the national system fully effective.~~

~~(d) In exercising his authority under this section, the Secretary may enter into agreements or contracts without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).~~

(e) Persons contracting with the Secretary with respect ~~to the design of a national or individual rolling~~ stock infor-

~~mation system or the use of information supplied by such system shall be and are hereby relieved from all prohibitions of existing laws, including the antitrust laws of the United States, to the extent necessary to facilitate carrying out the purposes of this Act.~~

~~(f) There is authorized to be appropriated to the Secretary out of money in the Treasury not otherwise appropriated, the sum of $35,000,000 for purposes of this section, such amount to remain available until expended.~~

TITLE II—PROVISIONS RELATING TO DISCRIMINATORY STATE TAX PRACTICES

SEC. 201. DISCRIMINATORY STATE TAXATION.

The Interstate Commerce Act, as amended, is amended by inserting after section 26 of part I a new section 27 as follows:

"SEC. 27. (a) Notwithstanding the provisions of section 202(b), the following action by any State, or subdivision or agency thereof, whether such action be taken pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, is hereby declared to constitute an unreasonable and unjust discrimination against and an undue burden upon interstate commerce and is hereby forbidden and declared to be unlawful:

"(1) the assessment (but only to the extent of any property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property; or to collect any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(d) Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other property process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any persons from doing anything or performing any act declared by subsection (a) to be unlawful: *Provided, however,* That such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have: *And provided further,* That the provisions of this section shall not become effective until three years after the date of its enactment." ~~*And provided further,* That no relief shall be granted hereunder unless the assessment-percentage applied to carrier transportation-property exceeds by at least 5 per centum the assessment-percentage applied to all other property in the assessment jurisdiction.".~~

ment of any line of railroad or operation thereof pursuant to such notice and to this paragraph. Upon the filing of any notice pursuant to this paragraph, the Commission shall during said ~~forty-five~~ ninety days' notice period upon complaint of ~~an aggrieved~~ a party in interest, or may upon its own initiative, enter upon an investigation of the action proposed in the notice. If no such investigation is instituted, the Commission shall issue a certificate at the expiration of the ninety days' notice period that public convenience and necessity permit the abandonment proposed in the notice. If an investigation is instituted, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which the abandonment proposed in the notice would otherwise become effective, shall postpone the abandonment in whole or in part pending hearing and such investigation, but not for a longer period than six months beyond the date when such abandonment would otherwise have become effective. ~~Any~~ An investigation instituted under this paragraph at the complaint of a Governor or a shipper or receiver who has used the line during the preceding eighteen months shall include full public hearings at a point or points on or reasonably adjacent to the line proposed to be abandoned. ~~At the expiration of the six month suspension period, if any, the~~ The abandonment proposed in the notice shall become effective ~~unless, prior to such expiration,~~ 60 days after the Commission shall have issued an order finding such abandonment not consistent with public convenience and necessity. The Commission may, in such order, and subject to the other provisions of this paragraph, authorize the abandonment of a portion or portions of the line of railroad, or the operation thereof, described in the notice, or the partial exercise only of such privilege, and attach to the issuance of the certificate of abandonment such terms and conditions as, in its judgment, the public convenience and necessity may require. In determining whether to make such finding the Commission shall consider the following: losses in operating the line proposed to be abandoned, as measured by costs of service including maintenance cost and such repairs or improvements necessary to continue the line at a physical standard necessary to provide safe, reliable, and efficient service; extent of actual or potential use of and need for the line by shippers or receivers; the interests of the carrier employees affected; and the development of an efficient and economical transportation system: Provided, however, That no such finding shall be made unless if the carrier demonstrates that continued operation of the line proposed to be abandoned ~~will~~ cannot reasonably be expected to produce sufficient revenue to cover the relevant variable costs of the handling traffic: ~~to; from; and beyond-the-line~~:- And provided further, That said finding shall be subject to the provisions of paragraph (26) of this section. Partial changes in operation or service shall be treated in accordance with paragraph (4) of this section. In any investigation hereunder, the burden of proof shall be on the carrier.".

(b) Section 1 of part I of the Interstate Commerce Act (49 U.S.C. 1) is amended by adding at the end thereof the following new paragraphs:

"(25) Any construction, operation, or abandonment contrary to the provisions of paragraph (18), (19), or (22) of this section may be enjoined by any United States district court of competent jurisdiction at the suit of the

United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who, knowingly authorizes, consents to, or permits any violation of the provisions of paragraph (18), (19), or (22) of this section shall be fined not more than $5,000 or imprisoned not more than 3 years, or both.

"(24) The authority of the Commission conferred by paragraphs (18) to (22) of this section, both inclusive, shall not extend to the construction, ~~acquisition~~, or abandonment of spur, industrial, team, switching, or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general railroad system of transportation.

"(25) ~~Within one hundred and twenty days after enactment of this paragraph,~~ ~~each railroad~~ shall prepare and ~~file with the Commission, which shall publish and make available to~~ the public, a ~~full and complete~~ diagram ~~of its transportation~~ system ~~describing in particular those rail~~ lines ~~on which~~ less-than ~~thirty-five carloads originated or~~ terminated per mile ~~during the prior calendar year. A railroad~~ shall amend its diagram frem-time to-time,-or as-the-Commission shall require to-refleet-any-changes-in this-system. No carrier shall abandon all or any portion of a line of railroad (or operation thereof), the abandonment of which has not been authorized prior to enactment of this paragraph and which is opposed by any person who has used the service provided thereon during the eighteen months preceding the date of filing of the abandonment application or is opposed by any State, county, or municipality served by that line or is opposed by any connecting railroad, unless such railroad line has been identified on the diagram provided for in subsection (A) of this section for at least one year.

"(26) In the event the Commission shall during the six months provided for in paragraph (22) make a finding that a hearing and investigation is-authorized under paragraph (22); the public convenience and necessity permit abandonment, it shall also make a determination within 60 days after said-hearing-and investigation such decision, whether revenues attributable to the line, lines, or operations in question may become sufficient to cover the relevant variable costs referred to in paragraph (22) as a result of improved operating efficiencies, rate adjustments, or direct financial compensation from users and/or State or political subdivision thereof or changed circumstances. In the event the Commission shall determine that circumstances referred to in this paragraph warrant an additional suspension of the certificate, then the Commission shall not issue the certificate but shall retain jurisdiction for an additional six months to determine if the paragraph (22) standards have been met. If the paragraph (22) standards have still not been met during the additional six-month period, then the certificate of abandonment shall be issued. The Commission shall not issue such certificate if it finds that direct financial compensation from users and/or offers of operating subsidies from a State or political subdivision thereof cover the difference between the revenues attributable to such line and the relevant variable costs of handling traffic on such line.

"(27) Any carrier undertaking the abandonment of a line of railroad or a portion thereof or the operations thereover pursuant to the provisions of this section, shall be required to protect the interests of employees affected by such abandonment. Such protective arrangements shall be those agreed to by the carrier and the representatives of its employees or, in the absence of such agreement, as the Commission shall determine. Such protective arrangements shall be included in an order to be issued by the Commission at the end of the ninety days' notice period or the six months' suspension period as the case may be. Any such arrangements shall protect individual employees for a period of at least six years (or a lesser period equivalent to their employment with the carrier) from the date first affected against a worsening of their positions with respect to their employment and shall include, without being limited to, such provisions as may be necessary (A) to provide for notice and negotiation and execution of implementing agreements prior to the interests of employees being affected: Provided, however, That where ~~such implementing agreement has not been executed within thirty days after the date on which such abandonment became effective~~ either without affecting the interests of employees, the abandonment as such may be made pursuant to the Commission's order and where such implementing agreement has not been executed prior to such abandonment or within 30 days thereafter either party may submit for binding arbitration any unresolved questions in connection therewith, the arbitration decision to be rendered if possible within thirty days thereafter, but if such decision is for any reason delayed beyond said thirty days, the rights of the parties to such arbitration shall not be affected; (B) for the preservation of compensation (including subsequent wage increases), rights, privileges, and benefits (including fringe benefits such as pensions, hospitalization, vacations, and the like, under the same conditions and so long as such benefits continue to be accorded to other employees on the home carrier in active service or on furlough as the case may be) to such employees under existing collective bargaining agreements or otherwise; and (C) to provide for the arbitration of disputes arising out of the protective arrangements which cannot be settled by the parties. In such arbitrations the burden shall be upon the carrier party thereto to prove that the employee was not affected by the abandonment. In no event shall said arrangements provide benefits less than those established pursuant to section 5(2)(f) of this Act."

"(28) Within one hundred and eighty days following the date of enactment of this title and as required thereafter, the Commission shall determine, pursuant to section 553 of title 5, United States Code, and shall publish standards for determining the 'relevant variable costs of handling the traffic and 'revenues attributable to the line' as those terms are used in this section.

"(29) In any instance in which the Commission shall have found that the present or future public convenience and necessity permit the abandonment of any line of railroad, the Governor of any State in which all or a portion of such line is located may, prior to the effective date of the Commission's order, notify the Commission, the Secretary of Transportation, and the railroad performing the service involved if it is the State's intention to provide operating subsidies for the railroad in order to assure continuance of service found by the State to be essential. Upon such notice, the Commission shall order an additional six-month postponement of the abandonment pursuant to paragraph (26) in order to permit arrangements for subsidy to be made."

(c) Section 1 of part I of the Interstate Commerce Act (49 U.S.C. 1) is amended by adding at the end thereof the following new subsection '(A)':

"(A) Within one hundred and twenty days after enactment of this paragraph, each railroad shall prepare and file with the Commission and publish in accordance with regulations promulgated by the Commission a full and complete diagram of its transportation system describing in particular those rail lines which it considers as potentially subject to future abandonment; provided, that the information required by this subsection shall not be used by the Commission as a criterion or measure to support abandonment of any particular line of railroad."

FEDERAL ASSISTANCE TO STATES FOR OPERATING SUBSIDIES

Sec. 303. (a) The Secretary of Transportation is authorized to reimburse a State for 70 per centum of the amount paid by such State as operating subsidy to continue service on a rail line or lines that would otherwise have been abandoned. In determining whether to make such reimbursement the Secretary shall consider the need for such service and the impact of the abandonment of such service on the communities affected and the practicability of the plan of operating subsidy in relation to the benefits to be derived therefrom.

(b) Within six months from the date of enactment of this title, the Secretary shall prescribe regulations governing the procedure for application by a State for reimbursement of railroad operating subsidies, criteria to be used in deciding upon such applications, and terms and conditions required of all contracts or other arrangements for operating subsidy.

(c) If the Secretary finds that an operating subsidy contract or other arrangement as submitted fails to comply with his regulations, he shall advise the State and afford it a period of not to exceed fifteen days within which to bring such contract into conformity with such regulations.

(d) An operating subsidy contract between a State and a railroad may not exceed a term of two years. At the end of such term a State may apply to the Secretary for continued reimbursement under the terms of a new contract. If a contract expires and a new contract is not made to cover the amount by which the variable costs exceed the revenues attributable to the line, the Commission shall issue a certificate authorizing the abandonment 90 days after the expiration of the contract.

(e) The Secretary shall not reimburse a State for operating subsidy paid to a railroad unless such State has adopted legislation extending authority to the Governor or other appropriate State official or agency to perform its obligations in accordance with the terms of this title and regulations issued by the Secretary.

(f) Upon approval of an operating subsidy contract or other arrangements by the Secretary, the United States shall become obligated to pay out of sums not otherwise obligated in the general fund of the Treasury, an amount equal to 70 per centum of monies paid to a railroad pursuant to such contract or arrangement upon the receipt of proof satisfactory to him that the payment for which reimbursement is sought has been made by the State. Such payments shall be made to the States by the Secretary pursuant to regulations prescribed by him. The Secretary shall not be authorized to obligate the United States for amounts in excess of $50,000,000 in any fiscal year.

CAPITAL IMPROVEMENTS

Sec. 304. The initial capital costs of restoring or upgrading a line of railroad or other facilities to such condition as necessary for the provision of service may be prorated over the life of such line or facilities and such prorated cost may be included as part of the cost of an operating subsidy contract or other arrangement. The operating subsidy contract shall provide for payment to the railroad at the final termination of the operating subsidy of an amount equal to the difference between the initial capital costs of restoring or upgrading less the sums of (a) the amount of such initial capital costs that were previously paid under the operating subsidy contracts and (b) the increased salvage value of the line of railroad or other facilities attributable to the initial capital costs.

GENERAL ACCOUNTING OFFICE AUDIT

Sec. 305. (a) The transactions of the Secretary under this title may be audited by the Comptroller General of the United States in accordance with such rules and regulations as may be prescribed by the Comptroller General. The representatives of the Comptroller General shall have access to all books, accounts, records, reports, file, and other papers, things, or property belonging to or in use by the Secretary pertaining to his financial transactions and necessary to facilitate an audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Secretary shall remain in possession and custody of the Secretary.

(b) To the extent the Comptroller General deems necessary in connection with such audits as he may make of the financial transactions of the Secretary, pursuant to subection (a), his representatives shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by any carrier that has received operating subsidies or State that has been reimbursed pursuant to this title pertaining to such operating subsidies, compliance with conditions, and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by the depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of such obligor remain in the possession and custody of the carrier or State.

(c) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the operating subsidy program, together with such recommendation with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary, and to the Division at the time submitted to the Congress.

TITLE IV - PROVISIONS RELATING TO COMPETITIVE EQUITY

Sec. 401. SHORT TITLE.[43f]

(a) This title may be cited as the "Competitive Equity Act of 1972".

(b) AMENDMENTS TO INTERSTATE COMMERCE ACT. - Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an

Sec. 503. SINGLE LINE RATES.

Paragraph (6) of section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended to read as follows:

"(6)(a) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure~~;~~. ~~and in no event shall any conference, bureau, committee or other organization, established or continued pursuant to any agreement approved under this section, conduct votes on single-line rates established by any railroad carrier, regulated by part I of this Act, nor appear in any proceeding before the Commission regarding said single line rate.~~

"(b) The Commission shall not approve under this section any agreement that authorizes railroads subject to part I of the Interstate Commerce Act which are parties to such agreement to vote upon individual point-to-point rates or changes therein proposed by a single carrier where the total service under such rates (exclusive of terminal services provided by switching, drayage or other terminal carriers or agencies) can be performed by such carrier, provided, however, that this limitation shall not be applicable to general rate increases or decreases or to class, mileage factor or other rates, fares, or charges, or changes therein, of general application or substantially general application to both single line and joint line routes in the territory or territories within or between which the rates are to have application.

"(~~b~~c) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure, and no conference, bureau, committee, or other organization established or continued

SEC. 802. DIRECT SUBMISSION OF INTERSTATE COMMERCE COMMISSION BUDGET.

Section 201 (a) (5) of the Budget and Accounting Act, 1921 (31 U.S.C. 11 (a) (5)), is amended by inserting ", the Interstate Commerce Commission," immediately before "and the Supreme Court of the United States".

TITLE IX - FINANCIAL ASSISTANCE TO COMMON CARRIERS PROVIDING AIR AND SURFACE EXPRESS SERVICES

SEC. 901. SHORT TITLE.

This title may be cited as the "Air and Express Services Assistance Act".

SEC. 902. DEFINITIONS.

For the purposes of this title--

(1) "Secretary" means Secretary of Transportation.

(2) "Commission" means Interstate Commerce Commission.

(3) "Board" means Civil Aeronautics Board.

SEC. 903. AUTHORIZATION.

(a) The Secretary is authorized, on such terms and conditions as he may prescribe, to issue guarantees against loss of principal and interest on securities, obligations, or loans (including refinancings thereof) issued to enable common carriers, national in scope, engaged in rendering air and surface express service pursuant to Part 1 of the Interstate Commerce Act and the Federal Aviation Act of 1958 to refinance existing obligations and for other corporate and related purposes consistent with their responsibilities as common carriers. The maturity date of such securities, obligations, or loans, including all extensions and renewals thereof, shall not be later than twenty years from their date of issuance.

(b) All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States of America backed by the full faith and credit of the Government of the United States.

(c) Any guarantee made by the Secretary under this section shall not be terminated, cancelled, or otherwise revoked; shall be conclusive evidence that such guarantee complies fully with all provisions of law and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder.

(d) the aggregate unpaid principal amount of securities, obligations, or loans outstanding at any one time which are guaranteed by the Secretary under this section may not exceed $20,000,000. The Secretary shall prescribe and collect a reasonable annual guaranty fee.

(e) There are authorized to be appropriated to the Secretary such amounts, to remain available until expended, as are necessary to discharge all his responsibilities hereunder.

(f) If at any time the monies available to the Secretary are insufficient to enable him to discharge his responsibilities under guarantees issued by him under subsection (a) hereof, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Secretary from appropriations available under subsection (3) hereof. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations as acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SEC. 904. LIMITATIONS AND CONDITIONS.

(a) Prior to issuing guarantees under this title, the Secretary of the Treasury shall find in writing that--

(1) There is no other practicable means of obtaining financial assistance to meet debt retirement and service; and equipment and facilities purchase or repair than the issuance of a Federal Government guarantee;

(2) The applicant can reasonably be expected to become self-sustaining;

(3) The probable value of the assets of the applicant in the event of default provides reasonable protection to the United States; and

(4) The issuance of a guarantee would be in response to a specific request for assistance to achieve a specified purpose.

(b) As a condition to a guarantee, the Secretary shall require that while any principal or interest on such guaranteed obligation remains unpaid:

(1) Dividends will not be increased over the average amount paid during the five years preceding enactment of this title;

(2) No advances of assets will be made to the applicant's affiliates without express approval of the Secretary;

(3) No encumberance of assets for non-transportation purposes and no other inter-company transactions will be undertaken without express approval of the Secretary.

(4) No management fees, directors' or officers' salaries, or their expenses in an amount in excess of that being paid as of August 9, 1972, will be paid without express approval of the Secretary;

(5) No shareholders sell their stock without express approval of the Secretary; and

(6) No portion of the loan guaranteed pursuant to this title will be used for purposes other than debt service and debt retirement, and equipment and facilities purchase and repair.

SEC. 905. QUARTERLY REPORTS OF INTERSTATE COMMERCE COMMISSION AND THE CIVIL AERONAUTICS BOARD TO THE SECRETARY OF TRANSPORTATION.

The Commission and the Board shall advise the Secretary quarterly or more frequently, if necessary, regarding the applicant's performance as a certified common carrier.

SEC. 906. STUDY OF SMALL PARCEL SURFACE TRANSPORTATION PROBLEM.

The Secretary shall undertake a study of the small parcel surface transportation problem to determine the appropriate role of common carriers eligible for assistance under this title as well as other carriers engaged in the surface transportation of small parcels. Within eighteen months after enactment of this title the Secretary shall report on the findings of such study to the Commission and the Congress. Within thirty days thereafter the Commission shall undertake appropriate proceedings to be completed within a reasonable time in no event to exceed one year. Should the Commission fail to complete its proceedings within a reasonable time, the Secretary's findings shall become effective as law insofar as they provide guidelines for expansion or contraction of common carrier authority of certificated common carriers affected by this title.

SEC. 907. PREMIUM INTEREST RATE CHARGE.

The Secretary shall fix a premium charge for the issuance of a guarantee pursuant to this title of not to exceed 1 per centum per annum of the principal amount of such obligations.

SEC. 908. AUTHORIZATION FOR APPROPRIATIONS.

All carriers eligible for assistance under this title shall cooperate with the Secretary, the Commission, and the Board in carrying out the provisions of this title. The Secretary is authorized to take appropriate action, including the termination of any United States obligation under this title, should he find that any such carrier or otherwise attempts to frustrate the purposes of this title.

SEC. 909. REPORTS TO THE PRESIDENT AND TO CONGRESS.

The Secretary shall, within one year after enactment of this title, report to the President and to the Congress with respect to his activities pursuant to this title, including an evaluation of the operating and financial conditions of carriers that obtained guarantees under this title, an evaluation of the impact of this title on the performance of such carrier as a common carrier (including in such report the advice prepared under section 905 of this title)and the use made of funds and assets obtained through such guarantees. Such report shall also include recommendations, if any, for additional legislative action. Such carriers shall make such reports as the Secretary shall require.

SEC. 910. AUDIT.

The Comptroller General of the United States, or any of his duly authorized representatives, shall have access to such information, books, records, and documents as he determines necessary to effectively audit financial transactions and operations carried out by the Secretary in the administration of this title and by any carrier that obtained guarantees under this title. The Comptroller General shall make such reports to the Congress on the results of any such audits as are appropriate.

SEC. 911. NOTICE FOR HEARING.

The Secretary shall not approve any transaction pursuant to section 904(b) without notice and opportunity for public comment and a finding on the record by the Secretary that such approval is in the public interest.

TITLE X - MISCELLANEOUS

SEC. ~~901.~~ 1001. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, the amendments and repeals by this Act shall become effective on the date of enactment of this Act.

SEC. ~~902.~~ 1002. SEPARABILITY.

If any particular provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. SNYDER. Thank you, Mr. Chairman.

Mr. Al Chesser, president of the United Transportation Union regrets he will be unable to attend this morning due to a very important meeting in Philadelphia with the Penn Central trustees.

At his request, I will read his testimony here.

STATEMENT OF A. H. CHESSER, PRESIDENT, UNITED TRANSPORTATION UNION, AS PRESENTED BY J. H. SNYDER

Mr. SNYDER. I am presenting this statement on behalf of Al H. Chesser, president of the United Transportation Union, the largest of the railway labor organizations, representing more than 200,000 operating employees, employed on all of the railroads throughout the United States. We represent the largest group of employees employed on the six bankrupt railroads in the Northeast region of the United States, with which these hearings are directly concerned.

In appearing here today we will attempt to identify what appears to us to be the best elements in each of the various proposals advanced thus far and to blend them into a single proposal.

No group has a larger stake than we have in developing and maintaining a healthy, competitive, and effective rail system in this or in any other region of the country. We have supported the efforts of these railroads in and out of Congress to develop a balanced transportation policy; to maintain the bankrupt lines and to return railroading to its rightful place in moving the Nation's goods and passengers.

The membership, on whose behalf I speak, have a total commitment to these goals. Railroading is our way of life. We begin at an early age and we remain in railroading throughout our lives. The committee knows that, in my own case, I began working as a trainman when I was very young and, in the many years since that beginning, I have continued to serve in railroading experiencing in one way or another all of the problems that seem to culminate in this proceeding. I speak for my entire membership in saying that, to us, a healthy railroad system is essential to our national well-being and that each of us is dedicated to the achievement of that goal.

It is clearer than ever before that considerations of traffic congestion, air pollution, energy and fuel conservation point up the essential role of the Nation's railroads in carrying the Nation's goods. If anything, this role must be increased in the immediate future. Even if we were to maintain no more than our current share of surface transportation, we are faced with the problem of absorbing a heavy increase in freight traffic over the next 10 years, possibly as much as 50 percent over present volume. This fact standing alone dictates a tremendous gearing up of our capacities by way of rebuilding roadbeds, rolling stock and facilities, all of which have been allowed to deteriorate throughout the country.

Nowhere is this more evident than in the Northeast where massive rehabilitation is desperately needed, as so clearly spelled out by the Interstate Commerce Commission in its report to the committee. This factor along with bad management and the loss of revenue that follows are among the most significant reasons for the collapse of these railroads.

There is no question that the economy in the northeast section of the United States has kept pace with the rest of the country. Yet, the railroads' share of traffic in this section has decreased substantially over the past 10 years. The trend must be reversed if we are to avoid suffocation of this part of our economy. Unless we do this, business will be forced to relocate in other areas of the United States at the expense of the Northeastern States and communities.

Our objective is to restore to this industry the vitality which it once had and to reverse this downward trend of rail traffic in the Northeast.

There have been numerous proposals made to this committee by various responsible parties who share these aims. I would be remiss, however, if I did not point out that the single outstanding exception to this collection of responsible proposals is the Ingram recommendation. The Ingram proposal is absolutely unworkable. It would cut the heart out of the railroad plant in the Northeast. It would cut the heart out the work force. It is completely indifferent to the public interest in having adequate transportation services available to all who need them. By and large it leaves thousands of shippers stranded high and dry.

The other proposals deal with the rail transportation crisis in the Northeast in a more responsible way. There are, of course, substantial differences between them as to structure, form and content. It is fair to say that each one proceeds upon the basis of the following propositions:

1. High quality railroad service in the Northeastern part of the United States must be restored.
2. The Northeastern rail system must be restructured.
3. The Northeastern railroad problem is national and not regional in nature.
4. The solution to this problem cannot be developed piecemeal, carrier by carrier, through the reorganization courts. It must be approached in its entirety and with governmental direction.
5. Restructuring of the rail system may at first entail labor displacement, ultimately to be overtaken by an increase in employment as high quality service is restored. Most, if not all, recognize that labor should not bear the burden of the restoration program. Labor's equity must be protected.

The points to which these various proposals are addressed may be summarized in the following way:

1. Development of a feasible reorganized rail system for the Northeast.
2. Funding to rehabilitate the system.
3. Low-density unprofitable lines which may, or will, serve a useful purpose.
4. Transitional programs pending development of reorganized systems.
5. Maximized utilization of tracks, yards and facilities through coordination.
6. Employment during transitional period.

There are, of course, differences, some of them substantial, in the response of the various parties to these points. These include differences as to the agency or the structure empowered to develop and carry out the reorganization programs, including the extent of the authority to act; the means for funding during both the transitional and rebuilding phases; the conditions under which transitional labor displacement is to be managed.

The approaches of the various recommendations include proposals to nationalize the northeastern rail system, to nationalize or to lease with leaseback arrangements track and roadbed. It is our view that nationalization of railroads in any form is a decision of last resort. We do not share the judgment that the situation in the Northeast has reached this point.

Our approach is to marry two basic concepts. The public service policy must be joined with the income-based private operation policy.

Of primary importance to us in this connection is the management of such transitional employment problems as may occur.

We are agreed that the restructuring of the northeast rail system will affect employment to some degree, certainly in its early stages.

However, it serves no useful purpose and makes no sense to us to play a number's game. We have heard time and again the various estimates of numbers of employees who will become surplus, ranging from several thousands to more than 50 percent of the existing work force. Numbers of any kind at this stage of the proceeding can only becloud the issues and interfere with a reasoned approach to the solution of the real problems.

We must first define the system before we can begin to know the size of the work force needed to run the system.

On this score, all we can predict at this time is that in the beginning there may be some labor displacement. Employment should increase as quality service is restored. A balanced program based upon the idea of a restructured public service system, joined with private enterprise, should in time produce reliable railroad services, returning reasonable profits, with a larger work force than exists today. During the interim transitional employment period, we expect that the established principles under the Interstate Commerce Act and under various transportation laws for the handling of these problems and for the stabilization of the railway labor force will be followed. We can accept nothing less. Neither can the Congress nor the country.

The fact is that most of the employees who may be adversely affected are now covered by various forms of protective agreements which must be honored regardless of the direction of the reorganization. Those employees not covered by such agreements must be protected in a similar manner. There are, of course, problems of assumption of liability of this kind. Most agree that outside funding in some form will be required as one of the pieces of the reorganization plan.

All who are involved have a stake in developing a manageable transition from the current levels to the ultimate levels of employment. This means that the Federal Government, the railroad industry as a whole, as well as the investors, should join together in absorbing such costs as may be involved in working out the funding for the solution of whatever labor displacement problems may develop.

In evaluating the various means for handling this part of the program, one should not overlook opportunities that may be available through a combination of railroad retirement, in its amended form, now pending in the Congress and unemployment insurance, supplemented in various ways to provide equitable adjustments in working out such labor displacement problems as may be encountered.

Under H.R. 7200, railway workers commencing July 1, 1974, will be able to retire with unreduced annuities at age 60 after 30 years of service. In addition, the supplemental pension provisions should be adjusted to make benefits available on the same basis, i.e., at age 60 rather than at age 65. Likewise, the spouse should be entitled to unreduced benefits at age 60. These changes will require legislation.

Since retirement is voluntary and most long-service employees are covered by protective agreements, there could be some form of financial inducement to encourage voluntary retirement. The established practice is to offer lump sum payments in amounts designed to induce retirement.

Perhaps the clearest element in the entire picture is the point that effective public service reorganization plans cannot be developed by the reorganization courts or by the railroads acting unilaterally.

The Department of Transportation, in commenting upon this point, in its recommendations says that "the fragmented and competitive nature of many of the present bankrupt estates" makes it unlikely that they could agree upon an acceptable reorganization plan with elimination of excess facilities and sharing of those facilities which may survive.

The recommendation of the Interstate Commerce Commission in various ways echoes the judgment expressed by the Department of Transportation in this respect. More importantly, the ICC points out that "the reorganization courts * * * cannot provide the degree or kind of public participation that is needed, for they are not equipped to make decisions as to present and future service requirements.".

It is clear to us that the task of developing a single coordinated reorganization plan involving the six bankrupt railroads in conjunction with other railroads serving the northeast sector can be eased enormously if the various bankruptcy proceedings were to be consolidated into a single proceeding before a single bankruptcy court and if the responsibility for the restructuring of the northeast rail system and for developing and effectuating the plan of reorganization were to be committed to a single commission responsible directly to the Congress.

This suggestion involves two basic steps: (1) Recognition of common questions of fact and policy, requiring treatment of the various bankrupt estates as a part of a regional railroad system that can be reorganized effectively only upon consolidation of all proceedings; and (2) establishment of a legislative commission with power and responsibility to design new systems of railroad transportation in the northeast section and with broad authority to provide for consolidations, funding, proper use of trackage and facilities, and other elements related to the management of the new northeast railroad systems along the general outline defined by the ICC after public hearings. For purposes of convenience we shall call this commission the North East Transportation Commission or NETC.

The NETC should be established as a joint legislative commission consisting of members representative of shippers, consumers, trunkline railroads, railway labor, and State government, appointed jointly by the chairmen of the Interstate and Foreign Commerce Committee and of the Senate Committee on Commerce, as more fully described in our attachment A as follows:

NORTH EAST TRANSPORTATION COMMISSION

9 MEMBERS

1 State Public Utility Commissions
1 Consumers
3 Shippers—manufacturers of soft goods–1. Natural resources–1. Agriculture–1
2 Railroad industry (truck line only)
2 Railway labor (operating brotherhoods–1) (Non-operating brotherhoods–1)
Members jointly appointed by the Chairmen of the Senate and House Commerce Committees.

Chairman and Chief Executive Officer to be selected by the Commission from among its membership.

Now, I will go back to page 8 of the statement.

This Commission should be legislative in nature and should be well staffed and well funded by the Congress. It should be instructed to report back to the respective committees within an established time limit; for example, March 1, 1974. Congress should enact standstill legislation to cover the entire period of the Commission's operation.

The Commission should have available to it all resources for assisting in the creation of the restructured system, particularly the ICC, DOT, and Treasury.

The general mission, power, and authority of the Commission should follow those outlined by the Interstate Commerce Commission, the Department of Transportation, and the Union Pacific in their recommendations with respect to identification, after public hearing, of the rail systems for the Northeast, the establishment of such railroad transportation corporations as may be required to operate these rail systems and the policies and means for insuring adequate funding.

The corporations which NETC should be authorized to establish for the operation and funding of the restructured Northeast rail systems should be organized for profit and should not be agencies or establishments of the Government of the United States. Their model should be taken from the Communications Satellite Corporation which has enjoyed such unexpected success in its short 10-year life. The members of the Commission would serve as the board of incorporators and as the initial board of directors of each of the Comsat-type corporations, pending selection of the various boards following generally the Comsat model.

Not more than one-half of the stock of each such corporation should be made available to the bankrupt estates, possibly along the line suggested by the Department of Transportation in its proposal, and to other railroads. The other half of the outstanding, authorized stock should be offered to the public in a manner which would encourage the widest possible distribution.

Included among the new Comsat-type corporations to be considered and designed by NETC to carry out its plan for the reorganization of the Northeast rail system should be one following the Fannie Rae model suggested by the Union Pacific. Consideration should be also given to the proposal to establish a Railroad Reconstruction Finance Corporation, modeled after the Reconstruction Finance Corporation, to supply interim financing during the transitional stages.

The funding, as proposed by the Interstate Commerce Commission and by the Union Pacific, should include tax-exempt Government guaranteed obligations and tax-exempt State and local bonds, with Federal Government loans to provide interim financing, pending ultimate establishment of the new rail systems. A general freight transportation tax of 1 percent on all surface modes of transportation as proposed by the Interstate Commerce Commission should be incorporated into this program. It should be expanded to cover unlicensed carriers as well.

The detailed plan of reorganization for the new rail systems in the Northeast, together with the program for issuance of stock and debentures to the bankrupt estates in exchange for the various railroad properties to be taken over by the new corporations, rehabilitation of track, equipment and facilities, relief from State and local taxes, funding and other elements of the total program developed by NETC should be reported to the Congress within 90 days, the overall plan would then become effective.

Main line trackage not designated for inclusion in the overall plan would not be abandoned but would be preserved as an inoperative element of the system against the possibility of eventual inclusion.

Branch lines which are not designated for inclusion in the principal system developed by NETC, as approved, should nonetheless be retained as a part thereof if a State or local government elects to maintain all or any part of these lines under a 90–10 percent Federal subsidy program. Branch lines which are not to be included within the program should be mothballed.

The task of redesigning the Northeast rail system within the context of the six bankruptcies presents great problems of a most complex nature. We realize that there are a variety of ways of approaching these problems. We feel strongly that the approach we have outlined here operating directly through the Congress with the aid of a specialized legislative commission such as we have described offers the greatest promise of providing reliable rail transportation to all who need it.

That concludes Mr. Chesser's statement, Mr. Chairman.

Mr. Jarman. Mr. Snyder, I think one question the chair would ask at the present time, or ask for a comment on, has to do with the last part of your testimony where you refer to the 90–10-percent Federal subsidy program.

You refer to branch lines which are not to be included within the program and state that they should be mothballed. Have you any comment to make to the committee as to the period of time which such branch lines would be mothballed and your recommendation as to who would carry the expense of such a procedure?

Mr. Snyder. No; there is no time limit on this, Mr. Chairman. I would think this would be—if Congress sees fit to set up this Commission we have recommended—then the board of incorporators would certainly work out, I would think, a reasonable time limit on these unneeded branch lines.

Mr. Jarman. By time limit you mean then at some foreseeable time or some unforeseeable time in the future that they might be brought back out of the mothballs into active service?

Mr. Snyder. A large portion of these branch lines—we think this should be investigated very early as to see the amount of traffic, the potential, and the public need as well as the shippers who would be involved. Even if mothballed, conditions in time may require activation of the branch line.

Mr. JARMAN. As to the finances involved, the expense of such a mothball operation, you would simply defer to a decision by the Commission on what would be equitable?

Mr. SNYDER. Yes.

Also here we must remember that we are asking for an exemption in taxes, there would be no taxes on this. There shouldn't be much cost involved in these mothballed lines.

Mr. JARMAN. This is one of the basic problems that we face, that is the uncertain aspects of the problem that we are dealing with.

Mr. SNYDER. You are right.

Mr. JARMAN. As to the amount of money involved, the disposition of lines and the work force, we would appreciate any specific recommendations that you gentlemen are in a position to offer to the committee.

Mr. SNYDER. We think that is one of the real bright spots by this Commission here, give them sufficient time to really investigate this and to see just which lines are needed and those which are not needed.

Mr. JARMAN. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. Snyder, you have given us a very helpful statement.

As I read your statement, you do not oppose, then, the idea of segmentation of lines, reorientation of the structure of the corporations, and trying to set up viable railroad corporations from all or some parts of the rail systems of different lines now in bankruptcy in the Northeast; is that correct?

Mr. SNYDER. What we are saying is, if the Congress sees fit, we will leave it up to this Commission.

Mr. DINGELL. Do you look with kindness on inclusion of some portion of the bankrupt lines with existing functioning viable lines?

Mr. SNYDER. I can't answer that particular question at this point.

Mr. DINGELL. In any event, at this particular moment, you don't oppose that?

I am not trying to lead you into any pits.

Mr. SNYDER. We really just don't know at this point. I wish I could give you a yes or no answer.

Mr. DINGELL. The subcommittee doesn't know that answer, either.

You raise the question of the tax on the freight of all firms of 1 percent, rail, air, and highway, and water carriers.

Mr. SNYDER. Surface, not air. And on unlicensed carriers, also.

Mr. DINGELL. I think you have to recognize here, one, this raises jurisdictional questions inside the Congress. This committee doesn't have jurisdiction over taxes and raises questions of other problems.

Do you have any idea of the views on this particular approach of the taxes?

Mr. SNYDER. No, we have not discussed this. This was as outlined in our statement, we support the Interstate Commerce approach to it. We went further and included the unlicensed carriers.

The Commission didn't go that far, if my memory serves me correctly. We have not sat down with the other transportation groups to see if they are opposed or would support it.

Mr. DINGELL. I see.

Thank you very much.

Thank you, Mr. Chairman.

Mr. JARMAN. Mr. Harvey?

Mr. HARVEY. Thank you, Mr. Chairman.

What would your Commission do that the Department of Commerce and the DOT currently can't do?

Mr. SNYDER. I think Mr. Friedman can answer that question.

Mr. FRIEDMAN. This plan has taken what Mr. Chesser regarded to be the best or most significant elements of each of the programs.

Under its plan, the Department of Transportation would set up a corporation the board of which would have complete authority, a blank check, to reorganize the Northeast rail system.

Mr. HARVEY. You are not talking of the Commission?

Mr. SNYDER. The ICC are the fellows with the expertise and competence to do this and would be happy to do this job or work with DOT if it were supposed to do this job.

Everybody failed in this thing and each bears responsibility for the present crisis in the Northeast. The need is for direct involvement of the Congress; this Commission is an arm of the Congress, it acts for the committees of the Congress, it reports to Congress, involves the Congress directly——

Mr. HARVEY. Let me interrupt you there because of time limits and put it this way: You have not answered my question so far.

Are you proposing any new powers in the Commission that DOT and the ICC presently don't have?

Mr. SNYDER. No, they would have all the powers basically that DOT was proposing in its plan for its corporation and the ICC was proposing for itself.

The NETC would have complete authority and power to restructure the entire system and all its assets and be acting for the Congress, reporting to the Congress; ultimately the Congress would make the decision.

Mr. HARVEY. What you are proposing is the exercise of the same powers by a Commission appointed by the chairman of the Senate Interstate Commerce Committee and the chairman of the House Interstate Commerce Committee?

Mr. SNYDER. Yes.

Mr. HARVEY. Is that how the administration would view that proposal?

Mr. SNYDER. The administration would have the present responsibilities as it has today to appear.

Mr. HARVEY. Obviously, the answer is it would invite a certain veto, wouldn't it?

Mr. SNYDER. I don't know.

Mr. HARVEY. I think that is the answer and that is my difficulty with the proposal because it seems to me that the one duty this committee does have is to come up with some sort of a proposal here which is going to meet the test of getting administration approval as well as Senate and House approval.

We have to have a workable plan that will become legislation.

Mr. FRIEDMAN. It seems it is a joint resolution by the House and Senate to set up a committee. If the Congress doesn't set up a committee——

Mr. HARVEY. I beg to differ. I don't know how the House and Senate by a joint resolution can set up a committee to exercise the powers of the ICC and DOT.

Mr. FRIEDMAN. The ICC and DOT derive powers from the Congress. This committee would report to Congress, the Congress would be exercising the power, not the committee.

Mr. HARVEY. I don't think Congress has that power. I will say again what I regard as highly important in our consideration is that we come up with a plan that is going to meet the approval of all factors, the administration, Senate, and House as well.

I just have one other question.

Mr. Snyder, on page 11 you speak of the 90–10 Federal subsidy program with regard to State and local governments electing to maintain certain lines.

Do you have any idea how much that would cost?

Mr. SNYDER. No, this would be for this Commission to determine, Mr. Harvey.

Of course, it is based kind of like your Interstate Highway System, 90–10——

Mr. HARVEY. I understand what you are talking about.

I have no further questions, Mr. Chairman.

Mr. JARMAN. Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman.

I hope you will take back to Mr. Chesser my compliments on the statement you have presented. I think it parallels many of the things that most of us have been working on for some periods of time in trying to combine the various proposals that have been presented by the ICC, the DOT, the industry, and various other groups.

Now, following on Mr. Harvey's questions, I think we are moving toward the idea of the establishment of a Comsat-type corporation, or a quasi-public, self-liquidating corporation that could deal with all these bankruptcies at one time. What would you think of this kind of a proposal, because the Commission bothers me for the reason that we have had a lot of legislative commissions and they tend to end up after the year is over by telling us what we already knew and giving us no specific recommendations for operations.

What would you think if we gave the DOT a chance to designate first the point-to-point system, had the ICC review it and then set up a Comsat-type corporation to carry out these operations in which the members of the boards of directors would be appointed in the manner you have suggested here.

In other words, there would be recommendations to the President from the various groups involved, the public utility commissions, consumers, shippers, railroads, railroad labor, and so on, to carry out the establishment of this system of lines itself?

Mr. SNYDER. I will let Mr. Friedman answer.

Mr. FRIEDMAN. I think the point here is that the Congress itself, that this has reached a point with all of the confusion and contradictions and all the other problems that have been surfacing, this has reached a point where the Congress itself should take hold of the entire program and operate through a Commission which it selects.

The DOT can present to the Commission—it will be required by the legislation to cooperate with that Commission and present to that Commission its complete ideas with respect to its restructuring.

I think the answer is the Commission, if you want to call the Commission a committee, the committee has the responsibility to report back to you a total plan of reorganization.

Mr. ADAMS. I know our time is limited. Suppose we put into this what we basically did with the proposal in Amtrak, that their plan comes up to Congress for approval or rejection on a tight time schedule and, if we reject it, the corporate group has to go back to the drawing board on it.

Mr. FRIEDMAN. I guess one of the problems is that Amtrak has been such a sorry experience.

Mr. ADAMS. We had a pretty bad problem. I want to emphasize that I don't think this will be an altogether happy experience we are about to go through now.

I am trying to get out with as little pain as possible.

Mr. FRIEDMAN. This commission would be to develop and present to you a complete detailed plan of reorganization with respect to all its elements.

Mr. ADAMS. My problem from the examination we have done on it so far, is that this is going to have to be a continuing process. It may take not just a year during which we would freeze it but, after that is over, then 2 or 3 years afterwards.

I just want to end by saying that I appreciate very much the statement that you have made on page 6 where you recognize the pieces of the reorganization and the placement of railroad labor in this, that you have a great stake in it and that we can use such things as railroad retirement, unemployment insurance, protections like these as we go along and that this has to evolve as we see the lines actually occur rather than trying to start with a fiat.

That is excellent thinking and I want to compliment you on it.

Mr. SNYDER. Thank you.

Mr. JARMAN. Mr. Skubitz.

Mr. SKUBITZ. Thank you, Mr. Chairman.

You speak of certain protective agreements the Brotherhood has with the railroads with respect to retirement. What happens to those agreements if the Government does nothing and the lines go into bankruptcy?

Mr. SNYDER. Maybe Mr. Friedman better answer that.

If they go bankrupt, I really don't know.

Mr. FRIEDMAN. That reminds me a little bit about the story in the Washington Post yesterday reporting that when President Johnson asked Dean Acheson how the Vietnam war was coming out, Acheson said there were only two ways it could come out and that one was too horrible to contemplate.

I think these would constitute claims against the estate and, if the activities were carried on, they would bind the successor carriers.

Mr. SKUBITZ. What priority would such claims have? I am not an authority on bankruptcy law. If the lines went bankrupt, where would you stand preferentially with your claims as related to the creditors and bondholders and stockholders?

Mr. FRIEDMAN. Not above the secured creditors, to my knowledge. That is in liquidation.

Mr. SKUBITZ. Would not very little be left after the secured creditors are paid off?

Mr. FRIEDMAN. Your question implies that the entire estates will be liquidated, the lines abandoned, and the property sold as real estate. There would be nothing left but cash to distribute.

Mr. SKUBITZ. I don't know how far the situation might develop. I wonder if you realize what could happen?

Mr. FRIEDMAN. It is a real problem, no question about it.

Mr. SKUBITZ. You speak of financial inducement to encourage voluntary retirement. Financial inducement by whom, by the bankrupt railroads or by the new authority that would take over. Who is to pay for this inducement?

Mr. FRIEDMAN. Well, on page 6, it is noted that the Northeast railroad rail transportation system is vital to the entire rail industry, it is important to the entire economy, that the problem of funding, the conditions of the employees to the extent they are involved should really be the responsibility of all parties.

Under our program this would be one of the programs the NETC would work out.

The reason a Commission is needed is that there are no simple answers, this is an enormously complex problem.

Mr. SKUBITZ. I agree. The railroads are the backbone of our transportation system but many seem to feel we should let those in trouble go bankrupt and start from scratch. If that were to happen, what happens to the brotherhoods?

Mr. FRIEDMAN. Those railroads won't run without the brotherhoods. Penn Central has discovered that. It laid off employees, employees retired and it found after payment of severance pay, that it had to recall them to duty because it needed them.

Mr. SKUBITZ. This retirement inducement would have to come from the taxpayers, is not that what you are saying?

Mr. FRIEDMAN. Not necessarily. The Union Pacific in its proposals recognizes this problem.

I don't know that your question can be answered simply.

Mr. SKUBITZ. Of course the problem does not lend itself to a simple answer, I agree. You also speak of quality service and improved service. Do you believe improved service is an answer to all the problems?

For example, I remember the president of the Lehigh Valley Railroad testifying that most of their business was hauling anthracite coal. Will quality service get that business back for Lehigh?

Mr. SNYDER. Mr. Skubitz, I am privileged and proud to be—my seniority is on Southern Railways, some 32 years of service.

All you have to do is go and see the operation of Southern Railways. That is a sound operation because they give service.

By giving this service, that is the reason they are financially sound. This is what what we have in mind with this new reorganization of a new system and to upgrade the track so they can operate the trains without all the delays and get the shipments there on time for the shippers and the rest, I think, would take care of itself.

Mr. SKUBITZ. I agree improved service will help some, but there are certain situations in which it is not a factor. I understood the testimony of the president of Lehigh, that improved service will not bring back the shipments of anthracite coal over their lines and these coal shipments represented a substantial part of their revenue.

Second, I don't want to be misunderstood. I certainly agree the brotherhoods have rights. They reached certain agreements with the railroads with regard to retirement and those have to be honored by somebody.

But it complicates an already different problem. I think you understand that.

Now, on another point. You agree that a lot of branch lines will have to be shut down. A number of railroads in the Northeast just cannot survive with extensive branch lines.

You also state you are not in favor of the nationalization of the railroads. I assume that means you are not in favor of any program that would provide for the Government to buy the basic lines and then lease back for operation to the railroads; is that correct?

Mr. SNYDER. This is what we are saying, Mr. Skubitz. We think under this it would be a much sounder, much improved operation, than this Commission would come up with—what you say—than taking over the roadbeds and leasing it back to the Government, the Government rebuilding the lines and things of that nature.

Mr. SKUBITZ. You think this should be the responsibility of this new corporation that you propose to set up?

Mr. SNYDER. That is true, absolutely.

Mr. SKUBITZ. Of course, I don't agree with you on that point. I think eventually the Government is going to have to take over the main roadbeds throughout the United States and I think it is going to be beneficial to the railroads and the public in more ways than one.

I think the maintenance of roadbeds has been low on the priority list. I don't see how Amtrak will ever work unless we start fixing the roadbeds so they can speed up their operation.

Obviously we can't expect the railroads to take care of that when they are not operating the passenger service for profit.

In my judgment, the manner in which the mail service is messed up today indicates that eventually we are going to have to go back to the railroads to carry the mail faster from one point to another.

Mr. SNYDER. We think this 1-percent surface tax the ICC is recommending here would be a solution to the problem.

Mr. SKUBITZ. It could help. I have used my time. Thank you, Mr. Chairman.

Mr. JARMAN. Mr. Podell?

Mr. PODELL. Thank you, Mr. Chairman.

I enjoyed reading your statement. I was a little late because I decided to fly this morning. If I had taken Amtrak, I would still be on the rails, I imagine.

If I understand your proposal, you envision setting up a joint legislative committee responsible to the Congress.

Second, you talk about restructuring the seven bankrupt lines in the Northeast area. Do you envision a consolidation of these lines into one major effort to avoid duplication?

Do you talk about a consolidation of these lines or will they operate independently as in the past?

Mr. SNYDER. We are recommending under the Commission that all six bankrupt railroads be included in the Commission.

Mr. PODELL. They would be consolidated, so to speak, in one effort?

Mr. SNYDER. One effort under the direction of the board of incorporators, completely redesigned into one system.

Mr. PODELL. The next question, which I imagine is the $64,000 question, is how to pay for it.

When Secretary Volpe testified before this committee he stated we are going to take the 23 losing propositions of the passenger service, who are losing money, and combine them into one successful operation.

We said at that time, as I recall, to Secretary Volpe, you can't do it. They are going to lose individually and collectively.

What we have to do is contemplate in some manner a vast infusion of dollars in order to make this joint legislative committee a success, is that right?

Mr. SNYDER. In one form or another.

I think Mr. Friedman can give you an answer.

Mr. PODELL. You are going to require a lot of money to make this thing a success?

Mr. SNYDER. Right.

Mr. FRIEDMAN. One of the things that must be emphasized, this is taken from all plans, the Congress acting through the NETC will set up the mechanism for spinning off, for providing new railroad operating companies, two or more, so there will be new transportation companies, Comsat type, that will be spun off.

I think once Congress approves the financing——

Mr. PODELL. Excuse me. You do require large sums of money, you say so.

Mr. FRIEDMAN. The financing——

Mr. PODELL. You will require money, will you not?

Mr. FRIEDMAN. Absolutely.

Mr. PODELL. You envision the raising of this money in a number of ways; one, by a surtax of some type on freight and, second, that the Federal Government, the rail industry as a whole, and the investors will get together and help solve the problem.

In addition you say you will sell stock as Comsat does; is that correct?

Mr. FRIEDMAN. The basic funding, the railroad plants taken over by these new Comsat corporations, once Congress has approved this plan, will be paid for, I would think, depending on the plan of reorganization, by stock and debentures in the new corporations.

The big job is rehabilitating these railroads, rebuilding the facilities and track. The plan would contemplate Government obligations.

Mr. PODELL. We agree we are on the same track, if you will.

We want to rehabilitate. But you say you will raise money by the sale of stock. Will you please, sir, tell me how in heaven's name you are going to get anybody to but stock in a company, particularly one that is a holding company, or call it what you will, of seven losing companies.

Who is going to buy stock in that company?

Mr. FRIEDMAN. The companies will be new, Comsat-type corporations owning this property and operating independently as Comsat does.

The NETC will go out of existence once this plan has been established as a Commission of the Congress. I assume, from everything we have learned about this, if the Northeast railroad system is properly redesigned, well financed, it will work.

The stock will be marketable. There will be Government loans, something in the nature of RRFC suggested by Union Pacific. It should work.

Mr. PODELL. It may not. If it doesn't work, people won't buy the stock.

Mr. FRIEDMAN. Then nothing will work.

Mr. PODELL. If people won't buy the stock, the Government will have to put up the money.

Mr. FRIEDMAN. They are guaranteed Government obligations. As I understand, from picking off the proposals, these funds will be largely for the purpose of rebuilding the system.

Mr. PODELL. What I am trying to bring out is simply this: I think we agree on basic propositions. No. 1, I think we agree that there has to be some sort of a consolidation of those railroads in the Northeast region.

No. 2, I think we agree they have to be under one super agency or one superstructure of a type so you could run the show properly and eliminate the overlapping or duplication that presently exists.

The area where we disagree is very simple. I don't think we can possibly set up private stock corporation. I don't believe we can sell stock to anybody. Someone who bought the Brooklyn Bridge is not going to buy stock in a corporation that is the owner of six different bankrupt corporations.

The only thing that is going to happen is that we, the Congress, are going to have to raise the money to pay the tab.

Now, the difference that I envision is if we are going to pay the tab and pay the price—I think the Congress should, because I think it is our obligation, to provide proper rail service for the people of the country—if we are going to pay the tab, then I think we ought to own it and take it over in the first instance and not wait until after we infuse all the additional moneys into the thing and finally wind up buying it eventually, which I think is going to happen.

Mr. FRIEDMAN. One of the basic assumptions is that railroads are operating profitably throughout other parts of the United States, so why not the Northeast?

Mr. PODELL. Aren't there many differences in the Northeast area?

Isn't there a difference in population? Isn't there a difference in short-term haulage as compared to the Midwest or the South where there is long-term haulage?

Isn't there a greater density of population which requires additional private rail, or passenger service?

Aren't these some of the problems we have in the Northeast area?

Mr. FRIEDMAN. It is one of the densest industrial areas of the country. It needs rail transportation, unquestionably. We envisage this, if it is properly constructed, as we assume it will be under this type of plan, a model of the 20th century railroads.

Mr. PODELL. Didn't the UTU support the concept of such a rail system in the past?

Mr. SNYDER. Mr. Chesser made a study on this, in the beginning he went to England.

After that study in England where the Government operates the railroads over there, he found they had taken up approximately 50 percent of the track, a lot of employees had lost their jobs and service deteriorated considerably.

After making this study—he has the information on this. If it would help the committee any, we would be delighted to make this information available to the committee.

Mr. PODELL. I would appreciate that.

One last question because my time is likewise expiring.

You mentioned in your statement that you could envision nationalization but only as a last resort. Would you tell me, what would you believe to be a last resort? When would this eventuality come about?

Mr. SNYDER. I think the last eventuality would be in the event that the Congress did set up the type of commission here we have recommended and the mechanics were not worked out, and after giving it a chance to certainly work out this one good streamlined system up there, then I think we would fall back and take another approach.

Mr. PODELL. Thank you, sir.

Mr. JARMAN. Mr. Shoup?

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Snyder, my colleague from New York to the contrary, I would like to commend you and Mr. Chesser for your stand on the endorsement of private enterprise. I fall fully in line with you on that.

I would like to add my compliment, also, to those of Mr. Adams and hope you carry them back to Mr. Chesser.

I think we have seen two major breakthroughs in the rail industry, the transportation industry, the first, of course, was the one we took care of here in the committee on the railroad retirement, the settlement of your strike provisions.

I think it was great.

Listening to your reading of your statement you and I agree, that the rail transportation is going to have to absorb more responsibility for carrying more freight.

I think we are faced with that. We also face the fact, as you say, we will have to have more viable lines and some lines will have to be eliminated that won't be operable competitivewise.

That will affect employment. One of the ways you plan to take care of those who are no longer needed for this operation is with an inducement for early retirement.

Then it seems very logical that you are saying it is possible or you are willing to take another look at the work rules on overall employment.

This is the only conclusion I can come to. If we are going to haul more freight and it is going to take less men, it would seem that we are going to have another look at some of our work rules, am I correct that you are willing to look at this?

Mr. SNYDER. This would address itself to general committees on this particular problem. Under the Railway Labor Act where agreements have been negotiated through collective bargaining and any changes in these would have to be in accordance with the Railway Labor Act and there will be some changes I am sure, and that the general committees involved who are representing the employees on these particular railroads would certainly negotiate fair and equitable conditions.

Mr. SHOUP. You see my point on this, if we induce men to retire early and then, by our operating work consist rules, we must hire people to take their place to perform that function, we are not accomplishing what we should.

Am I reading something into this that you don't want read into it?

You don't make that statement but it seems to me somewhat of a conclusion.

Mr. SNYDER. No, Congressman, I am not in a position to give you a yes or no answer because it doesn't address itself to the legislative department.

It really addresses itself to the elected officers, President Chesser and the elected officers on the particular properties involved and, of course, to the Railway Labor Act.

I have no dealings with the Railway Labor Act and could not give you a yes or no answer on that.

Mr. SHOUP. I don't think I was looking for a yes or no. You were speaking of the problem, the labor problem; the total labor problem is everyone's problem and you list quite a few here, but you do not list the Brotherhood as one of the members who has some responsibility here.

I am merely saying perhaps you should be listed along with everyone else in solving this problem.

Mr. SNYDER. Well, the——

Mr. SHOUP. I am not trying to talk you into laying off or firing a brakeman.

Mr. SNYDER. I understand.

Mr. SHOUP. I am saying maybe you should accept some responsibility in this.

Mr. SNYDER. We have always done so. In the last few years a tremendous amount of progress has been made.

Mr. SHOUP. Perhaps I am reading something into your statement.

Mr. SNYDER. Right.

Mr. SHOUP. You address yourself, not specifically, but I think you are addressing freight only, the problem of freight lines?

Mr. SNYDER. Yes.

Mr. SHOUP. The Northeast Transportation Authority is strictly with freight?

Mr. SNYDER. No, no; this would be for the entire operations of freight and passenger.

Mr. SHOUP. You were present, I believe, the other day when the recommendation was made several times for a dual line, a passenger line in addition to the freight line up in the corridor between Boston and New York.

Do you have a feeling on this or do you feel one line would be sufficient?

Mr. SNYDER. I do feel like that the Commission set up, that they would certainly work out a solution to the problem. It is a problem. I think in our testimony here the Penn Central and the other various groups that have testified here, certainly with the population, there is a need for the passenger train service up there, it is just a question of how we are going to operate it.

Mr. SHOUP. Going back to my previous question, you are speaking of both passenger and freight, then these individual corporations, we would back up from Amtrak and go to private rail transportation corporations taking over and operating in both the responsibility of freight and passenger?

Mr. FRIEDMAN. The way this is conceived, as I understood from our conversations with Mr. Chesser and Mr. Snyder, this plan is really pulling together the best features of all the various plans and really putting the responsibility where it really belongs at this point on the Congress in facing up to the problem.

In looking at the northeast rail transportation system for purposes of redesigning it, one cannot overlook the passenger service problem and how to handle Amtrak or the passenger service elements.

As I see it, the NETC in its plan of reorganization will probably have to consider what the relationships between the northeast rail transportation freight systems and Amtrak should be.

It is not contemplated that Amtrak will be replaced by a Comsat corporation. The only problem will be the use of facilities and track.

Mr. SHOUP. It has been recommended that the passenger right-of-way be owned by the Federal Government, nationalized as Mr. Podell says, and the freight system would be privately owned.

Does the Brotherhood have a feeling on this?

Mr. FRIEDMAN. Conceivably that would be one of the items on the agenda for the NETC when it addresses the problem of a total plan of reorganization and redesigning the Northeast rail system.

In the final analysis it will be for Congress to decide.

Mr. SHOUP. No further questions, Mr. Chairman.

Mr. JARMAN. Mr. Metcalfe?

Mr. METCALFE. Thank you, Mr. Chairman.

Mr. Snyder, I am impressed with the statement of Mr. Chesser, however, there are a few questions that I need clarification on.

You mentioned in your prepared statement that there has been a decrease in freight traffic in the northeast section in the past 10 years.

Can you tell me whether or not the railroad industry throughout the United States also has had a decrease in the traffic accommodations?

Mr. SNYDER. No; not over all.

Mr. METCALFE. Have all of them suffered as a result? Have they all had a decrease in freight traffic?

Mr. SNYDER. No; not all.

Mr. METCALFE. It is just northeastern?

Mr. SNYDER. Right.

Mr. METCALFE. Let me go to page 3 on which you refer to the Ingram recommendation; did you have reference to the Ingram recommendation as being the Federal Railroad Administrator, is that the Ingram you had reference to?

Mr. SNYDER. That is right.

Mr. METCALFE. I need some further clarification in regard to your statement on page 4 as you enumerated the various proposals.

Is this a complete sentence or what is intended in number three, low density on property lines which may or will serve a useful purpose.

What do you have reference to?

Mr. SNYDER. These are primarily the branch lines, Mr. Metcalfe.

Mr. METCALFE. What is their function?

Mr. SNYDER. The branch lines which I have referred to on page 11. They wouldn't be included in the Commission or in the system rather.

Mr. METCALFE. With regard to the Commission for the Nationalization of Raildroads, you refer to it as being the last resort.

The NETC, the Northeast Transportation Commission, as you propose to have it set up, you refer to it as likening it to a corporation like Comsat.

We look at the stock market to see how well Comsat is doing and I think you will find there it is not doing too well. And, as pointed out by my other distinguished colleagues, as to the amount of people who invest and purchase stock in NETC, I think this is something for the union to look into if they are looking at this as a means of achieving the goal that they want.

However, what I am primarily concerned about is the pouring in of Federal money, you mention a 90–10 Federal subsidy program.

Whether or not it would be a better idea to include some nationalization with a leaseback to the railroads for operating it because if we go to NETC we may find ourselves in a very similar position to what we are now in with these railroads having their board of trustees and they have not been successful.

It has been proven they have not been successful and with the exclusion of governmental intervention it would appear to me it may be better if Government does come in and if we are to put money in, that they would have the benefit of making a contribution in that area and particularly I am concerned about your feeder lines, your branch lines, because most of the testimony we hear is for the elimination of some of these branch lines.

It would appear to me also that we ought to be thinking about how we can maintain these feeder lines because if we are going to move traffic, freight, in these areas, then certainly we ought to be thinking about the road for moving them.

I am concerned, as the chairman said, about the deterioration of those lines if they are not used. Certainly the goals that you seek ought to be the guidelines for all the programs you have, mainly the traffic congestion, air pollution and fuel conservation.

Those are all desirable goals and we ought to be thinking along those particular lines. If we are going to eliminate these feeder lines, I don't see how we are going to be able to address ourselves to some of the ecological problems that we have right now.

I think furthermore, you are concerned about the layoff of employees that it would be to your best interests to work out a program to keep these feeder lines and so we won't have to worry about the early retirement of railroad people.

We will need them with their expertise in order to maintain the lines.

Mr. SKUBITZ. Will the gentleman yield?

Mr. METCALFE. Yes.

Mr. SKUBITZ. Your point is that if we eliminate the branch and feeder lines we can destroy the main lines?

Mr. METCALFE. Yes.

Mr. SKUBITZ. We would repeat what we did when we abandoned the passenger branch lines, abandoned one here and one there that were feeding into the main lines; is that correct?

Mr. SNYDER. Yes.

Mr. METCALFE. I can see where some could be eliminated, but they would be parallel lines for moving freight that would help on the air pollution and fuel.

You can take that suggestion back to Mr. Chesser.

Mr. SNYDER. We would agree with you. Mr. Ingram, in his testimony before this committee and all around the country, has changed the labeling of the name to rationalizing. His recommendation was that approximately half—for example on the Penn Central—half of the track mileage be taken up.

Eliminate the branch lines and just leave some of the main arteries. We are opposed to Mr. Ingram's plan because somewhere along the line you have to have the feeder lines. It is like a growing tree, you cut off all the roots and it will die.

Certainly this is not a solution to it. You have to serve the public and serve the shippers.

Mr. METCALFE. Thank you.

I yield back the balance of my time.

Mr. FRIEDMAN. May I answer one part of Mr. Metcalfe's statement, or clear up one thing?

The NETC is not a Comsat-type corporation, it spins off or creates by power of Congress. Comsat operates as it sees fit.

NETC as an arm of Congress is the architect and engineer and designer of the entire system from the wheels up.

Mr. METCALFE. If the Chairman will permit, it seems to me you are speaking in contradictory terms. If you are going to use the Comsat type of corporation in order that Government will subsidize it and guarantee the performance of Comsat and likewise the organization that you propose, then you would need to have Government come in and some nationalization in order to make it effective.

Thank you, Mr. Chairman.

Mr. DINGELL [presiding]. Thank you, Mr. Metcalfe.

Mr. Kuykendall?

Mr. KUYKENDALL. Thank you, Mr. Chairman.

We appreciate the comprehensive report from Mr. Chesser. Tell our good friend I wish he had been here to deliver it.

Mr. SNYDER. I don't think you were here when I began. He is in Philadelphia on some very important matters and is sorry he was not able to appear before the committee.

Mr. KUYKENDALL. Thank you.

The thing I appreciate most, is further evidence that you are taking seriously both the admonition and the pleas of some of us on this committee to come up with your own solution.

I think it is also quite interesting that Mr. Chesser has gone to England and discovered that there is nothing private enterprise can't do well for a dollar that the Government can't do for a dollar and a quarter.

We have to have in the end some sort of a profit incentive to make anything work in our system.

I think we had a little misunderstanding about what you intended to put together. Also I am not sure I agree who the governing body should be.

There is not but one source of money. It is out of the public's pocket, whether he be called a worker, consumer, shipper. It all comes from one place.

If Government pays it, it comes the tax route, but if it comes from the shipper it comes from the consumer; the consumer and taxpayer and shipper are all the same person, aren't they?

Mr. SNYDER. Yes.

Mr. KUYKENDALL. If we are going to have a cost for a reduced force and have to have a retirement for a reduced force, let's pay the bill.

So whatever form our organization is it can be clean on the front end. Now for the questions.

Do you believe in the continued subsidization of branch routes that don't show any possibilities of breaking into the black?

Mr. SNYDER. I would have to refer back to my previous statements on this.

Mr. KUYKENDALL. What page?

Mr. SNYDER. This was in colloquy, I think the chairman asked the statement.

This would be one of the main projects for the NETC to work out. When you are drafting a system here with the assistance of all interested groups and then it would be determined, I am sure, by the NETC as to the reasonable approach to this, there would be some lines with no traffic or no potential that I am sure would be——

Mr. KUYKENDALL. And no future.

Mr. SNYDER. Yes, no future.

This would have to be determined. These tracks have been there for a long time and you just can't determine that in just a few weeks as to which lines would be necessary for the system and which lines would not be necessary for the system.

Mr. KUYKENDALL. You are not saying you should continually subsidize a constant inevitable long-range loser; is this true or not?

Mr. SNYDER. It would depend on the public convenience and necessity after, say, public hearings are held and you determine—if you will recall I testified before the committee last year and presented for the record this morning my opinion on the branch lines.

In my opinion, the branch lines should have a year's notice. We should have a public hearing to determine the flow of traffic, determine the public convenience and necessity, to determine the future and potential of that line, people, the shippers and various communities affected by it and the burden of proof would be on the carrier and, if then there was all these qualifications met, the line should be abandoned with the protection of the employees affected.

Mr. KUYKENDALL. You have made it clear you do not want to saddle the taxpayers or the shippers or the railroad with this impossible situation if these other conditions are met?

Mr. SNYDER. On page 11, if you refer to page 11 here, we have a recommendation here that the lines are not included in the NETC system, they would not be included but it would be left up to the local State governments, like the interstate highway system on a 90–10.

Mr. KUYKENDALL. My next question has to do with our ability to sell the program both then to the remainder of the House of Representatives and the American people.

There are a lot of other parties interested in the modes of transportation.

The other major competitor to the railroads are the trucklines who are in an enviable position. They have not come to the Congress for subsidies and they have a pretty powerful position.

What do we say to the motor carrier when it has been determined that there is a perfectly good alternate mode and an available service but it has been determined by the ICC there is not enough traffic to support a railroad. Then some local government, State or county, comes in and subsidizes that service and in order to get into business at all they cut the rates below the truckline's rates, using the taxpayers' money to do it.

How can we justify keeping a railroad in business when the railroad itself doesn't want to be in business and the taxpayers' money is being used to subsidize competition for the other mode?

Would you care to comment on that now, or wait until later?

Mr. SNYDER. Mr. Kuykendall, I think it would be advisable here to pass at this particular time. It is a problem.

Mr. KUYKENDALL. I don't necessarily expect you to answer that now.

Mr. SKUBITZ. Will the gentleman yield?

Mr. KUYKENDALL. Yes.

Mr. SKUBITZ. Mr. Snyder, if I understand your answer to Mr. Kuykendall's question, you are saying on whether a profit and loss is involved that whether a railroad or a line should be abandoned should not be premised. Other factors such as the public convenience and necessity must be considered. It might just as well be argued that every local post office not in the black column should be closed because is it not profitable.

If we really believe this country needs a sound transportation system, we must make decisions not only on the basis of profit and loss, but on the basis of convenience and need of the public; is that correct?

Mr. SNYDER. That is correct.

Correct me if I am wrong, but I think in your great State of Kansas, 48 percent of the railroads' track mileage are branch lines and I am sure a lot are unprofitable but they are serving a good public convenience and necessity for the farmers.

Mr. SKUBITZ. If those lines were not in operation to haul traffic to the main lines, the main lines might go down; is that your point?

Mr. SNYDER. That is absolutely true.

Mr. SKUBITZ. Thank you.

Mr. KUYKENDALL. Let's not kid ourselves. You can't dream up money. The Federal Government can crank up the money press but we know that causes inflation. I agree with you and Mr. Chesser that buried somewhere up in the northeast there is a railroad.

I think the problem is method; we agree on basic principles. I think one of the things to be decided in the committee is whether or not we need to mothball to an extent in order to show that this thing can break in the black fairly quickly and attract investors or whether we are deluding ourselves, as we have on Amtrak.

You can't take failures and add them up to success. However, the northeast corridor is a different story. It is not like Amtrak.

Had you not stated here by your mention of subsidization that you recognize this organization has to make money in order to attract investors?

Mr. SNYDER. That is true.

Mr. KUYKENDALL. Thank you, Mr. Chairman.

Mr. DINGELL. Gentlemen, the committee thanks you for your very helpful testimony.

I think you have given the committee some excellent suggestions which will be kept in mind.

The Chair extends its thanks to you and Mr. Chesser.

Mr. SNYDER. Thank you.

On behalf of Mr. Al Chesser and my colleagues here, we appreciate the opportunity to come before this committee.

Mr. DINGELL. Thank you.

Our next witness is Mr. E. L. Dennis, executive director of the Brotherhood of Railway, Airline, and Steamship Clerks, Freight Handlers, Express and Station Employes.

We would like to hear your statement but we will probably have a role call around 12 m. We would like you to come back at 1 p.m.

We noticed you have a long statement and for the convenience of all parties, the Chair will insert your statements in the record and recognize you for a summary of your statement.

STATEMENT OF L. E. DENNIS, EXECUTIVE DIRECTOR, BROTHERHOOD OF RAILWAY, AIRLINE, AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES, AFL-CIO; ACCOMPANIED BY WILLIAM MAHONEY, COUNSEL; AND JAMES J. KENNEDY, NATIONAL LEGISLATIVE COUNSEL

Mr. DENNIS. Thank you, Mr. Chairman. We have the full statement running some 39 pages plus an appendix and a summary running 10 pages.

I will try to summarize and ask that the statement be included in the record. [See p. 471.]

My name is L. E. Dennis; I am executive director and I will skip the rest of the title.

I have with me Mr. William Mahoney as counsel, and Mr. James J. Kennedy, national legislative counsel and three general chairmen from some of the railroads involved directly in the event any questions are raised as to some of the examples cited.

You have been told that the causes of the collapse of the northeastern railroads may indeed be complex. However, they can be stated more accurately than has been the case with previous testimony before Congress.

You have been told that the causes are, basically, labor agreements, Interstate Commerce Commission regulations, and State and local taxes.

Let's look at each of these items:

The labor protective agreements reached by the Penn Central are better than those existing on many railroads. However, they are not the best. For example, the Burlington Northern agreement is probably the best, and the BN is making money. The Norfolk Western agreement is really the pattern for the PC agreement, and the Norfolk Western is making money. Thus, if one were to lay the blame on labor, it would be pretty hard to make it stick. Railroads all over the country are operating effectively under these same basic agreements and procedures, and are doing all right.

The ICC regulations are uniformly applied across the country. Thus the special relief sought by these carriers is, indeed, unique. Other railroads are managing to exist within these regulations. If we are to bring about the broadscale relief sought in this case, we may as well forget the meaning of the word "regulate."

State and local taxes are yet another issue. I have no doubt that many of the taxes charged are excessive—being based on an earlier era when the profit margins were far higher. The significant thing is that none of these railroads are paying these taxes. Since they went into reorganization, they have suspended payment. So, the cause of the present crisis certainly cannot be linked with State and local taxes. And once again, successful railroads are paying their taxes, even though many of them are, in my opinion, excessive.

Thus, the three most often-cited causes of the present crisis can be seen as highly overrated, and probably far down the list of actual problems which must be dealt with.

What then are the basic causes for the collapse of the Northeastern railroads? I think they can be traced to two major causes:

The policy of the Government of the United States as developed, expressed, and administered by the Interstate Commerce Commission and lack of proper management on the part of the railroads involved during the years prior to the merger periods.

Insofar as railroading is concerned, the policy of the U.S. Government is established and implemented by the Interstate Commerce Commission. While many attempts have been made to formulate a national transportation policy, they have been notably unsuccessful. The creation of a Department of Transportation was seen by many as a major step in the development of an overall national transportation policy. Thus far, however, it seems to have resulted in a layering of additional bureaucracies around, and not even on top of, various regulatory agencies. If there is a policy, that has been created by the ICC.

ICC policy in approving the C. & O.–B. & O. unification was the key to the restructuring of the Northeastern by unbalancing the competition among railroads in the Northeast, thereby necessitating approval of other mergers. Eighteen months later came Commission approval of the N. & W.-Nickel Plate-Wabash merger followed 22 months after that by approval of the Penn Central merger. That is where the policy developed.

One of the ICC Commissioners had dissented from the majority opinion of the Commission in both the C. & O. and N. & W. cases and had sought to emphasize the devastating effects of the Commission's approach with these words:

> The case-by-case approach has meant too much emphasis on the immediate interests of the formal parties and too little recognition of the broader aspects nad the reality of the public interest.

In our opinion, it is the ICC policy which basically created the present crisis. It is the ICC failure to look at the whole cloth which allowed this hodgepodge of mergers to take place. It is the ICC willingness to approve mergers without regard to their overall effects which created the untenable system that now falls around us.

If responsibility within Government is to be placed anywhere, then in this area, the culprit is clearly apparent, the absence of a coherent national transportation policy, the ICC simply let topsy grow.

While placing government responsibility on the shoulders of the ICC, we cannot ignore the fact that it was railroad management which proposed, pushed, and profited from the various ill-conceived mergers The creation of huge conglomerate corporations, the diversion of transportation assets to nontransportation ventures, and the manipulation of facilities, assets, and people to the advantage of the few, and the disadvantage of many, seems to have been the guiding light of top-level management in the industry, and certainly of the railroad involved in this section of the country. I do not mean to impugn the integrity of the current management of the bankrupt railroads. I recognize that they are working under enormous difficulties. But whether the impact upon labor and the public is the result of machinations or circumstances beyond the control of management, the result is the same from the point of view of the employee and the public.

In our full statement we prepared many detailed examples of what we think are mismanagement. Some of these examples have been corrected. We can get into those in question later if you care to. Some of them misstate facts, depending on your interpretation. For example, we demonstrate employment among our craft on the Penn Central declines almost 25 percent, I am told the accurate figure is 23.7 percent, which is, to me, almost 25 percent. There are distinctions like that that can be made. There are other details where the figures were off one way or the other because we were relying on ICC-supported figures.

We have identified the prime causes of the current crisis, but that doesn't help us out of the present dilemma. What we must face up to is the present and the future. At present we are operating under virtually total Government control in the Northeast. It is Government control and policymaking without congressional or presidential involvement; it is one branch of Government superseding all others.

We read much about a crisis in separation of powers between the Congress and the President. I suggest that in the case of the northeastern railroads, the present posture is one where both the Congress and the President have been locked out. Something must be done about it.

This situation today is Government control but it is the worst form of Government control.

These are four possible alternatives:

(1) Continued expenditure of funds to support bankrupt railroads, in the form of grants, priority loans, and subsidies with or without close control and supervision of expenditures.

(2) Acquisition of the bankrupt railroads' rights-of-way as outlined in H.R. 4897.

(3) Creation of some type of Federal authority to parcel out the bankrupt railroads to the wealthy railroads with the undesirable portions falling by the wayside.

(4) Acquisition of the property and operating franchises of the bankrupt roads by an authority answerable directly to Congress or by a corporation similar in nature to Amtrak—the National Railroad Passenger Corporation.

Skipping over a little on the question of subsidies, I think we made our position clear, that the time of handouts is over. On lease back arrangements we think that creates a number of problems. In some instances it creates secondary problems that make it very difficult.

The third alternative, the "parceling out authority," embodied in the ICC and DOT proposals are plans for dismantling most railroad service in the Northeast United States. There are some basic points which are at the heart of the ICC and DOT proposals.

The DOT proposal, I guess, was referred to as the Ingram question. I was here when it was presented and I think of it as Brinegar proposal. The DOT and ICC proposals involve basically the same facts.

First, railroads should be run by private enterprise. Put forth as an article of faith rather than one of fact, it flies in the face of city transit systems, regional transportation authorities, municipal bus lines, and the experience of virtually every free country in the world including Canada.

We, too, have made extensive studies of systems throughout the world and our international affairs department has been in action a long time and I disagree with most previous statements and think most railroads in other parts of the world are operating well under Government enterprise.

B. In order to maintain private enterprise, we should restructure the system and hand it out to profitmaking railroads. That is the basic trend.

C. However, since no one can make money on the Penn Central's Northeast corridor we should dump it on the Government.

That is what is really behind the position of the railroad industry, the Department of Transportation, and the Interstate Commerce Commission. In effect, this means that private enterprise can function if the Government is willing to pick up the tab.

We don't think that is private enterprise.

If such an authority were established without judicial or congressional review, it would dump the Northeast corridor of the Penn Central on the Government or Amtrak, but remove all profitmaking freight.

That would be reserved for private enterprise. The authority then would abandon 40 to 50 percent of all trackage in the Northeast; give the balance to the profitmaking roads like the N. & W. and C. & O.–B. & O., and attempt to buy off the unions by offering extensive employee protection.

This plan would lead to the elimination of needed service throughout the Northeast and therefore would subvert the public interest.

On the question of the numbers game, how many jobs will be cut, Secretary Brinegar testified there was 500,000 jobs and he proposed to cut 53,000 within the next several months. That is his testimony. That is the best testimony we have of what DOT thinks of the system, about half of what it is today.

That leaves the fourth alternative; public ownership and operation of the bankrupt railroads. This alternative is embodied in H.R. 7373, introduced by Congressman Podell, which we shall call "FedeRail."

It creates a Federal Railroad Transportation Authority, which would own and operate the bankrupt railroads in behalf of the United States of America.

It does not propose a national plan for railroads. In reality, there can be no meaningful "national" plan for railroads because there is no common set of "national" characteristics among American railroads.

American railroads differ significantly on a regional basis—with the Western and Southern railroads primarily trunk lines. Eastern railroads on the other hand evolved in a spider web network. To abandon track under these circumstances is to abandon business. Factories will close and already clogged highways cannot possibly take up the slack.

Given this situation, we must acknowledge that private enterprise has failed insofar as Eastern railroads are concerned. But private enterprise is working quite effectively in the West and South. Let's keep it that way.

We don't propose nationalization in the sense of a national plan. Since private enterprise cannot work effectively in the East and meet the needs of the public, it is time for a little Government enterprise.

The ICC has claimed that a Federal railroad would "unbalance" the railroad system in America. It is the ICC which has already unbalanced the system with these reckless mergers. Now they have left us with a group of railroads which cannot possibly make a profit and maintain service needed by the public.

The more burdensome and unique needs for railroad service in the Northeast will forever prevent a FedeRail system from "unbalancing" the railroads operating in the highly profitable markets of the West and the South. The system is already unbalanced. Let us now correct the imbalance.

The shippers want service which they have been unable to secure from the bankrupt railroads.

The managements want abandonment of lines which in their view are unprofitable and the inclusion of massive subsidies.

The ICC wants the Penn Central to be able to abandon those lines it desires and has issued regulations to that effect. The difficulty is that such regulations apply to every railroad in the United States. Fortunately the regulations have thus far been restrained by the courts.

The employees want the assurance of stability in their jobs instead of the continuing downward spiral of employment.

I would suggest to you that further cuts in employment are the exact opposite of what is needed, they have already cut employment far more than you can run an efficient railroad system. This has even been acknowledged in the courts. They have cut reorganization too far.

The reorganization judges want to get to their judicial calendars. The Congress wants an end to these 11th-hour emergency calls.

The general public wants an end to the chaos and calamity pervading the Northeast since Penn Central collapsed in June 1970.

We have reached the reluctant but firm conclusion that the only effective, feasible, final solution to the Northeast dilemma is the purchase of each of the bankrupt railroads by the Government at an amount no less than the creditors would receive if the Government refused aid and the trustees were forced to liquidate their railroad properties; and the operation of those railroads by an authority or by a corporation such as that created by Congress to acquire and operate the intercity passenger trains of this country.

That solution will provide the creditors and the reorganization courts the relief they seek. It will relieve the ICC of the frustration and anxiety of attempting relief solutions for the Penn Central which could well decimate the entire railroad plant in the United States. It will provide the only reasonable assurance of adequate service to shippers and any semblance of stability in the work force. It will eliminate the easy and delusive solution of abandonment of one-half the railroad plant. It will end the chaos and calamity.

H.R. 7373 would take over the bankrupt railroads and their subsidiaries. It would operate them as separate divisions for 2 years, and then report to Congress on its plans for effective reorganization.

FedeRail's primary mandate would be to serve the public interest. It would operate under the same ICC regulations and the same labor and retirement laws as all other railroads. It would protect the public interest and the interest of the employees. Its overriding goal would be improved service. It would be a joint congressional and presidential agency—not under the domination of either singly.

H.R. 7373 would include within it the present transportation subsidiaries of the bankrupt railroads. It would pay off the present corporations with cash or bonds, based on their liquidated value.

The FedeRail concept is precisely what everyone talks about in private. It is time to get it out in the open.

We advocate this solution because it is the only proposal which deals with maintaining and improving service. It is the only proposal which faces up to the fact that the Northeast meeds more service, not less.

We are taking this story to our members and the public. We are holding public meetings in 20 to 30 major cities from Chicago and St. Louis east.

You may well be seeing stickers like these on boxcars all over the country. On boxcars they fit very nicely. You will be hearing of seminars and meetings all over the country. We believe we must get the issue out to the public.

We believe it is time for us to stop ducking responsibility and face up to the necessity of a new approach. DOT won't do it. The ICC won't do it. It is our hope that Congress will see fit to take the steps necessary to save our system. This is, in a real sense, an SOS. We support H.R. 7373.

[Testimony resumes on p. 495.]

[Mr. Dennis' prepared statement and attachments follow:]

STATEMENT OF L. E. DENNIS, EXECUTIVE DIRECTOR, BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES, AFL-CIO

Mr. Chairman and Members of the Subcommittee, my name is L. E. Dennis. I am Executive Director of the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employes or BRAC, with offices at 6300 River Road, Rosemont, Illinois, a suburb of Chicago.

BRAC is the largest transportation union in the AFL-CIO, and the largest predominately railroad union. We represent a wide variety of people working on the railroads: clerks, telegraphers, agents, patrolmen, sky caps, dining car workers, etc. Nation-wide, we have about 190,000 active members in the American Railroad Industry.

I am here to present our position on the bankrupt railroad problem which is plaguing us all in the Northeast quadrant of the United States. BRAC represents approximately 35,000 employes on the six bankrupt carriers and their subsidiaries. This is the largest single group of employes involved. Thus, our interests in the maintenance of a good railroad system are very apparent.

Our purpose here is to assist in developing the complete truth about the present conditions and operations of the six properties in reorganization. To do that, we must examine the whole context of past and present actions of the railroads involved.

The public statements of the Penn Central Trustees are larded with references to "bleeding", "struggling" and so on. One gains the impression that the valiant management is akin to a Bull in the middle of the arena, down on its knees, bleeding from flank to shoulder, struggling to rise and resume the battle, but pierced by the thrusts of the Picador, who is the Government: stabbed in a multitude of places by the Banderillas of Local, State and Federal taxes; and with eyes upraised to the balanced Toreador, Labor, who is about to deliver the final momento de la verdad. It makes a striking picture—but I suspect, Gentlemen, that we are listening to the wrong end of the Bull.

The causes of the collapse of the Northeastern Railroads while far more complex than the simple word picture painted with allusions to bleeding, crawling out of a wreck, etc., are not mysterious. Indeed, they are fairly obvious.

You have been told that the causes of the present railroad crisis are, basically, Labor Agreements, Interstate Commerce Act provisions, Interstate Commerce Commission regulations, and State and Local taxes.

Let's look at each of these items. The Labor Protective Agreements reached by the Penn Central are better than those existing on many railroads. However, they are *not* the best. The Burlington Northern Merger Agreement is probably the best. As you know, the Burlington Northern is making money. The Norfolk and Western Merger Agreement is really the pattern for the Penn Central Agreement, and the Norfolk & Western is making money. The Erie Lackawanna is covered by an agreement identical to the Norfolk & Western Agreement (although it is now unilaterally seeking to abrogate it). Many other profitable railroad properties are covered by agreements substantially the same as those applicable to Penn Central.

Certainly, it cannot be reasonably argued that Labor or labor agreements have caused the present crisis when railroads all over the country are operating effectively, efficiently, and very profitably under these same basic agreements and procedures as are the bankrupt roads.

ICC regulations, which have been cited as another contributing factor are, as you know, uniformly applied across the country. Thus, the special relief sought by these carriers is, indeed, unique. Other railroads are managing to exist—and quite well—within these regulations. While the railroads have always sought relief, the Congress, in its wisdom, has seen fit to maintain the necessity of regulation. If we are to bring about the broad-scale relief sought in the instant case, we may as well forget the meaning of the word "regulate."

State and local taxes are yet another issue. There can be no doubt that many of the taxes charged are excessive—being based on an earlier era when profit margins were far higher. But the significant thing is that none of these railroads are paying them. Since they went into reorganization, they have suspended payment. Thus, the cause of the present crisis certainly cannot be linked with State and Local taxes. Once again, successful railroads are paying their taxes—excessive though they may be.

Thus, the three most often cited causes of the present crisis can be seen as highly over-rated, and probably far down the list of actual problems which must be dealt with.

What, then, are the basic causes of the collapse of the Northeastern Railroads? They are directly attributable to two major areas:

1. The policy of the Government of the United States, as expressed, administered, and implemented by the Interstate Commerce Commission in the approval of railroad mergers; and,
2. The mismanagement of the railroads involved.

Let me now address myself to each of these areas in turn:

1. THE POLICY OF THE GOVERNMENT OF THE UNITED STATES AS CARRIED OUT BY THE INTERSTATE COMMERCE COMMISSION

Insofar as railroading is concerned, the policy of the United States Government is established by Congress but it is administered, interpreted, and implemented by the Interstate Commerce Commission. Thus, as a practical matter, governmental policy on railroad mergers, abandonments, rates, divisions, and so on, as that policy affects the day-to-day economy of this country and its citizens, is a creature of the Interstate Commerce Commission.

While many attempts have been made to formulate a National Transportation Policy, they have been notably unsuccessful. The creation of a Department of Transportation was seen by many as a major step in the development of an overall National Transportation Policy. Thus far, however, it seems primarily to have resulted in a layering of additional bureaucracies around, and not even on top of, various regulatory agencies. Thus, if there is a policy, that policy has been created by the ICC.

The lack of a National Transportation policy is the root cause of, and has permitted the ICC to promulgate the policy-decisions it has in the Northeast.

The tragic and economically very dangerous situation confronting our country today because of the financial collapse of the railroads in the Northeast was caused primarily by Interstate Commerce Commission approval of the Penn Central merger.

In retrospect, one may certainly ask why the Commission ever approved the merger. Labor fought it until it became perfectly obvious that the Commission was going to approve the merger. At that point, labor made the best deal it could for the people it represented.

In opposing the Penn Central merger, the unions retained Dr. Leon Keyserling to analyze the merger and to testify regarding it. In a 105-page prepared statement buttressed by 140 exhibits, Dr. Keyserling concluded:

". . . none of the so-called savings which the two roads claim would result from the merger will prevent them from facing, within a decade or less, the utter financial ruination which they claim is in prospect if they are not permitted to merge."

The Interstate Commerce Commission ignored Dr. Keyserling's prediction, but Dr. Keyserling was right!

As mentioned early by Governor Shapp in his testimony, the Commission adopted the gloomy economic predictions of Penn Central witnesses that Penn Central traffic would approximate 68 billion ton-miles in 1965 and recede to 64 billion ton-miles in 1970. It dismissed Keyserling's projections which were precisely correct—89.1 billion ton-miles in 1965 increasing to 92.1 billion ton-miles in 1966.

Why would the Commission ignore such precisely correct economic evidence when its decision in the Penn Central case was made on April 6, 1966, *well after* Keyserling's predictions for 1965 had been proved correct?

The Commission approved the Penn Central merger because it had to. The Commission had gotten itself into a position where it had no choice but to approve that merger. Why did it have no choice? Because it approved earlier merger applications on illogical and sometimes emotional issues. On that basis it had to approve the Penn Central application.

The problem began in the emotion-charged atmosphere of the 48 hours following President John F. Kennedy's "Cuban missile" speech. Oral argument of the C&O-B&O unification was proceeding before the Commission. In a most unusual move, the then President of the B&O Mr. Jervis Langdon (now trustee of the Penn Central) rose before the ICC to argue his railroad's cause. He proceeded to narrate to the Commission a fascinating tale of how he had been awakened the night before by a call from the Army for railroad cars and trains to carry troops to Florida, and how he had managed the virtually impossible task of getting the necessary equipment together. He closed his story by very dramatically stating that he could not do it again if the Interstate Commerce Commission rejected the C&O-B&O unification, because B&O was on its last legs financially, having lost some $31.3 million in 1961.

The Commission approved the unification on December 17, 1962, observing: "We dare not ignore the threatening world situation." *Three months later* the Annual Report of the B&O was filed with the Commission revealing that the B&O had made a *profit* in 1962 of $1.6 million, and this, *without* the help its President had said it so desperately needed from the C&O.

This decision of the Commission was later characterized by one of the Commissioners as a ". . . 'panic button' response sought and achieved . . ." by the B&O claiming it ". . . was on the verge of 'collapse'. . ." at a time when it was actually making a profit.

At the time the Commission decided the C&O–B&O case, the Penn Central merger case and the Norfolk & Western-Nickel Plate-Wabash merger case were also pending before it. Petitions had been filed with the Commission for consolidation of these cases for hearing and decision. The Commission rejected these requests and determined to decided each merger case as if none other existed. Commissioners Tucker and Webb dissented from the majority opinion in the C&O–B&O case stating that "by drawing a curtain around this case (the Commission) has endorsed the so-called case-by-case approach."

The dissenters strongly implied that the Commission had permitted itself to be intimidated by C&O's threat of withdrawal of its application should the ICC consolidate the three merger cases. The dissenters then predicted the future with precision—as did many who had opposed that merger:

"If the Commission is going to open the gates to all eastern merger applications so each successive one becomes one of the basic reasons for requiring approval of the next, (and realistically, I can see no other course of action from the decision in this case), we may end up as the creators of another Frankenstein's monster far more ruinous than its fictional counterpart."

Labor appealed the Commission's decision to the Courts, but to no avail. The Courts held that they could not disturb the Commission's expert judgment in this matter.

The C&O decision became the key to the restructuring of the Northeast by unbalancing the competition among the railroads of the Northeast, thereby necessitating approval of other mergers.

Eighteen months later, the Commission decided the Norfolk & Western-Nickel Plate-Wabash merger. Labor opposed that merger until it became painfully obvious that all opposition was withdrawing. At that point, we made the best arrangement we could for the protection of the employees we represented. When the examiner opened the hearing in that case, there was no opposition. The examiner called a recess. The Commission directed its Bureau of Inquiry and Compliance—now the Bureau of Enforcement—to intervene for the purpose of developing the record. What could it do? It had never been in a merger case before. It made a study and recommended that the Pennsylvania Railroad be required to divest itself from its Norfolk & Western stock as a condition of approval of the Norfolk & Western-Nickel Plate-Wabash merger. There was no further development of the record by that Bureau or anyone else. The merger was approved.

Commissioner Tucker again dissented, and this time emphasized the devastating effects the Commission's case-by-case approach was having on the railroad system in the Northeast:

"By insisting here on a too-strict case-by-case approach, the Commission has unnecessarily grounded its decision upon a number of assumptions which can only be tested by the ultimate disposition of the Pennsylvania-Central Proposal. As was true in the B&O–C&O unification, the case-by-case approach has meant too much emphasis on the immediate interests of the formal parties and too little recognition of the broader aspects and the reality of the public interest."

The Commissioner recognized that approval of the merger would place the "New York Central in a singularly unenviable predicament, which can only be worsened by our immediate approval of the Norfolk & Western system."

The dissenting Commissioner then went on to inquire as to what would happen to the Erie Lackawanna as a result of the Commission's handling of the cases on a case-by-case approach and concluded by stating:

"As far as the D&H, the B&M, and the New Haven are concerned, their positions are literally impossible if the Eastern merger structure is to be settled on a case-by-case approach."

And that was precisely how the Eastern merger structure was settled upon by the Commission. That agency again ignored the warnings of its dissenting member and approved the merger. Time has proved the dissenting Commissioner tragically accurate.

Twenty-two months later the Interstate Commerce Commission completed its journey through the East and Northeast with its inevitable approval of the Penn Central merger. The destruction of any hope of a logical transportation system in the Northeast was complete.

Commissioner Tucker by this time had surrendered to that inevitable result and concurred with the Commission majority. However, he clearly stated his reason for so doing:

"On the day that the Commission approved the C&O–B&O unification, the success of this (Penn Central) merger application became practically inevitable. When, in a separate decision a year and a half later, the Commission approved the unification of the N&W, Nickel Plate, and Wabash railroads, any remaining doubt as to the outcome of the instant proceeding was removed. By its disposition of those two separate cases, the Commission effectively signified its complete acceptance of the principle of a pre-determined three-system rail structure for the East. But if did this on a case-by-case basis, without having before it a picture of that three system structure in its entirety."

Because of its excellent and most accurate summary of what did and what would happen to the railroads in the Northeast, I have attached to my prepared remarks as Appendix 1 a photocopy of that opinion in its entirety and ask that it be included in this record.

Thus, it is the policy designed and applied by the Interstate Commerce Commission which brought about the present crisis. Its indomitable faith in the wisdom of railroad managements seeking merger and in the fallacy that individual railroads know what is good for themselves and that what is good for them is always consistent with the public interest, placed the Northeast, and therefore the nation, in this most precarious situation.

The Interstate Commerce Commission, therefore, must accept primary responsibility for the results of its ill-advised actions.

It is the ICC policy which basically created the present crisis. It is the ICC failure to look at the whole cloth which allowed this hodgepodge of mergers to take place. It is the ICC willingness to approve mergers without regard to their over-all effects which created the untenable system that now falls around us.

In the absence of a coherent National Transportation Policy, the ICC simply let Topsy grow.

2. MISMANAGEMENT OF THE RAILROADS

While placing governmental responsibility on the shoulders of the ICC, we cannot ignore the corollary fact that it was railroad management which proposed, pushed, and profited from the various ill-conceived mergers. The creation of huge conglomerate corporations, the diversion of transportation assets to non-transportation ventures, and the manipulation of facilities, assets, and people to the advantage of the few, and the disadvantage of the many, seems to have been the guiding light of much of top level management in the industry, and certainly on these railroads.

I won't rehash the past and regale you with tales of ineptitude. You've heard them, the papers have reported many instances, and we even have a few books on the market going into extensive detail.

Misplaced potato trains, mass transfers of assets, shifting around of people, elimination of service, lack of planning—all these have been illustrated. What is is lacking, I think, is a picture of what is really happening now. What has been happening on these properties since they went into reorganization?

That is a story which has not been told—except in the glowing terms of the bull ring.

What's happening today is more of the same.

Example No. 1—Wages

On December 10, 1970, this union struck all of the railroads in a dispute over wages. Early that morning, the Congress called a halt to that strike and put into effect wage increases to aid the employes until an agreement was reached. On February 25, 1971, an agreement was reached, disposing of the outstanding issues. All of the railroads in this Country are living up to that Agreement—as they must under the Law—but not the bankrupt six. On those properties, we are required to seek Court approval to implement these Agreements.

In most instances, the Trustees of the various railroads have refused to recommend the full implementation of these proposals—but the Judge has also refused to let us exercise our rights under the Railway Labor Act. Thus, we have the specter of having Congress take away our right to strike, reaching an Agreement, and then having that Agreement unilaterally abrogated by the Trustees and the Courts. Lets get specific.

The National Agreement, which was approved by the Pay Board, provided for the following wage increases:

January 1, 1970, 5%; November 1, 1970, 32¢ per hour; April 1, 1971, 4%; October 1, 1971, 5%; April 1, 1972, 5%; October 1, 1972 5%; January 1, 1973, 15¢ per hour; and April 1, 1973, 10¢ per hour.

Virtually all of the bankrupt railroads have delayed paying these increases, have paid part of them but not all, have implemented them but not paid the back pay, and so on. Each time this happens, we face a major crisis. How many times do they think they can throw mud at their workers and expect them to keep working?

How long do they think workers on these railroads will be willing to work for less than what workers on every other railroad in the Country are getting? Currently, this is what we face:

The *Erie Lackawanna* has paid the increases.

The *Boston & Maine* has paid the increases.

The *Lehigh Valley* has not paid the 5% increase due 10/1/72; has not paid the 15¢ per hour increase due 1/1/73; and has not paid the 10¢ per hour increase due 4/1/73.

The *Penn Central*, and its subsidiaries, the *New Haven, Pennsylvania Reading, Seashore Lines, Chicago River and Indiana*, and the *Indiana Harbor Belt*, have not paid the 15¢ per hour due January 1, 1973, or the 10¢ per hour due April 1, 1973.

The *Reading Railroad* has created an even more complex situation. They paid the October 1, 1972, 5% increase late, but left out 14 days of back pay, which is now scheduled to be paid April 19, 1973; they paid the 15¢ due January 1, 1973, late, but left out 9 days of back pay. You can imagine how people feel about that kind of chiseling.

The real killer is the Central of New Jersey. They only began paying 5% due April 1, 1972, on April 1, 1973, without back pay. They have not paid the 5% due October 1, 1972. They have not paid the 15¢ due January 1, 1973, and they have not paid the 10¢ due April 1, 1973.

So, some might say, these poor struggling bankrupt carriers simply can't afford to pay more in wage money. I can't buy that line. It's coming from the same end of the bull as all the rest of it. Because, Gentlemen, during this same period, what has been happening to management salaries on these railroads?

They've gone up, that's what.

The *Reading Railroad* on 2/1/73 put in a 5% increase retroactive to November 1, 1972, for all *officials* and non-union personnel.

Penn Central put in a 5½% increase for all management on April 1, 1973.

The *Lehigh Valley* raised management salaries between 5% and 20%.

The Chief Officer of the *Boston & Maine* got an $8,000.00 per year increase. They have purchased a fleet of 100 automobiles for management.

That's the pattern on wages—deny the employes their legally contracted increases, but rip-off some more money for management.

Example No. 2—Positions and additional costs

We have read dozens of articles about excessively protective labor agreements which prohibit management from eliminating unnecessary positions. This, too, is a lot of poppycock. Management has given out tales of reduction in supervisory, management level positions—elimination of Vice Presidents. They may not carry the title of Vice President anymore, but they are still there, and growing fast.

According to the ICC Statistics, from May, 1969, to December, 1972, Penn Central reduced union clerical positions from 20,265 to 15,456, a decrease of 4,809 jobs, or almost 25%. During the same period, the number of executives, officials, and staff assistants rose from 1,598 to 1,625, an increase of 27, or an increase of about 2%. So while there are fewer and fewer indians, there are more and more chiefs to supervise them.

Let's turn to another example; The Reading. A few years ago, there were approximately 400 employes in the Accounting Department and 10 officials. Today, there are 240 employes and 28 officials. This is typical of all departments on the Reading.

Another example; the little *Lehigh Valley*. Since reorganization, the official family grew from 17 to 26, at an added cost in salaries alone of $219,000.00 per year.

Yet another. Early this year, the Penn Central had a meeting with the officials of a new, small railroad in New England—the Providence and Worcester. They were working out some interchange agreements. The P&W Railroad had two people at the meeting. The Penn Central Contingent flew in on a jet plane. All 24 of them. Winging out that night, they set a meeting for three (3) days later. This time, 28 showed up. There are only 35 people working for the whole P&W Railroad!

Lawyers' fees, are, in the case of the Penn Central "* * * a real bonanza", according to a Harvard law professor. In the first year of the bankruptcy proceedings, three law firms were paid $989,000.00. Last year they got about $1.6 million. This amount is on top of that paid to the Carrier's own legal department.

Example No. 3—Toilet paper jets

Shortly after the announcement of reorganization, Penn Central management was severely criticized because a number of jet planes were maintained for the primary purpose of transporting railroad executives and guests from city to city on so-called business trips. We heard many tales of trips to Europe. After publicity and a certain amount of grilling before the Congress, the railroad made a great show of disposing of these planes. Tightening of the belt. Getting down to fighting weight, and all that.

But it didn't work that way. They still have their airplanes, but the costs are now hidden in the toilet paper account.

Believe it or not, that's the truth. Maintenance and operation of their jets are now placed in a responsibility account which provided for a sum of money earmarked for the purchase of toilet paper from the Scott Paper Company. In fact, in 1972, the Penn Central paid $163,965.00 to Scott Paper Company, Philadelphia, Pennsylvania, for leasing of aircraft. So much for public pronouncements and private performance.

Example No. 4—Under-billing

We are frequently told of cash shortages on the bankrupt railroads. They don't mention the cause is that they aren't collecting their accounts receivable. We did a spot check recently, on a couple of these railroads. What's happening is that they have reduced their clerical positions to the point where they do not have enough people to process their billings. Thus, they are not collecting revenue which they have already earned.

Let me be specific.

The Central Billing Bureau of the Reading has a nightly carryover of 300 "unbilled bills." They used to be billed on a current basis. Now, the bills sit there, unprocessed, unmailed, uncollected.

The Penn Central has six Customer Accounting Clearing Houses. We spot checked the Pittsburgh Customer Accounting Office, and found the following situation:

Positions have been reduced by approximately 25%. Consequently, there are not enough people around to do the work. Therefore, as of last month, there were:

14,000 disputed freight bills, amounting to $1,400,000.00 owed by shippers to the Penn Central which remain unworked.

1,000 statements of differences related to freight bills amounting to $320,000.00—outstanding bills owed by shippers to Penn Central.

2,000 disputed bills worked, amounting to $600,000.00 not posted; by not being posted, shippers cannot be billed.

Thus, we have $2,320,000.00 of revenue which has been earned but has not been billed because management has cut-off the jobs which do the billing.

That's gross mismanagement in anyone's book.

There is a bright side to this particular example. After management learned of our investigation, they started working people on overtime to get the bills out. But only in Pittsburgh—not in the other 5 offices where the same situation prevails.

Example No. 5—Needless severance pay

Somebody up above on the Penn Central started believing their own propaganda, and therefore, put out the order to buy off people by giving them severance pay. For a while, it looked like every day was a winning day at the track.

They slashed jobs in Cleveland, paying out millions of dollars in severance pay. Now they are hiring new people because they haven't got enough to get the work done.

They are in the process of doing the same thing in Pittsburgh right now.

Jobs are being slashed right and left. Then they found out they didn't have enough drivers to pick up train crews. So now they are contracting with taxi cabs to do this.

Another typical example occurred in Wilkes-Barre, Pennsylvania. The Company abolished a janitors position. The man involved was a protected employee, so he was sent home but kept on full pay. Then they went out and hired a cleaning firm to do the janitorial work. So they were paying twice. One man sitting at home, and another cleaning. So we protested. Then they paid off the man sitting at home with a $13,000.00 separation allowance and kept the outside firm. The man sitting at home was 70 years old. With a little thinking. . . . ?

Shortly after the Penn Central merger, management swept through New York with millions of dollars buying off people with severance pay. During a six-month period, 1,550 employees were severed, at a cost of $13,966,600.00. Guess what. They went too far, and ended up hiring people back—after they had paid them severance.

At the time of merger, Penn Central moved its Freight Claims Department from Philadelphia (its headquarters) to Buffalo, New York. This cost them over two million dollars in moving and severance pay—not to mention equipment, facilities, etc. Now, some four years later, they're moving the whole thing back to Philadelphia. This will now amount to a cost in excess of three million dollars. Why did they do it. In conference, they claim it was company politics—done to keep Mr. Perlman happy.

Example No. 6—Work rules

In the Presidential Emergency Board sessions which handled our 1970 Wage Rules dispute, the railroads made much noise about union "featherbedding." Over and over again, they claimed that the unions forced them to maintain artificial distinctions between crafts which were no longer necessary, and thus inhibit efficiency and maintain needless jobs.

With respect to BRAC, the railroads claimed that the separation of work between Clerks and Telegraphers was an absolutely unnecessary waste of resources. They urged Emergency Board action to consolidate this work. The Emergency Board made such a recommendation.

BRAC took the position that it was prepared to consolidate this work if an equitable arrangement could be worked out.

An agreement was reached. It provided for the complete consolidation of the work, and the imposition of relatively modest protective conditions which have the primary thrust of protecting the present work forces income for a period of six years. The Agreement even gave management a heavy club to make it effective: it provided that if an agreement was not reached to consolidate this work after management served notice, management would be able to holdback 25¢ per hour in wages.

Another point related to this problem and complained of by the railroads was the multitude of employes' representatives with which they had to negotiate. Generally speaking, there was one General Chairman for clerks and one General Chairman for telegraphers on each of the railroads which had existed *prior* to the railroad mergers.

In anticipation of the application of this new agreement to continue work, BRAC has proceeded to consolidate its formerly separate telegrapher and clerk subordinate units all over the country. As an example, where we previously had 15 separate units with 15 separate General Chairmen on the Penn Central, we now have only 2. Thus, we have lived up to our end of the agreement to solve both of these problems.

Almost every major railroad in the United States has implemented this agreement.

The Penn Central has not.

The Lehigh Valley has not.

The Central of New Jersey has not.

The Erie Lackawanna has not.

In other words, these bankrupt railroads have not implemented the economies in work rules which they already won by agreement!

Is that a pattern, or is it simply gross mismanagement?

We could go on and on. We have substantiating evidence to show they presently have plans to move thousands of employes in the same willy-nilly fashion. Costs? In excess of 10 million dollars.

A management like that does not deserve continued existence.

The Erie Lackawanna is seeking to completely abrogate our Stabilization Agreement, in violation of the Railway Labor Act.

The bankrupt railroads have refused to participate in the historic National Collective Bargaining Agreement we recently negotiated. They are demonstrating they want to provoke labor into a strike by threatening to cancel the Union Shop Agreement, reduce wages, and other such 19th Century nonsense.

The Central of New Jersey has virtually thrown out our Collective Bargaining Agreement. Between the extreme powers exercised by Trustee Timpany and Judge Augelli, the Railway Labor Act isn't worth the paper it's written on.

These crazy managements want a strike. They want one because they want to say "I Accuse" to labor as the cover for all their other problems.

They want one because they think the Congress will open up the cookie jar and let them grab all they can get. We are confident that Congress will not so react.

Management provoked a strike on the Penn Central. They're trying as hard as they can to provoke strikes on all the rest of the properties.

That is gross mismanagement, and total irresponsibility.

Whatever solution is worked out for these railroads, it must include the elimination of that type of management.

We have identified the prime causes of the current crisis. But that doesn't really help us out of the present dilemma. Nor is there much point in belaboring the past any longer. The ICC scrambled the eggs and the railroads let them turn rotten. It is too late now to do much about all that.

What we must face up to is the present and the future.

At present, we are operating under virtually total Government control in the Northeast. We don't call it that, but that's only because we get hung up with labels and semantics.

In effect, all carriers in the Northeast except the D&H and the Maine Central are now under effective Government control. Section 77 of the Bankruptcy Act places them under direct control of the Federal Judge to which they are assigned.

Under the protective shield of the Bankruptcy Act, Federal Judges have absolute control of the Northeast Railroads. At least one of these Judges has, in effect, suspended the provisions of the Interstate Commerce Act, passed by the Congress to govern and regulate the railroad industry.

I have already given you many examples of how these trustees and courts have frustrated agreements reached under the Railway Labor Act. Let's look at what they can do to the Interstate Commerce Act.

An example of the direct and absolute control of a Reorganization Judge over a railroad can be found in the case of The Central Railroad of New Jersey where Judge Augelli, with a stroke of the pen, wiped out all CNJ operations in the State of Pennsylvania. He didn't require his Trustee to go to the ICC. He didn't require his Trustee to follow the rules and procedures established by Congress to secure abandonment of railroad operations.

Judge Augelli eliminated the Pennsylvania operations of CNJ because he was told by the Trustee that the CNJ could become a viable New Jersey railroad without its operations in Pennsylvania. If the Pennsylvania operation were kept, the CNJ would have to liquidate. With this decimation accomplished, the CNJ has not become viable. It is probably closer to liquidation now than when Judge Augelli eliminated its Pennsylvania operations and services and thus the revenues from those sources.

We believe Judge Augelli's action was legally invalid because the power to authorize abandonment of railroad operations has been vested by Congress *exclusively* with the Interstate Commerce Commission. However, Judge Augelli's actions were upheld without opinion by the Appellate Courts.

Here we have judicial lawmaking operating in its worst possible fashion. The illusion of emergency is created by the Trustee, the Judge believes the Trustee, and he acts in the belief the emergency warrants by-passing the provisions of the Interstate Commerce Act. The Appeals Court, responding to the aura of emergency, and perhaps the pressure of fraternity. "goes along." Such circumvention of the intent of the law may be morally justifiable in times of war, but there can be no possible way of justifying them for the purpose of maintaining a private industry and in total disregard of public needs and service.

But that's the way it's working. Taking its cue from the CNJ, the Trustees of the Penn Central have asked Reorganization Judge Fullam to sign an order eliminating in similar fashion 5,000 miles of its lines. There is only one entity in this nation which can get permit actions, and that is the Government. But it's the worse possible form of Government control.

There is an evaluation developing which is destroying our traditional Constitutional system of checks and balances. It is one branch of Government superseding all others.

The type of Government control of Northeastern railroads we are now experiencing is far from ideal. These Judges are extremely busy with their regular day-to-day work in addition to being responsible for these railroads. The Judges must rely on the Trustees they have appointed. These men in turn must rely on the railroad officials who by and large are the same railroad officials who got us in this whole mess. Furthermore, I do not believe the Railroad Reorganization Act was designed to cope with a situation in which all of the railroads in an entire region of this Country suddenly go bankrupt.

We read much about a crisis in separation of powers between the Congress and the President. I would suggest that in the case of the Northeastern Railroads, the present posture is one where both the Congress and the President have been locked-out. Something must be done about it.

There really are four possible alternatives which we have.

1. The continued expenditure of funds to support bankrupt railroads. This can take the form of grants, priority loans, and subsidies, it can be done with or without close control and supervision of those expenditures. It can be accomplished in combination with grants to States to support uneconomical but necessary branch lines.

2. The acquisition of the bankrupt railroads' rights-of-way as provided in H.R. 5822.

3. Creation of some type of Federal Authority which would parcel out the bankrupt railroads to the wealthy railroads, letting the undesirable portions fall by the wayside.

4. The acquisition of the property and operating franchises of the bankrupt railroads by an Authority answerable directly to the Congress or by a Corporation similar in nature to the Corporation Congress created to operate the railroad intercity passenger system—Amtrak.

Let's look at each of these alternatives.

1. *Further subsidy.*—As an interim solution, the Congress could continue to advance money to the bankrupt railroads in return for which it would have some control over the lines which the carriers may desire to abandon. The Congress could also subsidize continued operation of certain lines by grants to state governments to cover a portion of the costs to retain the lines in operation.

A very easy, but very costly and short-sighted, solution would be to abandon half of the Penn Central and many of the lines of the other bankrupt railroads, and heavily subsidize the remainder. It seems to me that the taxpayer would be the major victim of that "solution"—paying for the operation of the railroads while being deprived of their service. Such a solution would be a bonanza to the creditors and the big banks, but only to them.

2. *Acquisition of rights-of-way.*—Another type of solution to the very serious crisis confronting us today in the Northeast is that found in H.R. 4897 and 5822. A reading of the contents of these bills reveals immediately that they represent a great deal of effort and are a serious attempt to find a permanent, just and equitable solution to the Northeast rail crisis. Congressman Adams and all those who participated in the formation of this legislation should be congratulated for addressing themselves to the real problem at hand and for not yielding to the temptation of the easy solution of merely providing enormous sums of money which would not eliminate but would only delay the ultimate day of reckoning in the Northeast.

For example, Congress has been called upon by the Penn Central Reorganization Judge and its Trustees again to bail out that railroad because of the inability of the present management to bring it out of the red and because of the mistakes of the ICC and past managements in creating the merged Penn Central Railroad system. The Congress should not have to continue to perform this act. A permanent solution should be found now.

H.R. 5822 is one such permanent solution. However, I am concerned with the particular form this solution takes for several reasons.

First. It is quite conceivable that a railroad reorganized to operate over tracks owned by a governmental authority and paying only a user charge for the use of those tracks would place other railroads, continuing to own their rights-of-way, at competitive disadvantages which could only be overcome by those railroads also selling their rights-of-way to the governmental authority.

Second. The Authority created might decide to utilize its lines more fully by permitting other railroads to operate over the federally owned right-of-way. These railroads might find it more profitable to use the federal tracks rather than their own, which could then result in the abandonment of tracks which are necessary to many communities.

Third. In purchasing the rights-of-way of a number of railroads, the Authority undoubtedly would permit the railroads from whom it purchased the lines to utilize any of the lines purchased. The result would be that railroads with different operating rules would be transporting freight over the same lines. Such a situation would cause a severe safety hazard.

Fourth. Federal purchase of railroad rights-of-way would also result in a windfall or reward for diverting funds from the maintenance of the right-of-way to other purposes in the knowledge that eventually the government would eliminate the deferred maintenance by, enormously expensive maintenance programs. In addition, while the United States would bear the great cost of returning the railroad lines to first class condition and of maintaining them in that condition the railroads would reap huge financial gains merely by the payment of user charges.

Fifth. The Authority would be confronted by an immediate problem which would be created if crews of one railroad were expected to operate over tracks formerly belonging to another railroad.

We therefore reluctantly conclude that the acquisition of rights-of-way would probably only further complicate and unbalance the present Northeastern railroad situation.

3. *The parceling out authority.*—In effect, the Department of Transportation and the ICC have proposed what in principle are plans for the dismantling of most railroad service in the Northeast Quadrant of the United States.

When we strip verbiage from various proposals floating around for creation of a super authority to review, separate, abandon, and make viable the properties in bankruptcy, we might better call the concept a "Parcelling Out Authority."

One of the key proposals being bandied about in the railroad industry goes something like this:

A. *All railroads should be run by private enterprise.* This is put forth as an article of faith rather than fact. It flies in the face of the tradition of city transit systems, regional transportation authorities, municipal bus lines, and the experience of virtually every country in the Free World, including Canada. It also ignores the massive federal and state subsidies which have already been expended to keep the system going under the present private enterprise arrangements.

B. The proposal goes on to the next logical conclusion: *Therefore, in order to maintain private enterprise, we should restructure the system and hand it out to the profit-making railroads.*

C. The third step carries the hooker. *However, nobody can make money on the Penn Central's Northeast Corridor, so we should dump the money-losing sections on the government.*

There is, of course, an inherent contradiction between point A and point C, since the only way point B can be operative is to carry out point C. That is to say, private enterprise can function if the government is willing to pick up the tab.

That's really what is behind the position of the railroad industry, the Department of Transportation, and the Interstate Commerce Commission.

Let's lay the cards on the table. What is really bing sought is something like the following:

Step One: Create a New Authority which will examine the situation and hold carte blanche authority to implement its own proposals, *without* judicial or Congressional review.

Step Two: The Authority goes into action, and will likely do the following:

a. Dump the Northeast Corridor of the Penn Central on the government or AMTRAK—but remove all profit-making freight (reserve that for private enterprise).

b. Abandon 40–55% of all trackage in the Northeast.

c. Give the balance of the trackage to the profit-making roads like the N&W and the C&O–B&O.

d. Buy off the unions by offering extensive employe protection.

That's what is really being pushed. The idea is that the profit-making roads using private capital will in this way perform a great public service by taking over this difficult situation.

The "public service" involved would make Vanderbilt and Gould blush.

The concept could be better characterized as rape.

It would lead to the elimination of needed service throughout the Northeast.

It would force more and more freight on our highways.

It would climinate tens of thousands of railroad jobs in a span of probably 5 years.

It would result in the diversion of ocean shipping from the whole Northeast coast, since the profit-making roads run cheaper facilities farther South.

Thus, such ports as New York, Boston, Philadelphia, to name only three, would be seriously affected.

This plan is the greatest example of the Public Be Damned attitude that we have seen since the days of the Robber Barons. And it is seriously being proposed as a "public service."

It is this plan which lies hidden in the heart of the DOT and ICC proposals.

It is this plan with which the railroads are trying to entice labor support.

It is this plan which would bring economic disaster to the Northeast.

And, finally, it is this plan which would return a healthy profit to a few, at the expense of many.

Let's look at the Parceling Out Authority concept as it appears in the ICC and DOT reports.

ICC PROPOSAL

The ICC Plan at least indicates an awareness of public interest and needs. In an exercise of collective ego, the Commission seeks to place itself at the heart of the decision-making process, and now proceed to do what it has thus far steadfastly refused to do in the past: look at the whole cloth. There is a great deal of irony in all this. It was the Commission, after all, which created the monstrosity. Now it is the Commission which looks with alarm at the present situation. The parent abuses the child, and then stares in wonder at the child's behavior in public.

The Commission Proposal, in contrast to the DOT Proposal, at least sets up a deliberative process. However, it is still fundamentally based on the concept of an income-based reorganization—no matter how long this may have to be postponed.

The Commission's plan also looks to great abandonments, and turning over to other railroads of portions of the present bankrupt systems.

Thus, while the giveaway is more effectively hidden, it is nonetheless there.

The Commission's plan also makes a great show of sending in ICC officials to check books, make recommendations, etc. Interestingly enough, these are powers which the Commission already has and, as demonstrated in the initial Congressional Hearings on the Penn Central collapse, chose not to exercise until after the fact of bankruptcy.

At best, the concept of the ICC actually functioning as a public defender instead of a private interest lobby strains ones credibility.

The Commission does, at least, own up to the necessity of further Federal funding, by proposing a Transportation tax of 1%. That proposal, above all others in its report, deserves careful consideration.

In dealing with labor problems, the Commission recognizes certain historic responsibilities, but then lays these on to the Congress. I think this is over-simplification, at best.

Historically, the Congress has insisted on certain *minimal* protective conditions for railroad employes. The Commission has always imposed *minimal* conditions, and has refused to expand them on its own motion. Where the employe protective conditions existing in the Northeast exceed these minimal conditions, they do so only because the railroads and the unions reached an agreement which was *then* taken to the ICC for approval. The ICC did not initiate these agreements. Nor did they participate in the process. Rather, *after the fact*, they reluctantly imposed them.

Thus, the Commission's effort to "place blame" is in error. Responsibility for collective bargaining agreements rests with management and labor, but the ultimate responsibility for collective bargaining agreements must rest with those who intend to manage a business. If the agreements involved were bad—and I do not think they are—but *if* they were, then the responsibility for that is ultimately in the lap of the same managements which brought these railroads to collapse.

There are two other fundamental errors in the Commission's Plan. First, they would perpetuate the existing railroad managements. Second, they would give these managements massive infusions of Federal Funds. I think the time for that is long past.

THE DOT PLAN

The DOT Plan is the Parcelling-out Authority concept placed in as confusing a context as it is possible to put forth. DOT wants to open a "window in time" by adopting legislation delegating broad powers to a Presidentially appointed Board and to the Department itself. It claims to need the time in order to designate a "core system". Yet, it also claims to be able to do this within 90 days after Congress hands out the carte blanche. If it has this capability, one can fairly assume such information could be developed and submitted for public and congressional review *in advance* of legislation. The "window in time" is open right now.

But DOT is apparently opposed to that approach. Instead, it seeks the same type of authority granted the Department in the initial AMTRAK legislation. The result of that authority, in that case, was a massive slashing of the existing passenger system. But in the hearings in advance of the legislation, we, at least, gained the impression that the existing system would be the *base*, with a few minor deletions.

Secretary Brinegar makes a number of references to Railway Labor, and the difficulties which would lie ahead under the DOT proposal. He suggests moving cautiously, and then talks of reducing the *number of jobs* on the Northeast railroads by—

13,000—"attrition" to late 1974,

10,000—"attrition" during the "several months to complete" the DOT plan;

15,000—by retiring everyone age 60 and over; and,

15,000—by severing those with less than 3 years service.

That totals 53,000 jobs out of 105,000. The Secretary's job figures are, perhaps, the only real clue we have to the Department's concept of a "core".

First and foremost, the so-called present "attrition" is *not* attrition as we normally use the word. Attrition is normally taken to mean deaths, resignations and retirements without replacement. What has happened on the bankrupt railroads—massive lay-offs of unprotected employes, not attrition. They have already made the slashes. Remember all those unbilled bills we talked about? These railroads, even according to Judge Fullam, have already gone too far in slashing jobs. They can't get the work done anymore. We need *more* jobs to provide *more* service in the Northeast—not less jobs and less service.

DOT has had some experience in employe protective agreements. If they are prepared to move cautiously, they have the expertise to present their proposed protective terms in writing in advance of legislation. They have done precisely that in the past. They could do it now.

We can only conclude that the DOT plan is a Parcelling-Out Authority disguised as a set of recommendations for a "streamlining procedure". Whatever "crawls out of the wreck" would not be a service oriented railroad system.

Let us then, look at the fourth alternative.

4. *Public ownership and operation of the bankrupt railroads.*—Here we are faced with a dirty word: Nationalization. It is an old shibboleth, one that we all like to avoid.

In reality, public ownership and operation of the bankrupt railroads in the Northeast is *not* "nationalization". Nobody is really proposing a *national* plan for railroads. There can be no meaningful "national" plan for railroads because there is not a common set of "national" characteristics among American Railroads which adequately describe the problem confronting us.

American Railroads differ significantly on a regional basis.

Western Railroads are primarily long-haul trunk lines and *always have been* primarily long-haul trunk lines. They primarily run East/West across the Country, with a minimal amount of "branch line" service. In fact, what is called a "branch line" in the West would often be called a *railroad* in the East. The difference in the distances involved cause tremendous differences in the very nature of railroading.

We can see a similar pattern in Highways in the West. Toll roads don't work. The density of traffic isn't there. It is necessary for the Government to build major long distance highways, because the population is so widely dispersed. Western Highways are different from Eastern or Southern Highways. Western Railroads aro equally different from Eastern or Southern Railroads.

Southern Railroads generally run North/South, and are also predominately trunk-line bulk commodity oriented. They serve what is largely an evenly dispersed rural population, and a fairly concentrated urban population. Factories are served in a limited number of facilities. Agriculture is serviced throughout the region, but with relatively short distances involved. Bulk commodities form the core of the profit of railroads like the C & O–B & O and the N & W.

Eastern Railroads, on the other hand, evolved in a spider web network. It's hard to go six blocks in a major city in Pennsylvania or Ohio without crossing a railroad track. Railroads were designed to be the major originating and distribution system in the East. But it's a short-hand business. In the West and the South, they were designed to be the "bring-it-to-us" distribution system, or "send-it-out-by-the-train-load" originating system.

Railroads in the East spread all over the place, and manufacturing basically *followed* that spread. Thus, the whole Northeast corridor has become a conglomerate of manufacturing, residential, manufacturing, residential, and on and on, with very little agricultural space left.

To abandon track under these circumstances is to abandon business. Factories will close. Already clogged highways cannot possibly take up the slack, nor could our lungs take the pollution.

A distributor type railroad system in a highly dense population area is probably not capable of making a profit. It is a public service. It is a *vital* public service.

Given this situation, we must acknowledge that private enterprise has failed insofar as Eastern railroads are concerned. But nobody is proposing that we should have privately run transit systems, or highways, or city buses either. They couldn't make a profit under these circumstances and neither can the railroads.

So the solution which the advocates of income-based reorganization propose is to restructure the Eastern Railroads after the model of the West and the South. That *may* make for profits—though such a conclusion is at best doubtful. It clearly will *not* make for an efficient servicing of the public needs.

So we do not advocate Nationalization. Private enterprise is working quite effectively in the West and the South. Let's keep it that way. But private enterprise cannot work effectlvely in the East and meet the needs of the public.

In our opinion, it is therefore time for a little *Government enterprise.*

We cannot afford to destroy the service on which the economy of the Northeast depends for the sake of achieving a profit-oriented reorganization. We wouldn't do that for a transit company, or a bus company, or a highway, or an airline, and we should not do it for a railroad.

What we advocate is the creation of a Federal Railroad Transportation Authority, which would own and operate the bankrupt railroads in behalf of the United States of America.

We call it FedeRail.

The concept is clearly outlined in a draft bill attached hereto as Appendix 2.

The ICC has claimed that a Federal Railroad would "unbalance" the railroad system in America. It is the ICC which has already unbalanced the system with reckless mergers. Now, they have left us with a series of railroads which cannot possibly make a profit and maintain service. The heavy burden of public service in the Northeast will forever prevent a FedeRail system from "unbalancing" the railroads operating in the highly profitable markets of the West and South. The system is already unbalanced.

The creation of FedeRail is the next logical step in the creation of a national railway plan, designed to integrate the Northeast railroads in their correct posture, but keeping a "mix" of private and public carriers.

The Reorganization Courts and the Trustees of these railroads threaten liquidation. The bondholders of some of these carriers have sought liquidation for some time. The solution from the creditors' point of view, therefore, would seem to be liquidation and the sooner the better.

The shippers desire service which they have been unable to secure from the bankrupt railroads.

The managements want abandonment of lines which in their view are unprofitable and the infusion of massive subsidies.

The ICC wants the Penn Central to be able to abandon those lines it desires and has issued regulations to that effect. The difficulty is that such regulations apply to every railroad in the United States. Fortunately the regulations have thus far been restrained by the courts.

The employes want the assurance of stability in their jobs instead of the continuing downward spiral of employment. Judge Fullam, the Reorganization Judge for the Penn Central and Lehigh Valley railroads, recently stated that Penn Central has been able to operate without running out of cash, in part "by reducing maintenance and clerical expenses to a level which, in the long run is probably unacceptable." As we have demonstrated, literally millions of dollars in billings lie unmailed on the desks of Penn Central clerks who have been furloughed by Penn Central in order to save the cost of their salaries. No business can survive such shortsighted management and the employes know it.

The Reorganization Judges want to get back to their judicial calendars.

The Congress wants an end to these eleventh hour emergency calls.

And the general public wants an end to the chaos and calamity which has pervaded the Northeast since Penn Central collapsed in June 1970.

We have reached the reluctant but firm conclusion that the only effective, feasible, final solution to the Northeast dilemma is the purchase of each of the bankrupt railroads by the government at an amount not less than the creditors' would receive if the Government refused aid and the Trustees were forced to liquidate their railroad properties; and, the operation of those railroads by an Authority or by a Corporation such as that created by the Congress to acquire and operate the intercity passenger trains of this country.

The solution which we suggest will provide the creditors and the Reorganization Courts the relief they seek. It would relieve the ICC of the frustration and anxiety of attempting relief solutions for the Penn Central which could well decimate the entire railroad plant in the United States. It would provide the only reasonable assurance of adequate service to shippers and any semblance of stability in the work force. It would eliminate the easy and delusive solution of abandonment of one-half the railroad plant. And, it would conclude the chaos and calamity under which we now suffer.

The time is at hand. The railroads involved are trying to force strikes—with the UTU, with BRAC, and with most of the other unions. The Judges are pushing everybody—labor, Congress, and the Administration, and collapse is truly near. You cannot expect workers to stay in line when management is constantly goading them and violating their contractual and legal rights.

Even more insidiously, the railroads are taking steps in apparent anticipation of a Federal assumption. The Reading Railroad has a trucking company subsidiary which has been making money. So they have reorganized it right out of the Reading. It's called the Reading Transportation Company. The parent railroad has declared that the trucking company is no longer under the Railroad Retirement Act and the Railway Labor Act. Hundreds of these employes are now being deprived of Congressionally approved benefits. The Complacent

National Mediation Board, Railroad Retirement Board and Interstate Commerce Commission have once again gone along. So now profitable assets of the bankrupt Reading have been removed from its control and can flow directly to the C&O–B&O Railroad.

The Penn Central, never an innovator, has opened its eyes and is following the Reading's example. They're consolidating their trucking operations and moving them out from under the railroad. Thus, these railroads are already seeking to deprive the inheritors of any possibility of profit.

FedeRail would take over the bankrupt railroads and their subsidiaries. It would operate them as separate Divisions for two years, and then report to the *Congress* on its plans for effective reorganization.

FedeRail's primary mandate would be to serve the public interest.

It would operate under the same ICC Regulations and the same Labor and Retirement Laws as all other Railroads.

It would protect the public interest and the interest of the employes.

It's overriding goal would be *improved* service.

FedeRail would be a joint Congressional and Presidential Agency. It would not be under the domination of either singly.

FedeRail would include within it the present transportation subsidiaries of the bankrupt railroads. It would pay off the present corporations with cash or bonds, based on their liquidated value. Whatever constitutional claims are made for the so-called "estates" would be met.

The FedeRail concept is precisely what everyone talks about in private. It's time to get it out in the open.

We advocate this solution because it is the only proposal which deals with maintaining and improving service. It is the only proposal which faces up to the fact that the Northeast needs *more* service, not less.

We are taking this story to our members and the Public. We are holding public meetings in 20–30 major cities from Chicago and St. Louis East.

We believe it is time for us to stop ducking responsibility and face up to the necessity of a new approach. DOT won't do it. The ICC won't do it. It is our hope that the Congress will see fit to take the steps necessary to Save Our System. This is, in a real sense, an S.O.S. We must support FedeRail.

Thank you.

in connection with the merger authorized herein, (a) issuance by The Pennsylvania Railroad Company of not exceeding 9,600,000 shares of common stock, of the par value of $10.00 per share, in exchange for the outstanding common stock of The New York Central Railroad Company and, as may be necessary, in connection with options to purchase stock of The New York Central Railroad Company outstanding and unexercised on the effective date of the merger, (b) issuance (including sale, pledge, or other disposition) by The Pennsylvania Railroad Company of other securities The New York Central Railroad Company shall have been authorized prior to the effective date of the merger to issue under section 20a of the Interstate Commerce Act, to the extent any such authorizations remain unexercised, and (c) assumption by The Pennsylvania Railroad Company of all obligations and liabilities of The New York Central Railroad Company in respect of securities issued by that carrier pursuant to authorizations under section 20a of the Interstate Commerce Act or as permitted by paragraph (9) of said section, and of securities of others in respect of which The New York Central Railroad Company shall have been granted authority to assume obligation or liability under section 20a of the Interstate Commerce Act prior to the effective date of the merger are (a) for lawful objects within the corporate purposes of The Pennsylvania Railroad Company and compatible with the public interest, which are necessary and appropriate for and consistent with the performance by it of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) reasonably necessary and appropriate for such purposes.

An appropriate order will be entered.

VICE CHAIRMAN TUCKER, concurring:

Although I concur without qualification in the Commission's approval of this merger and the conditions attached thereto, I feel compelled to point out that certain important aspects of this decision are not sufficiently explicit in the report of the majority. The considerations which prohibited me from subscribing to the Commission's earlier approvals of the Chesapeake & Ohio-Baltimore & Ohio railroad unification[1] and the Norfolk & Western-Nickel Plate-Wabash consolidation[2] now require that I call atten-

[1] *Chesapeake & O. Ry. Co.—Control—Baltimore & Ohio R. Co.*, 317 I.C.C. 261 (1962).

[2] *Norfolk & W. Ry. Co. and New York, C. & St. L. R. Co. Merger*, 324 I.C.C. 1 (1964).

tion to these aspects in the context of the eastern railroad merger movement and the national rail unification picture of which it is a part.

On the day that the Commission approved the C&O-B&O unification, the success of this merger application became practically inevitable. When, in a separate decision a year and a half later, the Commission approved the unification of the N&W, Nickel Plate, and Wabash Railroads, any remaining doubt as to the outcome of the instant proceeding was removed. By its disposition of those two separate cases, the Commission effectively signified its complete acceptance of the principle of a predetermined three-system rail structure for the East. But it did this on a case by case basis, without having before it a picture of that three-system structure in its entirety.

As I have previously indicated in my separate expressions in the *C&O* and *N&W* cases,[3] consolidation of all the then-pending eastern rail merger proposals for decisional purpose would have yielded the Commission and the public a better choice of alternatives in evaluating the restructuring of the eastern railroad plant. It would have provided the Commission an opportunity to achieve faster and more equitable resolution of the problems of the so-called "small railroads" in the northeast, and thereby would probably have precluded the kind of difficult litigation which is now before the Commission with respect to the "inclusion" petitions of the Erie-Lackawanna Railroad, the Delaware and Hudson Railroad and the Boston and Maine Railroad.[4] In any event, a coordinated appraisal of the proposed eastern rail mergers, whatever the ultimate result, would have given this Commission—and thereby the public—a more realistic and effective role in the decisional process required by section 5(2) of the Interstate Commerce Act.

But in fact, a "panic button" response was sought—and achieved—when the C&O-B&O case was advanced before the Commission on the principal basis that B&O was on the verge of "collapse", and could only be saved by C&O's immediate assumption of its control. Once again that useful button was employed when N&W said it would lose its merger chance if

[3] 317 I.C.C. 261, at 293 and 324 I.C.C. 1, at 53.

[4] In accordance with the terms of one of the conditions imposed by the Commission in its approval in the *N&W* case *supra*, the B&M, D&H, and E-L, on September 23, 24, and 28, 1965, respectively, filed petitions for inclusion in the N&W system. Hearings on these petitions are scheduled to begin on April 20, 1966.

the Commission failed to observe an approaching "deadline" on the parties' private agreements and stockholder authorization. Real doubt is cast on the validity of these arguments—which the Commission accepted without substantial reservation—by the 1962 Form A annual report of the B&O. Filed 3 months following approval of the C&O-B&O unification, it shows that B&O miraculously surged from a $31.3 million loss in net income for 1961 to a $1.6 million net income profit for 1962—even before it could become the recipient of C&O's "Good Samaritan" program.

And what of the other principal bases on which the Commission was urged to approve those earlier unifications and the instant merger on a case by case basis? After being continually advised by the proponents during these proceedings that the three-system idea would rationalize the eastern rail merger situation, the Commission now has been presented with a new unification proposal—a merger of the C&O and N&W,[5] two of the three resulting systems. No more need be said at this time about that unanticipated development.

In my view, it is evident that the resolution of the eastern railroad merger movement really has not been adequately attuned to the needs of the public in the East, or to the public interest in general. The lessons taught by the experience of these three cases should not be forgotten in the future. Individual rail merger proposals underlying the vast national rail unification movement in process today should not be allowed to follow the course of the gigantic game of dominoes we have witnessed in the East.

Although I feel concern over the course of events which has led the Commission into its present decisional posture, I see no alternative to approval of this proposal. In my view, neither the Pennsylvania Railroad nor the New York Central Railroad could withstand the tremendous competition of the N&W system and the C&O-B&O system, particularly in the event of any sustained economic recession, and it would be unrealistic and improper to understate that fact in this case.

Furthermore, in a balancing of the benefits and detriments of the present transaction, the New Haven Railroad problem must be given very substantial weight. The newly merged railroad corporation enabled herein will provide a framework for preservation of an important rail plant—serving four States in a highly populous area—which, but for this unification, might face liquida-

[5] Finance Docket Nos. 23832 and 23833, Norfolk & Western Railway Co. and Chesapeake & Ohio Railway Co. Merger Application, filed October 11, 1965.

tion. The New Haven Railroad is the fourth largest private carrier of passengers in the world. Its freight revenues alone exceed the total revenues of either of the B&M, D&H, Jersey Central, Susquehanna, or Western Maryland railroads.

In and of itself, then, the risk of leaving the Pennsylvania Railroad and the New York Central separately to face the powerful competition of the two existing consolidated Eastern railroad systems outweighs by far the arguments against this merger. And, with the opportunity it presents to assist in the revitalization of the New Haven's rail operations, no realistic argument remains against this merger.

Lastly, I hope that our approval herein will not be misconstrued. In cases as big and as publicly significant as this, essentially procedural matters must not be allowed to control the substance of the ultimate result. The Commission henceforth will resolve comparable cases with, I hope, the benefit of some important lessons learned.

Commissioner Freas, dissenting in part:

I do not subscribe to the condition relating to the payment of indemnities.

APPENDIX A

Certain conditions to approval imposed in lieu of the conditions set forth in appendix U to the hearing examiners' report

1. It shall be the duty and obligation of the Pennsylvania New York Central Transportation Company (the merged company) to simplify its intercorporate structure. Within 5 years from the effective date of this order approving merger, the merged company shall submit a verified statement to this Commission indicating what steps have been taken to simplify its intercorporate structure and where subsidiaries or affiliates remain to state the purpose and reason for their existence. The Commission reserves jurisdiction to issue such supplemental orders to effectuate substantial simplification of the merged company's intercorporate structure as it may determine to be in the public interest.

2. The Pennsylvania New York Central Transportation Company shall be required within 2 years from the date of consummation to submit a plan for the revision of certificates and/or permits now issued to or to be issued in the interim to the Pennsylvania Truck Lines, Inc., The Penntruck Company, Inc., Merchants Trucking Company, and New York Central Transportation Company (1) to reflect the name of the merged company where appropriate; and (2) to eliminate such duplications or inconsistencies as between authorities held by such separate corporations. Jurisdiction is reserved to this Commission on its own motion to require consolidation of any or all the above-named motor carriers if such action is deemed to be in the public interest.

APPENDIX 2—FACT SHEET—FEDERAL RAILROAD TRANSPORTATION AUTHORITY—FEDERAIL

Rather than just set up another study to further extend the crisis on bankrupt carriers, the bill provides a permanent solution to the Northeast Railroad crisis.

It would create a Federal Authority to acquire and operate the transportation properties of railroads found to be incapable of reorganization, or which have been ordered into liquidation by their respective Reorganization Courts. The properties would be acquired by cash and the issuance of Government Bonds.

The Authority would be subject to all laws now governing carriers by railroad and required to report to the Congress and the President annually. It would be composed of a Board of five (5) members appointed by the President and the Congress, three (3) of whom would be expert in the fields of rail management, rail labor and rail consumer.

The Authority would become effective on October 1, 1973. For at least two (2) years the properties of individual railroads acquired by the Authority would remain as individual operating divisions of the Authority while studies are made to determine the best, most efficient methods of operation.

The Authority must continue to honor all contracts with Local Transportation Authorities with no change in their costs for at least two (2) years, and must conduct conferences with users and the communities to determine their needs. No abandonment of rail lines could be undertaken for one (1) year in order to permit a valued judgment to be made as to the lines which will be needed.

Adequate protection for employees are provided which adhere closely to those found in other Federal laws.

The Bill would provide a permanent—not a temporary—solution to the Northeast Railroad Crisis, yet it would be applicable throughout the United States in the event such crisis arose in other regions of the Country.

It provides the creditors and Reorganization Courts the relief they seek. It relieves the ICC of the frustration and anxiety of attempting relief solutions for the Penn Central which could well decimate the entire railroad plant in the United States. It would provide the only reasonable assurance of adequate service to shippers and any semblance of stability in the work force. It would eliminate the easy and delusive solution of abandonment of one-half the railroad plant. And, it would conclude the chaos and calamity under which we now suffer.

[93d Cong., 1st sess.]

A BILL To preserve and insure the continued operation of transportation properties owned or operated by carriers by railroad in reoganization and confronted with liquidation; to protect the security interests of the United States in such properties; to provide for the payment of just and reasonable compensation for said properties; and, to provide for the national defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Transportation Authority Act of 1973".

TITLE I—FINDINGS, PURPOSES AND DEFINITIONS

SEC. 101. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

The Congress finds that modern, effective, and efficient rail transportation is essential to interstate commerce and the national defense; that there exists in the Northeastern region of the United States a transportation emergency which threatens the continuation of adequate railroad service; that most of the rail service in said region is performed by railroads now in reorganization; that certain of the reorganization courts having jurisdiction over said railroads are now considering the liquidation of the railroads in order to preserve the Debtor's estates for the creditors thereof; that the preservation of adequate railroad transportation for the immediate future can be met only by emergency measures which will assure the continuation of the essential service now provided the Northeastern region and the nation by these railroads; and, that a permanent solution to the threat of liquidation can only be met by direct governmental assumption of the duties, responsibilities, and properties of these railroads.

SEC. 102. DEFINITIONS

For the purposes of this Act—

(1) "Railroad" means the Federal Railroad Transportation Authority created under Title II of this Act.

(2) "Board" means the Board of Directors of the Authority as provided for in Title II of this Act.

(3) "Secretary" means the Secretary of Transportation or his delegate unless the context indicates otherwise.

(4) "Commission" means the Interstate Commerce Commission.

(5) "Railroad" means a common carrier by railroad, as defined in section 1(3) of part I of the Interstate Commerce Act, [49 U.S.C. 1(3)].

(6) "Eligible railroad" means a railroad in reorganization for which there is no reasonable prospect of achieving a traditional income-based reorganization or which is ordered into liquidation by the reorganization court having jursidiction.

(7) "Subsidiary" means any corporation over which an eligible railroad maintains effective control by ownership of more than 50 per centum of its outstanding voting stock, or otherwise; and which is engaged in the transportation of persons or property by rail, highway, or water.

(8) "Facility" means all property of an eligible railroad or subsidiary used or useful in the transportation of persons or property by rail, highway, or water, including but not limited to, lines of railroad, rail property, rolling stock, yards, maintenance and repair shops, terminals, warehouses, trucks, automobiles, garages, signal systems, offices, office equipment and other related facilities.

(9) "System" means the composite of all facilities owned and operated by the Authority.

Title II—Creation of Federal Railroad Transportation Authority

SEC. 201. CREATION OF AUTHORITY

There is authorized to be created a Federal Railroad Transportation Authority. The purpose of the Authority shall be to provide an effective, efficient, and modern integrated transportation service utilizing existing railroad facilities and subsidiary facilities and such future facilities as the Authority may develop or acquire. The Authority shall be an agency of the United States Government. It shall be subject to the provisions of this Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.

SEC. 202. ORGANIZATION OF AUTHORITY

(a) The Authority shall have as its governing body a Board of Directors consisting of five members which shall be appointed in the following manner:

(1) One member, with expertise in railroad operations, to be appointed by the President upon the recommendation of the Secretary of Transportation, by and with the advice of the Senate;

(2) One member with expertise in railroad labor relations, to be appointed by the President upon the recommendation of the Secretary of Labor, by and with the advice and consent of the Senate;

(3) One member, with expertise in matters relating to users of rail transportation, to be appointed by the President on the recommendation of the Secretary of Commerce, by and with the advice and consent of the Senate;

(4) One member to be appointed by the Speaker of the House upon the recommendation of the House Committee on Interstate and Foreign Commerce;

(5) One member to be appointed by the President Pro Tempore of the Senate upon the recommendation of the Senate Committee on Commerce.

(b) The members of the Board shall elect a chairman from among their number.

(c) The terms of the members of the Board shall be for a period of three years and each shall be compensated at the rate of $50,000 per annum. The member selected as chairman shall be compensated an additional $1,000 per annum.

(d) No Board member shall be allowed any wages, perquisites or reward, or compensation for his services aside from his salary or pension, but he shall be reimbursed for actual expenses incurred by him in the performance of his duties. Nor shall any Board member have any financial interest in any railroad or subsidiary thereof at the time he assumes his membership on the Board or during his term thereon.

(c) A quorum of the Board shall consist of three members.

SEC. 203. GENERAL POWERS OF THE AUTHORITY

(a) The Authority shall have the power to sue and be sued and is authorized to own, manage, and operate the facilities of eligible railroads and subsidiaries for the purpose of providing a modern, efficient, and effective transportation service to those desiring to use said facilities; to conduct research and development related to its mission; to acquire by construction, purchase, or gift, all facilities, equipment, and devices necessary to carry out the purposes of this Act; and, to engage in all business functions and activities consistent with the purposes of this Act.

(b) The Board shall appoint such personnel as necessary to maintain its offices and transact its business, and to manage, supervise and maintain the operations of its system. It shall fix the compensation of such personnel and define their duties. Any appointee of the Board may be removed at the discretion of the Board provided such removal does not violate the provisions of a contract between said appointee and the Board.

SEC. 204. APPLICABILITY OF THE INTERSTATE COMMERCE ACT AND OTHER LAWS

Except as otherwise specifically provided in this Act, the Authority shall be deemed a common carrier by railroad within the meaning of section 1(3) of the Interstate Commerce Act and shall be subject to all the provisions of that Act, as well as other acts, both state and federal, presently applicable to common carriers by railroad within the United States.

SEC. 205. REPORTS TO THE CONGRESS

(a) The Authority shall transmit to the President and the Congress, annually, commencing one year from the date of enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Authority shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for maintenance, operations, and capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived.

(b) The Secretary shall transmit to the President and the Congress, one year following enactment of this Act and biennially thereafter, reports on the state of rail transportation and the effectiveness of this Act in preserving and promoting such transportation, together with any legislative recommendations.

SEC. 206. SANCTIONS

(a) If any persons, corporation, association or group thereof engages in or adheres to any action, practice, or policy inconsistent with the policies and purposes of this Act, obstructs or interferes with any activities authorized by this Act, refuses, fails, or neglects to discharge its duties and responsibilities under this Act, or threatens any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which said person, corporation, or association resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States or the duly authorized representative of the employees of the Authority, eligible railroad, or subsidiary, to grant such equitable relief as may be necessary or appropriate to prevent or terminate any violation, conduct, or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.

SEC. 207. FINANCING OF THE AUTHORITY

(a) There is authorized to be appropriated to the Authority in the fiscal year of 1973, $10,000,000, to remain available until expended, for the purposes of assisting in:

(1) The initial organization, staffing, and operation of the Authority;

(2) The development and conduct of research, development, and demonstration programs respecting new equipment, facilities and methods of transport; and

(3) The conduct of studies to determine the ultimate form and extent of the Authority's system.

(b) There is authorized to be appropriated to the Authority such sums as may be necessary to prevent net loss in the operation and maintenance of the Authority's system.

(c) The Secretary is authorized, on such terms and conditions as he may prescribe, to guarantee any lender against loss of principal or interest on securities, obligations, or loans issued to finance the purchase, maintenance, or rehabilitation of facilities by the Authority and for other purposes consistent with the objectives of this Act. The maturity date of such securities, obligations, or loans, including all extensions and renewals thereof, shall not be later than 20 years from their date of issuance, and the amount of guaranteed loans outstanding at any time may not exceed $400,000,000. The Secretary shall prescribe and collect from the lending institution a reasonable annual guaranty fee. There are authorized to be appropriated such amounts as necessary to carry out this section not to exceed $400,000,000.

Title III—Provision of Transportation Services

SEC. 301. ASSUMPTION OF SERVICE BY THE AUTHORITY: COMMENCEMENT OF OPERATIONS

(a)(1) On and after October 1, 1973, the Authority shall acquire the facilities of any eligible railroad together with the facilities of said railroads' subsidiaries.

(2) The Authority shall pay to the Trustee of the eligible railroad an amount equal to the liquidated value of its facilities as determined by the Interstate Commerce Commission. Said payment shall be in the form of money or United States Government bonds maturing thirty years from the date of issuance at an annual interest rate of 6¼ per centum, or both.

(3) The Authority shall acquire the facillties of the subsidiaries of eligible railroads by payment to the trustee of the eligible railroad involved of an amount equal to the value of said facilities as determined by the Interstate Commerce Commission. Said payment shall be in the form of money or United States Government bonds maturing thirty years from the date of issuance at an annual interest rate of 6¼ per centum. or both.

(b) On the date of the acquisition of facilities the Authority shall become responsible for their operation and maintenance.

(c) Title to all assets of eligible railroads and their subsidiaries not acquired by the Authority shall remain in the trustees thereof for disposition as determined by the appropriate reorganization court.

SEC. 302. OPERATION AS DIVISIONS OF AUTHORITY

(a) For a period of two years from the date of acquisition of facilities the Authority operates in separate divisions the facilities of each eligible railroad. Said divisions shall continue to be considered separate and independent carriers by railroad for purposes of the Interstate Commerce Act and other acts applicable to carriers by railroad.

(b) During said two-year period the Authority shall determine the most efficient and effective means of operation of its system, including the consolidation, modification, or other alteration of its division, and shall thereafter place its determinations into effect, subject to the provisions of the Interstate Commerce Act and other applicable laws.

(c) The Authority shall confer with representatives of users and the States and communities served by the Authority's system for the purpose of determining their transportation needs and the efficiency of its operations.

(d) The Authority will assume and continue in effect and unchanged for a two-year period from the date of acquisition, all contracts maintained by eligible railroads with local, state and multi-state transportation authorities.

SEC. 303. ABANDONMENT OF LINES

(a) The Authority shall not seek authorization to abandon any line of railroad for a period of one year following acquisition and commencement of operations.

(b) During said one-year period the Authority shall determine the present and possible future public need of such lines. The Authority shalll, upon completion of its study, submit to the Congress a report on those lines which it believes should be abandoned and the reasons therefor.

(c) Upon the completion of sixty days following the submission of its report, it may proceed to seek authority for abandonment pursuant to the provisions of the Interstate Commerce Act.

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SEC. 304. PROTECTIVE ARRANGEMENTS FOR EMPLOYEES

(a) The employees of eligible railroads and their subsidiaries shall be provided fair and equitable arrangements to protect their interests.

(b) Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) to such employees under existing collective-bargaining agreements or otherwise; (2) the continuation of collective-bargaining rights; (3) the protection of such individual employees against a worsening of their positions with respect to their employment; (4) assurances of priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 405 of the Rail Passenger Service Act of 1970 and section 5(2)(f) of the Interstate Commerce Act.

(c) No employee of an eligible railroad, its subsidiaries, or the Authority shall be affected by any change in compensation or in condition, place, time, or type of employment pending the execution of agreements between the Authority and the representatives of the employees of eligible railroads and their subsidiaries regarding the selection and assignment of employees to perform work on the Authority's system; the modification, if any, of seniority rights of employees involved; and, the application to employees of the provisions of protective arrangements provided for in this section.

(d) The protective arrangements shall be certified by the Secretary of Labor. Representatives of the eligible railroads, their subsidiaries, their employees, the Authority, and the Secretary of Labor shall confer on the detailed provisions to be included in the protective arrangements. Subsequent to such conferences the Secretary of Labor shall determine upon and certify a fair and equitable arrangement.

(c) Financial obligations arising under the protective arrangement shall be borne equally by the Authority and the estates of the eligible railroads.

(f) The Authority shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed with the assistance of funds received under any contract or agreement entered into under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Authority shall not enter into any uch contract or agreement without first obtaining adequate assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts or agreements except any construction work performed by a railroad employee. Wage rates provided for in collective bargaining agreements negotiated under and pursuant to the Railway Labor Act shall be considered as being in compliance with the Davis-Bacon Act.

(g) The Authority shall not contract out any work normally performed by employees in any bargaining unit covered by a contract between the Authority or any railroad providing intercity rail passenger service upon the date of enactment of this Act and any labor organization, if such contracting out shall result in the layoff of any employee or employees in such bargaining unit.

TITLE IV—MISCELLANEOUS PROVISIONS

SECTION 401. AUTHORIZATION FOR APPLICATION

There are hereby authorized to be appropriated amounts equal to 50 per centum of the liquidated value of the facilities of eligible railroads and the value of facilities of subsidaries as determined by the Commission, acquired by the Authority. Any sums appropriated shall be available until expended.

SECTION 402. SEPARABILITY

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. DINGELL. The committee thanks you for that very helpful testimony.

Mr. Adams.

Mr. ADAMS. Thank you for your statement.

We very much appreciate your being with us this morning.

My first question is: Do you know of any railroad publicly owned anywhere in the world that does not run a substantial deficit and have to be financed by the taxpayer, any nationalized railroad?

Mr. DENNIS. I doubt there is any.

Mr. ADAMS. I don't know of any. What I am getting at is that this would be a continuing cost to the taxpayers if we nationalized; would it not?

Mr. DENNIS. I believe it will be a continuing cost to the taxpayers under any circumstance. If we are going to pay the cost we might as well control it.

Mr. ADAMS. You may be right.

Under your plan I understand all the lines will be kept open 2 years.

We have had testimony that the Penn Central operating deficit runs about $135 million a year; and other estimates, and that there is another $65 or $75 million.

Would you agree we would have an operating deficit payment of $200 million a year, if we were to do this in the Northeast?

Do you think those figures are high, low, or in between?

Mr. DENNIS. Most of the figures we have are in handy round numbers and the numbers we put in the bill are round as well.

My personal opinion is if Congress enacted this legislation, two of the bankrupt railroads would no longer be bankrupt. They are: Reading and Erie Lackawanna. I think they would become healthy and pull out of reorganization very quickly in order to protect the major interests of their corporations who don't want to lose those assets.

Mr. ADAMS. That is my next question. I am just continuing with the operating deficit.

Mr. DENNIS. I would guess it would be somewhere around there. That is a wild guess. We really don't know.

Mr. ADAMS. Counsel just handed me what I was trying to get at. I wonder if your figures were greatly different from ours, that the deficit of the Penn Central, Erie Lackawanna, Boston & Maine, Lehigh Valley, Reading & Central of New Jersey for 1972 was $265 million.

Mr. DENNIS. I think that is about right.

Mr. ADAMS. I will go to the next question, which was No. 3: What do you estimate would be the cost if we purchased these railroads as outlined in your bill?

Mr. DENNIS. The nontransportation assets would remain with the present railroad corporation and we are talking only of the transportation assets.

Mr. ADAMS. Again, I will simply ask you for information if you have a figure.

Mr. DENNIS. I don't know.

Mr. ADAMS. We had testimony from the Penn Central trustees that their transportation property value was between $10 and $14 billion.

Mr. DENNIS. Was that liquidated value?

Mr. ADAMS. That will be my next question. If you have a different figure, it was also testified that the problem with liquidated value is that if you take property of the railroad subject to its public service obligation, in other words to run a railroad, the value of it is less than if you take the property at a liquidated value which then establishes that it can be used for the highest and best use and highest and best use for a great many of these properties, particularly in the metropolitan area for other purposes than railroads.

The example given to us was the marshalling yard here by the Union Station would be worth approximately three times more as real estate than if sold as a railroad yard.

Would you comment on that, please?

Mr. DENNIS. I think that is true with specific facilities in urban centers. I suspect it is not true outside the major cities.

This is an area in which frankly we have no expertise as a union and in which we think that there is no public record which can give us any guidance that really gets into the answer.

Mr. ADAMS. What I am getting at—I have been handed by counsel another statement indicating a liquidation value in 1970 of the Penn Central at $2.8 billion.

What I am getting at is: Do you agree with us that a purchase will be very expensive?

Mr. DENNIS. Yes.

Mr. ADAMS. The next question was: You say of the Northeast corridor that you oppose it being pulled out. Who will run the Northwest corridor if it isn't run by some type of Government operation for the passenger service there involved?

Mr. DENNIS. The Northwest corridor?

Mr. ADAMS. I am sorry, I misspoke. I meant the northeast corridor.

Mr. DENNIS. Obviously the Government will have to run the Northeast corridor if the Government wants to maintain the public service.

What we are suggesting is it ought to run as well as, the parts that are a little more profitable, to reduce the costs involved.

What they are saying is basically let the Government take up the burden of the Northeast corridor and give the profitmaking parts to the corporations.

We think the Government should take up the profitable parts as well.

Mr. ADAMS. Suppose we placed all in one corporation but then had the northeast corridor leased or trackage rights given to Amtrak so it would be a grade separated passenger situation.

Do you think that would be good or bad?

Mr. DENNIS. A comparable system would be to take something like the Tokaido Line; they run freight but in ways that don't conflict with the passenger schedule. They run it at night, high speed freight trains.

I think it would be foolish to build a high-speed rail network down the corridor and not take advantage of it for profitmaking freight.

Mr. ADAMS. You would then go to an operation that might provide for high-speed transportation but at the same time have trackage rights reserved so it could run freight as well as passengers?

Mr. DENNIS. Yes.

Mr. ADAMS. That is a very good suggestion.

My last question is this: You indicated in your proposal that all of these seem to involve some potential kinds of abandonment of some, maybe redundant, main lines, maybe others.

Do you think it is possible for this Congress to create a bill that would provide in effect for legislative abandonment of some of these by simply not buying up some of the redundant main lines?

Mr. DENNIS. It is possible but it would mean we would have the ability to identify it in advance of the legislation.

Mr. ADAMS. That is part of my question: Who would you have identify the system?

Mr. DENNIS. Under H.R. 7373, the transportation authority in the first year would identify those portions they think should be eliminated.

Mr. ADAMS. That is Mr. Ingram?

Mr. DENNIS. No.

Mr. ADAMS. I thought you said the Federal Railroad Administration.

Mr. DENNIS. No; the Government agency which would be set up.

Mr. ADAMS. Your new corporation?

Mr. DENNIS. In our proposal they would identify these and provide to abandon those portions in 1 year. There would be a 1-year moratorium.

In the second year they would identify the reorganization of the whole system and report to the Congress.

Mr. ADAMS. Do you think this can be done in 2 years?

We are talking about this—how long does it take to identify the operation?

Mr. DENNIS. I think to identify—the DOT apparently thinks it can be done in 90 days, at least to identify the core.

Mr. ADAMS. Do you know that they already have a certain amount of identification on a point-to-point basis?

Mr. DENNIS. I know they have a number of surveyors running around the country so I assume they have a great deal of identification.

I think those branch lines not providing a needed service can be identified and eliminated within 1 year. I think that is a reasonable time to do that.

I don't know what the scale of that is. The scale has been a question of income and I don't think that is the issue. I think the question is service.

We don't abandon postal service because there are not too many people living in the country. We keep them there. There are some branch lines that could be abandoned and I think those can be identified.

Mr. ADAMS. Thank you.

Yours was an excellent statement.

Thank you, Mr. Chairman.

Mr. DINGELL. Mr. Skubitz.

Mr. SKUBITZ. If I understood you, you favor Mr. Podell's bill. You are in favor of nationalizing the railroads in the northeast corridor?

Mr. DENNIS. Correct.

Mr. SKUBITZ. You are opposed to a lease or leaseback to main lines even though such a program would be extended throughout the United States to insolvent railroads as well as to solvent railroads?

Mr. DENNIS. The leaseback proposal we would have to oppose. If the lease-leaseback approach simply said we take over the Penn Central lines and leased them to the Penn Central, I think that would be a waste of funds.

Mr. SKUBITZ. I am thinking in long-range terms of lease and leaseback to all main lines so we could improve them and carry on a decent passenger service as well as freight line service.

Mr. DENNIS. We think it is better, the lease, leaseback approach is better than the DOT or ICC approach.

Mr. SKUBITZ. That way we would get a better roadbed throughout the country and improve our freight as well as passenger service throughout the United States.

We are subsidizing the trucking firms by maintaining their roadbeds, the highways; we subsidize the airlines, the waterways. The profitable rail lines are not making the amount of profit they assert they are entitled to based on the invested capital.

As other railroads become insolvent, would you suggest the Government take those over as well?

Mr. DENNIS. Yes; H.R. 7373 embodies a proposal that would do just that.

Mr. SKUBITZ. As they become insolvent one way or another, Government then takes over. We shouldn't try to halt the insolvency but wait until it happens?

Mr. DENNIS. Under the legislation it says if there is no reasonable prospect——

Mr. SKUBITZ. I am trying to get your philosophy on this point.

Mr. DENNIS. I believe the railroads are necessary for the public service. If they cannot be run on an income basis they should be run by the Government.

Mr. SKUBITZ. Should we do something about trying to improve them so they can be operated profitably?

Mr. DENNIS. I think we have been trying to for 20 or 30 years and failed.

Mr. SKUBITZ. Thank you. That is all.

Mr. DINGELL. Mr. Podell?

Mr. PODELL. I would like to congratulate you, Mr. Dennis, on an excellent statement, particularly your erudite approval of H.R. 7373.

I listened very carefully this morning to the statement presented by Mr. Snyder on behalf of my good friend, Al Chesser, and I know that both labor organizations are very much interested in the continuation and operation of these railroads and I have a great deal of admiration and respect for Mr. Chesser as well as you.

Did you hear the statement of Mr. Chesser?

Mr. DENNIS. Yes.

Mr. PODELL. Would you care to make a comment on his statement?

Mr. DENNIS. There are many, many parts of the UTU statement that we would completely agree with. We don't agree with the ultimate suggestion because the ultimate suggestion is yet another study and as I see it we don't need a commission that would make a study and propose legislation.

Eventually we think what they propose is embodied in H.R. 7373.

When asked if this doesn't work, they say go to nationalization. We think it is time to go to nationalization of these particular railroads. That is a nasty word, I guess, but we are not talking national, we are talking of the northeast system, Government owned and operated railroads.

I think that is necessary if you want the service. If you want to cut the service to nothing, you can operate a trunk line service at a profit. And at whose cost? A cost to the public.

We agree with many of the basic provisions set forth in the UTU presentation. We think the intervention machinery they propose first would result in an automatic veto as suggested, and second, would really not do anything but present us with another study.

Mr. PODELL. It would be an interim remedy at the very best, would it not?

Mr. DENNIS. Yes.

Mr. PODELL. I tried to being out that I think we all agree on certain basic concepts. We all agree that there has to be some consolidation of the rail system in the Northeast corridor.

I think we all further agree it is going to require a large infusion of funds. I think the only area we disagree on—and I disagreed with Mr. Snyder—is I don't believe the private sector will invest any money at all in a rail system which has been bankrupt; even those making a profit are not making a proper return on their original investments.

I would like to direct your attention to another thought that has been mentioned quite often, sale and leaseback.

It is my understanding the sale and leaseback was invented for two purposes. One was for the tax advantage of the individual who buys property.

This was the original concept of the sale leaseback where an individual can have an investment of capital and get the benefit of the tax law and second, in the event the lessee of the property does not operate it or function properly, we needn't go to bankruptcy or forced sale. All we do is serve him with a 10-day notice of eviction which is for nonpayment of rent, so to speak.

None of these criteria have any application in a Government-owned concept. The Government obviously is not looking for tax advantages because there won't be any taxes.

Second, we can't utilize the advantage of a 10-day notice of eviction because you are not going to evict a railroad since the service is necessary to satisfy the public.

I just thought I would mention that with the possibilities of sale and leaseback.

I would like to congratulate you on your statement. I think it is an excellent one.

Mr. DENNIS. Thank you.

Mr. PODELL. I yield back.

Mr. DINGELL. Mr. Shoup?

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Dennis, I fully agreed with you up through page 5. I think you made a vary astute statement there at the very top when you identified what our problem is in rail transportation.

On page 5 I found it difficult to agree with you when you said there is only four possible alternatives. I am wondering if you did it out of knowledge or deliberately omitted other alternatives that have been proposed.

There have been several that were referred to this morning. There have been others referred to previously in testimony before this committee.

You either conveniently ignored those or, through lack of knowledge, couldn't come up with them. Basically, the approach of RFC, does this ring a bell, the RFC-type thing? Fannie May, not grants, not subsidies, but Government-approved loans?

I think that is an alternative. I think you omitted that and didn't address yourself to it. I would be very much interested—maybe it is so obvious to you that it is completely out that you didn't care to discuss it?

Mr. DENNIS. I think it is encompassed in what I considered the first alternative. I lumped the whole question of Government subsidies, priority loans, grants, into one broad category as simply methods of ongoing financing.

There are certainly distinctions between the relative effectiveness of the different kinds and I think the Government-guaranteed loans are the most desirable of these forms if you took that route.

I don't think it will work.

Mr. SHOUP. I see we have a vote. I have one or two questions, Mr. Chairman. I go on to page 7 at the bottom there. I think you are rather contradictory. I hope you can clarify it for me.

On the tope of page 3, you place the blame for the problem. You point out it is the policy of the Government and two, it is private management.

On page 7 you say let's eliminate private management and go to total Government control and that will solve all our problems. How are you going to get rid of your number one priority of why we have the problem we are in now?

Mr. DENNIS. I think you are identifying Government a little more broadly than I. I was specifically directing my comments to the ICC.

I think Congress had made many attempts to effectively chang the system. I am talking specifically in Government of the ICC.

We have testified in favor of the Surface Transportation Act and also very similarly to what the UTU did and we favor changes in those Government regulations.

Mr. SHOUP. Again, what is confusing to me in your testimony is on page 9—you place the blame on ICC and its operations and yet you want to go total Government and the total Government would operate under the same ICC regulations.

You don't address yourselves to restructuring of the ICC.

Are you contemplating that?

Mr. DENNIS. I certainly don't contemplate that the authority which would run these railroads would be the Interstate Commerce Commission.

Mr. SHOUP. Under the same regulations that you say caused the problem?

Mr. DENNIS. The regulations themselves I think need change as we so testified before this committee on the Surface Transportation Act.

I say whatever ICC regulations exist at that date, this authority would continue to operate under those regulations as other railroads would.

Mr. SHOUP. Thank you, Mr. Dennis.

Mr. DINGELL. The committee thanks you for your helpful testimony today.

We are grateful to you.

The committee stands adjourned, subject to call of the Chair.

[Whereupon, at 12:35 p.m., the subcommittee was adjoruned, subject to call.]

NORTHEAST RAIL TRANSPORTATION

WEDNESDAY, MAY 30, 1973

House of Representatives,
Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Ralph H. Metcalfe, presiding [Hon. John Jarman, chairman].

Mr. Metcalfe. The public hearing is being continued in the area of the operation of bankrupt railroads and also in surface transportation. Our first witness is Mr. Andrew L. Lewis.

Mr. Lewis, do you wish to take the witness stand, please, and give us your name and identification? Do you have a prepared text?

STATEMENT OF ANDREW L. LEWIS, TRUSTEE, READING CO.; ACCOMPANIED BY RICHARDSON DILWORTH, TRUSTEE; AND WILLIAM HESSE, VICE PRESIDENT (LAW)

Mr. Lewis. Yes, I do, sir. It has been submitted.

Mr. Metcalfe. Thank you.

Mr. Lewis. My name is Andrew L. Lewis, Jr. I am a cotrustee of the Reading Co.

To my right is Richardson Dilworth, cotrustee of Reading Co. To my left is William Hesse, vice president (law) of Reading Co.

With your permission, Mr. Chairman, I have submitted a written text of approximately 14 pages, and rather than read that, I would like to summarize a few points which I would care to make in relation to Reading and the President's bill that you are considering rather than take your time to reading the entire text.

Would that be agreeable?

Mr. Metcalfe. Unless there are any objections, your entire statement will be entered in the record you may summarize it, if you will, please.

Mr. Lewis. Thank you. First, I am not a professional railroader. I am serving as trustee of the Reading Co. We have been involved for a year and a half in plans to hopefully reorganize.

If there are technical questions dealing with railroading, Mr. Hesse of our company would be better prepared to answer those than I. However, having been involved in the Reading for about a year and a half, you have to reach certain conclusions in relation to the problems of railroads in the Northeast.

First, I have read considerable testimony previously submitted before your committee, and I would concur with testimony submitted that the railroads in the Northeast have positively no chance to survive without major contributions or some type of support coming out of the Federal Government.

I indicated that I concur with testimony submitted that Northeast railroads cannot survive without help from the Federal Government. We have explored six or eight possibilities of consolidations with railroads in the past year.

All of these indicate a deficit operation. There is no way that we can see any light at the end of the tunnel in terms of our survival unless we have some kind of help forthcoming from Washington.

We happen to feel that H.R. 6591 is the closest possibility to a solution that we have ever seen. We have considered the other matters submitted to various committees in Congress and feel this is the most realistic in terms of the Reading problems and other problems of bankrupt railroads in the Northeast.

One point that we feel particularly strong about, and this is Richardson Dilworth, and I feel that we should not have a subsidized competing system. Ultimately we should end up with one railroad in the Northeast.

It should not be subsidized or we should not have competing lines under any plan you may come up with. As an example, we run tracks up one side of the river outside of Philadelphia along the Schuylkill River and on the other side is Penn-Central. Both of our lines are losing money. We have parallel trackage with Lehigh Valley serving Bethlehem Steel Co. and Bethlehem.

We both lose money. We feel the ultimate solution is to have rates and service requirements controlled by the Federal Government and we do not have competing systems. It seems ridiculous to have subsidized systems and try to have competition in the rail industry.

We feel there are two distinct problems as we see it, particularly in relation to the Reading and also for the Penn-Central, probably. That should be broken down into the consumer problem, which we feel is a local problem.

We feel that counties served by the commuter systems and State benefits from commuter lines going into Philadelphia, that should be our problem and not your problem and should not necessarily be considered by your committee.

In the area of freight, we have come up with what we feel is a realistic core system. As an example, we lost last year approximately $18 million. About $6 or $7 million of that was lost in the commuter service and about $11 million was lost in freight lines.

We further feel that marginal freight lines which the State of Pennsylvania feels would be helpful to them in terms of keeping local industry despite the loss in the lines, that those problems should be absorbed by the State and should not be the burden of a federal system.

The last point on that particular area has to do with labor. We feel it is extremely important that we have full labor protection. We recognize the cost of this. However, we feel that attrition will ultimately solve that problem and if we expect to come up with any realistic workable solution, it would have to protect the rights of the people working on the various railroads in the Northeast.

One other area that we feel is worth exploring specifically in Appalachia and Pennsylvania, if there were—and it is not a part of this committee—some way we could tie in the energy crisis in terms of the ecological problems of coal that many of the railroads in the Northeast could come back and survive on the basis of coal traffic alone.

If you look at the Reading Co., as an example, we are essentially a coal carrying railroad and our revenues and profits have deteriorated in direct proportion to drops in coal traffic.

We feel there should be assistance from the Federal Government in solving ecological problems with coal. If we can do this, it will not only solve the railroad's problem but also make a contribution to the energy crisis and greatly aid unemployment in the areas that are as heavy as they are in the coal region.

In conclusion, we feel that Northeast railroads are a great resource of this country. We would like to see them continue to operate. We think they are vital to our industrial well-being.

We hope that your committee will favorably consider some type of support, hopefully through a bill similar to H.R. 6519.

[Mr. Lewis' prepared statement follows:]

STATEMENT OF ANDREW L. LEWIS, JR., TRUSTEE OF THE PROPERTY OF READING CO.

My name is Andrew L. Lewis, Jr. I am a trustee of the property of Reading Company which on November 23, 1971, filed in the United States District Court for the Eastern District of Pennsylvania, a petition for reorganization under Section 77 of the Bankruptcy Act. My co-trustee is Richardson Dilworth, Esq., and the Honorable J. William Ditter, Jr. is the District Judge assigned to the Reading proceedings.

I have attached as an appendix certain material including a map description of the Reading. This appendix also describes what we believe should be the core of a restructured Reading system.

The precarious financial condition of the Reading is due to increasing cost units and reduction in its freight traffic. This reduction in the Reading's freight traffic and consequent los of revenue, is attributable to many factors, the most important of which is the greatly reduced use of bituminous coal for electricity generation purposes. However, it makes an historical method of reorganization difficult, and probably impossible, unless restructuring of rail lines in the northeast territory occurs by which increased traffic density over "core" lines of the Reading is increased through elimination of duplicate facilities and consolidation of facilities with other railroads.

Our bondholders are seeking to stop the railroad operations and to liquidate the property, asserting that continued operation of the property will only be with losses that will unconstitutionally invade their property rights. While we think that no such unconstitutional invasion is yet occurring, we also see no purpose in continuing an operation that promises no net income upon which to base a reorganization plan.

Our problems of endeavoring to continue service could be compounded should the Lehigh Valley cease its operations, as it has petitioned its Court to do. Important north-south routes involving the Reading, Delaware and Hudson, Boston and Maine and the Baltimore and Ohio include a portion of the Lehigh Valley. Moreover, problems on the Central of New Jersey have created severe delays on east-west traffic moving over joint routes with the Reading.

I have heretofore advocated broad policy direction and strong leadership from the Federal government. Without it there is no solution to the northeast railroad problems. The individual bankruptcy courts have not the jurisdiction, the expertise or the time to restructure the entire territorial system. This is an administrative job which needs to be done now, and completely, not on a case by case basis.

Accordingly we look to the Congress to designate the body which should assume this job, and to the Congress for help in staving off a collapse of service while the needs for railroad service, and what facilities should supply it, are being determined.

It is our view that unless the Congress enacts legislation which will, with Federal financial support, enable the northeast railroads to concentrate on maintaining efficient service where needed, with elimination of duplicative facilities, and rehabilitation and modernization of those found to be needed, railroad operations in the northeast will collapse, greatly to the detriment of the entire country.

Of the current bills before Congress, we favor in general the approach set forth in H.R. 6591 as being most likely to produce a railroad system which will meet the public need at the least cost to the taxpayer. That proposal, which follows the suggestions of the Interstate Commerce Commission, meets the initial need for protecting creditors against erosions of their collateral security during the period required for a considered determination of which rail lines are needed. It gives communities and shipping interests the opportunity to determine if they should support branch lines not otherwise economically justified. It would provide that governmental leadership so sorely needed to define the territory needs for specific rail service and the means of preserving it.

However, we believe that a careful examination should be made of the definitions, in the bill, of costs that should be included in determining the rents payable during the interim period, to assure that those costs covered by the rent will prevent unconstitutional erosion of creditors' rights.

The interim operations period will give the Commission or the Department of Transportation an opportunity to examine and determine which railroad facilities should be coordinated; which should be preserved, and which abandoned. It will permit careful economic studies of the consequences, and thereafter would encourage implementation.

An example of what can be done by such coordination is shown by the study conducted by the Trustees of the Lehigh Valley Railroad Company, Central Railroad Company of New Jersey, the Lehigh and Hudson River Railway Company and the Reading. We have determined that by coordinating our respective facilities and transferring the essential ones to an operating entity, service to most shippers could be continued and the new entity might be able to operate on a breakeven basis. However, large amounts of capital would be required to upgrade the facilities to be used, make proper connections between them to effect a unified system, and to meet the cost of protecting displaced labor. We found no source for these needed funds, but H.R. 6591 would provide much of them.

This study however clearly shows what can be done merely by eliminating duplicating facilities and staffs of four of the smaller bankrupt railroads to provide excellent railroad service over a modernized system at a cost estimated at between $50 and $70 million including five years working capital needs, but excluding labor protective costs. This is about the equivalent of what I understand to be the cost of five to ten miles of non-access highway through an urban area.

These studies of the savings which could be accomplished by a consolidation of facilities in the State of New Jersey of the Reading, Lehigh Valley, Central of New Jersey and Lehigh and Hudson River demonstrate, we think, that a viable railroad system in the northeast could be established by the inclusion therein of the facilities of the bankrupt estates throughout the territory which duplicate each other without really adding to service. And I have concluded that the territory at least from Pennsylvania east to southern New England really needs only one railroad entity to serve the public.

All we need, and this is what the Congress is having proposed to it, is a guiding hand with power to accomplish the objective and the financial support to do it.

There are two areas, however, that we think should be more clearly dealt with than is done in H.R. 6591. We think that passenger service, and particularly the commuter service, is one which local or state governments must support. It has, we think, been clearly demonstrated that a commuter service cannot support itself through the fare box, and it also is clear that the freight revenues cannot support it. A restructured railroad system should be relieved of this burden, and the statute should so provide.

The Reading, as I have pointed out, transports over 13,000,000 commuter passengers annually by the weekday operation of over 300 commuter trains. Even with $5,700,000 of support payments in 1972, this operation cost the Reading over $1,000,000 in losses calculated on an avoidable cost basis—that is, only those costs which could be saved if the service were discontinued are charged against the service.

Our second problem has to do with the protection of displaced or adversely affected railroad employees. The social obligation for protecting them—and of all employees, not just those represented by labor unions—should be cast on the public. It is a just thing to protect these people. If protective costs are left to the bankrupt estates, this does not mean that payments will be received, or if received, that payments could be made promptly so as to avoid interim hardships. We think that the cost of labor protection would be more than the bankrupt estates could manage even if the Courts should determine that such charges could constitutionally come ahead of secured creditors' rights. And certainly viable carriers will be reluctant to assume such obligations as a condition to supporting the newly devised system.

We understand that there is in draft form a proposed bill which would be an amendment to H.R. 5385, the proposed Surface Transportation Act and would be entitled "The Northeast Essential Rail Services Act of 1973". The draft we have read includes refinements in ways to meet the general proposals of H.R. 6591 and we commend those features which would result in the creation of a corporation to operate a system broadly determined by the Secretary of Transportation, specified in detail by the Interstate Commerce Commission and reviewed by the Congress. It would assure, we think, adequate funding and yet leave free to bankrupt estates the opportunity if they wished to attempt an historical type of reorganization.

However, again we urge that should such a bill be introduced, consideration be given to the public funding of employee protection costs, and to relief from passenger operations not fully funded by communities or states.

There are other areas which the Congress should consider, we think, in connection with the current rail crisis. The energy demands of the country are huge and growing. The controls necessitated by the need for environmental protection compound the problem of meeting this energy demand. Retention and modernization of our rail system in the densely populated northeast territory are musts to meet these problems.

As one example, huge quantities of bituminous coal are available, and as before, can readily be transported by rail to supply energy to this territory. But adverse ecological consequences now deter us. Sums spent on devising ways to precipitate and capture noxious gases from coal burning, and to reclaim land damaged by coal extraction, will return many benefits—reduction of the outflow of dollars for foreign oil; increased employment in Appalachia and on the railroads; assured energy supplies.

An attack on the energy problems is also an attack on the railroad problems. The railroad situation is critical and the need for immediate action is urgent. The interim protective measures contemplated by H.R. 6591, and especially by the draft of "The Northeast Essential Rail Services Act of 1972" will permit an orderly attack on the problem. Unless leadership and action does come promptly from the Federal government, we foresee a chaotic transportation condition which will require expensive emergency measures to correct—perhaps then only by purchase and operation of the roads by the government. This we believe undesirable, not only because of the initial expense but because the experience in other countries where nationalization exists shows that huge expenses continue.

Appendix

Geographically the lines of the Reading, as shown on the attached map, lie largely in eastern Pennsylvania, with a line from Philadelphia to a point in New Jersey opposite Staten Island, and a line extending to Wilmington, Delaware.

It connects with the Western Maryland railroad west of Harrisburg, Pa., with the Penn Central at Harrisburg, Pa., and Williamsport, Pa., with the Erie-Lackawanna near Bloomsburg, Pa., the Lehigh Valley at Allentown, Pa., the Central Railroad of New Jersey at Phillipsburg, N.J. and Bound Brook, N.J., and at Philadelphia, Pa. with the Baltimore and Ohio and Penn Central. It also has a connection with the Baltimore and Ohio at Wilmington, Delaware, and with Pennsylvania-Reading Seashore Lines at Camden, New Jersey.

Prior to filing its petition under Section 77, the Chesapeake and Ohio and Baltimore and Ohio jointly owned about 45% of the Reading stock entitled to vote, and the Reading in turn owned 59% of The Central Railroad Company of New Jersey, also in reorganization. The Reading and Central Railroad of New Jersey together with the Western Maryland Railway Company, were considered a part of the Baltimore and Ohio "family" lines and the Baltimore and Ohio in turn is stock controlled by the Chesapeake and Ohio Railway Company. Many through freight routes were and still are jointly maintained by all of these lines.

The Reading earned gross revenues in 1972 of $111,150,000. This included $90,239,000 of freight revenue derived from the transportation of approximately 686,000 carloads of freight. The Reading in 1972 also transported slightly more than 13,000,000 passengers, largely in commutation service in and around Philadelphia. Passenger revenues were $9,593,000 and support payments for this service from Southeastern Pennsylvania Transportation Authority were $5,683,000.

Certain statistics comparing carloads of freight handled in 1967 compared with 1972 demonstrate the reason for the financial problems of the Reading.

	Carloads			
	Anthracite	Bituminous coal	Merchandise	Total
1967	43,485	314,808	705,458	1,063,751
1971 (year of bankruptcy)	40,659	152,567	565,322	758,548
1972	34,355	107,601	544,025	685,981

During the first four months of 1973 we have experienced an upturn of 8% in carloads and 14% in revenues over the same 1972 level and we expect this to hold for at least the remainder of the year. However, our income account still reflects a net loss of $5,827,000 compared with an $8,429,000 loss for the same period of 1972. The recently negotiated national settlements with a number of labor unions will, if applied to all crafts, further increase our wage costs on an annual basis beginning January 1, 1974 by about $6,000,000. We are hopeful that at least a major part of these increased costs can be met by increases in freight rates, permitted to become effective when the costs increase rather than sometime later.

Most of the freight handled by the Reading (over 85%), is interchanged with other railroads, and moves both east-west and north-south. The southern business moves jointly with the Baltimore and Ohio to and from its southern connections, and with the Norfolk and Western via the Western Maryland through the Hagerstown, Md. gateway. On the north the business is interchanged with the Central of New Jersey at Bound Brook, N.J., the Lehigh Valley at Allentown, Pa. thence to the Delaware and Hudson near Scranton, Pa. and the Erie-Lackawanna near Bloomsburg, Pa.

The east-west business interchanges with the Baltimore and Ohio at Philadelphia, the Western Maryland west of Harrisburg, the Penn Central at Harrisburg, the Erie-Lackawanna near Bloomsburg, and the Central of New Jersey at Phillipsburg, N.J.

There are some 6,500 shippers served by the Reading in its own territory. Should the so-called Boston-Washington, D.C. rail corridor be devoted primarily to passenger service, the Reading, with its connections, would be available for freight service now moving over the corridor.

The traffic routes that I have described require in our opinion the rentention as a core of the lines of railroad between:

Lurgan (West of Harrisburg, Pa.) and Allentown, Pa.; Pottsville, Pa., and Philadelphia; Reading, Pa., and Wilmington, Del.; Bethlehem, Pa., and Philadelphia, Pa.; Philadelphia, Pa., and Port Reading, N.J. (opposite Staten Island, N.Y.); and Metropolitan Philadelphia Branch lines.

We think that all of the railroad north of Pottsville, Pa., generates insufficient traffic to be supported as part of Reading's railroad operations and it is not needed for through traffic routes since the Erie-Lackawanna route through Bloomsburg, Pa., can move through Allentown and thence Lehigh Valley to the Erie-Lackawanna near Scranton, Pa., and the Penn Central through traffic via Williamsport, Pa., can move through Harrisburg, Pa., as it presently is doing to a great extent. Accordingly, we believe operation of it should be discontinued, as well as some small relatively unimportant branch lines now connecting with the described core system.

Mr. METCALFE. Thank you very much, Mr. Lewis, for that very fine statement, especially for the summary. I would like to review some figures that you gave us. You indicated that last year you lost $18 million.

Mr. LEWIS. Yes.

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Mr. METCALFE. Did I understand that breakdown was $6 million, approximately, for passenger and $11 million for freight?

Mr. LEWIS. Approximately $12 million for freight.

Mr. METCALFE. In your proposal and in support of H.R. 6591, are you advocating maintaining the feeder line, the auxiliary lines, or what is your position in regard to those auxiliary lines?

Mr. LEWIS. We have a map which has been submitted indicating a core system. We feel that as an operating railroad we would like to abandon those lines. However, we feel we should work with our State government and hopefully those feeder lines that are serving industry in Pennsylvania, we should work out some way that it is subsidized by the State so we can continue to keep these feeder lines in operation.

Short of that, I think they have to be abandoned. We would like to see them not abandoned, but we feel they have to be subsidized if we want to keep that industry.

Mr. METCALFE. Are you restricting your subsidy to the feeder lines or are you saying there should be subsidy for feeder lines plus additional money for, say, the Reading Co. so that they in turn will be able to survive?

Mr. LEWIS. Basically, I am agreeing with H.R. 6519. There should be subsidy for the core system. Our problems in terms of feeder lines and commuter lines should be subsidized outside of Federal legislation, that this should be a local problem and we should solve this within our own Commonwealth.

Mr. METCALFE. Can you give me an estimate as to what was the fiscal position of the Reading Co. approximately 3 years ago?

Mr. LEWIS. The Reading Co. has been operating at a deficit of approximately $5 million 3 years ago, increased to about $12 million in the next year, $18 million last year and hopefully this year we will cut it back to 12 or 14.

Mr. METCALFE. Have you determined any figure which you think the subsidy should amount to, say, for the Reading line, keeping in mind the things that you said, and I certainly concur with you, there should not be duplicative or parallel lines.

Mr. LEWIS. There are two figures which you keep in mind. The commuter lines would be $8.5 million. In the core system approximately $3 to $5 million.

Mr. METCALFE. What is your projection as to how long this would make the Reading Co. solvent?

Mr. LEWIS. I have advice from my counsel, which I may not agree with, so I will state how I feel about it. I don't believe we are ultimately, unless we have a tremendous change in the traffic situation, going to end up with a viable, profitable railroad system in the Northeast, and I do not believe the Reading system will be profitable.

I think Richardson Dilworth probably concurs in that feeling. We are not railroad technicians, but looking at it from a lay standpoint, I think once the Federal Government gets involved in the railroad business, regretfully, I think you are in it to stay.

Mr. METCALFE. You as trustees are, of course, concerned with trying to make it viable as well as a solvent company, and of course I guess you gathered what I was inferring when I asked the question as to what was the fiscal status of the Reading Co. 3 years ago.

It was in trouble then. It is in trouble now. Even if we do come up with $8.3 million, there is no guarantee that is going to be the panacea that we are looking for. Am I right on that?

Mr. LEWIS. Yes, I think you are right. However, I do feel this way. We have the elimination of duplication of services. We are going to cut deficit tremendously from where it is. We are talking about $3 to $5 million subsidy compared to $12 million loss, so there will be significant savings.

The problem we have even in our consolidations as we project continual increase in labor cost, we still have nothing to indicate there is a turnaround in the coal business and our revenues will continue to slightly drop off in that area.

Unless there is a major change in terms of coal as a source of energy, I don't see that your bill will be a panacea.

Mr. METCALFE. Then you indicated you felt as though there should be some nationalization of the railroads, is that right?

Mr. LEWIS. I would prefer to avoid nationalization. I feel that if we can operate the railroads under not necessarily the present management but under a reorganized management, the ultimate cost will probably be less, and I think with due respect to the Federal system of operations, I feel that the private enterprise could likely do a superior job to some type of Federal control in terms of direct management.

Mr. METCALFE. I would like to make a statement and not solicit an answer, that I would not concur with your thinking. I think we'd better be giving some serious consideration to using your talents and combining them toward a nationalization program wherein we would have the benefit of your background and expertise and work more closely together, rather than disjointedly as we have been before.

Mr. Shoup, do you have any questions?

Mr. SHOUP. Mr. Chairman, thank you. Mr. Lewis, the statement that you have made as to your conclusions of nonviability of the railroad, are you referring only to the Reading or is this your opinion of all railroads?

Mr. LEWIS. It happens to be my opinion of all railroads, but having worked with the Reading situation for a year and a half, I think I can say that with some certainty.

Mr. SHOUP. As I understand it, you are saying that neither private industry nor the Federal Government can operate without a deficit, but if the Federal Government will give the money to private industry, they can lose less money, they are not as efficient in losing money as the Federal Government?

Mr. LEWIS. That is a correct interpretation of what I said.

Mr. SHOUP. Do I understand that the Reading Railroad to be profitable must carry a predominant tonnage of coal?

Mr. LEWIS. That is correct.

Mr. SHOUP. There is not the potential of other freight that would take up the slack?

Mr. LEWIS. We are a short-haul railroad. We primarily serve the coal regions in Pennsylvania. As a net result, unless there is industry along those lines, which currently is insufficient to support the line, without a revival of coal, we cannot see a profitable position.

Mr. SHOUP. Would you then liken the Reading Railroad somewhat to the buggy whip manufacturer?

Mr. LEWIS. No, I wouldn't in this sense, sir. There are several items that I think we have to consider here. First of all, the problems of crowded highways, the energy crisis in terms of gasoline, the fact that there are many products that still can be moved more economically by rail than by truck.

As an example, if we eliminate the railroads in Pennsylvania, every highway we have would be a parking lot. I think the railroads have an important role to play. I think that the products that they move and coal and steel are very important to the industrial well-being of the area, specifically in Pennsylvania. I also feel as we look down the line into the megalopolis from Boston to Atlanta, that railroads are going to ultimately at some point be a very vital part of moving freight, but certainly to a large degree even passengers.

I think that the railroads may be in the days of the buggy whip, as you put it, for the last 10 or 15 years, but as a national resource, I think it is necessary.

Mr. SHOUP. Then why do you not think that it can be a viable operation?

Mr. LEWIS. For several reasons. Right now, as an example, if you look at the highways which are maintained by outside sources, right now we maintain our entire right-of-way. We maintain our trackage. We purchase our own right-of-way. These expenses are things that in terms of capital investment we can no longer absorb with the declining traffic we have.

Mr. SHOUP. Would you feel that if the railroad right of way was managed or controlled as the public highways are, that the railroad industry would be viable?

Mr. LEWIS. I think this would be an important step and would be an alternative to the proposal here in H.R. 6591 and it is one of the things we have looked at. I cannot give you specifics, although we could submit that to you, how we would operate if we did not have to maintain our own right-of-way and tracks.

Reading has considered that as an alternative and we have those figures.

Mr. SHOUP. If you were to eliminate your passenger service, could the freight service or the freight portion of the Reading railroad be profitable?

Mr. LEWIS. No, sir. About a third of our losses are in passenger movement and two-thirds in freight.

Mr. SHOUP. May I say I think you are rather unique. In the testimony we have had before and during the previous years, during the throes of Amtrak, there was an indication from all other railroads that their greatest loss was from passenger movement. I think we have heard during these particular hearings in the last couple of weeks that the railroads attribute their greatest loss to passengers and I am speaking to the same type that you haul.

Mr. LEWIS. That was true with us until 2 years ago.

Mr. SHOUP. What was the change?

Mr. LEWIS. Just a continual dropoff in coal traffic.

Mr. SHOUP. Rather than less loss in the area of passenger, it would be a greater loss in freight?

Mr. LEWIS. That is correct.

Mr. SHOUP. You speak of the consolidation or the elimination of some parallel lines so that service shall be provided over one line only. What bothers me at present, unless we are able to provide updated service, I think you will drive more customers away from the railroads. One of the complaints I get at present, even with parallel lines, is the service and I think you know what I refer to on this.

What percentage of the time does the Reading Railroad feel that their boxcars are in use traveling?

Mr. LEWIS. Fourteen percent. About 14 percent.

I would like to comment though as an outsider in the railroad industry now with Richardson Dilworth I think the service on our particular railroad has been one of the better features of the Reading despite our loss.

Mr. SHOUP. My point is this: If you have two parallel lines and if you are only going to be able to give service at 14-percent traveltime, the time that a car is in use, it is traveling down the road and that is all you can do, then it seems if you would consolidate the two, you are going to give poorer service.

Mr. LEWIS. I can't completely agree with you because there are other factors in terms of the use of the cars beside the time they are on a siding of a customer and being shipped out to another customer.

Mr. SHOUP. I was being the devil's advocate, attempting to draw something from you that there happens to be more than merely putting the lines together that is going to be the panacea.

Mr. LEWIS. Agreed. I think that is a very valid point. I think with that you are going to need upgrading of the track. We are going through a problem now with maintenance where we have a number of wrecks which we did not have previously where trains are going off the tracks.

We have a lot that has to be done in terms of improving the service we are providing, but we don't have the source of funds to make the capital investment to improve the service.

Mr. SHOUP. Mr. Lewis, have you received from the committee a request for your suggestions as to service?

Mr. LEWIS. Yes, we have, and I believe that has been submitted.

Mr. SHOUP. It has been submitted?

Mr. LEWIS. Yes.

Mr. SHOUP. Thank you. No further questions, Mr. Chairman.

Mr. METCALFE. Mr. Kuykendall?

Mr. KUYKENDALL. Mr. Lewis, it is good to have you before the committee.

What percentage of your traffic, if any, is now in commuter passenger service?

Mr. LEWIS. I don't think I understand your question.

Mr. KUYKENDALL. How many passengers do you haul?

Mr. LEWIS. Thirteen million.

Mr. KUYKENDALL. What percentage of your total traffic in the sense of car miles is given to passenger service?

Mr. LEWIS. I don't have that specific figure.

Mr. KUYKENDALL. Give me a ball park figure.

Mr. LEWIS. In revenue, the fare box produces about $9 million annually of revenue from passenger service.

Mr. KUYKENDALL. How many passenger-miles is that?

Mr. LEWIS. Our trains, I think, average only about 20 miles because it is nearly all Philadelphia commuter service; 20 miles of train, on a weekday we operate almost 400 trains each day.

Mr. KUYKENDALL. What percentage of your operating loss as shown on your balance statement is a passenger loss?

Mr. LEWIS. About 33 percent; one-third.

Mr. KUYKENDALL. May I then ask you to accept the hypothetical situation in my questioning that I am not referring to that at all.

So, now, just recently I saw a composite set of figures and then figures on some different lines showing the eastern road in bankruptcy as well as Southern, Southern Pacific and I believe one other, B. & O., I think. Across the board it was quite interesting that the car loading and tons per car of the different railroads varied hardly at all.

In other words, the eastern roads look quite good and that in revenue tons per mile you had the best in the Nation and yet you lose the money badly. At the same time Southern is having a stock split, you are going bankrupt outside of the passenger service.

Mr. LEWIS. Correct.

Mr. KUYKENDALL. Now the figures showed that you run shorter trains more slowly. This is the big difference on the chart between the eastern roads that go bankrupt and the southern roads, the B. & O. and the western roads.

That, in essence, is the big reason that you lose money.

Mr. LEWIS. Excuse me, there is one other item.

Mr. KUYKENDALL. And you are loaded down with employees.

Mr. LEWIS. No, shorter haul. There are three factors that answer your question.

Mr. KUYKENDALL. This is quite interesting and that does not show up in the DOT railroad figures.

Mr. LEWIS. Well, if you look at the Reading figures——

Mr. KUYKENDALL. Just the Reading figures alone?

Mr. LEWIS. Specifically in our railroad the problem we have is the fact that we have tremendously short hauls and our trains travel at slower rates. We are in a more heavily dense population area as far as traffic problems are concerned and also our trains are in poor shape.

Mr. KUYKENDALL. We are having to face the situation in this committee that on one extreme is the position of the DOT, which would have us cut back to a profitmaking structure, regardless of how far. Then let the railroads start from there and grow back. This position that would require the absolute minimum of dollar support from the Government. The other extreme is in essence out and out nationalization.

Now, however, I consider the gray area in between the two extremes a terribly dangerous one. You can't take 15 minutes in a row and make a plus of them as we found out with Amtrak.

But you spoke of subsidies. Now, is there a core road available? We are thinking in terms of one major system.

You also said that you could be in the black in a couple of years.

Mr. LEWIS. Yes.

Mr. KUYKENDALL. One of you is shaking your head and one of you is nodding your head. You remind me of the ICC.

Mr. LEWIS. We are not saying that the Reading by itself.

Mr. KUYKENDALL. In other words, would it be a part of your system that could be made a part of our system?

Mr. LEWIS. Part of our system could be made a part of your system. We feel there is no way we can cut back Reading that we are profitable.

Mr. KUYKENDALL. I am not talking about making Reading a self-supporting independent organization.

Mr. LEWIS. The answer to your question is "Yes." and part of our system could be a part of another system which would be a part of a very bare bone core that could be profitable.

Mr. DILWORTH. Could I qualify that?

Mr. KUYKENDALL. Yes.

Mr. DILWORTH. I don't think we can cut back to an absolute bare bones system because it would bankrupt the State. We have to maintain some parts of the lines that aren't profitable because they mean so much to industry and so much to the development of the State, so I think the only thing that Mr. Lewis and I might possibly disagree on is that I can't see a core road that really serves the State and serves it in its essential also as being profitable.

Mr. LEWIS. I would agree with Mr. Dilworth.

Mr. KUYKENDALL. If you are going to go that route, your next step is that either the State or industry has to subsidize the loss, is that correct?

Mr. DILWORTH. That would be my feeling, yes, sir.

Mr. KUYKENDALL. Assuming that, how can you use taxpayers' money to compete in the open transportation market against unsubsidized carriers? For instance, you leave a little line out here running from Podunk to Yazoo City, Miss. And for the public convenience, the people of Yazoo City decide they want that freight train running and they pay for it with taxpayers' money.

The truck lines between Memphis and Yazoo City are competing on the same line. Well, the parent railroad wants more traffic between Memphis and Yazoo City. They go to the ICC and get permission to cut rates. All this means they are using that much more of the taxpayers' money which is coming right out of the truckers' pocket to subsidize his own competition.

What is right about that?

Mr. LEWIS. Well, I think what you are saying is almost what I said, but we have a feeling in terms of our specific problem that the local problem should be solved locally. We think the commuter problem, let's isolate that and not talk about it. We fully agree that is a city of Philadelphia suburban and State problem.

Mr. KUYKENDALL. And nobody wants the business?

Mr. LEWIS. That is right. That is something we have to accept the responsibility for. We also feel on the highly marginal lines in Pennsylvania, that are serving a limited industry, they are going to be operating at an obvious loss, that that is a determination the State should make as to whether or not they feel it is in the economic well being of Pennsylvania to support that rail line rather than permit the rail line to go out of business and perhaps industry to go out of business.

Granted you can make an argument on whether or not we are subsidizing competition for trucking and on the other hand the railroads argue that the highways are subsidized for the truckers.

Mr. KUYKENDALL. So you think it is all right for us to leave that up to the States?

Mr. LEWIS. I think it is a local problem. I agree with Mr. Dilworth in terms of beyond a very basic core line we do need Federal help and we are going to lose a national asset if we don't support it.

Mr. KUYKENDALL. The matter of the basic core line, is really the essence of the problems which concerns this committee. We would like to have your opinion on the core system. We also have to decide to what extent a local Government can waste taxpayers' money to subsidize a born loser.

We are faced with a problem here of trying to put something on its feet and not create another Amtrak. So in talking about subsidies, I am on record as saying that only the initial cost should be borne by the Government.

But I am afraid that you are saying there is no light at the end of the tunnel and that bothers me.

Mr. LEWIS. I guess perhaps I am saying what you said on Amtrak. I don't think it is as devastating as that, but you could have easily at some point in the future look down at that railroad subsidy and eliminate. However, in the northeast and problems faced in Pennsylvania in terms of industrial development, I think it is a matter of priorities on where money is spent and I happen to feel, despite not being a railroader, that investment in keeping the railroad system in a substantial core area, I am talking about the northeast, is a very worthwhile expenditure of Federal funds.

I think to that degree I would probably stretch further than you are indicating by your comments.

Mr. KUYKENDALL. Thank you, Mr. Chairman.

Mr. METCALFE. Thank you, Mr. Podell?

Mr. PODELL. Thank you, Mr. Chairman. Mr. Lewis, I am sorry I was a bit late. I missed the earlier part of your testimony but I managed to browse through it during Mr. Kuykendall's 5-minute question period.

I direct your attention to page 3 at the bottom, continuing on page 4, and perhaps this is our initial point of disagreement.

At this point you indicate the reasons for your support of H.R. 6591 and if I may summarize your reasons, you speak about: It "meets the initial need for protecting creditors against the erosion of their collateral security. It gives communities and shipping interests the opportunity to determine if they should support branch lines not otherwise economically justified."

And, third, "It would provide that Governmental leadership so sorely needed to define territory needs for specific rail service and means of preserving it."

Then again to emphasize a point in the very next paragraph, you say, "to assure that those costs covered by the rent will prevent unconstitutional erosion of creditors' rights."

Now, where we differ initially, sir, is that I am interested not so much in the rights of creditors, but in the rights of people. I am interested in the rights of the people to have complete transportation facilities, either passengerwise or freightwise, so that consumer goods can travel in the most feasible and the most economical and best manner available.

I am distressed that nowhere in your statement did you refer to the interest of people. Certainly I believe that, while I do agree with the consolidation, almost everyone of us agree that to prevent the duplication and overlapping, there has got to be some kind of consolidation of the bankrupt lines into one uniform force.

Certainly I feel that the ICC proposal, which would cost approximately $600 million a year, would be a costly venture for the Government. Would you care to comment on that?

Mr. LEWIS. Sir, first of all, I might say in your opening statement, I fully concur with what you said and I believe in my opening statement I said essentially what you said, that we have this concern. We isolated the commuter problem which is fundamentally our people problem in relation to our railroad.

We feel that is a local problem and both Richardson Dilworth and I are very strong advocates of mass transit and have supported every effort with the State and community to try to develop that. We have the same concern you have for people. This has been directed toward two areas.

One, to satisfy the needs of shippers which we think is extremely important and keeping industry and jobs open in the area we serve. And we think this is an extremely important part of our proposal here in preserving the Reading. In relation to the creditors as trustees of the railroad, we have seller responsibilities.

One of them happens to be creditors. We are now being sued by our bondholders, by our underlyers. We are spending their money to subsidize both commuter traffic and industry's we are serving for freight service. We are continuing to do this.

However, we are hitting the point where the court will likely no longer permit us to do this and unless we come up with some alternative in the immediate future, we will be forced by the court to liquidate the Reading Railroad the same as I anticipate will happen to Lehigh Valley and Penn Central.

Mr. PODELL. Are you an attorney?

Mr. LEWIS. No; I am not. Two of these gentlemen are attorneys.

Mr. PODELL. Enlighten me, if you will. Assuming a company files a chapter 11 and assuming I am a creditor, not a preferred creditor, but a normal creditor at the company. At what point do I have a tax writeoff of the amount of moneys owed to me? Is it at the time you file the chapter 11 procedure, or at the time of adjudicating the bankruptcy?

Mr. HESSE. If you go to section 77 instead of chapter 11 I am a little more familiar with that. In connection with the Penn Central——

Mr. PODELL. No; I am giving a hypothetical case, sir. As an attorney, I hope I am not putting you on the spot, but there is a certain point where I as a creditor on my corporate tax return say that company x owes me $5,000. They didn't pay, they filed a chapter 11 and therefore I can write off the entire amount of the indebtedness, isn't that true?

Mr. HESSE. I think it is a question of fact, sir, and if at the end of 6 months when you are supposed to file a plan of reorganization, that you do succeed in filing such a plan, and that that plan indicates that there is going to be a certain value to you as a general creditor.

Then I think at that point you are entitled to writeoff the amount which you will not be paid according to the plan. And I think the IRS would examine each situation separately. I would think that if at the end of the 6-month period you go to your court and say, "I need another 6 months because I haven't been able to come up with a plan yet," I would think that in that particular tax year the IRS would say, "now it is becoming pretty gray area" and we think you probably then and this year should have writtenoff your claim and, of course, if you get paid in the end, then you will have to remember to treat it as income.

Mr. PODELL. In other words, if you don't pay your creditors, Uncle Sam is going to pay them vis-a-vis a tax writeoff eventually, isn't that true?

Mr. LEWIS. Yes; but most of our creditors have already writtenoff their debts to us. We are aware of that.

Mr. PODELL. Oh; they have already written them off?

Mr. LEWIS. We are speaking of the bondholders specifically that some of this has been writtenoff. However, it does not eliminate their rights nor the fact that we still owe them the money.

Mr. PODELL. I agree, the indebtedness is there, but nevertheless, these fellows are no longer in trouble, not as much as the guy who is getting $150 a week and working on the railroad. He is in trouble.

But the creditor has already written off his indebtedness. That means Uncle Sam pays for it in any event. If he hasn't written it off, he is going to. I must say to you, without being callous, that I don't care that much about the creditors. Let the court liquidate the railroad. Let the Government be in on the sale. Buy it and wipe out all of the creditors' rights and run a railroad. I am not so sure that this is not the best idea of all.

The stockholders of the railroad will certainly be taken care of because we can give them new stock. The new stock is worth the same as the old stock. I could not say worth less or more. I think that I am not as concerned as you are about creditors. I think they have been well taken care of in one form or another.

In addition, there is a certain theory of caveat emptor, or lender emptor, if you will, when a man does business with a railroad, obviously he is on notice that the railroad is having difficulties. If I were to sell your railroad $5,000 worth of goods and merchandise, I would obviously be extending to you credit.

I would look at your balance sheet and say I am doing business with a company that does not show a profit and it is losing money. If I do business with you, therefore, I am assuming a risk that I should be prepared to take.

Now I cite these two things merely to indicate that I am not so much concerned about creditors. I am concerned about two things: One, peoples' rights, the rights for those railroads to deliver, not only people, but goods and merchandise in the best manner possible.

And I am also concerned about the rights of men and women who at the age of 18 or 19 took a job on a railroad and at the age of 40 or 50 find themselves with the possibility of being out of work. What shall we do with these people, make them into computer experts at this stage? What can we do with a man who spends all of his life working in a business?

What do you and I do, sir, if we could no longer practice law or be a Congressman? Who would employ us at our stage in life? So these are my concerns.

I merely say this for the purposes of emphasis, but there is one other thing in your statement that I would like to bring to your attention. On a question of employees, the problem has to do with protection of displaced or adversely affected railroad employees and obviously should the ICC plan pass, there are going to be a lot of guys out of work.

You say the social obligation for protecting them and all of the employees, not just those represented by labor unions, should be cast on the public. So the public is now paying for the creditors because you have written off your obligations.

The public is now paying for the employees because we are going to have to do something with these people. We can't let them starve on the streets. We have to provide jobs or meaningful training for them if it is possible. So, again, we are infusing sums of money there.

Now, I come to the final point. After infusing all of these sums of money by way of either tax writeoffs, which cost us money, taking care of all of these people, and even you say in your statement that at best you are breaking even at this point, given all of the facts, what has the Government got?

Mr. Lewis. Sir, I think specifically in looking at the area which you represent, which is not too different from the area we are from in Philadelphia, eastern Pennsylvania area, I think we have to look upon this as a need of the community in terms of commuter traffic.

In terms of supporting the people by the railroad, I agree with your position completely. Attrition will take care of some of this. I think we will have to be working on retraining. There may be some direct subsidation for these people. I agree with you that when the thing is all over, the Government is not going to have a highly profitable business enterprise.

Perhaps we will have to take the same approach on railroads as has been taken in terms of subsidies for airlines. I don't know a great deal about that subsidy so I don't throw that out as an argument. But I think we have to accept the fact that the Federal Government has responsibility because it is the only one that can pull together the problem of the Northeast in any kind of reasonable solution.

We are down here to plead for your support, not as railroad people, but as citizens in our community having the same concern as you have.

Mr. Podell. I could not agree with that statement more. I think you and I are completely in accord. What is wrong with the idea of the Federal Government taking over the railroads and hiring those railroad experts to run it for us? I am talking about the bankrupt lines in the Northeast area. We are paying for it anyhow, and in one form or another we are going to pay for the entire package. The only thing we are not getting is the milk from the cow.

Should there be a profit, we are not going to get it. What is wrong with the possibility of the Government taking over those railroads and hiring these railroad experts, who have done so well over the years, to continue to run them?

Mr. Lewis. Two comments: First of all, it is obvious that nationalization is an obvious alternative and it may be the proper alternative. The way I look at it presently, I am not convinced that private enterprise could not do a better job with the railroads than nationalization.

No. 2, which is a comment I make as a layman and not as a railroader, I am not too sure we should run the railroad by experts. I think we might get a good sound administrator that doesn't know the railroaders and let him run the system.

Mr. Podell. I have a sneaking feeling you are right on that. You say in your statement, Mr. Lewis, that with all that done and after consolidation and doing all of the things that should be done, it is hoped that it would break even. Do you recall making that statement?

Mr. Lewis. That was a consolidation of four railroads which was one alternative to H.R. 6591, there would be consolidation of Central of New York, Lehigh Valley——

Mr. Podell. Four railroads. Consolidation of six railroads wouldn't make it any better. So therefore we can assume that after all is said and done, the consolidation of the six railroads, given all of the ideal circumstances that are referred to, you are going to break even.

Mr. Lewis. I think if we could do that and break even, it would be a good investment.

Mr. Podell. If you don't break even, then you have to come back to Uncle Sam?

Mr. Lewis. Correct.

Mr. Podell. There you are back with us again telling us that you need more money.

Mr. Lewis. Correct. I would like to come down here with great optimism. I can't. I see it exactly the way you are describing it and I think Dick Dilworth feels the same way.

Mr. Podell. I think that is why I feel we are wasting a lot of time going through all kinds of machinations and all kinds of "we will do this first and then try that," when in the final analysis the Government is going to have to pay for it. If we are going to pay for it, let's at least own it.

That is why I think the ICC proposal is not feasible. I think the only solution is public ownership. I hate to use the word "nationalization" because it envisions the entire takeover of all railroads in the country and I am not referring to that, but merely those bankrupt railroads in the Northeast region.

I want to thank you, sir, for a very honest and forthright statement.

Mr. Lewis. Thank you, sir.

Mr. Podell. I yield back the balance of my time.

Mr. Metcalfe. Thank you, Mr. Podell. Mr. Harvey?

Mr. Harvey. Thank you, Mr. Chairman. We welcome you. Mr. Lewis. I, too, would like to congratulate you on a fine statement.

I have one question inasmuch as I think most of the others have been asked. Mr. Podell touched on this. On pages 6 and 7 of your statement, you refer to the second problem, the one dealing with the displaced or adversely affected railroad employees. Could you give us some idea of what sort of sums we are talking about here?

Mr. Lewis. I anticipated that question would be asked, but I am not sure we have the answer.

Mr. Hesse. I can give you the answer this way. On the Reading. I believe that there would be, if we went to our core system, which would be the most efficient part of the railroad, displacement of approximately 1,200 employees. Of those 1,200, I think in the next 3 years, about half of them at least would be age 65 and under the proposed Railroad Retirement Act, would take their railroad retirement and would be entitled to it.

That would leave you, say, 600 employees and if you use the ICC formula for their protection they would be protected for at least 5 years at the same salary level as when they were displaced. That salary level average is $13,000 a year, multiplied by 600 and I am sorry my mental arithmetic is terrible, but that is about what I think it would be on an annual basis for the Reading for 3 years or 5 years, whichever the protective time would be.

Mr. LEWIS. But this would be a very small part of the problem here. That would be Reading. Obviously Penn Central would be considerably larger.

Mr. HARVEY. For Reading alone, it would be close to $8 million, is that correct?

Mr. HESSE. I believe that is right as far as math is concerned.

Mr. HARVEY. Thank you, Mr. Lewis, for a fine statement. Thank you, Mr. Chairman.

Mr. METCALFE. Thank you, Mr. Harvey.

I would like to express our profound thanks to you for your very candid presentation. It has been enlightening. I think we all agree that we don't have the answers as yet, but certainly your frankness and your statements have been most helpful to us. We thank you, Mr. Lewis, and the gentlemen who accompanied you, for making the statement.

Thank you very kindly.

Mr. LEWIS. Thank you for having us, sir.

Mr. METCALFE. The next witness will be Mr. John G. Troiano, trustee of the Lehigh and Hudson River Railroad Co.

May I suggest that all of the witnesses from Lehigh and Hudson River come to the table.

STATEMENTS OF WILLIAM GIFFORD MOORE, PRESIDENT AND GENERAL MANAGER, LEHIGH AND HUDSON RIVER RAILWAY CO., AND JOHN G. TROIANA, TRUSTEE

Mr. MOORE. I am the president and general manager of the company, Mr. Chairman.

Mr. METCALFE. Mr. Moore, would you prefer to identify yourself for the record and then proceed with your statement?

Do you have a written statement?

Mr. MOORE. Yes, sir; we have submitted the statement.

Mr. METCALFE. Proceed, Mr. Moore.

Mr. MOORE. Mr. Chairman, I prefer to read my statement.

My name is William Gifford Moore and I live in Warwick, N.Y. I have worked for the Lehigh and Hudson River Railroad Co. since May 1967, and have been president and general manager of the company since November 1, 1968. Prior to my L. & H.R. Railroad service, I worked for the Lehigh Valley Railroad for 1 year and for the Baltimore and Ohio Railroad for 23 years.

On April 19, 1972, the carrier entered bankruptcy under section 77. Soon thereafter, Mr. John G. Troiana, of New York City, was appointed trustee and was confirmed on May 30, 1972. The basic causes of the bankruptcy were the decline of coal traffic into New England, the drastic reduction of business because of the takeover of New Haven by Penn Central, and the demand by one of our principal creditors for payment of money owed, but not available.

The carrier is owned by five trunk line bankrupt railroads (Erie Lackawanna, Lehigh Valley, Central Railroad of New Jersey, Penn Central and Reading), none of which holds a majority of the common stock, but collectively own 99½ percent of the carrier. The owners are also the direct or indirect interchange connections and feeder lines and, to some extent, the rail competition for this independently operated carrier. Lehigh and Hudson River has an operation of 83 miles between Maybrook, N.Y., and Phillipsburg, N.J., as a single-track, single main line railroad. Part of this operation, 14 miles between Belvidere and Phillipsburg, is on Penn Central, using an 1889 trackage rights agreement between the carriers. Approximately 95 people are employed.

Because of its physical configuration, the Lehigh and Hudson River has no branches for abandonment consideration as a planning factor for the emerging core system in the Northeast. Nevertheless, this carrier's route and strategic location must be preserved as part of that core. I recognize that some of the bankrupt Northeastern carriers have already identified surplus route miles and to that extent, a beginning of that core definition has already been made by the railroads themselves. There are good reasons why L. & H.R.'s important route should be kept and intensively used as part of the Northeastern core.

Lehigh and Hudson River is located strategically in a northeast-southwest pattern in New York and across northern New Jersey. It connects Penn Central at Maybrook, N.Y., on the New England gateway end with other important Northeast carriers on the south end. In the middle of the line, L. & H.R. connects with Erie Lackawanna at two points. At Phillipsburg, N.J. and Easton, Pa., it connects with Penn Central again and with Lehigh Valley, with convenient indirect access to the Central Railroad of New Jersey and to the Reading Railroad. The railroad presents an important shortcut around the congested New York-New Jersey metropolitan area, making it the shortest and most direct route to and from New England on traffic from the South and Southwest.

It offers the shortest route for the Penn Central and other carriers to reach Connecticut, New York City and Long Island destinations by the all rail route from Trenton, N.J., and beyond points. Such a direct route, intensively used by the carriers on a routed car basis, preferably because of divisional earnings or used on a complete train basis employing trackage rights, could eliminate circuitous mileage in car and train movements to and from New England and concurrently yield attendant savings.

Further, it seems to me important to the national security of the Northeast that this rail route be preserved in order to connect the New England States by another optional gateway to the rest of the Nation to move goods and people in times of emergency. Moreover, the emergency of the New York metropolitan area's fourth jet port at nearby Stewart Field signals a future potential use of L. & H.R. for both freight and passenger rail transportation.

Finally, L. & H.R. operates in an area of New Jersey and New York that is growing. The demand for services, including transportation service, plus the other growth factors dictate that L. & H.R. must be a part of the new core, not only to serve its present on-line customers, but to serve the future customers arising from the expansion of industry and population.

Lehigh Valley Railroad has petitioned its court for permission to cease its operations on or before October 1, 1973, and a hearing on the matter is to be held on June 7. In the case of Penn Central, the same date of October 1 has been cited as having significance to Penn Central's continued operations. The stopping of the activities of these carriers, which I hope can be avoided by prudent, prompt action, would have a grave effect upon Lehigh and Hudson River.

Although the revenue traffic to and from Penn Central at Maybrook and Phillipsburg has dropped to very low levels, Lehigh Valley Railroad is still dependent upon Penn Central in order to move in and out of the Maybrook Yard, which is owned and operated by them, and to operate on the Penn Central trackage between Belvidere and Phillipsburg in New Jersey.

A more critical situation is that of Lehigh Valley's traffic to and from L. & H.R. Most of the loads received and delivered in interchange are related to the Lehigh Valley Railroad, with the greater part being the eastbound loads coming to us at Easton, Pa. The interchange traffic with Lehigh Valley consists of cars to and from Lehigh Valley points, stations on the former CNJ in Pennsylvania and locations beyond both LV and former CNJ.

Should Lehigh Valley cease operations on or before October 1, it appears some of the loaded traffic involving L. & H.R. will be soon diverted to other routes because of the impact of the announcement and the search for different means of movement. It is physically possible for another rail carrier to replace Lehigh Valley in this interchange operation and the Reading Railroad at this time appears to be the logical one that could do this as a practical matter.

Yet this action does not assure continuance of the existing traffic pattern that is absolutely vital to the survival of L. & H.R. A diminution of this traffic will hasten the day when L. & H.R. must cease its operations for lack of rail traffic.

I believe the cessation of operations by Penn Central is a remote although unlikely possibility. However, cessation of activity by Lehigh Valley could be a real happening. Both of these carriers in their new configurations, after sought for branch abandonments, are vital to the Northeastern core system. It is essential that prompt assistance be rendered to them not only for their important survival, but for Lehigh and Hudson River to continue also.

H. Res. 50 is a plan for nationalizing Penn Central. I cannot speak for Penn Central on that assistance method for them. On principle alone, I do not favor true nationalization, which this bill seems to offer them. Likewise in H.R. 7373 it appears to be nationalization; it would, however, cover all the bankrupt carriers, including L. & H.R. Again, on principle, I do not favor this bill, not only because of its nationalization features, but because I think there are other, better means of assistance to the bankrupt railroads.

The Surface Transportation Act, H.R. 5385, is sound in its intent and the legislation is needed for all modes. It does not, however, cure the immediate illness of the Northeastern bankrupt roads. I favor it for its long-range assistance features.

H.R. 4897 and H.R. 5822 are alike and in turn, are similar to S. 1031. This legislation would be helpful to L. & H.R. Seemingly, it does not nationalize the entire railroad and perhaps none of it. It does put into another agency's hands the ownership and maintenance of the track structure. It would assist L. & H.R. in the very area where we have not the improvement money to spend, namely, the track, signal and communications structure. To this extent, it would prolong the operations of this carrier for a future indefinite time, but does not structure the carrier for its long-term future role in the Northeast. There are some provisions contained therein which should be revised, particularly under section 402, freight service, clarifying the basis of remuneration of operation of trackage rights. Generally, this legislation would be a step in the right direction toward the total assistance package needed, but, again, does not solve the immediate crisis which must be accomplished this year.

The most desirable method of reorganization for this carrier is simply a large increase in rail business and the income resulting therefrom. Failing that, the carrier should be consolidated into a community of railroad interest that will preserve its route and operation, and will retain it in a profitable, privately-owned system.

If that cannot be accomplished, then aid must come through legislation, such as H.R. 6591, that will give the opportunity to live on and qualify for eventual profitable and private service.

I subscribe that H.R. 6591 can probably do the job for the bankrupt carriers now that will lead to those desirable results.

Mr. PODELL [presiding]. I want to thank you, Mr. Moore, for your statement and taking the time to come here.

Is Mr. Troiano here? Do you care to give your statement now and then we will submit to the questions afterwards?

Mr. TROIANO. I think that would be desirable.

Mr. PODELL. Please proceed.

STATEMENT OF JOHN G. TROIANO

Mr. TROIANO. My name is John G. Troiano and I reside on Staten Island, N.Y. I am the trustee of the Lehigh and Hudson River Railway Co., having been confirmed as trustee on May 30, 1972. Prior to my appointment, I was retained by L. & H.R. as a tax and finance consultant. I was employed by the Delaware, Lackawanna and Western Railroad as a tax attorney. I am an attorney, admitted to practice in the State of New York, a certified public accountant and a professor at Pace University.

On March 2, 1973, before Senator Hartke of the Senate Commerce Subcommittee, Mr. W. G. Moore, president and general manager of the company testified: "Overall, it is unlikely the corporation can survive beyond the end of 1973 in its present situation." After 3 months, the then "present situation" obtains today, but it has darkened. It is, therefore, still true that Lehigh, and Hudson River Railway may have to cease its operations by yearend, if no positive actions for survival occur.

The main supporting factor in the present cash position was the sale of three locomotive units into Canada in 1972. This has left the carrier with six locomotive units for its operation, effectively five, with one usually in the shop for maintenance. These units are essential for today's operation and the sale of another for cash generation at this time is not possible.

Efforts are being made now to market about 15 small parcels of real estate owned by the carrier; these parcels are not needed for the conduct of its business, nor are contemplated for any potential development. The proceeds, although welcome, will not materially change the cash position and the continuing cash drain from operations.

After consideration of locomotives and unnecessary land, there are basically left only two principal buildings at Warwick and the main track structure. The conclusion, therefore, is that the carrier has reached its limit as to its ability to generate cash by marketing any unnecessary assets. The assets remaining are essential to continued operation.

Each month, we experience a loss in our operations. For the month of January 1973, the loss was $39,300; for February, $49,200 and for March, $46,000. It appears the April 1973 loss will be in the same magnitude. These losses occur because operating revenues are approximately the same as operating expenses, even though manpower has been drastically reduced to 95 people and the operation has been revised to the simplest configuration possible to remain functional. Each month car hire costs and the various taxes account for an additional $40,000 of costs, putting the carrier immediately into a deficit posture with no chance to yield a profit or break even. These losses are eroding the cash posture and the cash forecast clearly indicates that the carrier may have to cease its operations before yearend.

It had been expected that a heavy sand and gravel movement originating on lands next to the railroad and destined to the Meadowlands area of New Jersey, would commence this spring or summer. So far it has not started and there is no firm indication when and if it will. Also, it was anticipated that Penn Central would move more of its southern New England routed business over L. & H.R. between Trenton, N.J. and New Haven, Conn., or would elect to use its existing trackage rights over L. & H.R. to move whole trains between the same two points. Neither action has occurred, even though I feel it would be to Penn Central's benefit to do so.

Lehigh and Hudson River has no mortgage debt or equipment debt. Its principal creditors are Penn Central and the political bodies to which it owes taxes. Considering these factors and also considering the possibility for long-term survival, I have not, as yet, felt that L. & H.R. should apply for a Government-guaranteed loan under the 1970 Emergency Act. In light of our total situation at present and the observation that some bankrupt carriers who have applied have been rejected, it seems that such a loan application would probably also be rebuffed. Further, checks into the private financing field show that there is little reason to expect assistance from that source.

In addition to the present cash drains, near future expense increases are foreseen. The carrier is not now party to the March 8, 1973 labor agreement between the National Railway Labor Conference and the railroad unions. However, it is likely that it will eventually have to subscribe to most or all of that agreement, even though it is costly. The changes in the Railroad Retirement System will no doubt become incumbent on all carriers through legislation; this increase in benefit payments and the 4-percent increase scheduled for January 1, 1974, would add approximately $100,000 to the annual payroll expense.

Although our track structure is safe and basically sound at this time, much more needs to be done in overall, continuing maintenance, particularly new ties, new rail and bridge repairs. The present limited maintenance program is simply all that can be afforded. A large expenditure just to keep the track qualified for an FRA class 3 line should be met this year. That money is not readily available.

In the matter of liquidation value, the estate amply protects the relatively small creditor claims. But the going concern value of the carrier is far higher and far more important, particularly as L. & H.R. logically must be part of the emerging northeastern core definition.

However, considering the deteriorating situation as 1973 progresses and assuming that no generous cash infusion or other assistance of lasting value is forthcoming soon, a decision shortly must be reached respecting the stoppage of the carrier's operations. The actions of June and July 1973 to arrive at solutions to the northeastern railroad problem will, in large measure, dictate what my action must be with this carrier.

Mr. PODELL. I would like to thank you, Mr. Troiano, for your statement, and would ask both of you gentlemen, if you are ready or willing to submit to questions by the committee.

Mr. MOORE. Yes, sir.

Mr. TROIANO. Yes, sir.

Mr. PODELL. When you referred to the monthly losses of the railroad, $40,000 one month, $36,000 another month, I was reminded of a chap in my district who owned a men's clothing store and he claimed that he lost $1,000 a day. I asked him, "How do you successfully stay in business?"

He said, "I am closed four days a week."

Somehow I seem to thing that the idea of eliminating railroads for the purposes of making a success out of an operation that is not succeeding, is not too far removed.

I think it was Mr. Moore who indicated that there is very little of your railroad that could be eliminated by way of lines. Is that true?

Mr. MOORE. That is right, Mr. Podell. That is because we are a single-track, single-mainline structured railroad, extending in one straight line, if you please, from Maybrook, N.Y., in Orange County, down to the Delaware River in Phillipsburg, eastern Pennsylvania area.

Mr. PODELL. I should have asked this question before and I didn't. I think it would be safe to assume that if I asked the operating officer of any railroad whether or not we could feasibly eliminate much of that railroad's line, they would probably take a similar position, would they not?

Well, ours is that which we need, it is somebody else that we can get rid of. Is that a fair assumption?

Mr. MOORE. I suppose so.

Mr. PODELL. Therefore, it is safe to assume that no one wants to eliminate much of their trackage, and everybody seems to want to keep what they have.

Would you say in summary, and we understand the reasons why the railroads are presently suffering their present difficulties, but would you say that with the exception of a complete upsurge in business, there is very little that could put these existing lines on a profitmaking posture?

Mr. TROIANO. You are speaking of the entire Northeast problem rather than a specific problem?

Mr. PODELL. Yes, I am directing myself to the Northeast problem.

As a general rule, without a tremendous upsurge in business, do you feel that there is little that can put these railroads in a profitmaking posture?

Mr. TROIANO. I think it is a possibility, sir. However, it would require a fairly substantial initial investment—I am being practical about it—in Government, in eliminating duplicative lines, updating equipment and that type of thing.

Once that was accomplished, I think it is a distinct possibility thereafter.

Mr. PODELL. The trouble is whose duplicative lines shall we eliminate? Everyone seems to feel it is their lines that are important to them.

It is the other lines whose oxes are being gored. Let's say for the sake of argument that this is the tack we take.

You are an accountant, sir?

Mr. TROIANO. I am an accountant and an attorney, sir.

Mr. PODELL. How much money would you feel has to be put into these Northeast lines in order to put it into the possibility of a profitmaking business?

Could you give us a ballpark guess?

Mr. TROIANO. I am not qualified to answer for railroads the size and magnitude of the Penn Central. I am sure it would run into the many hundreds of millions of dollars in view of the fact that railroad equipment is so costly and making any track changes, and so on, do involve substantial amounts of money.

I would like to point out, sir, there are problems in eliminating lines in this sense that I suppose every mile of railroad does have a certain amount of industry along it and even if you have two parallel lines, just a half mile apart, eliminating either one does present problems in view of the fact that each line does serve industry.

So that it is not just a matter of usurping one and the other will cover both. Physically I think you can visualize what the problems are in attempting to do that and serving all of the industry along both lines.

Mr. PODELL. Let's talk for a moment, since you are a trustee, and you are not a railroad man, I assume——

Mr. TROIANO. I have been in the industry since 1955. I was with Lackawanna Railroad.

Mr. PODELL. Let's talk as a businessman.

Assuming, for the sake of argument, we went back to that men's clothing store and this fellow was losing money and he said, "If you will pay for my plant and if you pay my rent, and if you give me $50,000 in capital, I then can make this into a profitmaking business."

Would you consider that an investment that you would advise one of your clients to make?

Mr. TROIANO. I am not sure that analogy is appropriate in view of the fact that without that men's clothing store the country could go on without affecting too many people other than those immediacly involved in that little operation, whereas I think we can all see that this is not true in connection with carriers.

There are so many people who are dependent on rail service and who would have great difficulty, if not find it impossible, to operate without rail service.

That is a necessity of life.

Mr. PODELL. In other words, a rail service is a necessary public service and it has got to be provided?

Mr. TROIANO. I agree with you, sir.

Mr. PODELL. I agree with you and that is correct.

The area where we disagree is if I am going to invest $50,000 in capital for that men's clothing store and if I am going to pay his rent, and I am going to give him additional funds, and if I am a smart businessman, by golly, I am going to take that clothing store and own it and then say, "Now, Mr. Smith, let's see how well you can do working for me."

That is all we are talking about when we use this terrible word "nationalization," which seems to strike the fear of God into everyone who sits before this committee.

That is all we are doing. I think we make a very good point when they say that every transportation vehicle, whether it would be the trucks that use the roads which are free, more or less, the airplanes that use the sky, which is free, and the ships use the water, only the railroads pay for their trackage and they had to buy it originally.

That is a very sensible argument and it is an investment which has been made many, many years ago. But somehow don't you feel if we are going to buy and pay for the line or buy the trackage and if we are going to have to infuse large sums of money—and there is no question that we are talking in terms of hundreds upon hundreds of millions of dollars—don't you think we ought to own the whole cow?

Mr. TROIANO. I am not convinced that ownership in and of itself when it is owned by Government is something sacred. I think from the point of view of Government, they should be primarily concerned with rendering good service at the least cost to the Government and I think if those objectives are accomplished, whether or not the Government is the owner is of no great significance.

Mr. PODELL. With one exception.

Mr. Jones, a constituent of mine, a workingman, finds himself pouring all kinds of his tax money into a railroad that you own. Why can't he say if I am going to put all of that money into the railroad to protect myself, let me at least own it.

Isn't it a logical assumption on the part of any individual?

I want to own a piece of it, even though in reality you don't really own it. It is owned through Government structure but nevertheless he can say, "Well, I own the railroad and should it make a profit, then I want to share in the profits. After all, I am sharing in the losses, I am making the investment. I am paying the tab. Shouldn't I share in the profits?"

Mr. TROIANO. Mr. Chairman, you own the highways; when I say "you," I mean the Government owns the highways.

They do not own the trucking companies. I don't know that the rail carriers are in a very much different position. Again, I must go back to operating this at a least-cost basis, and I am convinced that it can be done more cheaply in the hands of Government.

Mr. PODELL. On a least-cost basis?

Mr. TROIANO. If the Government is going to maintain the right-of-way as you do for the trucking companies and do there for the railroads and possibly even own the railroads.

Mr. PODELL. Well, the Government did not have to buy those highways. They owned them to begin with. Those highways were there before the trucks came. We put the roads on. You want us to buy the highways. You want us to buy the rights-of-way from you?

In other words, we are paying for what you have long since depreciated in cost, obviously.

Secondly, the trucks go over our highways. It is our highway. We came here before the truck. There used to be a horse and cart going over that roadway. Now you want us to buy something?

Mr. TROIANO. Perhaps the error was made years ago in not having put the carriers in the same body. Again, I am not sure that the analogy is significant.

I think our primary problem is how we correct the existing situation at a least-cost to the Government and I am firmly convinced that it is private ownership that is going to keep the cost at a lower basis and I think keep the service at a better quality.

I think we have some examples of how this is true. For example, many European railroads, if not all European railroads, are government operated and there are some very fine European railroads and there are some that are rather poor and operate at fantastically large deficits.

I am somewhat convinced the same would happen in this country if we had Government ownership. The Long Island Railroad is now operated indirectly by the State of New York and I think the State of New York is now pumping many more dollars into the operation of the Long Island Railroad than would have been necessary had the Penn continued to operate it.

I think the State of New York is pouring $50 or $60 million a year into a relatively small operation.

Mr. PODELL. When I was in the State legislature I recall putting $2 million into the New Haven Railroad on Long Island.

Mr. TROIANO. I believe the figure is $50 million per annum.

Mr. PODELL. That was when it was owned by the railroads, not when we took over.

Mr. TROIANO. I am not aware. I thought the figure was $3 million they were getting when it was in the hands of private management.

Mr. PODELL. If it were $3 million, I doubt I would remember it.

Mr. Metcalfe?

Mr. METCALFE. Thank you.

I want to ask a couple of questions and avail myself of Mr. Troiano and Mr. Moore's presence to ask a question. We have been discussing the question about parallel lines, and let's assume that these are parallel railroad lines.

I assume from your statement that it was not so simple to eliminate A line or B line because of the fact that they supplied different factories and I guess they have their spurs leading to the factories.

Was that a correct interpretation?

Now, assuming that we do eliminate A line, let's say this is A line and this is B line, would we then not run from this particular point here, where there is the loading at the gate of the docks of that particular factory, straight through over to the line here? [Indicating a drawing.]

Mr. TROIANO. But if you do have industry along that line.

Mr. METCALFE. You do have industry. We are not proposing that you change industry's location or to move it closer to B line because A line has been eliminated.

Mr. TROIANO. Yes, sir.

Mr. METCALFE. Don't we have a problem then of actually getting the merchandise of that line over here to this line?

What is your projection and what is your recommendation as to how this should be done?

Should you lay track? There are spurs that would lead to B line because A line has now been eliminated. Or would you use trucks as a substitute and then haul that short distance and then load it onto the trains?

Mr. TROIANO. I don't know that you are going to have a solution to that problem. I think it is going to depend upon the particular line involved.

Mr. METCALFE. It seems to me that is very important because before we eliminate a line, we want to make certain that the volume of business is presently being satisfied, because to eliminate that would also mean—and I am talking about freight now—that we would eliminate that volume of freight business, and I think we need to concentrate and make certain that we not only do not lose any freight business but that we try to stimulate more freight business so as to relieve the truck traffic and ecological factors and gas shortage and all of those factors.

What I am concerned about is how do we supply this factory over here.

Mr. TROIANO. I think it depends on the volumes and the density of the traffic on each line. You may be able to eliminate segments of the A line, if that is the one you are speaking of eliminating.

Mr. METCALFE. What I am saying is whether we should build a spur over here to B line, who would pay for it? Let's assume that the Government now becomes a partner to the private industry and that Government is now going to take this over, who would assume that particular responsibility for the cost of this spur, assuming that this is feasible?

Mr. TROIANO. I think it has to be Government initially. The carriers just don't have the several hundred million dollars that I mentioned a while ago in order to make these improvements which ultimately will result in a more economic operation.

Mr. METCALFE. Then your answer to my question is that you think if it is necessary, if there is enough volume, if it is feasible, then the Government should put these spurs in that would lead to B line?

Mr. TROIANO. I see no choice, sir.

Mr. METCALFE. Mr. Moore, maybe you can assist me in regard to a second question.

We have been talking—and I think the testimony has been pretty consistent about the precarious position that these railroads are in and the bankruptcy condition, the amount of cost of operating and then balancing it off with the revenue that comes in, plus the railroad retirement.

All of these have to be looked into in a total picture of total fiscal package as it presently exists.

I have been hearing statements about your equipment and freight. I would even ask you to go beyond your own railroads and try to answer this question.

That is, about the equipment of freight cars. Does your company have sufficient freight cars?

Is that a problem, and if so, is that affecting the volume of your freight business?

Mr. MOORE. We do not own any freight cars for normal service. We have about six cars that we lease with our initials on them that traverse the country in commercial service but they are not owned by us.

They are leased from another carowner. However, we do not have any of our cars. We did own some cars prior and those cars were sold because of two reasons: They became obsolete. Another party could use them.

Secondly, we needed the money from the proceeds of the sale so we sold them.

Answering your question about what more cars could do, more cars could attract more business to the railroad and I think that is again a general statement of fact on all railroads particularly in the Northeast as witnessed by the statements of Penn Central and others that more freight cars to serve the customer are needed.

We could do a better job of transportation service if we had our own cars.

But they are extremely costly. They are extremely costly from a capital acquirement standpoint and they are further costly to maintain.

Just the cost of ownership and maintenance preclude it in our precarious position.

Mr. METCALFE. Then it would seem to me as we consider this very complex problem, then we ought to really consider if the Government is going to come in and become a partner to a private industry, that we also ought to have in a cost factor the cost of additional freight equipment and in order to supply the needs of those who have desires for additional freight cars, should it not?

Mr. MOORE. I agree that it should because this is a most important aspect of the whole railroad scene that sometimes is not spoken to pointedly.

The ownership of the vehicles in which the freight is transported, the ownership and maintenance of the track, the people that have to run the enterprise, all of these are the bread and butter factors.

If you are going to consider going into the railroad business, then basically you are going to have to come to grips with all of the facets of it. That is an important facet.

Mr. METCALFE. Thank you very much, Mr. Moore.

I yield back the balance of my time.

Mr. PODELL. Thank you, Mr. Metcalfe.

Mr. Skubitz?

Mr. SKUBITZ. Mr. Moore, did I understand you to say that 99½ percent of your stock was owned by five railroads?

Mr. MOORE. That is correct, sir.

Mr. SKUBITZ. How much of that 99.5 percent is owned by the Penn Central Railroad?

Mr. MOORE. I could give you the exact figures. It is approximately 16 percent.

Mr. SKUBITZ. I believe you said that the L. & H.R. has no mortgage debt or equipment debt?

Mr. MOORE. That is correct, sir.

Mr. SKUBITZ. But you were forced into bankruptcy by one of your principal creditors?

Mr. MOORE. That is correct.

Mr. SKUBITZ. Did that principal creditor happen to be the Penn Central Railroad?

Mr. MOORE. That is correct.

Mr. SKUBITZ. You didn't owe tax money or debts of that nature to political entities?

Mr. MOORE. Mr. Congressman, that was the proximate cause of the bankruptcy. Supporting that final act was, of course, the loss of the coal traffic and the diversion of the normal other traffic around our line because of the other things that happened to Penn Central and in that context.

Mr. SKUBITZ. Nothing we or anybody else could do would bring the coal business back, isn't this correct?

Mr. MOORE. I won't agree with that.

Mr. SKUBITZ. What then will bring back the coal business?

Mr. MOORE. If we bring it back, it will.

Mr. SKUBITZ. I understood one witness to say that the coal business disappeared when you started hauling soft coal into the eastern States. Weren't you hauling bituminous coal on your line?

Mr. MOORE. That is right, sir.

Mr. SKUBITZ. And that coal isn't being used?

Mr. MOORE. That is right.

Mr. SKUBITZ. Then how are you going to bring it back?

Mr. MOORE. To start using it again would bring it back.

Mr. SKUBITZ. I see. You are going to educate the users to start using soft coal again and get the environmental people to agree before you can get back into business. Is that what you are telling us?

Mr. MOORE. Somewhat by extension of that thinking we would arrive back at a hauling of the coal, but I think we are speaking now in the area of the total energy picture in that the use of coal, if our Nation has to come back to it and has to consider it, that the railroads are going to have to haul it.

This could be a very vital shot in the arm.

Mr. SKUBITZ. You have 85 miles of track, is that correct?

Mr. MOORE. We have an 85-mile operation, sir. We own about 75 miles of owned property.

Mr. SKUBITZ. Why would you need nine locomotives to operate an 85-mile track?

Mr. MOORE. We do not have nine locomotives.

Mr. SKUBITZ. You did have, though?

Mr. MOORE. That is right.

Mr. SKUBITZ. Why did you have them in the first place?

Mr. MOORE. Because conditions were different before then. We used to operate into Allentown in conjunction with Central Railroad of New Jersey. Instead of having only three crews a day as we have today, we had nine crews a day operating to handle the business we had.

Instead of hauling only 90 loads in a day's time, we had 300 loads that we interchanged.

Mr. SKUBITZ. Some of these carriers that were feeding into your line at one time, have been discontinued, is that what you are saying?

Mr. MOORE. Yes, sir.

Mr. TROIANO. Also many trains use three or four units so if you have nine locomotives, this does not mean you can use nine trains. That may be enough for just two trains.

Mr. PODELL. Thank you, Mr. Skubitz.

Mr. Shoup?

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Moore, I caught the end of your answer to the question Mr. Metcalfe asked you. I believe your answer was that one way you can get profitable is to have more cars, or are you speaking of more carloadings?

Mr. MOORE. In our particular case, more cars would be some cars. If we had, for example, some ordinary boxcars, what we call in the railroad industry the XM-type, just the plain boxcars, there are customers on our line that we could furnish those boxcars to and procure loadings that we otherwise, either do not get or we have to wait long periods of time for because there are not available cars.

Mr. SHOUP. What percentage of ownership do you have on line?

Mr. MOORE. I can't state that statistic, sir, because that is a statistic that is couched in terms of, if you are a carowner, and we own no cars.

Mr. SHOUP. You own no cars?

Mr. MOORE. That is correct.

If you are asking how many other cars are on line——

Mr. SHOUP. No, I meant in relationship to your ownership. I happen to come from the West in which the other day it was rather interesting that the Burlington Northern was very proud of the fact that they were up to 58 percent of car ownership on their lines, whereas Eastern roads run something like 250 percent of car handling compared to ownership.

There is a very serious imbalance. I am wondering perhaps if you have looked into more efficient use of the cars that you do have, that you use, that you handle.

What is your percentage? Did you hear the previous testimony?

Mr. MOORE. Yes, sir.

Mr. SHOUP. The figure is somewhere around 14 percent national average of use of cars at the present time on line.

Mr. MOORE. Let me explain it this way, sir. Our railroad is principally an overhead carrier, that is, it is a bridge line connecting one railroad with another.

Almost 90 percent of the railroad cars that we move we receive from a railroad, transport them across our line and give them to another railroad.

So they are moving in an ordained way.

We have no control over that except to move them as promptly and as safely as we possibly can, which we do.

Mr. SHOUP. Well, my confusion on that was that you were saying you had no more cars, you have customers who are asking for more cars.

Mr. MOORE. That is right.

Mr. SHOUP. Which then is not a bridge line.

Mr. MOORE. We do have some on line industry, that is right, and within that framework there are firms who need to loan a plain boxcar and they may order five of them for tomorrow's loading.

We have to secure those cars from the movement of the empty cars that are traversing our railroad that are returning from their loaded movement that are bridging across the railroad already.

We have to reach in and take those from the stream of commerce and apply those to the order. What I said was that if we had some of our own, assuming we had them in hand, we could place our own cars and immediately satisfy the customer.

Mr. SHOUP. I see.

I will yield.

Mr. SKUBITZ. Mr. Moore, what percent of your total freight traffic originates on your line?

Mr. MOORE. The latest figure I saw was about 13 percent, sir, that originates or terminates on the line.

Mr. SKUBITZ. Terminates. By that do you mean that it could originate on another line and terminate on your line?

Mr. MOORE. Terminating on our line means that the business comes to a customer who is located on our property. It terminates. Originated means that it is loaded or is created by a firm on our line.

Mr. SKUBITZ. Well, 80 percent, then, originates on other lines and is hauled over your line, is this correct?

Mr. MOORE. The complement of 13 percent on line business is 87 and that was my last figure, so you are right, 87 percent comes from someplace else, is going to someplace else.

Mr. SKUBITZ. If your line were discontinued, would or could that 87 percent be handled on the other lines?

Mr. MOORE. I think it could.

Mr. SKUBITZ. Under a core system it could be handled on other lines.

Mr. MOORE. We would not like to see that happen but it could happen.

Mr. SKUBITZ. How many large cities are located on your lines?

Mr. MOORE. None.

Mr. SKUBITZ. No large cities?

Mr. MOORE. No, sir.

Mr. SKUBITZ. Is there any large industry located on your line?

Mr. MOORE. We have one industry, Georgia Pacific, which has a plant at Warwick, N.Y. Another industry is a mining industry at Ogdensburg, N.J., the New Jersey Zinc Co.

We have Jones Chemical, which is a multiplant firm in the United States and has a plant at Warwick. In terms of what we would say our established good customers in terms of firms, they are large firms on our line.

Mr. SKUBITZ. May I ask one more question?

Mr. SHOUP. Go ahead.

Mr. SKUBITZ. What percentage of their total freight do you haul for these companies or do they ship mostly on truck lines?

Mr. MOORE. I can't answer that. I don't know.

[The following letters were received for the record:]

GEORGIA-PACIFIC CORP.,
Washington, D.C., June 8, 1973.

Hon. JOE SKUBITZ,
House of Representatives,
Washington, D.C.

DEAR MR. SKUBITZ: Recently Mr. Gifford Moore, President, Lehigh & Hudson River Railway Company, appeared before the Subcommittee on Transportation & Aeronautics considering the Northeast Railroad Crisis.

In response to a question from you, he identified Georgia-Pacific Corporation as a major industry served by the L & HR. You then inquired as to the percentage of traffic of the major industries served by the L & HR which moved by rail.

The enclosed letter is responsive to your inquiry as it relates to Georgia-Pacific.

Please let me know if any additional information would be helpful.

Sincerely,

THOMAS F. MITCHELL,
Executive Representative.

GEORGIA-PACIFIC CORP.,
Stamford, Conn., June 5, 1973.

Mr. THOMAS F. MITCHELL,
Executive Representative,
Georgia-Pacific Corp.,
1735 "I" Street NW.,
Washington, D.C.

DEAR TOM: Our dependence upon the continued services of the Lehigh and Hudson River Railway Company, in bankruptcy, it indicated by the following data for the year 1972:

	(Pounds)
Inbound tonnage received via L & HR (93.1%)	27,000,000
Inbound received by truck	2,000,000
Total Inbound Tonnage	29,000,000
Outbound shipped via L & HR (3.4%)	994,340
Outbound shipped by truck	28,492,391
Total Outbound Shipments	29,486,731

The aggregate inbound and outbound tonnage represented about 58.5 million pounds, of which the L & HR handled 47.9% inbound and outbound.

The safety paper operation at Warwick is designed to serve the Middle Atlantic and New England market. Most customers are unable to purchase this product in large quantities, with the result that most shipments move outbound by truck. The preponderance of inbound paper is received from the Georgia-Pacific mill at Gilman, Vermont, in large carloads approximating 70 tons per car. This is high-rated and high revenue producing traffic, on which we accord the L & HR their maximum earnings route.

We are also attempting to produce and market a line of disposable paper products at Warwick, such as diapers. This is a highly competitive product, but once we can get into the market, we anticipate outbound shipments of this product primarily in rail carload service.

I trust this information will be of use to you.

Yours very truly,

ROBERT RICKER,
Eastern Traffic Manager.

Mr. PODELL. Mr. Shoup?

Mr. SHOUP. Mr. Moore, one final question. You are speaking of the energy crisis and a possible solution would be a relaxation of some of the requirements so they would go back to using more coal.

Have you considered or done any investigation of using coal-fired engines again instead of diesels?

Mr. MOORE. We have not, no, sir.

Mr. SHOUP. Would that be a possibility? That would increase some of your tonnage, to haul your own coal?

Mr. MOORE. That is a possibility, yes, sir. We have not done any research as a railroad into the prospects of using a coal-fired power.

I do know that that kind of research has been conducted over the years and on some other larger railroads that participated in that kind of research but we have not.

Mr. SHOUP. Fine.

Thank you.

Mr. PODELL. I thank the gentleman from Montana for enlightening me that they travel by modes other than horseback in Montana.

I want to thank the gentlemen for their forthright statements.

We appreciate your coming before the committee.

Mr. TROIANO. Thank you for the opportunity of appearing before you.

Mr. PODELL. The hearing will now adjourn until 10 o'clock tomorrow morning.

[Whereupon, at 12:07 p.m., the subcommittee was adjourned to reconvene at 10 a.m., Thursday, May 31, 1973.]

NORTHEAST RAIL TRANSPORTATION

THURSDAY, MAY 31, 1973

House of Representatives,
Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. John Jarman [chairman] presiding.

Mr. Jarman. The subcommittee will please be in order as we continue the hearings on problems affecting the railroad industry, particularly in the Northeast region of the United States.

Our first witness this morning is Mr. C. Roger Turner, vice president of the Penn Central Co., with offices in Philadelphia.

Mr. Turner, we appreciate your being with us, and you may proceed in your own manner.

STATEMENT OF C. ROGER TURNER, VICE PRESIDENT, PENN CENTRAL CO.; ACCOMPANIED BY JOSEPH SHARFSIN, MEMBER, BOARD OF DIRECTORS; AND DAVID BERGER, SPECIAL COUNSEL FOR REORGANIZATION PLANNING

Mr. Turner. Mr. Chairman and members of the committee, ladies and gentlemen: My name is Roger Turner. I am vice president and a director of the Penn Central Co., and acting chairman of its Stockholders Advisory Board. In these capacities, I represent Penn Central's approximately 160,000 stockholders.

I have with me this morning Mr. Joseph Sharfsin, a member of our board of directors, and our special counsel for reorganization planning, Mr. David Berger.

First, I should say that my oral statement will be very brief and will only indicate basic principles of the main positions taken in our more comprehensive and formal proposals which include our positions with respect to the main points of other proposals that are now under consideration.

First, I wish to express my appreciation for the enormous amount of work which has been done by your committee on behalf of America's railroad industry and to thank you for giving me this opportunity to state the Penn Central Co.'s position on the proposals now being considered. I wish also to commend the committee for the splendid spirit of cooperation which it has shown in working with the Senate Commerce Committee, the DOT, and the ICC.

Specifically, we especially appreciate the ideas put forth for protecting the investors and creditors while a plan is worked out and implemented.

I think that this spirit of cooperation is beautifully reflected in Congressman Adams' proposal of May 4 for meeting the Northeast railroad crisis.

As background for his proposal, Mr. Adams reviewed the history of efforts in Congress over recent years to solve the steadily worsening plight of America's railroad industry and what must have been heartbreaking failures to obtain passage of legislation which might well have prevented the present debacle. I have read through the testimony given during the hearings on the Surface Transportation Act of 1971 and of 1972 and I admire the courage and patience evidenced by your willingness to continue to seek a consensus for a sound program. I have also studied the many proposals offered this year.

I hope that you will forgive me if this statement reveals some apprehension that your past travails in seeking a consensus may tempt you to lower your standards as to soundness.

The economy and general well-being of the United States is too important to be made dependent upon any plan which needs, in Mr. Adams' words, "a basket under it to catch the pieces in case it doesn't work."

And, now, gentlemen, with all the earnestness at my command, I want to submit to you on behalf of those 160,000 people who placed their faith and their money in a once great rail system, four salient, vital, and constructive proposals which we believe should be the foundation stones on which to resurrect not only Penn Central, but the five other bankrupt systems—proposals which spring from principles which offer promise of future health and prosperity of the whole rail system.

We view this awesome dilemma that has such fateful consequences for the economy and the welfare of our country as a challenge to come forward in a spirit of industrial statesmanship with an approach that reaches into and seeks to dig out and eradicate the insidious forces and the long-time inequities that have crippled these great enterprises, which are indispensable in the life of our Nation.

We maintain that the present emergency can be converted into a golden opportunity. We have viewed with dismay the several proposals which have been advanced because, in one way or another, they fail to face up to root causes.

We are mindful of the need for careful realinement of some parts of the Northeast rail network and support proposals for regulatory reforms which would enable this to be done, but we are convinced that the main underlying causes of the present debacle are the enormous inequities as between Government's treatment of the various modes of transportation and between railroads of different parts of the Nation. These inequities collectively impose such enormous cost burdens upon the railroads of the Northeast that any realinement of the rail network which is made without first correcting them would inevitably have unacceptable results and quite likely lead to a national economic disaster.

We have not found anyone who has even tried to justify these inequities which are the result of policies adopted many decades ago under vastly different circumstances. These inequities are all well documented in the Association of American Railroads famous ASTRO Committee report of 1970 and in the December 1972 Report of the

Senate Commerce Committee on the Penn Central and Other Railroads, a 748-page report.

The inequities relate primarily to the following:

First—State and local taxes on rights-of-way:

Only the railroads pay these taxes. We propose that Congress enact legislation prohibiting or at least severely limiting such taxes and we offer a specific proposal for making this both equitable and, we believe, acceptable to many taxing authorities which have resisted such reform in the past.

Second—Subsidization of the costs of construction, maintenance and improvement of rights-of-way:

Only the railroads pay 100 percent of these costs. The Federal Government pays all of these costs for the water carriers. The shares paid by truckers and airlines fall in between. We propose that Congress enact legislation which will substantially equalize the subsidy level for all carriers with the railroads being treated no less favorably than the trucking industry.

Third—Subsidy of the public by the railroads for public services which Government requires them to perform at a loss:

Only the railroads are required to perform such a huge proportion of their total services for public benefit at a loss.

We propose specific moderate but effective legislation for enactment by Congress which can end this crippling handicap to many of America's railroads and at the same time protect the public, shippers, and employees against hasty or improper abandonments of lines or services.

Fourth—Unfair rate divisions between railroads which participate in multiple line hauls:

Only the Northeastern Railroads bear the crushing burden of this long, infamous example of "justice delayed being justice denied."

The magnitude and importance of this inequity is well brought out in the December 1972 Senate Commerce Committee report on page 201 and on page 176, where it is stated that:

"Relative cost criteria suggest Penn Central divisions might be justified in receiving nearly $50 million additional per year in amounts representing undiluted contributions to net railroad operating income."

The report goes on to ask:

"What kind of system can leave such critical amounts so up in the air, subject to protracted delays and capricious answers?

"This clearly untenable situation requires answers which are consistent with system requirements rather than esoteric cost measurements."

We are responsive to this report.

We propose specific, but very moderate, legislation for enactment by Congress which can greatly facilitate divisional rate adjustments which, although now in conformance with ICC regulations and standards, can and are being inordinately delayed.

While only the last-mentioned inequity handicaps the Northeastern railroads exclusively, we explain in our written statement how and why all of the inequities fall most heavily on the distressed railroads of the district. We have shown the cost of these inequities to all of America's railroads and to the Penn Central in our written statement.

Their total annual cost to the Penn Central is considerably more than Penn Central's annual losses of $222.9 million per year.

I think you should contrast this with the $20 million that the trustees now say can be saved by abandonment of 5,000 miles of line, with all of the impact that that would have on jobs, services, and businesses.

The total burden of all of these handicaps has been so enormous as to cause a chain reaction of degradation of most of the Northeastern railroads which has blighted labor relations, general morale, the ability of the failing companies to attract and motivate competent managers and supervisors, and has made loans or loan guarantees to much of the industry so risky as to be impractical.

Elimination of these inequities is the key to reversing the entire chain reaction and to restoration of health and confidence in America's railroad industry.

It should be obvious that any plan of reorganization or any governmental action based on more loans or guarantees without eliminating these root causes inevitably foreshadows defaults, future governmental control, and ultimate takeover by the Government.

It should be equally obvious that any plan for restructuring the railroad system of the Northeast which is limited to preserving only those portions which can be economically viable under the handicaps which especially afflict that region will produce absolutely unaccceptable damage in terms of:

Loss of businesses and jobs;

Loss of tax revenues from those businesses and jobs:

Social dislocations;

Costs in the hundreds of millions for labor protection;

Shift of traffic to still more trucks on already overloaded streets and highways;

Increases in traffic accidents and fatalities and their economic cost which is already $10.8 billion each year, not to mention human suffering;

Increased pollution;

Increased use of scarce fuels by trucks which use four to nine times as much fuel per ton mile as railroads;

Harm to balance of international trade and payments.

Failure to recognize this could cause a national disaster.

My first concern must be for our stockholders, but I insist that there are not and there should not be any adverse interest between the owners of the property, and creditors and the needs of the public. I say this for the reason that if the unreasonable and unjust crushing burdens are removed from our rail system there is no reason whatsoever that they should not continue as the great profitmaking and moving force which has made such vast contributions to America's industrial might and general prosperity.

Judge Fullam, supervising the reorganization proceedings in the Federal court, has raised a constitutional Sword of Damocles over Penn Central. The time is short.

We believe if the court has reasonable assurance that legislation will be promptly enacted to implement and translate our proposals, together with others now under your consideration relating to loans, regulatory reforms and corridor passenger services, that this will afford the court ground for allowing further time to formulate a plan of reorganization and revitalization of the whole system.

We are submitting, together with this statement, a more formal proposal [see p. —], with documentation, which details the points made herein, shows how their adoption could restore the Penn Central to profitability, and estimates the fairly modest cost of doing so to the Government.

This documentation explains the advantages of our proposals over others. These advantages are:

They can be put into effect immediately upon enactment into law by Congress of the proposed legislation.

They are comprehensive for the railroad industry rather than parochial and do not create new problems.

They are based upon the correction of inequities of long-standing, which are well-known to all who have studied the December 1972 Report of the Senate Commerce Committee.

They will result in the least disruption of existing industry, of commerce and of people's lives.

They retain the railroads as part of the American free enterprise system.

They merit the support of all those on whom they depend for success because they would benefit all concerned.

They will have the lowest first cost because they make the best use of what we have now.

They will have the lowest continuing cost. Our proposals, if adopted in their entirety, will:

Increase, rather than decrease, railroad services to industry and to the public.

Reduce by many millions of dollars each year the amount which the railroads will have to charge Amtrak and other publicly-sponsored passenger service organizations.

Reduce the costs for necessary new highways and for highway maintenance, thus reducing Government expenditures:

Reduce railroad rates necessary to return a reasonable profit;

Reduce America's total shipping costs by expanding the use of our lowest-cost means of ground transportation;

Reduce the need for new rail cars through more efficient utilization.

Reduce the $10.8 billion annual economic cost of highway accidents, to say nothing of the saving of thousands of lives.

In summary, we are proposing the correction of the four inequities which are the root causes of the problems of the Northeast railroads. These are: State and local taxes on rights-of-way, subsidy of the construction and maintenance of rights-of-way, subsidy by the railroads of public services performed at a loss and unfair rate divisions between railroads in interline hauls. The correction of these inequities, in combination with certain other proposals now before you, will also help to restore confidence in the integrity of our economic system and in the Government's respect for equity and the rights of all concerned. Taken together, they can form a plan which can make this Nation's railroads a pride and joy for all Americans.

We are prepared to answer questions on any aspect of the published proposals now before the committee.

Thank you very much.

[The proposals referred to follow:]

PROPOSALS BY
PENN CENTRAL COMPANY
FOR SOLVING THE PROBLEMS OF AMERICA'S RAILROADS

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April 30, 1973

INTRODUCTION

The Penn Central Company, which owns 100% of the stock of Penn Central Transportation Company, wishes to present its proposals for solving the problems facing not only the Penn Central but all of America's railroads.

We represent Penn Central's approximately 160,000 stockholders, thousands of whom are past or present employees of the Penn Centrail Railroad and many of whom have their life's savings invested in Penn Central Company stock. Our proposals were developed by the Penn Central Company with the assistance of its Stockholders' Advisory Board.

Contrary to the often -heard explanation that contrasts in their profitability is caused by managements of the railroads of the Northeast which are stupid, slothful and backwards, while those of the South and West are ingenious, upright and progressive, the fact is that with reference to taxes on rights-of-way, division of rates on multiple line hauls, and costs of public services which they are required to perform at a loss most Northeastern railroads are hopelessly overburdened!.

The Commerce Committee report of December 1972 points out on page 179 that the collapse of the Penn Central was not primarily due to management frailties and on page 185 it states that no conclusion is possible that either the management or the merger caused the failure or that it could have been avoided. At the same time, it is so rightly pointed out on page 185 that these facts do not excuse nor mitigate their (management's) failings.

Our proposals are aimed at correcting the causes of America's transportation problems as they have been identified in the December 1972 Report of the Senate Commerce Committee. Others have proposed treating the symptoms.

We place the elimination of the underlying causes of the problems ahead of any other kind of assistance including loans or loan guarantees, which should logically follow elimination of those underlying causes.

We believe that the problems of the railroads can and should be solved without any form of Government takeover, which would not solve them but would compound them by creating competition within the entire American transportation industry between certain non-taxpaying Government subsidized railroads on the one hand, and other taxpaying unsubsidized railroads, as well as tax paying highway, air and water carriers on the other. The enormous cost to the Nation's taxpayers for purchasing the bankrupt railroads would thus be just a down payment.

We will not propose to create any form of "non-profit" organization to run the bankrupt railroads, because we believe that handicaps resulting from serious inequities in taxation, subsidization and regulation which have made earning a profit impossible for these railroads are the root cause of the present crisis. To the extent that any non-profit organization provided either subsidies or tax relief, it would create unfair competition for other railroads and even non-rail carriers which would not share that relief and so cause more problems than it would solve.

We are opposed to all schemes for short circuiting or eliminating existing prohibitions against the closing, sale, dismemberment or abandonment of any railroad or any program for the hasty abandonment of any part of any railroad, which would disregard economic considerations or the public interest. We will, however, propose an orderly procedure for eliminating unjustified lines and services and for protecting railroad companies against unreasonably burdensome costs of public services which they are now required to perform at a loss.

With considerable reliance upon evidence adduced in the December 1972 Report of the Senate Commerce Committee, we shall base our proposals upon the following facts:

1. Enormous inequities exist as between governments' treatment of the various modes of transportation and even as between railroads of different sections of the Nation.

2. The inequities relate primarily to:

a. State and local real estate taxes on rights-of-way

b. Subsidies of construction, improvement and maintenance of rights-of-way of the railroads' competitors.

c. Unjust divisions between railway companies of revenues from joint rates.

d. Government enforced subsidy by the railroad companies of public services which they are required to perform at a loss.

3. Each one of these inequities is so huge that the Penn Central and most of the other railroads of the Northeast which are in bankruptcy would not be in trouble if any one, let alone all of these inequities, had been eliminated early enough!

The total effect of these inequities on the Penn Central is more each year than the company's losses. Their effect upon the distressed North-eastern railroads is so great that it has not only made them uncompetitive with their competitors the truckers, but has caused a chain reaction of degradation which has affected labor relations, general morale, the ability to attract and motivate managers and supervisors and has made loans or loan guarantees so risky as to be impractical.

Elimination of these inequities is the key to reversing the entire chain reaction and to restoration of helath and confidence in America's railroad industry.

Our proposals if adopted in combination with certain others now before you will help to restore confidence in the integrity of our economic system and in the Government's respect for equity and the rights of all concerned.

We will explain each of the inequities and propose ways for ending them.

We will explain why our proposals merit the support of so many of the interests who have voiced their objections to others.

We will show how, by starting with the elimination of existing inequities, an effective program which includes the proposals of others can be put into effect with the greatest speed and economy.

Finally, we will explain the economic benefits of our proposals and how they can lead to a reduction, rather than an increase in total Government expenditures while greatly increasing total Government revenues, a program under which the railroads will be healthy, growing concerns which will contribute much more than now to the Nation's wellbeing. These contributions include: reducing pollution, reducing highway accidents, reducing congestion of our cities, towns and highways, holding down soaring spending for highway construction and maintenance, preserving the natural beauty of our land, conserving increasingly scarce fuel, lessening need for fuel imports, helping to relieve the crisis in the balance of trade and of international payments, fighting inflation by keeping costs down, increasing tax revenues and greatly reducing the deficits of AMTRAK and other publicly sponsored rail services, when the savings are passed on in new contracts.

Revitalization of America's railroad industry, which must start with correction of the inequities can help restore the shaken confidence of Americans in their Government and in our economic system.

THE COMPETITIVE INEQUITIES

Only the railroads pay taxes on their rights-of-way.

Only the railroads pay the full cost of constructing, improving maintainin and providing police protection for their rights-of-way.

Only the railroads are required by Government regulations to provide such a huge proportion of their services as a public service at a loss.

Only the railroads are sc extensively, restrictively, ponderously, cumbersomly and unevenly regulated by Government authority. The railroads are 100% regulated compared to 37% of truck traffic and 13% of barge line traffic.

Most of these handicaps of America's railroads came into existence quite deliberately and perhaps with full justification many decades ago, when privately owned railroads were rapidly putting the Nation's canal barge systems out of business and the wealth and power of the railroads were considered disruptive and menacing.

Thirty-three years after Congress proclaimed a Statement of National Transportation Policy which mandated evenhandedness in treatment of the various modes, the imbalance in the treatment of the various modes is greater than ever and our railroads which have such important social and economic advantages are treated least favorably.

The December 1972 Report of the Senate Commerce Committee points out these and other inequities on pages 288 and deals with them individually in many other sections.(1)

The attached letter for Mr. Sloboda, a Penn Central locomotive engineer (Appendix A) gives a vivid picture of how these inequities affect railroad employees as well as passengers, shippers and taxpayers.

TAXES ON RIGHTS-OF-WAY

The handicap imposed on America's railroads by real estate taxes on rights-of-way is enormous. Quoting the December 1972 Senate Commerce Committee Report page 288, 3rd paragraph: "State and local property taxes on rail rights-of-way, which currently amount to about $300 million annually (with the underlying valuations and applicable rates varying from jurisdiction to jurisdiction), now approach or exceed in amount total Class I rail net income."

Taxes on railroad rights-of- way are particularly burdensome to railroads in highly developed and urban areas. The Penn Central Transportation Company has stated that these taxes were $44.5 million for 1972 alone. Obviously, the crisis of the Penn Central and other bankrupt railroads of

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(1) Which include pages 29,30,176, 180,181, 218,280,281,282 and 284.

the Northeast would not exist if this handicap had been eliminated at, say, the end of World War II! It is equally obvious that it will take much more to solve the problem now.

These taxes do not fall at all evenly upon all railroads and tend to vary with such factors as real estate valuations, industrial development, population density and state or local tax laws. They tend to be much more burdensome on the railroads of the Northeast not only in relation to their competitors in other modes such as the truckers, water carriers and airlines, but also in relation to the railroads of certain other sections of the Nation.

Local tax rates on railroad property vary widely even within the Penn Central's operating area. In Ohio the rate is 40 mills with assesment at one-third of valuation for a rate of 1.33%. In Indiana the actual effective rate is approximately 4%. In Boston the tax is 196.7 mills based on 70% of value for an actual effective rate of 13.76%! The railroad buys back its property every seven years in Boston! New York City and Philadelphia fall in between with actual effective rates running 4.2% and 3.15% respectively.

It should be obvious by now that <u>it is impossible for railroads to compete equitably for business which is subject to federally regulated rates and rate divisions, when they are subject to such enormous and capriciously variable taxation.</u>

It should be equally obvious by now that it is sheer nonsense to wait for the individual states and local governments to act to end this glaring inequity on their own initiative. The problem worsens year by year.

<u>Proposal for Ending the Tax Inequity-</u>

We propose that Congress enact a law forbidding or at least severly limiting the taxation of any real property used for rail transportation.

Sudden elimination or curtailment of the revenues from taxes on railroad property would be disruptive and create real hardships in many communities We propose to minimize the hardships of adjustment through a temporary, balance

Federal program of revenue sharing. Certain states have already enacted legislation over the years to exempt all or part of railroad property from state or local taxation. Although these states presumably have found other sources to offset the loss in revenues, it would be unfair to deny them the tax sharing plan accorded the other states. Accordingly, they should be entitled to Federal funds equal to the revenues they would have received had property taxes - equivalent in assessment value and rates to other property - been imposed on railroad property. The revenue sharing program should be phased out within five years to enable the establishment of other, more equitable tax revenue, hopefully in better accord with the constitutional prohibition against imposition by the states of tariff on interstate commerce. A golden opportunity now exists for a monumental achievement because many states and communities now suffering the total loss of such revenues because of their suspension by bankruptcy courts should be most cooperative in this approach to a fair solution to the problem.

MAINTENANCE OF RIGHTS-OF-WAY

Important as the tax inequities are, the inequities in the Government's sharing of the costs of construction, maintenance and improvement of rights-of-way and for providing security and signaling systems are even greater. Quoting from an address by James M. Beggs, Under Secretary of Transportation on May 14, 1970:

> "Since 1957, the Federal Government has spent $65 billion for domestic transport. Of this amount 73 percent or $47 billion has been spent on highways, 15 percent or $10 billion for airports and airways, 11 percent for the Coast Guard and less than one percent for public transit. With the exception of a token amount of $6 million for the High Speed Rail program, there have been no expenditures for railroads."

Among the railroads' competitors for freight hauling are the water carriers whose rights-of-way, signaling systems and security are almost entirely paid for out of public funds, and the truckers who share use of many streets and highways which have been built and maintained with public funds.

We have not found anyone who has even tried to justify the present Governmental treatment of the various modes of transportation as to the share paid by the Government of the cost of construction, maintenance and improvement of rights-of-way and siganling systems and for providing necessary security! The Government pays 100% of these costs for the water carriers and none of them for the railroads. The exact share of these costs which is borne by the Government on behalf of the trucking industry is impossible to determine but we estimate that it is in the neighborhood of 30 to 40% based upon the following: The Government's own estimates of underpayment of the incremental cost responsibility of the Highway Trust Fund ranges from 14.8% to 16.8% (based on the Government figures cited on Pg 67 of ASTRO Report of 6-30-70). Another 16.8% of all funds spent by all units of government for highways ($3 billion out of a total of $17.8 billion) is paid for out of real estate and other taxes. Trucks account for two-thirds of highway use in gross ton miles and pay just a shade over one-third of fuel taxes. Highway security costs and economic costs of truck related accidents must be taken into account even though absolute precision is not possible. The total economic costs of highway accidents was $10.8 billion in 1971 according to National Safety Council estimates. 1970 Highway Security costs were $1.23 billion.

Proposal for Equalizing Government Support Levels for All Modes of Transportation

Bearing in mind that the Interstate Highway System is now largely completed, we propose that the Federal Government temporarily equalize overall governmental support of all modes of transport at one-fourth to one-third of maintenance improvement and security costs of rights-of-way in order to help bring the entire transportation system into better balance. Once balanced and in good operating condition our nation's transportation system may well need less total governmental subsidy than it is given now.

We believe that the Federal Government should levy a tax on all liquid and gaseous fuel to accomplish the following:

1. Reduce waste and promote conservation of fuel.
2. Alert the public to the seriousness of the problems of:
   a. the shortage of low pollution fuels
   b. the growing rate of oil and gas imports
   c. the dangers of over reliance upon imports
   d. the effect of growing imports of oil on America's balance of trade and of international payments
   e. the time required to develop safe non-polluting ways of using our abundant high sulphur bituminous coal
3. Inform the public of the urgent need to economize on energy consumption and the many ways in which fuel and electricity can be conserved.
4. Subsidize acceleration of present and new programs for getting systems of low pollution utilization of high sulphur fuel into large scale production.
5. Subsidize development of more efficient and less polluting utilization of energy in all modes of transportation, particularly autos.
6. Subsidize and encourage the use of our railroads which are far more fuel conserving and far less polluting than trucks or airplanes. Railroads use approximately one-fourth the fuel per ton mile as trucks, about one-eighth to one-sixteenth as much per passenger mile as autos and about one- sixteenth to one-twenty-fifth per passenger or ton mile as airplanes.

We also urge that more of the Highway Fund be spent on improving highway and rail safety by elimination of grade crossings which still cause a shocking number of fatalities.

At current rates of spending for maintenance of rights-of-way of all American railroads (excluding over $60 million in payroll taxes) the Government's 25% of these costs would be about one-third of a billion dollars per year.

Many railroads do not have the resources to maintain their rights-of-way to meet ICC standards. This results in extremely costly delays and derailments, which are links in the chain reaction of degradation. The increased spending for maintenance of railroad rights-of-way which is necessary to meet ICC standards would temporarily raise the Government's 25% share of total spending for this purpose to the neighborhood of $400 million based on 1972 wages and prices. Relating these amounts to the Penn Central, 25% of PC's 1972 spending for maintenance of way would have been only $61 million. Because so much maintenance was being deferred in 1972, this figure would be approximately $86 million per year for the next four or five years and then return to the neighborhood of $65 million per year thereafter, based on maintaining a 25% subsidy level. Penn Central's costs for security are now running at the rate of $8.3 million annually for direct payroll net of charge off to others.

We propose that the formula for partial subsidy of the costs of maintenance and improvement of railroad rights-of-way be designed to foster improved safety, efficiency and speed in that order. Accordingly we recommend that maintenance and improvement of switches, signaling and control systems, crossing protection, bridges, tunnels hazardous curves and security systems be subsidized at a level of 40 to 50% and that straight track and the like be subsidized at a lower level of the order of 15%. No attempt is made to show the effects of such a formula in figures given herein for the Penn Central.

Obviously, under this proposal, the run down railroads of the Northeast will in the near term be helped much more than those of other parts of the nation. This is in accordance with fair treatment of all concerned, when due consideration is given the true cause of the run down conditions of the railroads of the Northeast and the urgent need for overall economy.

RATE DIVISIONS

Fifty-three years ago, when shippers were much more dependent on the railroads due to the lack of competition by other modes of freight transportation, Congress amended the Interstate Commerce Act in order to protect shippers from discriminatory treatment by railroad companies. The amendment expanded the rate making and adjusting powers of the ICC to include so called "joint rates" and the divisions of revenues between the carriers participating in freight movement over more than a single railroad company's lines. This amendment is credited with having succeeded in solving the problem as it existed at that time. It is now causing a more serious ailment than it sought to cure. The trouble is that despite the provision, in section 15, paragraph 6 of the Act, for equitable adjustments in the division of rates between carriers and despite the efforts of the ICC to equitably administer that provision, some railroads, which consider it to be in their own interests to maintain the status quo of unfair rate divisions, have found legal ways of doing exactly that, practically indefinitely, and have thus made a mockery of the provision for adjustment provided in the act. This is a glaring case of justice delayed being justice denied and as pointed out on pages 29, 30, 176 and 201 of the December 1972 Report of the Senate Commerce Committee, the cumulative loss to Penn Central from this one inequity has been far more than enough to cause the present bankruptcy and crisis. The same can be said of its effect on several other railroads of the Northeast.

On page 201 of the December 1972 Senate Commerce Committee report, it is pointed out that "equitable resolution should be of great concern to the government", and on page 176 it is stated that

> "Relative cost criteria suggest Penn Central divisions might be justified in receiving nearly $50 million additional per year in amounts representing undiluted contributions to net railroad operating income."

The report goes on to ask

> "What kind of a system can leave such critical amounts so up in the air, subject to protrated delays and capricious answers? This clearly untenable situation requires answers which are consistent with system requirements rather than esoteric cost measurements."

Responding to the report, we propose moderate but effective Congressional action and wish to emphasize its importance as a means of minimizing the need for both short term and long term financial assistance from the Government. Elimination of this inequity will very favorably affect the breakeven operation ratio for many and probalby most of the lines of the failing railroads of the Northeast, greatly reducing need for abandonments.

Blame for this state of affairs cannot be placed upon the ICC standards which appear to recognize that railroad charges per ton mile must vary in accordance with costs, just as bridge and turnpike tolls do. The charge per mile for driving a car over the turnpike varies greatly depending on the cost of building the roadway and that varies from well under $1 million per mile in the country to over $4 million per mile in heavily urbanized areas.

Proposal for Solving the Rate Division Problem

We urge that Congress enact legislation which:

1. makes all rail carrier rate divisions adjustments retroactive to the date of application for such adjustments, if approved.
2. requires the ICC to grant interim rate divisions adjustments on a prima facie basis when the evidence offered in support of such adjustments meets the present ICC requirements relative to application for rate divisions adjustments by rail carriers.
3. requires that all interim adjustments be made subject to final adjustments which may include refunds and/or reimbursements with interest in accordance with the final decision on the applications

for adjustment.

The total amount of business subject to railroad rate divisions is over $4 billion per year so that the percentage of change in rates required to solve the problem is quite small.

We submit herewith as Appendix B an outline of the Chronology of:

1. Major rate divisions cases since 1932
2. Major actions in current North-South division cases
3. Major actions during 1959-71 in Official Southern rate Divisions Case ICC Docket No. 29885.

These all show the utter hoplessness of proceeding under present regulations.

PLANT RATIONALIZATION

Determination of which lines are to be abandoned before considering the effect of eliminating existing inequities can lead to serious errors and to actions which are grossly harmful to the public.

In some cases, losing lines can become profitable through the elimination of the above listed inequities alone. In other cases the amount of public support which may be necessary to make up the difference between the amount of revenues received by the railroads for services provided in the public interest and the amount required to earn a minimum return on the capital required to produce those services, will be greatly reduced.

In all cases, the prospects for obtaining the kind of "give and take" from shippers and railroad employees of all levels, including organized labor which is required for the success of any program should be greatly enhanced by starting with an honest effort to save the thousands of jobs and businesses which are now threatened by those very inequities.

We do recognize the necessity for orderly abandonment of unproductive segments of the Penn Central system and of many other railroads.

We believe that necessary abandonments can be accomplished with due regard for both the public interest, as required by law, and for the economic considerations which are involved. We are utterly convinced however, that it is unrealistic to expect to achieve any appreciable acceleration of the process, which has generally takena number of years from the time a losing line is identified to the time when all of the necessary legal actions have been taken and all regulatory requirements have been met for abandonment.

It is a serious mistake to assume that long delays in abandonment procedures are due to inaction by the ICC. Hearings and related legal procedures to protect both private and public interests take up most of the time.

The public interest in these matters is enormous and should not be allowed to be swept away by the kind of shortcut proposals which we have seen offered in recent weeks. On the other hand, it is obvious that some railroads, including Penn Central, are now required to operate an unsupportable proportion of their trackage as a public service at a loss.

Proposal for Limiting the Subsidy by Railroads of Public Services which the Railroads are Required to Render at a Loss

We propose that; in order to reduce to a reasonable level the amount by which any railroad company is required to subsidize the public by supplying its services at a loss, Congress enact legislation which:

1. Requires railroad companies which have earned less than 7% annually on invested capital during the proceding reporting year to absorb the losses incurred on losing lines which are required to be operated as a public service,only until the subject railroads have qualified for assistance by identifying and proving the extent of such losses in accordance with present ICC standards and requirements for application for line abandonment. The legislation would provide for reimbursing the subject railroads for the full amount of such losses thereafter until said lines are returned to profitability or permission is irrevocably given for abandonment.

2. Provides for reimbursement from the United States Government for all losses sustained by railroad companies which are incurred in the performance of public services which are or have been required by public authority while the subject railroads are in bankruptcy.
3. Provides a simple and speedy procedure for enabling qualifying railroad companies to obtain reimbursement, such as by submission by the railroad companies to the D.O.T. of quarterly statements of services which were required by public authority and which were supplied at a loss, together with a bill for the difference between the amount received for those services and their true total cost plus an approved minimal return on the capital required to perform them.
4. Requires the ICC to check on the accuracy of the bills and statements of railroad companies which are submitted for reimbursement of losses.
5. Provides for adequate funding.
6. Gives the ICC the responsibility for urging users and local authorities to find alternatives to subsidized rail services and gives the ICC authority to permit abandonment whenever it decides that continuation of any subsidized service is no longer justified.

It is not possible to accurately forcast the cost to the Government of the adoption of this proposal because we do not know how many lines will still need further assistance or abandonment even after correction of the above listed inequities with respect to taxes, maintenance costs and rate divisions. However, since the Trustees of Penn Central have estimated for the 5,000 miles now proposed for abandonment that an augmentation of about $81.3 million would be required in order to offset the assessable 'OERT' (excl.F.I.T.) deficit and provide an 8% return on the estimated road property values involved, we estimate current savings potential for this mileage at $20 million annually and predict that the cost to the Government of adoption of our proposal with respect to the Penn Central will be very much lower and very likely closer to $10 than $20 million even in the first year, excepting payments for qualifying losses in bankruptcy as per paragraph 2 above. These costs can reasonably be expected to decline to much lower levels as rationalization is accomplished. The Government's cost for losses on passenger services which governmental authority requires to be performed as public services is shown and explained in Exhibit C.

We urge reconsideration of the following when measuring the benefits of this proposal against its cost:

The preservation of tax revenues from affected employees, businesses and workers in all affected industries and communities.

The probable effects upon unemployment compensation costs.

The effect upon the morale of railroad employees at all levels.

The effect upon relations with shippers and organized labor.

The avoidance of closing transportation routes to coal mines which may need later to be reopened as developments which are now in the pilot stage for low pollution use of high sulphur coal come into wide scale use.

THE NEED FOR CHANGE IN THE REGULATORY CLIMATE

It has been nearly three years since the Association of American Railroads published the ASTRO Report of June 30, 1970, a prospectus of the American Railroad Industry. This work is an excellent and well documented compendium of the problems facing America's railroads. It offers solutions for many of the problems and explains the enormous, untapped potential of the railroads for increasing their contributions to America's economic and social wellbeing.

The ASTRO Report calls for reorientation of the regulatory outlook from the past to the future and points up a number of extremely serious faults in existing regulations along with proposals for urgently needed improvements.

The ASTRO Report quotes President Nixon as having said in an Economic Report to the Congress:

"...(M)ore reliance on economic incentives and market mechanisms in regulated industries would be a step forward... Industries have been more progressive when the agencies have endeavored to confine regulation to a necessary minimum and have otherwise fostered competition. When regulation has stifled competition, performance has deteriorated. The clearest lesson of all, however, is that regulation should be narrowed or halted when it has outlived its original purpose."

We are in complete agreement with that statement by the President.

It is quite shocking to learn from the Senate Commerce Committee's Report of December 1972 that the same faults which were pointed out by the ASTRO Report in 1970 still exist and that virtually no progress is being made in correcting them.

We suggest that in the present atmosphere of the railroad crisis; the energy crisis, the inflation crisis, the monetary crisis, the crises in our balance of trade and of international payments and our pollution problems, serious consideration should be given to this whole problem area.

We endorse the following specific regulatory reforms recommended in the ASTRO Report and believe them to be entirely consistent with the findings of the December 1972 Report of the Senate Commerce Committee:

1. Reduce the inequities in the degree of regulation as between the railroads, truckers and barge lines by:

Ending all regulation of new marketing concepts for the services of any modes such as the Rent-a-Train plan until such new concepts have had a chance to prove themselves in the market place.

Setting uniform standards for publication of rates by all carriers.

Allowing all carriers of all modes automatic authorization for annual increases in the general level of rates to meet higher wage and material costs just as is done for other industries under Phase III.

2. All carriers of all modes should be allowed to price their services in accordance with competitive and economic realities.

3. All carriers of all modes should be subject to the same standards as applied to mergers.

4. The time consuming "special" appeal procedures attending ICC decisions should be eliminated and the procedures should be the same as for other agencies having superior records in decision making such as the F.C.C.

While not in the ASTRO Report we believe that the ICC should be required to produce a manual for use in determining rate divisions. This should be patterned after the manual which has served the F.C.C. so well in connection with interstate telephone charge divisions.

ECONOMIC BENEFITS OF CORRECTING INEQUITIES

The Penn Central Company does not have the Trustee's current projections of profit and loss for the years 1973 through 1976 nor certain data on which a sound projection can be based.

However, certain important conclusions can safely be drawn from an examination of the effects which adoption of our proposals would have had upon the PCTC profit and loss and cash flow statements for 1972 as shown in Appendix C.

These are as follows:

1. Adoption of our proposals for eliminating inequities would have immediately ended the erosion of PCTC assets.
2. A small net profit ($4.9 million) would have been earned even in 1972 if PCTC had been operated on an equitable basis and if expenditures for maintenance were not increased.
3. The cash flow available for desperately needed capital improvements would have been increased by $183 million. The Trustees report of February 1, 1973 states that over a four year period 1973-1976, $600 million to $800 million will have to be spent to catch up on maintenance and capital improvements neglected in the

past fifteen years, an average of a minimum of $150 million per year. Assuming this average catch up figure of $150 million would have been relevant to 1972, and would have been spent during the year, PCTC would have ended the year with $58 million more cash even if the increased expenditures had produced no benefits in that year! This figure assumes that $100 million of the additional $150 million would have been spent on maintenance of rights-of-way subject to our proposal that 25% of expenditures for this purpose would be reimbursed by the Transportation Fund. See Appendix C, Col. V, line 25.

4. Since these economic benefits would apply to every year of operation and would automatically escalate with inflation and with increases in revenues subject to rate divisions, they would greatly hasten the attainment of credit-worthiness and an earning level adequate for a sound reorganization which would satisfy all interests.

Assuming that the estimates which the PCTC Trustees have made are reasonably accurate with respect to future benefits from reductions in excess labor and in labor protection costs and with respect to certain anticipated improvements in efficiency, then attainment of conditions which can form the basis of a sound income based reorganization should be not much later than 1976 despite the long delays in achieving fair conditions of operation.

We believe that the same results can be achieved for the rest of the ailing railroads of the Northeast.

Correction of the inequities would be of great benefit to the entire American railroad industry, practically none of which now earns enough on invested capital to make investments in it attractive or to support much needed modernization.

We believe that our proposals for correcting the inequities affecting all railroads merit the support of even the railroads of the South and the West, who have in the past opposed the adjustments in rate divisions which are proposed here, because these railroads would be more than compensated for this by the gains resulting from the elimination of taxes on their rights-of-way, by partial subsidy of their costs of maintenance of rights-of-way and other benefits.

We believe that this plan merits the support of all shippers because it will improve service to them and because it will hold to an absolute, practical minimum the services which must be discontinued and will in all cases allow adequate time for necessary changes in service.

We believe that this plan merits the support of trucking companies because it will reduce the danger that they will have to compete with government owned and operated rail services or other Government agencies. Improved "piggy-back" service can reduce their costs on long hauls.

We believe that this plan merits the support of railroad employees of all levels, because it will reverse the chain reaction of degradation which has beset American railroads since the end of World War II, and the burgeoning of the publicly supported interstate highway systems, by giving railroaders the tools they need and a fair basis on which to compete, and will create anew the opportunity for advancement and promotion for those who contribute to the railroads' progress.

Under this plan, organized labor can best afford to make concessions relating to crew consist reduction, etc. because overall employment levels will be favorably affected by increased railroad business and the avoidance of unnecessary or untimely abandonments. The improvement in "on time" service and average speed of trains to be made possible through this program will greatly improve the "takehome" pay of many thousands of crewmen without any increase in their pay scale. This will at the same time end the unsafe conditions which are the subject of such bitter complaints by the railroad workers.

We attach great importance to the fact that United Transport Workers Union chief, Mr. Al Chesser, stated that he could not agree to the Court ordered reduction in crew size by one man, even by attrition, while the railroad remained in such unsafe condition. We also believe that it would be quite fair for the Government to seek an equitable settlement of the remaining outstanding problems relating to excess labor as a condition to agreeing to end the inequities listed above.

We believe that this plan merits the support of all conservationists, including those who recently opposed the railroads and the ICC in connection with a moderate railroad rate increase, because it will enable railroads all over the nation to fight the trend to "pave over America", it will slow the trend to condemn to destruction many parks and other irreplaceable public asset and will increase the contribution of the railroads in fighting pollution.

We believe that the plan merits the support of all motorists because it will increase the role of the railroads in relieving traffice congestion on streets and highways and it will drastically reduce the number of highway accidents and fatalities, by reducing the number of long haul trucks on highways and through the elimination of dangerous grade crossings.

Most important, we believe that this plan merits the support of the public because it will increase, rather than decrease services to the publice by the railroads and will rapidly improve the quality of those services, and despite the appeal of so called "non-profit" organizations, we believe that most Americans still believe in the merits of our system of competitive enterprise.

We cite as evidence (Appendix D) a copy of an article from the Philadelphia Inquirer of March 25, 1973 giving results of a public opinion poll by George H. Gallup.

The poll results show that, although many Americans take a dim view of the way railroads are being run in this country, a plurality resists the idea of having the Government run the railroads and that of those who say (railroad) service is excellent or good, nearly 2 to 1 vote against nationalization while those who say "only fair" or "poor" lean in favor of a Government takeover.

ADVANTAGES OF OUR PROPOSALS OVER OTHERS

We have studied all of the other proposals for solving the problems of the railroads of the Northeast and while recognizing their many constructive ideas, most of which are perfectly compatible with our proposals, we summarize as follows the respects in which we believe our overall plan to be superior:

1. Our proposals can be put into effect immediately upon enactment into law by Congress of the proposed legislation, while most of the other plans embody built-in delays to action even after passage of enabling legislation. Such delays are intolerable in the present situation! Time is of the essence!

2. Our proposals are comprehensive for the railroad industry rather than parochial and do not create new problems of inequitable, intermodal or intramodal competition.

3. Our proposals are based upon the correction of inequities of long standing, which are well known to all who have studied the December 1972 Report of the Senate Commerce Committee.

4. Our proposals will result in the least disruption of existing industry, of commerce and of people's lives.

5. Our proposals retain the railroads as part of the American free enterprise system.

6. Our proposals merit the support of all those on whom they depend for success because, if adopted in total, our proposals will benefit all concerned.

7. Our proposals are totally constructive and progressive.

8. Our proposals will have the lowest first cost because they make the best use of what we have now rather than calling for sudden, disruptive abandonments and re-alignments, and large scale application of untested theories.

9. Our proposals will have the lowest continuing cost because they do the most to preserve and increase existing tax revenues from railroad employees and all affected businesses and to prevent personal and business losses which will otherwise result from unwise abandonments and because they create a balance in the Government's treatment of all modes of transportation and so make practical any desired simultaneous adjustment in the level of subsidy to all modes.

Our proposals, if adopted in their entirety, will:

1. increase rather than decrease railroad employment

2. increase rather than decrease railroad services to industry

3. reduce by many millions of dollars each year the amount which the railroads will have to charge AMTRAK and other publicly sponsored passenger services in order to cover the railroads' full costs in serving them.

4. reduce the costs for necessary new highways and for highway maintenance, thus reducing Government expenditures

5. reduce railroad rates necessary to return a reasonable profit

6. reduce America's total shipping costs by expanding the use of our lowest cost means of ground transportation

7. reduce the need for new rail cars through more efficient (faster) utilization made possible by upgrading of maintenance

8. reduce the $10.8 billion annual economic cost of highway accidents to say nothing of the saving of thousands of lives

9. Eliminate much of the enormous cost presently associated with unproductive paper work required by the ICC, especially in connection with abandonments.

10. Increase rather than decreaee tax revenues.

11. Help to preserve the beauty of our land by reducing the need to "pave over America".

12. Reduce rather than increase the total cost of the Governments' subsidy of traneportation.

Judge Fullam sponsoring the reorganization procsedings in the Federal Court has raised a constitutional sword of Damacles over Penn Central. The time is short.

We believe if the Court has rsasonable assurance that legislation will be promtply erected to implement and translate our proposals, together with others now undsr your coneideration relating to loans, regulator reforms and corridor passenger services into law that this will afford the Court ground for allowing futher time to formulate a plan of reorganization and revitalization of the whole syetem.

Our proposals if adopted in combination with certain others now before you will not only solve the present probleme at far the lowest cost of any that have come before you but will also help to restore confidence in the integrity of our economic system and in the Government's respect for equity and the rights of all concerned. Taksn together they can form a plan which can make this Nation's railroade a pride and joy for all Americane.

BIBLOORAPHY

1. Report by the Subcommittee on Surface Transportation of the Committee on Commerce, U.S. Senate, December 1972. Pages 29, 30, 176, 180, 181, 218, 280, 281, 282, 284 and 288. (Subject: The inequity of the laws and regulations as between railroads and other modes of transportation.)

2. Books of Account of the Penn Central Transportation Company (Subject: State and local property taxes levied on the PC's rights of way.)

3. ASTRO, The American Railroad Industry, July 24, 1970, Footnote #19 on page 68 quoting AAR figures of January 1, 1971. (Subject: Amount of taxes imposed on all railroad rights of way in the U.S.)

4. Address by DOT Under Secretary James M. Beggs at the Chicago Traffic Club's Annual Dinner, May 14, 1970. (Subject: Federal expenditures on various transportation modes since 1957.)

5. Highway Statistics, 1970, U.S. DOT Federal Highway Administration, page 69. (Subject: Highway Security costs.)

6. DOT brochure "America's Lifelines", page 10. (Subject: Varying costs of building roads in different geographic areas.)

7. Committee Report listed in 1. above, pages 29, 30, 176 and 201. (Subject: Rate Divisions and delays in decisions.)

8. Committee Report as above, Page 30, (Subject: Total revenue subject to Rate divisions.)

APPENDIX A

7817 Brookpark Road
Cleveland, Ohio 44144
February 20, 1973

Dept. of Transportation
Washington D. C.

Dear Sirs:

I would like to express my humble opinion on a very important matter before you, the operation of the Penn Central Transportation Company.

Over the years I have watched my tax dollars as well as the Company's being used to build better highways, airways, ports, and rivers for use of these facilities by commercial carriers who are in direct competition with the railroads. These forms of transportation are enjoying a very unfair advantage over railroads because they don't contribute to improvement of railroads with their tax dollars. I cannot think of a better time for you gentlemen to start to correct this grossly unfair system by recommending some funds be spent to improve railroads in the United States so they may have an equal chance for profit and stability with the benefit of tax dollars.

From the cab of a locomotive I have watched new interstate highways being built and then huge trucks rolling along at high speeds with their cargo of freight on a beautiful roadway. While our trains speed has been reduced from 60mph to 40mph with a large number of 30 to 10mph slow orders due to the poor and hazardous condition of the road bed. Our time for running a train from Cleveland to Columbus, Ohio has more than doubled due to the poor condition of our tracks making it that much harder to make a living. We are paid by mileage in through freight service. My reference to tracks is on our main tracks, not secondary or branch line.

For direct comparison, I just returned from a highway trip to the Carolina's and I must say my tax dollars are doing a good job for maintaining a good road for trucks. ~~Wy~~ Why can't they do as much for the railroad?

We are talking of rebuilding North Vietnam, how about rebuilding some of our railroads first. It is beneficial to all our people to have a good, modern, high speed rail system. Trucks do create a larger amount of air pollution and traffic hazards than trains. We are also looking toward a fuel shortage. Railroads can do the job cheaper and cleaner.

I thank you in advance for any consideration you may give to my thoughts.

Yours truly,

Stephen Sloboda

Stephen Sloboda
Penn Central Engineer

APPENDIX B

Current North-South Divisions Case

The Akron, Canton & Youngstown Railroad Company
v.
Aberdeen and Rockfish Railroad Company
ICC Docket No. 35585

Chronology of Major Action

Date	Action Taken
March 17, 1972	Complaint of Northern lines.
March 17, 1972	Petition of Northern lines for prehearing conference.
May 1, 1972	Cross Complaint of Southern lines.
May 9, 1972	Complaint of Midwestern lines.
June 14, 1972	Supplemental request by Northern lines for prehearing conference.
June 29, 1972	Petition of Southern Governors Conference and Southeastern Regulatory Utility Commissioners for leave to intervene.
Sept. 25, 1972	Prehearing conference held before Administrative Law Judge Forest Gordon of ICC. Conference continued to later date.
Dec. 12, 1972	Prehearing conference resumed before Judge Gordon. Principal question regarding size of car tracing study for determination of costs.
Jan. 2, 1973	Prehearing conference Order of Judge Gordon issued. The Order requires joint studies of operating characteristics of North-South freight traffic be conducted over a 12-month period commencing March 1, 1973.
Jan. 9, 1973	Southern lines object to Judge Gordon's Order of January 2.
Jan. 9, 1973	Northern lines object to Judge Gordon's Order of January 2.

ICC Docket No. 35585
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Date	Action Taken
March 5, 1973	Order of Commission responsive to petition of January 9, 1973, directing that the study of operating characteristics required by the Order of January 2, 1973, be made of a stratified statistical sample of 7,000 car shipments during the 12-month period commencing 60 days after service of the Order (on May 5, 1973).

Chronology of Major Divisions Cases Since 1932

ICC Docket	Traffic Involved	Proceeding Instituted	ICC Proceeding Concluded	Court Action Concluded	Duration of Litigation	Citation
No. 25390	Southwest-Official	6-29-1932	7-25-1939	None	7 yrs. 1 mo.	Southwestern-Official Divisio[n], 216 ICC 687; 234 ICC 135
No. 24160	North-South (General traffic)	1-3-1931	4-1-1940	None	9 yrs. 3 mos.	Division of Rates, Official and Southern Territories, 234 ICC 175; 238 ICC 149
No. 29885	Official-Southern	12-4-1947	5-26-1953	None	5 yrs. 5 mos.	Official-Southern Divisions, 287 ICC 497; 289 ICC 4
No. 29886	Official-Southwest	12-4-1947	5-26-1953	None	5 yrs. 5 mos.	Official-Southwestern Divisions, 287 ICC 553; 289 ICC 11
No. 31503	Official-Transcontinental (Eastern Lines Complaint)	4-5-1954	3-21-1963	3-24-1966	9 yrs.11 mos.	Akron, C.& Y. R. Co. v. Atchison, T. & S.F. Ry. Co., 321 ICC 17; 322 ICC 491; Atchison, Topeka and Santa Fe Ry. Co. v. United States, 238 F.Supp. 528; dismissed as moot, 383 US 832; 384 US 888.
No. 31503 (Sub No. 1, 2 & 3)	Official-Transcontinental (Midwestern Lines Complaint)	6-3-1954	3-21-1963	5-29-1967	13 years	Akron, C.& Y. R. Co. v. Atchison, T. & S.F. Ry. Co., 321 ICC 17; 322 ICC 491; Atchison, Topeka and Santa Fe Ry. Co. v. United States, 238 F.Supp. 528; reversed and remanded, 387 US 326
No. 29885 (reopened)	Official-Southern	7-20-1959	See attachment	See attachment	12 years	See attachment

Official-Southern Divisions Case
ICC Docket No. 29885

Major Action During Period 1959-1971

Date	Action
May 1, 1959	ICC Order opening case for hearing.
Feb. 3, 1965	ICC Report and Order, Official-Southern Divisions, 325 ICC 1. This order required an increase in the Northern lines' share of the revenue on north-south traffic.
May 8, 1965	ICC Supplemental Report and Order. Official-Southern Divisions, 325 ICC 449. This order modified the order of February 3, 1965 in respect to traffic handled by the Norfolk Southern Railway Company.
May 27, 1965	Order of District Court denying interlocutory injunction against ICC orders on condition that Official Territory railroads refund increase in divisions if ICC order is set aside. Aberdeen and Rockfish Railroad Co. v. United States (USDC ED La.)
June 30, 1967	ICC Order set aside and cause remanded to ICC for further proceedings. Aberdeen and Rockfish Railroad Co. v. United States, 270 F.Supp. 695.
March 4, 1968	United States Supreme Court noted probable jurisdiction of appeals. B. & O. R. Co. v. Aberdeen & R. R. Co., 390 US 940.
March 12, 1968	Opinion of Supreme Court modifying District Court Order and affirming as modified. B. & O. R. Co. v. Aberdeen and R. R. Co., 393 US 87, Rehearing denied, 393 US 1124.
April 24, 1969	Opinion and Order of District Court remanding case to ICC and requiring refund of the increased amount of divisions, pursuant to the condition imposed in its Order of May 27, 1965. Aberdeen & Rockfish Railroad Co. v. United States, 301 F.Supp. 889.

ICC Docket No. 29885
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April 24, 1969 (cont.)	Pursuant to that Order and subsequent stipulation, the Northern lines paid $33,381,100 to the Southern lines.
April 21, 1970	ICC Report and Order on remand fixing a new divisional basis which provided the Northern lines approximately 85% of the increase prescribed in the May 8, 1965 Order. Official-Southern Divisions, 337 ICC 74.
Oct. 29, 1970	Order of District Court setting aside ICC Order of April 12, 1970 and remanding to ICC for further proceedings. Aberdeen & Rockfish Railroad Co. v. United States, (USDC ED La., unreported).
Dec. 16, 1970	Order of District Court limiting further hearing before ICC, Aberdeen & Rockfish Railroad Co. v. United States (USDC ED La., unreported). This Order was appealed to the United States Supreme Court, which appeal was dismissed as moot on October 12, 1971, 404 US 806.
Feb. 11, 1971	ICC Order reopening case for further hearing in conformance with the December 16, 1970 Order of the District Court.
Aug. 10, 1971	ICC Order dismissing investigation without prejudice to filing new complaints.

APPENDIX C- Pg. 1

Actual 1972 Income Statement
adjusted to reflect the PCC's Proposal
(All figures in millions of dollars)

Item	I 1972 Actual	II Proposed Adjust- ments	III 1972 Actual Adjusted as per Basic Proposal	IV Additional Adjustment for Cost of Proper Maintenance	V 1972 Adjusted per Cols. II & IV
1. Operating Revenues	$ 1,825.4				
2. Plus revised Rate Divisions		$ 45.0	$1,870.4		$1.870.4
3. Operating Expenses	(1,535.0)		(1,535.0)	(115.0)	(1,650.0)
4. Less 25% of Right of Way Maint. exp.		61.1		25.0	25.0
5. 25% of Security Expenses		2.0	63.1		63.1
6. Net Revenue from Operations	290.4	108.1	398.5	(90.0)	308.5
7. Other Income (Expenses)-					
8. Total Tax Accruals	(140.5)				
9. Less Right of Way Taxes		44.5	(96.0)		(96.0)
10. Equipment Hire (Dr.)	(252.6)				
11. Joint Facility Rents	(2.6)		(255.2)		(255.2)
12. New Railway Operating Income	(105.3)		47.3		(42.7)
13. Other Income	56.5		56.5		56.5
14. Total Income	(48.8)		103.8		12.8
15. Miscellaneous Deductions	(18.6)		(18.6)		(18.6)
16. Income available for Fixed charges	(67.4)		85.2		(4.8)
17. Fixed Charges	(130.6)		(130.6)		(130.6)
18. Extraordinary Items	(24.9)		(24.9)		(24.9)
19. NET INCOME (LOSS)	(222.9)	152.6	(70.3)	(90.0)	(160.3)
20. Govt. reimbursement for public interest services rendered: -					
21.-Passenger losses (75% of $87 MM)		65.2			
22.-Freight losses and/or loss reduction via abandonment (50% of $20 MM)		10.0	75.2		75.2
23. Total Adjustments		227.8		(90.0)	
24. NET PROFIT OR (LOSS)	(222.9)		4.9		(85.1)
25. Effect of adj. on Cash flow - Positive		183.3			58.3
26. Effect of adj. on Cash avail. for improvements			227.8		252.8
27. Cost to Government		182.8			207.8

A. Basis for Statement Presentation -

The purpose of the statement is to show the effects on the actual 1972 income statement when adjustments proposed by PCC are made. These are: -

1. The removal of or compensation for the three major inequities - rate divisions, right of way maintenance and security costs, and right of way taxation (Col. II, lines 2, 4, 5 & 9).
2. The full compensation for or abandonment of public interest freight and passenger services (Col. II, lines 21 & 22.)
3. The expenditures of the additional cost of proper maintenance of right of way and equipment over what was actually spent in 1972 (Col. IV, line 3).

B. Detail Explanation and Comment:

Col. I, II & III - Self-explanatory
Col. IV - Assumes an added expenditure of $100 million for right of way maintenance and $15 million for equipment maintenance, which the trustees have indicated should have been spent if funds had been available. Assumes reimbursement of 25% of added right of way maintenance cost (lines 3 & 4), also additional cost savings as detailed below.
Line 2, Col. II - The estimated amount of rate divisions which would accrue to PCTC if put on a basis equitable to the railroad.

Additional maintenance on -		
right of way	$100.0 MM	
equipment	15. 0	$115.0 MM
1972 Actual		1,535.0
Operating expenses as adjusted		$ 1,650.0

L 9, Col, II - Assumes elimination of the $44.5 MM of property taxes paid by PCTC in 1972
L 21, Col, II - The amount in Col. II represents the government's reimbursement of 75% of the uncompensated portion of the cost of operating public-interest passenger service. 75% of $87 MM (passenger deficit reported by the trustees) equals $65.2 MM. It is assumed that the other 25% would be made up of savings by removal of inequities.
L 22, Col, II - The actual 1972 figures include a $20 MM loss caused by furnishing public interest freight services on trackage proposed for abandonment. In view of the gains through other relief as shown, it is assumed that 50% compensation would be reasonable. It is assumed that the other 50% would be made up of savings by removal of inequities.

L 25, Items affecting cash flow:	Col.II	Col. V	Source
Increased rate divisions	$ 45.0 MM	$45.0 MM	Connecting railroads and rate increases
Added expenditure for right of way maint.	----	(100.0)	75% by PCTC, 25%*from Transportation Fund (now Highway F.)
Refund of right of way maint. exp. @ 25%: On actual 1972 ($244 MM)	61.1	61.1	Transportation Trust Fund (now Highway Trust Fund)
" added expenditures ($100 MM)	---	25.0	" " " "(" " ") See * Above
Refund of 25% of security expenses	2.0	2.0	" " " "(" " ")
Extra expenditures on equipment maint.		(15.0)	PCTC
Extra investment in equipment		(35.0)	PCTC
Govt. reimbursement for public interest passenger losses (75% of $87 MM)	65.2	65.2	Federal subsidy with possible sharing by states, local municipalities, etc.
Govt. reimbursement for public interest freight losses (50% of $20 MM)	10.0	10.0	" " " " " " " "
Cash Flow Improvement	$183.3	$58.3	
L 27, Items affecting cost to government:			
Refund of right of way Maint. exp. @ 25%: On actual 1972 ($244 MM)	$ 61.1	$ 61.1	Transportation Trust Fund (now Highway Trust Fund)
" added expenditures ($100 MM)	--	25.0	" " " "(" " " ")
Security expense refund	2.0	2.0	" " " "(" " " ")
Elimination of right of way taxes	44.5	44.5	Federal subsidy for 5 years
Govt. reimbursement for public interest passenger losses (75% of $87 MM)	65.2	65.2	Federal subsidy with possible sharing by states, local municipalities, etc.
Govt. reimbursement for public interest freight losses (50% of $20 MM)	10.0	10.0	" " " " " " " "
Total Cost to Government	$182.8	$207.8	
Of which initial and maximum Federal Subsidy	$119.7	$119.7	

APPENDIX D

Opposition to Federal Railroad Takeover Declines

By GEORGE GALLUP

PRINCETON, N. J. — Although many Americans take a dim view of the way railroads are being run in this country, a plurality resists the idea of having the government run the railroads.

The vote, though, is close, with 38 percent in favor of nationalization and 44 percent opposed. However, among persons living in cities of a million or more, opinion is 45 to 31 percent in favor of the government taking over and running the railroads.

The latest findings represent a substantial gain for pro-nationalization of the railroads in this country. Gallup surveys in the 1930s, 1940s and 1950s showed public opinion to be strongly opposed to government ownership of the railroads. In the first survey conducted in 1936, opinion was 2-to-1 against government operation.

GEORGE H. GALLUP
Public Opinion

THE UNITED STATES today is one of the few nations of the world in which the railroads continue to be privately owned.

The view was held by a clear majority in those early days of polling that the railroads would be run far less efficiently if the Federal government took over and operated them.

Today, however, opinion is more closely divided on this question, with 38 percent saying the trains would be operated more efficiently if the government took over, while 46 percent hold the opposite view.

These findings, as seen, closely correspond to the division of opinion on nationalization.

OPPOSITION to a takeover of the railroads by the government is registered by a plurality of people interviewed in the Midwest, South and West, while opinion is about evenly divided in the East.

Views depend to some extent in where one stands on the economic ladder, with lower income people more likely to favor nationalization than upper income people.

Views on this issue depend in considerable measure to how one rates the railroads in his area in terms of efficiency and operation.

Those who say the service is excellent or good vote nearly 2-to-1 against nationalization. Those who say "only fair" or "poor" lean in favor of a government takeover.

ON MARCH 16, the Nixon Administration urged Congress to authorize $300 million in new Federal loan guarantees to finance continued rehabilitation of the nation's passenger train system.

The proposal would continue federal aid for improving railroad passenger service at least through mid-1978.

At the same time, the administration recommended a 14 percent reduction in the 26,300-mile network of rails now served by Amtrak, the quasi-governmental corporation created by Congress 22 months ago to run intercity passenger trains.

Congress, in halting a strike on the Penn Central last month, directed the administration to present within 45 days a plan to deal with the problems of the troubled Northeastern railroads. Six major railroads, representing more than half the trackage in the Northeast, are now in bankruptcy.

REDUCTION of the work force of railroads and elimination of "feather-bedding" are viewed by many railroad experts as key factors in the financial survival of the railroads.

A Gallup Poll published Thursday showed a majority of Americans, 55 percent, in favor of a law to outlaw feather-bedding — that is, the practice of some labor union leaders of requiring more men than are actually needed to do a particular job.

It was the dispute between the Penn Central railroad and the United Transportation Union over the size of train crews that triggered the one-day strike on the Penn Central railroad last Feb. 8.

Mr. JARMAN. Thank you, Mr. Turner.

I think it is a very good statement and certainly emphasizes some of the basic problems that the railroads of the country face, particularly the railroads in the Northeast corridor.

I wish we could give you reasonable assurance that legislation will be promptly enacted to implement and translate proposals that you have made, but it is a long, hard road to legislation.

One thing that would be helpful to the committee would be any evidence that you have as to what the cost factor would be on the proposals that you make. You deal very generally with what you say needs to be done and you emphasize the four inequities which are the root cause of problems for the Northeast railroads and for railroads over the country, but what you propose, of course, are major legislative changes involving a tremendous amount of money, and it would be helpful to the committee if you could furnish us with any information that you would have as to what the cost factor would be.

Mr. TURNER. Yes, Mr. Chairman.

I have felt that in most of the proposals that was a serious weakness, lack of cost figures. For that reason, and with the benefit of hindsight of what has been done before, we have listed the estimated cost of each of our proposals in the cost analyses which are included in the appendices to our statement.

We believe that, while the initial costs are substantial, they will, as I have just mentioned, be lower than under any other overall set of proposals for solving the problems and that ultimately the net effect will be to reduce the Government's overall cost of subsidies for the transportation industry of the United States.

The figures are necessarily rather involved and I am afraid would take more time for complete elucidation than you could afford to give us this morning, but I would be glad to go into any specifics that you would want.

Mr. JARMAN. The committee will study this supplemental statement that you have filed for the record and may well have other questions we would like to ask a little later.

Mr. Kuykendall?

Mr. KUYKENDALL. Mr. Turner, it is good to have you with us.

I am interested in your comment that your primary concern is to the stockholder. I have often commented on the fact that the only little people involved in this liquidation are the stockholders. Invariably, they are the first in and the last out.

Mr. TURNER. That is right.

Mr. KUYKENDALL. I think we know that even in a good liquidation, common stockholders seldom get anything. So I can understand your concern. It is a concern we have stated here often, that the large lenders and the large trusts will probably be fairly well taken care of, regardless of what we do, but the stockholder is in a very precarious position. I, too, am thinking about him.

Down at the bottom of page 11, where you summarize, you state that the State and local taxes are on rights-of-way.

Are you familiar with the language in a bill of previous years concerning the matter of equalization of taxes and guaranteeing against prejudicial taxes on the local level?

Are you considering that as a solution, or are you talking about eliminating taxes entirely?

Mr. TURNER. I very much appreciate that effort.

In my judgment, that would not go far enough to solve the problem because, whereas railroad property under that proposal would, as I understand it, still be taxes, or taxable by the State and localities at levels consistent with the valuations of adjacent industrial or other property, which has the effect of creating enormous burdens for railroads that happen to go through heavily industrialized or developed areas, it is my feeling very strongly that, since the railroads do not have the rights that industries or individuals have of disposing of their property at any time to take advantage of the value that is put into that property by others, they should not be taxed at those levels.

An effort should be made to bring the taxation of the railroads' property as it relates to providing that vital service down to where it is not a substantial handicap to the railroads compared to the modes with which they must compete.

Mr. KUYKENDALL. Let's get into this point, if we might, Mr. Turner.

Many are suggesting one new "Northeast Railroad Corporation" that should emerge as a viable profitmaking entity from the entire interlocking, sometimes duplicated, not very good competitiveness that we have. If we compare that organization with the profitable railroads of this country—and I am assuming that the organization would have the right of abandonment with much more streamlined procedure than we have today, as well as the right to truly merge instead of the absolute debacle of merger between New York Central and Pennsylvania, which never really took place at all—how can we possibly justify the fact that we have very necessarily profitmaking railroads paying such taxes and making money, and yet, you are asking for relief on the same taxes that they are paying and making money instead of an equalization?

I am very strongly supporting realistic equalization of this property. For instance, if you have your railroad right-of-way running through 50 straight miles of nothing but farmland, that is the way that property ought to be taxed—not as industrial property right in the middle of the city.

But you give me the impression that you want to go a step further than that and not tax it at all.

Mr. TURNER. Yes, sir. We have gone to great length in our formal statement——

Mr. KUYKENDALL. How do you justify the fact that Southern Railroad pays taxes and makes money and has a stock split, and we are willing to talk to you about giving you enough abandonment to help you be as streamlined as Southern is?

Why, then, would you need a tax advantage that Southern does not have?

Mr. TURNER. My answer to that is that the only way we could put this railroad in the position that the Southern is in now would be to start with my last point first, and that is where the rate divisions that are unfairly burdensome to Penn Central and the Southern Railroad unfair benefits as a consequence.

In other words, this isn't money that we propose to take from Government or the public or customers. This is money which is going into unfair divisions according to ICC standards.

Mr. KUYKENDALL. I fail to understand this. First, you say it is not money you are taking from the taxpayer. If you stop collecting taxes——

Mr. TURNER. Excuse me; I am referring to the last item which is division of revenues between the different railroads.

I am saying that the Southern Railroad, which is credited with such efficiency, has part of that efficiency picture artificially inflated by getting part of the $44.5 million that the Penn Central loses through those same inequities of rate divisions. So that when a man who is widely credited with having turned Southern Railroad around and made it profitable, Mr. Bill Moore, became president of Penn Central, he was not able to make it perform like Southern Railroad, was he?

Mr. KUYKENDALL. I have heard enough testimony here to give you 25 straight reasons that you would have to agree with as to why Mr. Moore could not turn Penn Central around.

Is it not true, for instance, that the average revenue per ton-mile on Penn Central is higher than Southern? It is.

Is it not true that the average revenue per car is higher on Penn Central than it is on Southern?

Mr. TURNER. Yes.

Mr. KUYKENDALL. Is it not true that the average loading per car is as high on Penn Central as it is on Southern?

Mr. TURNER. Yes; and I can also join with you in puncturing a lot of the other peculiar notions that people have as to the causes of the problem.

But just as for an automobile, when you drive down the turnpike, you will have to pay a great deal more in a heavily developed or urbanized region, where the highway cost $4 million a mile to build than you will when you are going out on the country on that same turnpike where it costs $800,000.

Mr. KUYKENDALL. Well, you are not building new railroads. You are going to be abandoning them.

Mr. TURNER. Our costs in urbanized and industrially developed areas are enormously greater than they are across country, and for very similar analogous reasons to those that apply to the highways.

Mr. KUYKENDALL. Are there not areas of the country in the bankrupt railroads where there have not been any taxes collected for quite some time?

Mr. TURNER. Yes, sir.

Mr. KUYKENDALL. Did that put you in the black?

Mr. TURNER. No. It is one of the reasons, however, that the railroad is operating today.

Mr. KUYKENDALL. There is not any private, free enterprise system in this country that I know of that doesn't pay taxes on property. It may not be wise to make this exception for one part of the so-called free enterprise system.

As you probably know, there is no longer such a thing as a big, powerful railroad lobby, but I will promise you there is a terribly powerful local Government lobby.

The public will be against this because every dime's worth of taxes that the State and county and city government does not collect here is going to be paid by the general public, anyway, because none of the local governments have any surplus.

I was really getting around to suggesting that this might be the most dangerous and probably publicly unacceptable of your several suggestions here.

Mr. TURNER. I recognize that and I thank you for that.

Mr. KUYKENDALL. I can understand an approach of realistic equalization to see that you are even and not penalized, but no more than that.

Do you feel that the emerging entity, whatever it is, should be cut down to a barebone minimum and then allow its vitality to cause it to expand again? Or do you feel that we should take the middle course, so to speak, and have a limited number of abandonments?

Mr. TURNER. I don't understand how any core can possibly be soundly established on the basis of economic realities until the true economic realities are made possible to analyze by first eliminating or substantially eliminating these tremendous inequities which distort the picture.

Mr. KUYKENDALL. Your real estate does cost more, your revenue per ton-mile is greater than the moneymaking railroads, and we are talking about taking the passenger obligation away from you. If we set up a semipermanent system of subsidization, it is going to get so built in as to make you automatically and permanently inefficient.

There is nothing in the world that free enterprise can do for a dollar and make money, that the Government can't do and lose money at a dollar and a quarter. When you get the Government involved in subsidy, you are going to make welfare recipients out of this free-enterprise industry, and you know that, too.

I think seriously if I thought we were going to create continuing subsidies, I think I might nationalize the whole outfit, make it a permanent subsidy and get rid of it.

I think a man who is involved in private free enterprise would understand that the political realities were such that once you start giving somebody a tax subsidy, such as allowing the railroads to have their right-of-way tax free, the trucklines, which now have a much more powerful lobby than you do, are going to make compensating demands. Since they haven't come in here with their hands out much in the last 20 years, their demands might be more powerful than yours.

This is the kind of danger we see down the road.

If we are going to call this free enterprise, let's try to figure out a way to make it free enterprise.

For instance, this is one of the reasons I have taken a position on a reduced force. I think we ought to pay for any costs resulting from a reduced force on the front end and not charge the company with it at all so that it will not be encumbered during its formative years.

You know how tough it is for a new company to have obligations facing it the first month. That is bad business, and this is one of the reasons for failures of the companies.

I want to keep this corporation as free of obligations as possible. When you ask for and receive a tax subsidy from Government, you are not free and independent.

Mr. TURNER. I would love to see an end to Government subsidies of the transportation industry, but I have to recognize the fact that the Government is subsidizing our competitors and very heavily, and we simply cannot overlook that important fact.

The full answer to each of the arguments that you have given, which are certainly cogent, are given in our formal proposal. I am sure you would not want me to take all of the time necessary to go into each one of your statements, but I would be very happy to, and to answer any questions that you have.

Mr. KUYKENDALL. Mr. Chairman, I will yield the balance of my time.

Mr. JARMAN. Mr. Shoup.

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Turner, if I may go through a few of the points, and I hope I don't repeat anything that my colleague has asked.

I am quite interested in your proposal when you speak of State and local taxes on rights-of-way and you point out, validly so, that the truck lines don't pay taxes on their rights-of-way. You do own those pieces of rights-of-way. They are of value that, upon abandonment of those, you receive whatever receipt you get from the sale of them. I think this goes into your coffers.

I am wondering if perhaps we might be trying to compare apples with oranges. Perhaps we should make them all oranges.

I would ask you your opinion of a proposal that has been made to equalize this that all rights-of-way would be owned by the Government similar to the highways, and that then the permits to operate on the several rights-of-way would be issued by the ICC such as the truck lines are controlled. This would get you out from under the ownership, taxes, maintenance, construction, and all of this.

Have you an opinion on this?

Mr. TURNER. Yes.

I very much appreciate your bringing that up.

I have to say that that is the premise on which I started out some months ago and the proposal which I first urged upon the trustees, and I have reluctantly abandoned that approach for the reason that, while I think it would be extremely helpful in making all oranges or all apples, and making it easier to make a fair and honest appraisal of equity, it seems to me that if you do it partially, you create new problems, that is to say, just for the distressed part of the system.

Mr. SHOUP. What, sir?

Mr. TURNER. If that proposal were to apply only to the distressed lines.

Mr. SHOUP. No; I am speaking of all lines.

Mr. TURNER. That is one problem.

If you apply it to all of the system, I would heartily endorse that if it could be done. It seems to me that it creates so many constitutional questions with respect to the rights of the viable railroads that I have shied away from it as an approach.

Philosophically, however, I would certainly agree with you that it would end an enormous proportion of the inequities that I have been talking about.

Mr. SHOUP. Let me go on to your third proposal, subsidy of the railroads for public services which the Government requires them to perform at a loss.

I am wondering what percent of the operation that the Penn Central has, what percent of that do you attribute to those delivering public services at a loss?

Mr. TURNER. Right now, out of a total amount of railroad business, which is under $2 billion a year, our losses from those services which we are required to perform for the public are way over $100 million. That would be losses of over 5 percent, and the railroad industry in the United States, as you know, has not earned as much as 4 percent on business for many years.

Mr. SHOUP. You used a figure during your testimony that differs somewhat from what we heard from the Penn Central trustees and this is the amount of mileage which is being requested to be abandoned. I think that you stated 5,000 miles. I believe the trustees say 9,000 miles.

Mr. TURNER. Originally, their recommendations were for 9,000, but when they realized and had measured the cost in terms of payments for protection of separated labor, they brought the recommendations down to 5,000 miles.

Mr. SHOUP. Now, would you say again why they changed that?

Mr. TURNER. Yes. They changed that because they recognized, belatedly, that the cost of labor protection which would be involved in the core program, which would amount into many hundreds of millions of dollars by the year 1976 alone——

Mr. SHOUP. It was my understanding that the justification for abandonment of these lines was that they no longer provided a viable service to the community. I didn't know justification for abandonment of the line was because you had a labor protection agreement.

Mr. TURNER. You are absolutely correct.

What I am saying, sir, is that your understanding of the reasons for proposing the abandonment is correct.

What I was explaining was that their reason for abandoning their own original proposals was that they belatedly recognized that the labor protection costs for the drastic reduction of their system to a core of 11,000 miles from the original 20,000 would entail a separation of so many employees who would be subject to labor protection payments that the cost of that labor protection which would run into three-quarters of a billion dollars by 1976 alone, would kill all of the benefits.

Mr. SHOUP. Apparently we are speaking of the third party and I hesitate to have you or myself put words in their mouths, but it is your understanding, then, that the Penn Central would lose less money by the continued operation of this 4,000 miles than by abandoning it?

Mr. TURNER. Yes.

Mr. SHOUP. This is basically what you are saying?

Mr. TURNER. Yes, sir; definitely.

Mr. SHOUP. If we may go to page 6 in your testimony, it troubles me somewhat that when we speak of attempting to solve the problem of the rail transportation industry throughout the United States, that we seem to be getting into somewhat of a squabble here within the rail industry.

You contend that you are not getting your fair share of the freight dollar.

Basically, this is what you are saying, is it not?

Mr. TURNER. That is correct, and we are talking about the existing ICC standards which say so and which the Senate investigators confirmed was so.

Mr. SHOUP. Could you tell me how this came about?

These are, of course, adopted by the ICC, with hearings.

Were their lawyers a little smarter than yours?

Mr. TURNER. The ICC procedure is what is at fault, not the standards and regulations. The procedure for rate adjustments makes it possible for the lines which happen to benefit by old rates, which are unfair because of changed operating conditions, makes it in their advantage to stall the ICC procedures for getting the adjustments through. What we are proposing, sir, is not any changes in the ICC standards or regulations as to how a rate adjustment is justified. We merely want to streamline the procedure somewhat, take the profit out of the stalling procedures which have been going on for many, many years.

Mr. SHOUP. Well, Mr. Turner, is it not true that Penn Central is one of the oldest railroads in the United States?

Mr. TURNER. Yes, sir.

Mr. SHOUP. Then, certainly, as you are saying, the older railroads—those who have the old rates—are the ones who benefit; and those who are requesting the changes, which I think you said were those who can stall in the making of the new procedures—those who stall benefit.

I am sorry, sir; I misunderstand.

At one point, you are saying that those who have existed in the old rates, if they can stall the new adoption, they benefit; but that you would benefit if it would be streamlined and then you would pick up additional money and you would have a more healthy company.

Mr. TURNER. I think this would be an excellent time for me to introduce our special counsel for these matters, Mr. Berger, who can perhaps clear up this problem and our position on it for you better than I can.

Mr. BERGER. Mr. Chairman, I am David Berger.

With your permission, I represent Penn Central Co., and I think perhaps I could throw a little illumination on the question you have asked, sir.

The problem arises from the fact that the question of the allocation of a rate that is charged by connecting railroads is extremely difficult, complex, and protracted.

Mr. SHOUP. How long has it been that way?

Mr. BERGER. For years.

Mr. SHOUP. From the start of the ICC, would you say?

Mr. BERGER. I would not say that but certainly for the better part of the last 25 years, anyhow.

The situation is this: Under the present method of proceeding before the ICC, it takes 5, 6, 7, and in some cases has taken as long as 10 or 11 years because they require not only hearings before the ICC but appeals which ultimately go to the U.S. Supreme Court. In that kind of case, regardless of what happens in the interim: (a) there is no intervening or interlocutory or interim adjustment of rates; and (b) the ultimate decision is not retroactive; and (c) there is no provision for payment of interest if it should develop in the end that the rate allocation was not equitable and not correct under the standards.

What we are saying is that this can be corrected very simply by doing three things, and they do not affect the substantive question of which railroad is entitled to how much part of the shipment from, say, Philadelphia to Los Angeles.

Mr. SHOUP. I would think that it does very much because Mr. Turner testified that there would be quite an additional amount of money to the Penn Central. So, I think it does affect it. It has to come from someplace. If you take it away from another railroad line and give it to you——

Mr. BERGER. Let me explain what I am saying.

No. 1, if we provide by law that the Interstate Commerce Commission may make an interim decision subject to final review; and No. 2, that when after exhaustion of all administrative and judicial remedies, the decision shall become final, it should be retroactive to the time when the claim was filed; No. 3, that such a final decision shall carry with it an interest provision.

If you do those things, just those three things, here is what will happen: As you put it, a squabble, or what appears to be a squabble, among connecting railroads, which is really normal demand by each for a bigger portion of the total rate.

That would then be determined quickly, for two reasons:

First, the Interstate Commerce Commission could make an interim adjustment immediately based on a prima facie showing.

Second, there would be no economic motivation for delaying the procedures by which the ultimate decision could be made.

So that instead of, let's say, according to the existing rate structure, railroad A gets such a percentage of that particular rate, and the Penn Central says, now wait a minute, the way that structure has been set up, we are not getting our proper share for various reasons, then, since, in the end, the record is going to prevail because you can't do anything but go by the board, in the end that decision is going to carry with it retroactivity and interest.

So, therefore, the railroad which in the beginning, the non-Penn Central Railroad which does not have the benefit of the inequitable rate allocation might just as well face up to it and have a decision as promptly as possible.

Mr. SHOUP. I think you are speaking of something we have all noted, and I think there is a necessity for, which is streamlining of the ICC procedure. They, themselves, have said that. There is only one freight dollar. If you get an additional $50 million out of freight dollar that means that the other lines are going to be short $50 million and we haven't solved the problem.

Mr. BERGER. They aren't going to be short that $50 million. They are just not going to get the $50 million they should not have gotten in the beginning.

I am sorry to say in this respect Penn Central was outnegotiated and that is how it all happened.

Mr. SHOUP. But we are all talking parochial. By doing this, we might make Penn Central healthy but by doing so we might cause another company to go bankrupt.

Mr. BERGER. I don't believe you will find another railroad is going to go bankrupt.

I think, in the end, that this particular facet of the Penn Central Co. program which primarily Mr. Turner is responsible for, will bring equity into a situation that when it does that, then all of the railroads will be able to live with that.

Also, you will prevent an imbalance the other way up around by which Penn Central might get its unfair share of a rate.

Mr. SHOUP. I am afraid by merely doing this, rather than a few women and children into the lifeboats to be saved, we are all going to go down because all of the lifeboats will have holes in the bottoms of them.

Mr. BERGER. I don't think it is anything like that.

I think, as a matter of fact, Mr. Congressman, you would find that making this procedure work would be in conformity with the will of Congress and would be in the best public interest.

Mr. SHOUP. Thank you.

You tempt me somewhat, as you speak of inequities, to give you a little dissertation.

I come from the West, Mr. Berger and Mr. Turner, and I have western railroads, and I suppose you know what I am going to refer to now and this is the problem of car ownership.

Mr. Turner spoke that he felt he could make more money if they could construct more cars, better utilization, which I agree on.

I think if we are going to get more equity in the rail transportation industry, maybe the eastern railroads should start providing their own equipment rather than depending on the western railroads that are making money. They are not only making money under their own operation, they are furnishing you people with practically rent-free equipment. They are subsidizing your operation and still they are making money. Something does not add up.

Mr. BERGER. This is one other aspect of the problem and no one contends that the western railroads should subsidize the eastern railroads.

The whole thrust of this program is to accomplish true equity, first, vis-a-vis nonrailroad transportation.

Mr. SHOUP. Would you agree, then, that if we are going to get equity in here, we should have equity clear across the board and that the present structure for per diem on cars is not equitable?

Mr. BERGER. That would depend. I would not be able to make a broad, generalization of that kind but I would make this generalization that nothing in Mr. Turner's program is intended to suggest that Penn Central Co., is in favor of any inequity period. But what we are saying is that if these four proposals were to be adopted, that they would be beneficial for all of the railroads throughout the United States, including Penn Central.

Mr. SHOUP. Mr. Turner, one last question.

If the proposal that was put before you, it is not mine, it is one I heard in the nationalization of all rights-of-way were accomplished, would this change your feeling on any of your other proposals.

Mr. TURNER. It would certainly solve the problem, it seems to me, with respect to taxation of rights-of-way, with respect to the subsidy or partial subsidy of cost of maintenance and improvement of rights-of-way, and this latter issue is of enormous economic importance to the railroads.

Mr. SHOUP. Thank you.

One final clarification Mr. Turner, and none of the preceding colleagues of mine have made this point.

You are pleading the case for your stockholders. You are representing them. However, our job here today and in this is to provide a service for the people of these United States, not to take an individual company, individual stockholders, and save them any money or protect them. I believe their investments were made with their eyes open. It is unfortunate if you don't get a good return on your investment.

However, I do not think it is our primary responsibility, here today to protect an individual stockholder from losing money.

Mr. TURNER. Yes, of course, Congressman.

Mr. BERGER. Mr. Congressman, may I add this?

I am sorry that I was late, but I did come by Penn Central but it was not late, The train was not late, It was my fault. I do want to say this seriously.

This is Mr. Sharfsin, former chairman of the Public Utilities Commission of Pennsylvania for 10 years, and former city solicitor of Philadelphia, and Mr. Sharfsin, Mr. Turner, and others on the board of directors of the Penn Central Co., have spent hundreds and hundreds of hours trying to work out some kind of solution to this problem but never along the lines that you have just suggested. They agree with you 100 percent, and so do I.

The issue before Congress is not how to bail out Penn Central or its stockholders, but how can something be done which will protect and correct the situation throughout the United States and be in the best public interest?

It is our sincere belief that an adoption of a program which would incorporate these proposals would be in the public interest, would be good for all railroads and, in that sense, would be good for Penn Central.

Mr. JARMAN. Gentlemen, we very much appreciate your being with us.

We will be studying your full statement with great care in the consideration of these bills.

Mr. TURNER. Thank you for your courtesy, Mr. Chairman.

Mr. BERGER. Thank you, Mr. Chairman and distinguished members of the committee.

Mr. JARMAN. Our next witness this morning is Mr. Anthony Haswell, chairman, National Association of Railroad Passengers, with offices here in Washington. Mr. Haswell has been before the subcommittee at other times on railroad problems, and we are pleased to have you back with us.

STATEMENT OF ANTHONY HASWELL, CHAIRMAN, NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

Mr. HASWELL. Thank you very much.

NARP is an Illinois nonprofit corporation which operates as a membership consumer organization on behalf of present and would-be rail-passengers. NARP has enrolled over 5,500 members in all parts of the country. NARP's specific objective is to obtain modern train service wherever it is needed and useful, whether for commuters, for intercity travelers in "corridors," or for cross-country vacationers. Activities in furtherance of this goal include working for the passage of constructive legislation; participating in selected cases before regulatory authorities and the courts; and conducting a continuing educational campaign to acquaint the public with the advantages and benefits of good passenger service, and the underlying economic and political issues involved.

INTEREST OF NARP IN PENDING LEGISLATION

The interest of our association in the legislation before the committee relates to the urgent necessity of rehabilitating railroad track and roadbed, not only in the northeast but in other parts of the country as well.

If rail passenger service is to be operated at speed, comfort and dependability levels which will attract patronage in competition with other modes, well-maintained track and roadbeds is absolutely essential. At the present time, as a consequence of track and roadbed deterioration, ride quality of passenger trains on a number of Amtrak routes has declined to a point where almost the only people will ride trains are pass holders, railroad enthusiasts, and those with an absolute mental or physical aversion toward air travel.

Outside the Boston-New York-Washington corridor, the Penn Central allows a miximum top speed of 70 miles per hour. On the important line between Chicago and Detroit, the top speed allowed is 60. On the lines between Chicago, Indianapolis, Cincinnati and Louisville, there are many stretches with slow orders limiting train speeds to 30 miles an hour or less. Between Springfield and White River Junction on the Boston and Maine, the maximum speed is 40. We are told that over 80 percent of Rock Island track is now governed by slow orders. Poor Rock Island track discouraged Amtrak from using its lines, even though they were otherwise advantageous.

The Illinois Central Gulf main line is now limited to 70, with numerous slow orders. The Milwaukee Road is likewise limited to 70 and even at that pace is very rough riding. In past years, the Illinois Central and Milwaukee lines were maintained for speeds up to 100 and accommodated the fastest passenger trains in the Nation. Substandard track on the Missouri-Kansas-Texas is an inhibiting factor in establishment of rational Amtrak service in Texas. Segments of the Louisville and Nashville and Burlington Northern over which Amtrak operates are maintained in borderline condition in relation to traffic density and train speeds.

An obvious consequence is that passenger train schedules over these routes are slightly slower than in years past; in some cases, far slower:

	1953	1973
New York to Chicago (PC)	16:00	16:50
Washington to Chicago (PC)	15:25	16:59
New York to St. Louis (PC)	19:50	21:10
New York to Buffalo (PC)	7:45	8:20
Detroit to Chicago (PC)	5:00	5:45
Chicago to Cincinnati (PC)	5:30	7:45
Chicago to Louisville (PC)	6:50	8:36
Chicago to Miami (PC–L & N-SCL)	30:45	37:50
Chicago to Milwaukee (MLW)	1:15	1:30
Chicago to Minneapolis (MILW)	6:45	7:50
Chicago to New Orleans (IC)	16:30	17:20
Chicago to Denver (BN)	16:00	17:15

Even with padded schedules, 1972 on-time performance on some routes was very poor. For example, New York-Chicago, 49 percent on time. New York-St. Louis, 15 percent. Chicago-Miami, 57 percent. Chicago-New Orleans, 21 percent. Chicago-Denver, 63 percent.

The Department of Transportation has indicated that the most important cause of late trains is slow orders imposed on account of poor track conditions. I travel almost every week between Washington and my home in Chicago. About half of my trips are on the Broadway Limited. A month ago this train derailed in eastern Ohio, resulting in one death and a number of injuries. According to press reports, the wreck was caused by a kink in the tracks, which in turn was caused by a freight train "break-in-two" about an hour earlier. While the underlying cause of this "break-in-two" has not been pinpointed, it quite possibly was rough track conditions. When I was again on the Broadway 2 weeks after this wreck, I experienced one of the roughest rides I have ever had. The train currently is running about an hour or more late every day, undoubtedly on account of track-related "slow orders." Under present conditions, I cannot urge my friends and neighbors to ride this train, and I will have difficulty asking the Congress to continue subsidizing its operating losses in the absence of a firm commitment to fix up the track.

Track and roadbed improvement is imperative if most Amtrak service in the northeast, outside of the New York-Boston-Washington corridor, is not to be discontinued. Except for high-density corridors, however, track rehabilitation and upgrading cannot usually be justified economically on the basis of passenger service benefits. Accordingly, justification must be found in terms of freight service benefits. If such benefits can be established on any given route, good passenger service can be operated as a byproduct of a plant maintained for good freight service.

Past and present practices on well-managed, adequately financed railroads in all parts of the country indicate there are definite operating and financial benefits from expeditious movement of freight trains, that is, at speeds of 50 miles an hour or more. Prior to the Penn Central merger, the New York Central allowed 60 miles an hour for freights on its important main lines. For many years, 60 was standard top speed for fast freight on Nickel Plate Road, which is now part of Norfolk and Western. Southern Pacific, Cottonbelt, and Santa Fe are now running freights at 70. The Santa Fe is reported to be running piggyback trains at 80. The Union Pacific is planning its track maintenance to allow for 85 mile-an-hour freight trains. So, it appears that maintenance of main lines for 60 miles an hour freight trains is the standard that any progressive railroad should adhere to.

It is sometimes argued that over-the-road speed for freight trains is unimportant because so much time is lost in the yards and terminals, and so forth. The answer is that both areas are important and both should be improved. Slow over-the-road operation leads to increased cost on account of overtime payments to train crews and top-of-the-mileage rate. The recent revision in the hours of service law reducing permissible continuous time on duty to 12 hours provides additional incentive for expeditious over-the-road movement of freight trains.

Over-the-road speed is of crucial importance to piggyback and container traffic, which spends a far small proportion of total transit time in yards and terminals than does carload freight. Generally speaking, the objective of piggyback and container service is to match the door-to-door time of truck service.

The importance of adequate track and roadbed maintenance for good freight service as well as good passenger service was stressed by DOT in its Amtrak report:

Railroad operational problems stemming from poor track maintenance are not confined to either passenger or to freight services. Almost a third of Amtrak's delays are attributable to "slow orders"—areas in which temporary speed restrictions have been placed due to track conditions. But inadequate track maintenance has an even greater impact on freight operations; slow speeds and delays cause increased costs due to poor utilization of crews and equipment. Quality of service is adversely affected. Freight is the railroad industry's primary source of revenue. to move it efficiently requires a well-maintained plant. Therefore, adequate track and roadbed maintenance is essential.

We believe that any solution to the Northeast railroad crisis should incorporate track and roadbed standards for main lines sufficient for smooth, dependable operation of freight trains at 60 miles an hour and should provide for financial assistance for those roads unable to meet the standards from their own resources. If this is done, passenger trains could be operated at speeds of 80 miles an hour. Federal Railroad Administration track standards allow passenger train operation at speeds up to 80 on any track maintained for freight train speed of 41 miles an hour or over.

If research and development progress results in locomotives with a "feather touch" on the track, these speeds could be increased to 90 or 100.

I will briefly discuss the bills that are presently before the committee in relation to our interest.

EVALUATION OF PENDING LEGISLATION

H.R. 6591, introduced at the request of the Interstate Commerce Commission, appears to us to meet the basic needs of both freight and passengers for adequate track and roadbed. The bill provides both for mandatory track maintenance standards and for Federal funding to assist the railroads in meeting those standards. However, we urge that title III of the bill be amended to make the Federal Aid Railroad System national in scope rather than limited to the Northeast.

We note with approval that section 306 requires that in formulating track standards, "the Commission shall be guided by preferred or recommended practices from an engineering and economic standpoint as distinct from minimum requirements for safety." This seems eminently reasonable. The smoother any given line of track is maintained, the less wear and tear there will be on equipment and the less chance there will be for loss and damage to freight. Also, good day-to-day practices eliminate the need for major rehabilitation expenditures at a later date if serious slowdowns and/or risk of derailment are to be avoided. As was stated in the March 1968 issue of Modern Railroads, by Professor W. W. Hay of the University of Illinois, a nationally recognized expert on railway civil engineering:

Track deterioration feeds on the dynamic effects of even slight irregularities. Therefore, the highest standards of surface, line and guage must be maintained.

Two recent reports tend to confirm this thesis. An NARP member who rode a Union Pacific train was told by a crew member that whenever the crew reported a low spot in the tracks, it was invariably corrected by the next time they took a train out. By contrast, a recent newspaper story reports that the former Northern Pacific main line has many places where track conditions limit speeds to 30 miles an hour on account of low spots caused by coal trains which are not promptly attended to. In 1971, Union Pacific had nine derailments due to defects in or improper maintenance of track or roadbed, which was 0.3 such derailments per million locomotive and train miles. By contrast, for Burlington Northern, the respective figures were 145 derailments and 2.3 such derailments per million locomotive and train miles.

The proposal in this bill for a transportation tax of 1 percent on all for-hire surface transportation of property strikes us as a creative alternative to a general fund appropriation, especially in view of the widely publicized pressures on the Federal budget. We hope that some method can be found to collect an equivalent amount on private carriage operations. We note that from World War II to 1964, shippers paid a 3 percent tax on all freight bills and, notwithstanding this impost, they prospered greatly.

Next, H.R. 5897 and H.R. 5822, the Essential Rail Services Act.

We believe these bills, like 6591, would satisfy our interest in rehabilitation of track and roadway. They provide for mandatory standards of maintenance and for funding to assist with rehabilitation. We are particularly attracted to the concept of acquisition and maintenance of track roadbed and signals by a nonprofit, quasi-governmental agency.

Public maintenance and control of these facilities would assure that necessary track maintenance would not be deferred in favor of dividends or nontransportation investments, and freight trains would not be given arbitrary preference over passenger trains.

We urge that these bills be amended to make the proposed Northeast Rail Line Corporation a National Rail Line Corporation, open to any railroad in the country.

Looking beyond our specific interest in track and roadway rehabilitation, we believe that the concept of public acquisition and maintenance of railroads is the ideal method of revitalizing rail service, both in the Northeast and other parts of the country.

The railroads would be converted from a capital-heavy to a capital-light industry whose major investment would be in rolling stock rather than fixed plant. Management could concentrate on marketing, operations, and equipment. Funds for capital improvements would be more readily available.

Railroads would be placed on the same institutional basis as airlines, highway carriers, and water carriers, all of which operate on publicly maintained facilities. Present inequities in public aid and taxation which arise from the fact that rail lines are privately owned would be eliminated.

Government involvement and Government money would be concentrated where it is most needed and where private enterprise has failed, that is, maintenance and modernization of fixed plant.

Public participation called for by these bills would return benefits not only to railroad companies but to the public generally, such as improved freight and passenger service and improved safety of operation.

The provision for a uniform user charge based on gross ton-miles would encourage existing profitable railroads to take over the great bulk of routes of bankrupt railroads because such routes could be operated profitably. Thus, many branch lines, unprofitable but nevertheless essential to shippers and communities, could be preserved.

Next, the Surface Transportation Act, H.R. 5385 and H.R. 6880.

These bills provide for $2 billion in Federal loan guarantees for railroad companies to assist in rehabilitating and modernizing facilities. Unlike the other bills, it is not limited to the Northeast.

While we favor national coverage for any of this kind of legislation, H.R. 5385 is deficient compared to the other bills in that it does not contain track maintenance standards.

We believe that in return for this substantial Federal assistance, the railroads should be obligated to maintain their track and roadbed to high standards. Accordingly, we believe that the following paragraph should be added to section 607(b)(5):

> As a condition to authorization of a loan guarantee for the benefit of a common carrier by railroad, the Secretary shall require that all track included under subparagraph (a) above be maintained for dependable operation of freight trains at speeds up to sixty miles an hour and passenger trains at speeds up to eighty miles an hour. In formulating maintenance standards to implement the above requirement, the Secretary shall be guided by preferred or recommended practices from are engineering and economic standpoint as distinct from minimum requirements for safety.

We note that section 606 of the bill provides that in order to authorize a loan guarantee, the Secretary must determine that the public interest should be served. However, we do not find anywhere in the bill a grant of power to the Secretary to see that the public interest is, in fact, served. Accordingly, we suggest addition of the following subsection to section 607:

> (e) The Secretary shall, in any loan guarantee authorized under this Part, include such terms and conditions as he determines are necessary to protect the public interest in adequate transportation service by the carrier benefitting from the loan guarantee.

Finally, H.R. 7373 and Joint Resolution 50.

These bills provide, in essence, for Government acquisition and operation of bankrupt northeast railroads. While our preferred solution is that embodied in H.R. 4897 and 5822—acquisition of track and roadbed—total nationalization of railroads would be an improvement over what we have today. We trust that the public agency running the railroads would properly maintain tracks and roadbeds. Nationalized railroads in Canada, Europe, and Japan are noted for high standards of maintenance.

If the Congress chooses nationalization as a railroad solution, it should not stop with the bankrupts but should take over all railroads. The public should not be stuck with the dogs while private interests continue to fatten up on the profitable lines. Some wealthy railroads have shown great contempt for public interest in their pursuit of maximum profits. Furthermore, the most important benefits of nationalization would be the cost savings and improved service which would accrue from unification of operations and facilities. If these benefits are to be fully realized, nationalization should embrace all railroads.

In conclusion, we see no escape from the necessity of substantial Federal funding if there is to be a solution to the railroad problem which is most acute in the northeast but which also afflicts the Midwest. The crucial issue is whether the Federal assistance will benefit primarily the railroads and creditors of bankrupt estates or primarily the public.

Accordingly, we believe that an essential element of any railroad aid program is mandatory high standards for track and maintenance.

Thank you.

Mr. JARMAN. Mr. Haswell, when you indicate your position in favor of the concept of public acquisition and maintenance of railroads as the ideal method of revitalizing rail service in the country, are you speaking for the 5,500 members of your organization?

Mr. HASWELL. This question has been discussed in meetings of our members for 2 or 3 years.

Our affiliate rail foundation put out an outline on this subject in 1971 which was mailed to every one of our members. About a year and a half ago, I believe, we conducted a little poll on the subject of nationalization in our monthly newsletter. The preponderance of respondents opposed nationalization as a general principle but would accept it if it seemed to be the only way to bring about modern passenger service. The interesting thing is that we got a lot of spontaneous letters and comments and that this idea of public acquisition and maintenance of the track and roadbed with private train operation seemed to be the best solution of all.

So, the matter has been very thoroughly aired over the last 3 years among our membership. We have not taken an absolute poll of every member on the precise issue. I am very confident that it would be supported overwhelmingly.

Mr. JARMAN. Let me ask: In the statement that you have made, are you speaking of nationalization of all service, both passenger and freight?

Mr. HASWELL. Well, in the first place, we very strongly believe that nationalization is an improper term if all we are talking about is acquisition of the tracks and roadbeds, I am sure airlines and truckers and barge lines don't consider themselves as nationalized industries.

All we are suggesting here is placing things on the same institutional basis for all modes of transportation.

As far as nationalization is concerned, I perhaps have not read the last two bills as carefully as I should have, but it is my understanding that H.R. 7373 and Joint Resolution 50 call for Government ownership and operation of all railroad service, freight and passenger.

I am saying only that we reluctantly believe that that would be an improvement over what we have today, but certainly it would also create a great many problems.

I don't believe we have to go that route and I hope that it can be avoided.

Perhaps a simplified explanation of what bothers me is that I am a customer of the Post Office too often to be enthusiastic about nationalization of the railroads.

Mr. JARMAN. I can certainly understand that rationalization and comparison.

In terms of the concept of public acquisition and maintenance of the railroads, would you have any cost predictions or figures or estimates that you could give the committee?

Mr. HASWELL. I think we have to discuss cost in two or three parts, the cost of acquisition and the continuing cost to the Government.

Taking the cost of acquisition, I believe that if the properties were acquired by the Government on terms under which the railroads henceforth would be relieved of property taxes—incidentally, I would like to make clear it has always been my belief that if that were done, the Federal Government should in effect step into the shoes of the private railroads as taxpayers to insure this flow of revenue into local and State districts. That is very important.

You would have schools closing all over the country if you did not keep that money coming in.

But what I want to say is: If, as a result of a transfer of ownership, the income of the railroad company would go up, it would seem to me that the cost of acquisition would be virtually nominal because acquisition would make railroads more profitable, not less.

As for continuing cost, I repeat that the Federal Government should take over tax payments to State and local tax districts on these properties. That would come to something like $200 million a year. That is a lot of money, but as long as railroads have to pay these taxes, while the other carriers pay no equivalent tax on the highway and airport property that they use, there will be a serious distortion in the allocation of transportation resources.

Beyond taxes is the question of rehabilitation.

My personal opinion is that the Penn Central trustees are probably right when they say they need about $500 million to rehabilitate the physical facilities of that railroad. That is an awful lot of money, but unfortunately, I suppose all of us were simply not alert beginning 10 or 15 years ago as to what was happening with the railroads, and now the due bill is being presented.

Finally, there is a question as to whether or not there should be an on-going and continuing Federal public subsidy for maintenance, over and above receipts from user charges.

In the bills before the committee, there is a specific provision for a user charge. However, in the case of Penn Central and other northeastern railroads, the user charge would fall considerably short of covering their present outlays for track maintenance.

The 60 cents per 1,000 gross ton-miles is based on a rather hurried evaluation of what the more fortunate railroads like the Union Pacific and Norfolk & Western are paying.

If it can be shown that an essential public service like a branch line cannot be operated without subsidy, it might be appropriate to provide this subsidy through continuing aid for maintenance.

The waterways, of course, are maintained from general tax funds entirely free from any user charge.

Available figures indicate that well over $100 billion has been spent by State and local governments since World War I on streets and highways which was not recovered from user charges.

This will be a question for debate among the Congress, the public, and everybody concerned.

There is nothing magic about 60 cents per 1,000 gross ton miles. Perhaps it should be 80 or 90.

So, that at least gives you some idea as to how I view the cost question.

Mr. JARMAN. Many of us here are concerned about what may be involved in the future if we go in the direction of nationalizing our railroad operations.

I note on page 10 of your statement you refer to nationalized railroads in Canada, Europe, and Japan are noted for high standards of maintenance and certainly the record reflects that, but the record also reflects that the rail system losses are prevalent in all areas where the railroads are nationalized.

In 1971, Great Britain, $189 million; in France, 128 million; in Germany, $725 million; Italy, $669 million; Japan, $884 million.

I know that you commented a moment ago that you would expect that public acquisition and maintenance would make for an upgrading and make service more attractive and revenues would increase, with your own prediction that the cost factor might level off. But the track record in other parts of the world is not very good recommendation for going the public route as some of us see it.

Mr. HASWELL. If I may comment on that briefly, it is certainly true that the nationalized railroads in other major countries of the world are losing a good deal of money.

The question deserves more study than I have been able to give it, but there is considerable evidence that these losses come about, not because the operations of these railroads are being conducted inefficiently, but because political decisions have been made in those countries to deliberately charge major classes of users less than the cost of the service that is being provided to them. The consequence is not that the over-all cost of railroad service is excessive, but that it is being paid for out of different sets of pockets; in other words, partly by users and rate payers and partly by taxpayers.

That again is a question for debate and discussion in the political arena.

Mr. JARMAN. Thank you.

Mr. Shoup.

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Haswell, the Chairman asked you a question earlier and I did not understand your answer.

At the present time, the rights-of-way are owned by the corporations, that the freight operations are conducted by the rail industry, and then in the passenger operation there is both Federal and private.

You are recommending that the rights-of-way and their maintenance be taken over by the Federal Government?

Mr. HASWELL. That is correct.

Mr. SHOUP. How about the operation of the passenger rail service?

Mr. HASWELL. I am not recommending any change in that at the present time.

I think there is considerable debate as to exactly what we do have today. It depends on how you view Amtrak. Despite the language in the statute about Amtrak, being a for-profit corporation, it has no stock out——

Mr. SHOUP. Let's assume that the Amtrak operation is a Federal operation as contrasted to the commuter operation as conducted by private industry: Are you recommending that both of these operations then be conducted by private industry or as they are the present time or all by the Federal Government?

Mr. HASWELL. I would leave those operations as they are at the present time.

Mr. SHOUP. In going to the freight operation, then, who would operate that?

Mr. HASWELL. Private companies.

Mr. SHOUP. In your statement, you contend, and I somewhat agree with you, that by upgrading the roadbeds, better maintenance of roadbeds, more investment in the yard operation, handling of cars, and all of that, then possibly the companies could be viable.

Am I correct, then, in assuming that it is your position that had money been reinvested or left in the transportation industry for the maintenance of roadbeds and for upgrading the lines and for terminals and for all of the other things, the industry would be healthy at this time?

Mr. HASWELL. There is no question in my mind that if since 1963, all of the money Penn Central had paid out either for diversification or for dividends had been put back into the railroad plant, they undoubtedly would have avoided the bankruptcy, and their railroad operations would probably be profitable.

But the problem we face is that there is always some financial expert around who argues, don't put your money into the railroad track, put it over here in a clothing company because you are going to make more money on that investment and you will get it back faster. There is now no bar to making that type of private financial decision.

Mr. SHOUP. You think there should be, Mr. Haswell?

Mr. HASWELL. I think we can take care of the problem indirectly. I think if there are mandatory standards of track maintenance, this kind of diversion would be discouraged.

Mr. SHOUP. Well, Mr. Haswell, you confuse me. I think you said the Federal Government was going to take over the ownership and maintenance.

Mr. HASWELL. That would solve the problem.

Mr. SHOUP. Then it would not solve the problem, however, of use of transportation moneys in a diversified project?

Mr. HASWELL. Well, if the private companies did not have the responsibility for maintaining the fixed plant—if all they had to do was pay per 1,000 gross ton-miles everytime they turned a wheel—maybe there would not be adverse social consequences by allowing them to take surplus funds and build conglomerates.

Mr. SHOUP. If I may present a proposal to you that has been made. If we take the public utility approach. If you are going to be a transportation industry, you shall engage transportation, period. You would be prohibited from entering into any other enterprise.

Do you have a feeling on that?

Mr. HASWELL. Yes, I do, because it goes, I think, beyond the question of financial resources and maintenance. It goes to the attention of management and the pressures that are put on management.

I have a feeling that in every board of directors meeting of these railroads—we heard 2 days ago that Chesapeake & Ohio has formed a holding company to diversify—that whenever directors meet, they are bombarded with proposals to take cash out of the railroad till and put it somewhere else.

That is not the kind of environment that will encourage the best performance of railroads as a vital method of transportation.

I think management should concentrate its efforts on running better and more efficient railroads rather than have its time and efforts diverted to analyzing or searching out all kinds of other investments, and to operating such investments once they have been acquired.

I really believe it would be sound public policy to keep public service businesses such as railroads concentrated on their first mission.

Mr. SHOUP. Thank you, Mr. Haswell.

I have nothing further, Mr. Chairman.

Mr. JARMAN. Mr. Haswell, we appreciate your contribution to our hearing record, and it is good to have a chance to compare notes with you again on these big problems.

This concludes the hearing today, and the subcommittee will stand adjourned until next Tuesday, June 5. On that date, the subcommittee will be considering another subject, and we will be back on these hearings on Wednesday and Thursday, June 6 and 7, of next week.

The subcommittee stands adjourned.

[Whereupon, at 11:55 a.m., the subcommittee adjourned, to reconvene at 10 a.m., June 6, 1973.]

NORTHEAST RAIL TRANSPORTATION

WEDNESDAY, JUNE 6, 1973

House of Representatives,
Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. John D. Dingell presiding [Hon. John Jarman, chairman].

Mr. Dingell. The subcommittee will come to order. This is a continuation of the hearings in the Subcommittee on Transportation and Aeronautics on a series of bills relating to the creation of not-for-profit corporations to acquire and maintain railroads in the northeast region of the United States, and legislation to provide financial assistance to the acquisition, rehabilitation, and maintenance of such railroads.

The legislation considered has already been listed by the subcommittee chairman, and for that reason no further listing of it is necessary at this time.

Our first witness this morning is Mr. Harold Crotty, appearing on behalf of the Brotherhood of Maintenance of Way Employes, Washing, D.C.

Mr. Crotty, you are an old friend of the present occupant of the chair, and it is a pleasure to have you with us this morning.

If you will identify yourself fully for purposes of the record, together with your associates at the table, we will be pleased to receive your statement.

STATEMENT OF HAROLD CROTTY, PRESIDENT, BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES; ACCOMPANIED BY J. RAYMOND McGLAUGHLIN, NATIONAL LEGISLATIVE REPRESENTATIVE; AND LESTER P. SCHOENE, GENERAL COUNSEL

Mr. Crotty. Thank you, Chairman Dingell.

I am accompanied this morning by our general counsel, Lester P. Schoene; and our national legislative representative, J. Raymond McGlaughlin, on my right.

We do appreciate the opportunity to appear before your committee this morning.

As you stated, I am the president of the Brotherhood of Maintenance of Way Employes, a position that I have held for the last 15 years. My office is at 12050 Woodward Avenue, Detroit, Mich.

I am here to testify in general support of H.R. 6591, although, as you shall see from my testimony, I believe substantial clarifications and amendments are necessary.

No one can doubt that the problems confronting Congress with respect to railroad transportation in the northeastern region of this country are very complex and difficult. I do not come here purporting to have all the answers to the problems. I come, however, in a very sincere effort to bring to you the results of my thinking on the subject.

I began working on the railroad in the maintenance-of-way department some 43 years ago, and I have been concerned about the welfare of maintenance-of-way employees ever since.

The employees my brotherhood represents do a great deal more than the name of our organization implies. We not only maintain the track on which the trains run, we build and rebuild tracks whenever necessary; we build and rebuild bridges, buildings, towers, and whatever other structures may be necessary on the railroad right-of-way. We do carpentry, masonry, structural steelwork, plumbing and pipefitting. welding, et cetera, and operate the heavy and complex machines through which a great deal of our work has been mechanized. We represent some 35,000 employees on the railroads in the "Northeast region," as defined in H.R. 6591. I am most intensely concerned with the welfare of these employees, but I am even more concerned with the welfare of the northeastern region and of the United States as a whole as it may be affected by the availability or nonavailability of useful railroad transportation.

When Congress enacted Senate Joint Resolution 59 earlier this year, and in that resolution directed the Secretary of Transportation within 45 days to prepare and submit a report providing: "a full and comprehensive plan for the preservation of essential rail transportation services in the Northeast section of the Nation, including the President's proposals, if any, regarding Federal financial expenditures necessary for restoration or preservation of rail transportation services imperiled by the financial failure of rail carriers, and for alternative means for providing essential transportation services now provided by such carriers."

I was most hopeful that all the resources of the Transportation Department would be marshaled to provide us the necessary materials through which a solution to this difficult and complex problem might be found.

I have been most grievously disappointed. The completely negative and defeatist approach of the Department of Transportation is, perhaps best epitomized in paragraph 4 of "key conclusions" on page 5 of its report of March 26, 1973. The Department there states: "If there were a complete and abrupt Penn Central shutdown, the Northeastern area would, in the short term, feel the impact quite significantly. However, given the ability to make adjustments, other rail carriers and trucks would, in time, willingly step in and pick up most of the slack."

The Department concludes paragraph 5 of its "key conclusions" by saying: "In a word, quite clearly there is a healthy rail system trying to crawl out of the Northeastern wreck. All of us working together can help it escape.

Gentlemen, I am not satisfied to assist in the escape of a "healthy" rail system that is trying to crawl out of the Northeastern wreck. I feel that I owe more to the economy of the Northeastern region and of the Nation as a whole, and, more specifically, to the 35,000 employees my brotherhood represents.

What the Department of Transportation report basically amounts to is a recommendation that railroad transportation in the Northeast be allowed simply to collapse, and then that the trucks and other rail carriers be permitted to pick up the pieces—to the extent that they may find it profitable to do so; to the extent that they do not find it profitable to do so, the Northeast can do without transportation. There is not the slightest suggestion that the Department of Transportation has any concern with the most efficient use of energy or with the energy crisis that we are hearing so much about these days.

Fortunately, the Interstate Commerce Commission was also moved to make a response to the congressional plea contained in Senate Joint Resolution 59. The Commission submitted its report (*Ex parte No. 293*) on March 25, 1973, attaching a proposed bill, which, with relatively slight modifications, has been introduced as H.R. 6591. I do not purport to be an expert on the technicalities of legislative draftsmanship and, therefore, I shall not deal in any detail with the language of the bill. I shall direct my comments to the ideas expressed by the Commission in its report.

On page 3 of its report, the Commission sets forth its "basic assumptions." I believe those assumptions to be essentially sound, but I would like to make a few qualifications. With respect to paragraph 2, I would caution that "needed" rail services must be preserved, regardless of whether they are "financially viable." Paragraph 5 assumes a reduction of the work force employed by the Northeastern railroads; I should doubt the validity of that assumption with respect to the employees by brotherhood represents, if we mean really to rebuild and maintain the kind of railroad system that the Northeast needs.

On page 4 of the Commission's report, the Commission sets forth six points that the Commission believes any successful program must address and deal with. Here, again, I am in general agreement with the Commission. But, again, I must express a few words of caution. Point 3 deals with the problem of low-density branch lines, which, although unprofitable, provide rail services considered "essential" by users and State and local governments. I suggest that the word "useful" would be more appropriate. I believe that useful transportation should be preserved even though it might not be "essential" to a Spartan existence.

Similarly, Point 4 deals with the problem presented by "surplus labor". As I have indicated before, at least in the department in which my Brotherhood represents the employees, there is not likely to be any surplus of labor in the near future. In fact, if we mean to rebuild a railroad system in the northeast that satisfies the potentialities of useful transportation, I am convinced that there is a shortage of employees in the maintenance of way and structures departments.

Proceeding now through subsequent pages of the report, I would like particularly to commend the Commission's observation that intermodal competition is insufficient to provide necessary service incentives and that reliance upon such competition would induce the movement of traffic by less efficient means; the Commission soundly observes that the dominance of a single rail system in the northeast would be tragic.

I most emphatically agree with the Commission's observation on page 12 that authority must rest somewhere within the Federal establishment to select the routes to the preservation of which public effort should be directed. I might have entertained doubts as to whether such authority should be reposed in the Interstate Commerce Commission or in the Department of Transportation if the Department had not given such a sorry account of itself in its report of March 26, 1973. I have no doubt at this point that the expertise the Commission has developed in dealing with railroad problems for close to 100 years has shown itself in the quality of its report and recommendations.

On page 14, the Commission recognizes that route selection is a most difficult and complex problem. I heartily agree and would not have the Commission forego any assistance it can obtain in this job. Our Brotherhood has had a great deal of experience in this industry and we would be most happy to make available to the Commission the results of that experience, and we would hope that our help would be utilized.

On page 18, the Commission addresses itself to what I believe is one of the most important considerations involved in the whole problem of rebuilding and restructuring railroad transportation in the northeast. The Commission says: "Work would be carried out by the railroad, using railroad employees, and would be subject to inspection and approval by the Commission."

I believe that it is fundamental to any program directed toward rebuilding railroad transportation in the northeast that this program be carried out by employees who are in the regular employment of the railroad. It should not be done by project contractors under contract with the Government or with the railroads. It is only by building a force of career employees who look to the railroad as their long-time employeer that we can develop a staff of personnel that will give us a lasting transportation system.

I believe that the Commission, at pages 19 and 20, has made a useful and constructive suggestion as to the funding of its suggested program through a tax on all for-hire transportation. The premise that all users of transportation in the Nation will gain from a revivification of rail transportation in the Northeast seems to be a sound one. Furthermore, the imposition of a uniform tax on all for-hire transportation would leave competition between the several modes unaffected.

I have my greatest misgivings as to the Commission's treatment of what it calls "low-density lines", beginning on page 21. My concern is threefold:

(a) I question the general validity of the assumption that low-density lines, particularly branch lines, are basically the concern of the shippers and consignees on those lines. Although it may be true that sometimes the survival of a particular business establishment at a particular location may depend on the availability of rail transportation. or that the business may become less profitable, if a different mode of transportation must be used, I believe those circumstances provide an insufficient basis for the generalized thought of the Commission.

Just as the Commission has recognized a national interest in the revival of healthy transportation in the northeastern section, it should recognize that this interest also extends to lines, including branches, which may be low in density of traffic.

The Nation as a whole has an interest in, for example, maintaining the production of a coal mine and having it served by rail, even though it may be located on a branch that hauls little other traffic. What I have said earlier in criticism of the Department of Transportation's report for its failure to give proper attention to the energy crisis and our need to maintain sources of energy and to use energy efficiently is equally applicable here. Not only coal mines, but innumerable other enterprises, may be important to our country, and be important to provide rail service to, even though located on branch lines that do not generate sufficient traffic to make transportation profitable.

(b) Perhaps, it is a corollary of what I have said in the preceding paragraph that it is fallacious to assume that local interests can, or ought to generate enough pressure on State and local governments to cause them to participate in underwriting any deficits that might be incurred in providing needed transportation. Maybe in some cases they could so do but, even then, a substantial doubt would remain as to whether they should do so.

(c) Generally, the systems of taxation in effect for the support of State and local governments are fairly primitive and not well-calculated to extract sustenance from sources most able to pay and which ought to pay. This is what the interest in "revenue-sharing" is all about.

I am most disappointed to find that the Commission, after suggesting sound and ingenious funding in aid of the main system, should suggest different funding for assistance to low-density lines.

I also have some concern with the Commission's suggestion on page 35 that any railroad's participation in the financial-aid program should be purely voluntary. The Commission goes on to say that, through its proposed authority to enter upon a restructuring investigation and through the orders it might issue pursuant thereto, it could assure adequate rail service, regardless of the election of any railroad to participate under a lease and operation agreement. I am somewhat skeptical as to the adequacy of this authority and would suggest that the committee examine this subject thoroughly and satisfy itself that the Commission would have ample power to provide useful and efficient transportation, regardless of the wishes of the owners.

Finally, I come to the matter which, as a union president, I should be most vitally concerned about, that is, the Commission's discussion of railroad labor, beginning at page 36.

Beginning with the so-called Washington Job Protection Agreement in 1936, it has become more and more recognized that, when there are mergers, consolidations, abandonments, developments of mass transit, or other types of Federal assistance, or stimulation or operations such as Amtrak, the public interest requires the imposition of conditions promoting the stabilization of employment. These are commonly known as "employee protective conditions."

Although the humanitarian purpose of protecting employees from the consequences of sudden and extensive fluctuation of employment might well justify the imposition of such conditions, as their common name would suggest, I submit that such provisions have come to serve a much broader function. They are very genuinely railroad protective conditions, especially in the context of restructuring, rebuilding, and revitalizing railroad transportation in a whole region of the country as the bill now under consideration contemplates.

For the successful carrying out of a project, such as that contemplated, there is nothing more vital than the recruitment and maintenance of a force of highly skilled personnel. That kind and quality of personnel can only be built by the recruitment and retention of people whose interest is in a day's, a week's, a month's, or a year's work.

Obviously, for the recruitment of skilled career employees, the recruiter must be able to offer assurance that genuine career employment is being offered. To that end, I suggest that it is of vital importance to the project that the bill be amended to include the following conditions. I have not undertaken to suggest a precise point at which they should be fitted into the bill, since, if my other suggestions are adopted, the bill will, in any event, be substantially redrafted.

SEC. ———. Whenever any financial aid of any kind under this act has been extended to any rail carrier, the following conditions shall be observed for so long as the Commission determines that such financial aid is currently effective to enhance the property or operations of such rail carrier:

(a) There shall be no reduction in the number of employees employed by the rail carrier under collective bargaining agreements except as such number may be diminished by the death, retirement, resignation, or dismissal for cause of individual employees.

(b) There shall be no reduction in the number of positions covered by any collective bargaining agreement except to the extent that such reduction may be agreed upon between the rail carrier and the collective bargaining representative party to such agreement.

(c) The terms of all then existing collective bargaining agreements shall continue to apply until changed by negotiation between the rail carrier and the collective bargaining representative of the employees. All employees covered by such agreements shall continue to be employees of the rail carrier and all bargaining with respect to such employees shall be carried on between the rail carrier and the appropriate respective collective bargaining representative.

(d) Except to the extent specifically modified by this act, all Federal and State laws pertaining to the regulation of carriers by railroad shall continue to apply to such rail carrier and all other Federal and State laws and regulations theretofore applicable to the rail carrier shall continue to apply, including specifically those with respect to safety and with respect to the representation of its employees for purposes of collective bargaining, the handling of disputes between carriers and their employees, employee retirement, annuity, and unemployment systems and other dealings with its employees.

(e) No work on behalf of the rail carrier or enuring to the rail carrier's benefit shall be performed under contract with the rail carrier by employees not employed directly by the rail carrier except to the extent that the contracting for such work may be agreed upon between the rail carrier and the collective bargaining representative who would represent such employees if they were employed directly by the rail carrier.

That completes my statement, Mr. Chairman.

Mr. DINGELL. The committee thanks you for a most helpful statement.

The Chair makes the observation that you are certainly to be commended for your advice to this committee with regard to preservation of job security and protection of the employees' rights. Certainly, this is the matter for which labor unions were originally constituted and your concern in this matter and your helpful testimony to this committee on that particular point is most appreciated.

The Chair also makes an unhappy observation that we have had three of the very fine brotherhoods and railway labor organizations before this committee. They have each sung to us a different song. The Chair feels impelled to observe that this manifests both the complexity of the problem that besets this committee and, I must add, adds a measure of confusion to the deliberations of this body.

It is my hope that our friends among the railroad labor organizations will prudently gather together and take counsel in order that they might advise the committee of a common position as opposed to a diffused and differing position upon which we are currently inflicted.

It is my hope you might assume some leadership on this, Mr. Crotty.

Knowing of your ability and experience, it is my hope you might gather together with other representatives of railway labor and perhaps give us some joint views on these matters as opposed to the widely divergent views that we have received as of this time.

That is not a command or even a request, but I assume that in your prudence you were listening to the remarks of the Chair.

Mr. Crotty. I am inclined to agree with your remarks, Mr. Chairman.

I can only suggest that the good suggestions that have been made by me and my colleagues can be retained by the committee and put to good use, while probably the unhealthy or inoperative suggestions that we have made might better be discarded.

Mr. Dingell. I hope you recognize the vast amount of chaff this committee will have to sift through to come down with a few kernels of wheat.

I must confess that my friends in railway labor, for whom I have great respect and affection, have done very little to diminish the volume of chaff. As a matter of fact, they have supplied us with their fair share of chaff as has the rest of the industry and everyone who has been before us.

The threshing process is going to be much longer and more difficult unless we get assistance from you folks in getting together as to your respective needs.

I have observed in my years past in this committee that you have always been able to get together. It would be my hope you would be able to continue to perform that valuable service to the committee by getting together insofar as your problems are concerned.

You have made excellent suggestions with regard to job security which I think will be most helpful to the committee and we will certainly consider with great sympathy, but the widely divergent views in the house of labor is never helpful to the friends in Congress, as I am sure you recognize.

The Chair recognizes Mr. Adams.

Mr. Adams. Thank you, Mr. Chairman.

Mr. Crotty, I appreciate very much your statement.

I also echo the remarks of my good friend, Mr. Dingell. It now appears to those of us on the committee, who have been waiting for you as we have for the other members of organized labor, that the subcommittee is probably going to have to come forth with a bill that is a product of what we have received from a great deal of this testimony and to try to get a consensus from this subcommittee. I think this is possible, because, though your views are all divergent, there does seem to be emerging from this a system which some of us hope to put in bill form within the next 8 to 10 days and to circulate to the subcommittee and to all of you for your examination.

And by consensus, I mean that, one, there has to be a designating authority which I think you agree to. Second, there has to be some kind of interim measure such as ICC suggests that will stop a major discontinuance of rail service. Third, that then there must be some kind of operating entity, at least in this Member's view, which will probably require Federal assistance of some kind.

It has been mentioned on occasions that some of us in this committee are on a head-on collision course with the Department of Transportation on this matter, and that is probably true, though I am hopeful that they will see along the line that you cannot just swap paper for assets and make a new entity.

My questions to you involve this: Don't you think that we should establish one designating authority and then use the ICC as a review or regulatory body as it has always traditionally been, rather than having the ICC both designate the system and then review it? I have found that when somebody creates something, it then becomes their baby and it is very hard for them to review it later in the general context of whether or not they made a proper selection.

Mr. CROTTY. I would think, Mr. Adams, that the Congress should designate the agency that would act as the coordinator of this operation.

Mr. ADAMS. We would probably have to. We have either got to use the Department of Transportation or we have to create something.

Don't you think that is about what we come down to? That is, unless we use, as I say, the regulatory body to create and then review it?

Mr. CROTTY. I would say if the Department of Transportation had not testified as to their ideas for bringing relief to the Northeast region, I would readily agree the Department of Transportation should be the agency that would designate an agency to specialize in this function.

But, since their testimony, I am scared to death to have them be given that responsibility. I would like to see some other agency of Government, whether it is a special agency created by Congress——

Mr. ADAMS. Suppose we created in effect, and I picked this up from one of the other brotherhood's testimony, some kind of a Comsat type of corporation with a rather broadly based board, or, for example, then would be appointed directors but they would have to be appointed by the President from a list submitted from varying groups to give a spectrum of interest.

Would that be possible?

Mr. CROTTY. Yes; it would.

Mr. ADAMS. You see, what some of us are thinking about is that you should use the resources of the Department of Transportation, if they have a plan to first see what that is since they have certain computer technology and people down there that this subcommittee does not have.

But I, frankly, am frightened of their plan, too, because their tests are strictly ones of economic viability. I view public transportation just as you say in your statement as having a much broader concept than whether or not somebody can make a profit in one area.

Then perhaps we would have a board to designate specific lines and then an ICC review for a period of time to see whether or not it is in the public interest.

Mr. CROTTY. Yes. I think we are all looking forward to the operation of an interim committee to see this unhealthy industry through this period of transition.

What we are looking for, as you state, is an agency of some kind to supervise that function for the period of time that is necessary and then we hopefully can turn the whole thing back to private enterprise where it belongs.

Mr. ADAMS. That is my next question.

At least, this member is not particularly interested in turning the management of all of these lines back to the management which has so obviously, and I won't try to point fingers at them or say why, but obviously failed. If we were to suggest turning the system back to the Penn Central Railroad and each of the others after expending a considerable amount of Federal money, I think there would be some reluctance in the Congress to do that.

So, we are looking for a new structure, a more permanent agency, particularly since we have six bankrupt railroads.

We get into a problem then of which railroad gives up which redundant mainline in exchange for money and which mainline is kept and modernized.

I agree with you; I think that there will not be a surplus of labor in your particular organization because we have had testimony from one witness after another that indicates there is somewhere between 500 million and a billion dollars worth of modernization necessary.

Do you have any thoughts on what a new permanent structure might be?

Some of us have thrown out the suggestion that you might have a self-liquidating Federal corporation so that common stock would be paid into these bankruptcies, with a preferred stock purchased by the Federal Government that would liquidate itself over 3 or 5 years, while the system shifted itself down. Then out of that you would have a private company operating in place of the six bankrupts.

Would that be acceptable to your organization?

Mr. CROTTY. Yes, although it is my off-the-cuff opinion that the operation here is too big for one operating company.

Mr. ADAMS. That brings me to the next question, which is that if we do this, we probably have to have a generalized bill that treats fairly the remaining viable roads in that area; do we not?

Mr. CROTTY. Yes.

Mr. ADAMS. I am talking about the Chessy system, the Norfolk & Western, Delaware & Hudson, Maine Central, and some of the other roads in the upper part of New England, so we probably should have a bill with a general section in it that, in effect, gives the potential for relief to the viable roads while we are trying to create a more permanent structure that would come out of the bankrupt roads.

Mr. CROTTY. Yes. Of course I, for one, as a labor representative, have opposed vigorously the merger of Penn Central and New York Central.

Mr. ADAMS. I understand that.

Mr. CROTTY. I mean of the Pennsylvania and New York Central.

In my opinion, the New York Central would still be operating as a private enterprise operation if the merger had not taken place. Regardless of who the management of Pennsylvania was or is, I don't think that road could ever have been saved without going through the wringer that they are on the verge of going through now.

I can remember, as can Mr. Schoene, our general counsel, many presidential emergency board hearings in Chicago down through the years, going back 20 or 25 years ago when presidents of the Pennsylvania Railroad would be before our committee introducing vast statistics showing that they would be broke, that they would be in bankruptcy at the end of that year or the next year, that their deferred accounts, that their obligations insofar as meeting interest on securities was beyond their ability. And this thing finally caught up with them; that is all.

I knew Stewart Saunders very well, the president of the Pennsylvania Railroad. In my judgment, he was a fine, honest man. He gave up one of the best railroad jobs in this whole country as president of the Norfolk & Western to come up and try to make Penn Central a viable operation. But it had gone too far.

I think that is the function of this committee now that we are talking about establishing, to decide once again whether this Penn Central merger was a good thing.

Mr. ADAMS. I think I probably agree with you that it wasn't.

Our problem right now, and that is why I mentioned to you a new entity, is that I think we would have a great deal of difficulty going back to the six existing bankrupt roads, the major one being the Penn Central. I don't think that this is a feasible thing.

My last question.

I appreciate very much your indicating a proposed section on labor protection or existing agreements, and I gather you recommend that. What you state is that your organization would be willing to bargain with a new one as long as we put in some legislative guidelines that basically said that you would have railroad employees continuing to be employed as opposed to hiring a whole new group of people, and, second, if there was to be any attrition, and again I am not sure in your organization there would be, that it would be attrition that would take place under your proposal by death, retirement, resignation, or dismissal for cause. In other words, the traditional attrition system.

Mr. CROTTY. That is about 7 percent a year, on the average.

Mr. ADAMS. That was our understanding.

Thank you very much, Mr. Crotty.

I think it is a most helpful statement.

Thank you, Mr. Chairman.

Mr. DINGELL. Mr. Shoup.

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Crotty, if I may, a couple of clarifying questions.

It is the opinion of the subcommittee that your particular union, your brotherhood, will be the one that would be required to do most of the work in the upcoming solution of the problem because certainly we have brought out over and over again that the need is for right-of-way improvement and this is one of the glaring deficiencies that we have in the Northeast.

So, I think possibly you are in a much better position on protection of jobs than any other brotherhood.

I am wondering, though, Mr. Crotty, you refer in your statement here that you would prefer to have all the work, and I think you are specific there, all right-of-way work and improvement work be done through career employees, which, I think, is commendable, but the question that comes to my mind is that after we complete this program of upgrading of right-of-way structures, right-of-way facilities, what, then, do we do with the ballooned work force that is not required for continued maintenance of right-of-way?

I am wondering if we perhaps would not be building a monster that we would have to face in the future. What will we do with it?

And you, as representative of the brotherhood, and those members of the Maintenance of Way Union, you would fight to retain them but it would be hard to validate their retention after their initial goal has been accomplished.

Mr. Crotty. Let's go back to the end of World War II.

I testified here this morning that there were 35,000 employees of my organization on these properties. At the end of World War II, there were 90,000 on these same properties. The work force in my group and practically in all railroad groups has been decimated to the point where they are not able to maintain their right-of-way; they are not able to maintain their rolling stock, and I don't think they are able to give the public the service that is needed to do a good job.

So, I would say that, yes; forces will be built up, I agree, to do the needed maintenance work at this time and it is conceivable that when all of that is done and the road is put back with a good standard of maintenance, that there might be redundant employees, to use that term.

But with an attrition rate of 7 percent a year, I think that would take care of part of it and, quite obviously, to be honest about it, if they have to rebuild a bridge across the Ohio River, although I would like to see railroad management do it with its own employees, I am realistic enough to realize that it would not be the practical thing to do because, as you have indicated, they would be a force that was hired for a special project, a nonrecurring project, and then what do we do with them when the job is over?

Mr. Shoup. You do recognize that and I think we do also recognize that.

The other unions have recognized, as they have testified, that it will probably necessitate some reduction of job force in their own brotherhoods to end up with a viable operation.

Would you be agreeable working with other unions to the extent that if there is some type of layoff in the other brotherhoods that as we increased your workload and maintenance of right-of-way you could work out an agreement with them to absorb their force into your brotherhood?

Do you understand what I mean?

I guess what I am trying to say is that maybe all of you should be working together in the brotherhoods and helping each other.

Mr. CROTTY. I think that is a very good suggestion and I would think that in a special session of the kind we are discussing here, the Northeast problem, that agreement could be made for the transfer of employees from one union, we will say, from the coverage of one agreement to give them preference to jobs arising under another agreement if there was a need for forces in that area.

Mr. SHOUP. Fine.

Thank you.

I was sure you would say that and I am happy to hear you say it.

On page 9, you applaud the statement of the ICC on a tax on all for-hire transportation.

I will ask you the same question that I asked the chairman of the ICC: Would you then say that all taxes on all for-hire transportation, regardless of whether they inure to the benefit of all modes, should be borne by all?

Did that question confuse you?

The highway users, the users of gasoline, and those products, now pay a tax that inures to their benefit, the building of highways, highway trust funds. Railroads do not contribute. If you are going to levy a tax for the benefit of railroads on everyone including the highway users, then would you also say that the railroads should start paying a tax on their diesel and other things to go into the highway trust fund?

Mr. CROTTY. No; I don't think so.

Mr. SHOUP. Then I miss the logic of your saying that it would be good for the highway people to pay a tax to help the railroads but it would not be good for the railroads to pay a tax to help the highway users. It would seem to me that what is good for the goose is good for the gander.

Mr. CROTTY. I think that the taxing structure is unfair to the railroads at the present time. This is an attempt to give them equal treatment with other forms of transportation.

Mr. ADAMS. Would the gentleman yield?

Mr. SHOUP. I would be happy to.

Mr. ADAMS. Mr. Crotty, I forgot one question. This is what has bothered us on the ICC waybill tax.

How do you tax private carriers or irregular contract carriers with that 1-percent waybill so that all carriage is equally taxed and we don't simply force traffic off of the regulated carriers, I am talking about motor carriers and water carriers, in particular, and on to private carriage where they don't pay the 1 percent.

Mr. CROTTY. I certainly have to agree at the outset that the private carriers are a big problem in this and I don't think anybody has a good answer as to how you are going to make them pay a fair share but I think an attempt should be made to plug that loophole.

Mr. ADAMS. The only problem we have had with the 1-percent tax, is how you place it on to everybody who was competing with one another in the transportation field.

Thank you, Mr. Shoup.

Mr. SHOUP. Mr. Crotty, another question on page 9, and you discussed this at several places. You are speaking of the assumption that low-density lines would be abandoned.

What criteria would you place on the abandonment of lines, or would you say that none should be abandoned?

Mr. CROTTY. No.

Mr. SHOUP. Some place or another do you not agree there has to be some criteria for the continued maintenance and operation of all branch lines, of every rail line that we have at the present?

Mr. CROTTY. I think there should be criteria but I don't think that a precise formula can be applied identically to all types of branch or secondary lines.

Mr. SHOUP. I would agree with you but then you bring up the question of how do you write a criteria if it is not precise so as to be fair?

I think you are aware of that when you write labor contracts.

Mr. CROTTY. I think initially that if an agency or a commission or something is created to oversee this operation for a period of time, that we are going to have to trust that agency, initially at least, may be subject to review by the Interstate Commerce Commission or someone to come up with a fair procedure for determining what lines should be retained and what lines might not warrant retention.

Mr. SHOUP. But density, itself, is that not one of the basic criteria?

Mr. CROTTY. It is one of the factors to be considered.

Mr. SHOUP. You speak of it several times, the Commission does, we do here, and we speak of "needed traffic," "needed lines."

We seem to ignore the fact that there is a difference, and I think probably the biggest difference is between "needed" and "wanted."

I question whether we can supply the wanted transportation and are going to have to concern ourselves with needed transportation.

Mr. CROTTY. I would have no quarrel with "needed." I can realize that there is a vast difference between "needed" and "wanted."

Mr. ADAMS. This is our biggest hangup right now on most lines.

We have had in my State abandoned lines when people want service, but the lines aren't needed because certainly with a density of traffic like one car in 3 years, it is rather hard to justify the fact that there is a need there.

Mr. CROTTY. There is a difference, too, as I am sure you will agree, between a profitable line and a needed line.

Mr. ADAMS. Yes; I do agree.

Mr. CROTTY. I think that the branch lines have to be considered as part of the industry and maybe the high-density lines will have to make a contribution toward maintaining the low-density lines.

Mr. ADAMS. One final question, Mr. Crotty, a rather general one.

We have had testimony from two brotherhoods previously, UTU and the Clerks, and they are 180 degrees apart. They are going in different directions. UTU wishes to keep the railway management in the hands of railway people, or those with the expertise, and the Clerks would prefer to have the nationalization, the Government take it over.

Can you make a statement as clean as that as to the position of your brotherhood?

Mr. CROTTY. I am unalterably opposed to nationalization.

Mr. ADAMS. Thank you very much.

I have no further questions.

Mr. DINGELL. Mr. Podell.

Mr. PODELL. Mr. Crotty, I would like to join my colleagues in welcoming you and thanking you for your statement.

I know that earlier the Chairman referred to separating the wheat and the chaff and receiving all of these. I noticed he left our fertilizer which is a necessary ingredient. We have been getting our share of that, too.

I, too, am concerned that the brotherhoods have been unable to at least consolidate their positions on behalf of one type of legislation or one bill or one recommended approach. The fact of the matter is that it would be almost impossible for us, as you say, to extract all of the goods from all of the bills and lump them together and there you have a bill.

As a matter of fact, you indicate your support here of the ICC proposal and yet in listening to and reading your statement, I find that you disagree with it almost entirely.

Last month, we had a witness who stated he was supporting the DOT proposal. Then he went on to suggest so many changes that, in fact, he did not support the DOT proposal at all.

For example, on your first page you say you support the ICC plan and then you say you reject two of its basic assumptions, one, that only profitable lines be retained; and the other that workers should be laid off.

Then you say that you disagree with ICC treatment of branch lines and surplus labor.

And then on pages 9, 10, and 11, you go into great detail in exposing the folly of the ICC approach to low-density lines.

Then you criticize the Commission's voluntary approach to participation in the subsidy scheme and the lack of adequate employee protection.

I think that your objections, Mr. Crotty, are good ones and I subscribe to them. My only point is that you are not really supporting this plan at all, sir, but you are advocating a vastly different and better plan, much different from the existing ICC proposal.

Wouldn't you say that is true, in effect?

Mr. CROTTY. Well, everything I propose, Mr. Podell, I think that I am trying to subscribe in general to the ICC approach with what I would agree are major modifications.

I think I have approved their proposal, too.

Mr. PODELL. You say on page 5, " 'needed' rail services must be preserved, regardless of whether they are 'financially viable'."

Mr. CROTTY. Yes.

Mr. PODELL. I fully agree with that view.

You say you are opposed to nationalization, which seems to be a terrible word. The only other alternative is private industry; isn't that true? If it is not nationalization, it is private enterprise.

Can you tell me how you can get private industry to support anything that is not financially successful?

Mr. CROTTY. It is very difficult and probably an impossible undertaking to do that, but I am considering these railroads as an unhealthy person. I think the doctor has to be called in and I think the Congress is the doctor. I think we are going to have to give them medicine that is going to cost money. We are going to get them back on their feet, and then, hopefully, make it a free enterprise operation.

Mr. PODELL. They don't want the Government to come in and fix something that is bad. They want the Government to come in and buy something and pay for something that is new.

I am not so sure that I disagree with that, either.

The only point that I try and bring out is that history has taught us a very good lesson here. There is no doubt that the rail transportation in the northeastern region is a necessity. We must protect the rights of the commuters, the consumers, the rights of people, and at the same time we must protect the rights of labor.

There has not been one single word of testimony at these hearings, and I have been sitting on I don't know how many now, that have ever shown us that private industry can possibly succeed. We have had testimony that in the event the Government were to take over the rights of way and infuse large sums of money into the system, I think it was the Penn Central people who spoke about it, even then they weren't sure that it could succeed.

We would have to go out and sell a large amount of stock to the public. I have bought stocks in so many lousy companies now, I am not going to buy any more, I will tell you that, and the last place I would invest 5 cents would be in a private-owned railroad because it just cannot make it. There is no way they are ever going to make it.

The airlines have no cost of rights of way. They get a free sky to fly in. The Government has to subsidize them. There is no reason why the railroad is. So, I think what we are going to succeed in doing, Mr. Crotty, is just delay, infuse large sums of money into the rail system, make all kinds of changes of tweedledee and tweedledum; we are going to wind up closing down because eventually the administration is going to succeed with this DOT plan of closing down a lot of lines that they feel are redundant and not necessary; we are going to lose a lot of jobs for our people, and still wind up in the same boat that we are in today and then eventually we are going to have to use that terrible word "nationalization."

I would like to ask you this—and I guess I am supposed to be questioning, not speaking.

Just why do you oppose this concept of nationalization of the Northeast area? What is your objection to it?

Mr. Crotty. No. 1, I believe, even though the Congress finds it is necessary to lend financial assistance to these bankrupt railroads at this time to try to get them back in a healthy position, I think that the cost will be a lot less than it would be if we followed the nationalization pattern of relief.

I think that history has taught us and all of these countries in the world where the railroads are nationalized that it is a much more costly operation insofar as federal governments are concerned than it would be if transfusions were given where needed, when needed, to a private enterprise operation.

Second, I think that the jobs of the railroad employees will be better positions as employees of a private enterprise operator rather than jobs where they are working for the Federal Government. I think our Federal Government is expanding into many fields where it would be preferable if they weren't in them and this is one of the areas where I hope that we can keep our railroad industry as a private enterprise operation because it is better for the taxpayer and it is better for the employees.

Mr. Podell. Then your two objections, primarily, if I have not concluded them wrong, are that you say it is far more costly to nationalize than to diffuse sums of money into private industry when and if needed; is that true?

Mr. CROTTY. Yes.

Mr. PODELL. The second was that the jobs would be better positions if an individual were working for private industry than for the Federal Government?

Mr. CROTTY. Yes.

Mr. PODELL. Are there any other objections?

Mr. CROTTY. These are the principal ones.

Mr. PODELL. It strikes me, Mr. Crotty, that if I may take issue with you on the question of jobs, I think you are weighing the possibility of better positions working for private industry than for the Federal Government as against the word "positions" at all, because you are gambling on the fact that you probably will have a lot less positions unless you do nationalize your system.

Second, the initial cost of giving away money, giving away the taxpayers' money, and getting nothing for it, would not be as much as buying the railroads eventually, but eventually we are going to have to buy it. There is not a person that can really say that eventually it is not going to have to happen, but we are trying to delay it and delay it.

I don't know that we can justify just bringing in millions and millions of dollars into the rail system and getting nothing for it except a guarantee that the rails will continue—and even that is not a guarantee. The only way that our Government is going to guarantee that those rails are going to continue is by setting up a corporation to run those rails.

I think what we are dealing with is almost a word that frightens people on its face, "nationalization." It is frightening on its face but I would like to impress upon you, sir, that if you really sat down and thought about it in terms of public ownership, if you will, maybe it will sound a lot better to everybody. This is a thing whose time is going to come.

What if we can't get Congress to go out and spend $500 million and put into this and lend private industry more money? What if Congressmen say that is it, we have spent enough of the taxpayers' money and we get nothing for it. We have a problem.

So, I would hope that you and your people would sit down and give a little more consideration to the public ownership of those bankrupt rail lines.

As an individual, I am reluctant to go out and say, well, jeepers, why keep on giving you money? I am getting nothing for it. I am a firm advocate of private industry, but I think private industry should be able to sustain itself. Otherwise, the food industry is going to come in and say, we are a necessary commodity. The farmers are not making any money and we give them money. The retailers can say, I am necessary to the survival of the community; my business is bad; why shouldn't the Government lend me money? And so on down the line. There is going to come a point in time when it is going to stop.

Do you have any general comment you would like to make on my speech?

Mr. CROTTY. Obviously, we look at these things differently, but it would seem to me that the Congress would be more inclined to put

$500 million into a northeastern railroad operation to try to revive it and put it back on its feet than they would to authorize the expenditure of $10 billion to purchase the property and then pour another billion dollars into it every year to subsidize the operation because I think this would be needed under nationalization.

The history of railroading in other countries like Japan and Europe have proven this.

Mr. PODELL. Let me say the difference is that we have six bankrupt railroads. I am firmly persuaded that there is not a single creditor who is owed money of substance that has not long since written off his indebtedness. So, the Government has paid this man already because he has gotten himself a tax benefit.

The fellows who had the stock and lost money have sold it and they have already taken their capital losses, short or long, and taken their tax benefits there. Now, what is so wrong in bringing the hammer down on the situation, buying it at the sell, and you would buy it for a lot less than $10 billion. If you really want to be magnanimous in exchange for it, we could issue some new stock and some day, should that railroad become profitable, that stock would be worth something in payment. That would not cost us $10 billion. We could buy the entire kit and caboodle for about $2 billion and let the railroad operate.

Is that possible, or is it feasible?

Mr. SCHOENE. I am not sure what you want my opinion on but I believe I understand and if I don't you can correct me.

If what you are asking me is whether in compensating or making a just compensation for these railroad properties, whether the depreciated value should not be considered and the fact that they aren't able to operate as profitable enterprises, certainly I think that should be so, and I have, for example, discussed with Mr. Eckhardt his bill, which is a nationalization bill, and, as I recalled, it provided specifically that in determining just compensation for the properties, various guidelines shall be taken into consideration, including the fact that they are in bankruptcy and cannot get out of it.

Mr. PODELL. So, we could buy it for a lot less than $10 billion; wouldn't you say?

Mr. SCHOENE. You know I can't disagree with my client about that estimate.

Mr. PODELL. I have used up my time.

Mr. CROTTY. I think, Mr. Podell, when we are talking about the Northeast, I believe the Department of Transportation is talking about the northeastern region as such including B. & O., C. & O., Norfolk & Western, and we would have to treat the whole region alike.

I think you would find probably that $10 billion would be less than the owners think those properties were worth collectively.

Mr. PODELL. What the owners think they are worth and what they would bring at an auction sale would be two entirely different things.

Mr. CROTTY. I agree.

Mr. PODELL. Thank you, sir.

Mr. DINGELL. Mr. Metcalfe.

Mr. METCALFE. Thank you, Mr. Chairman.

Mr. Crotty, I was very much impressed with the in-depth presentation that you made in your paper. Perhaps you may be able to give me some information because sometimes as we look to the past, it may help us to avoid the mistakes that were made.

You indicated that you were opposed to the merger of the Penn Central Railroad and the New York Railroad lines, did you not?

Mr. CROTTY. Yes.

Mr. METCALFE. May I ask you to go into more detail as to your reasoning for opposing that merger?

Mr. CROTTY. In the first instance, we had our doubts about its workability. We had negotiated, in the event the merger was put in over our opposition, we had negotiated a job protection agreement for our people so our feelings in the matter came down to whether or not we thought it was a good thing and these are big, tremendous properties and a big railroad is a hard thing to manage.

I think that Stewart Saunders, who was the chairman of the board of Penn Central at the time it went into bankruptcy, probably put the right label on it. He said the operation was unmanageable. I think it was unmanageable because it was too big. It was beyond belief, and these railroad properties still today are doing a tremendous business. They are running a large, large number of trains.

If I were to tell you that as of right today, there are 638 trains running in the corridor between Washington and Boston every 24 hours, they are running trains on top of trains, and if they had more room, they would be running more trains.

But when you have an operation that is that big, it becomes unmanageable, in my judgment. I think it would be more efficient and would be a more profitable operation if it were smaller.

Mr. METCALFE. Both of these railroads had boards of directors, did they not? Both of the railroads, the Penn Central had a board of directors, and the New York Central had its board of directors?

Mr. CROTTY. Yes; they were separate entities. Yes, sir.

Mr. METCALFE. Do you remember how many members were on the Penn Central board of directors?

Mr. CROTTY. No; I don't.

Mr. METCALFE. Can you venture a guess?

Mr. CROTTY. How many members on the board of directors?

Mr. METCALFE. Before the merger; yes.

Mr. CROTTY. Twenty-five.

Mr. METCALFE. Can you venture a guess as to how many were on the board of directors of the New York Railroad?

Mr. CROTTY. Of the Penn?

Mr. METCALFE. No; I thought that was the Penn you gave me.

Mr. CROTTY. I think there were approximately 25 members on the board of directors of each of the roads.

Mr. METCALFE. And on the merger, how many members were on the board of directors after the merger?

Mr. CROTTY. I think it was a lesser number, probably 25 on the merged Penn Central.

Mr. METCALFE. Do you have a breakdown as to how many members were retained from each one of these railroads on the new merger?

Mr. CROTTY. No, sir; I do not.

Mr. METCALFE. Can you tell me whether or not the president of the Penn Central board of directors or the president of the New York Central board of directors was also the president of the merger or was there an entirely new president of the merger?

Mr. CROTTY. The chair of the board of the Pennsylvania Railroad became the chief operating officer of the merged company and the president of the New York Central Railroad became the president of the merged company.

Mr. METCALFE. What were the top men?

Mr. CROTTY. Pearlman of the New York Central and Saunders of the Pennsylvania.

Mr. METCALFE. I might explain what the line of my questioning is. We have some railroads that are very successful, as you well know.

Mr. CROTTY. Yes, sir.

Mr. METCALFE. You indicated that the New York Central Railroad was a successful railroad before its merger; did I understand you correctly on that?

Mr. CROTTY. Its net income could have been better but I think it was a railroad that would have continued to operate. I don't think it would have been in bankruptcy if the merger had not taken place.

Mr. METCALFE. I am fast coming to the opinion that the success or failure of a railroad depends upon the leadership that each one of those railroads has; certainly, the Southern Railroad has good leadership, as I am told, and you now tell me that the New York Central had good leadership. I think this is a part of our thinking as we consider what action we are going to take.

Now, you indicated also that where nationalization took place in these various countries, it was a failure, or it was very costly; did you not say that?

Mr. CROTTY. Yes, sir.

Mr. METCALFE. Can you tell me whether or not they used the personnel as you advocate in your statement not endorsing the nationalization program? Did they use experienced personnel to run these companies? I am talking about the foreign countries where there was nationalization.

Mr. CROTTY. I believe they used the best railroad administrators that were available in Japan or in European countries or in South America.

Mr. METCALFE. I must respectfully submit to you that in your opposition to the nationalization of a railroad, on two occasions you used the word "hope," which is not very convincing. I think you did not intend it to be convincing and you wanted to leave yourself some latitude as to whether or not it fails.

It is probably unfair for me to ask you this question but I will ask you, anyway, for my own information.

Since 3 years ago, the Pennsylvania was in dire need of Federal subsistence and money and they are still in need of it, as are the six companies that are in financial difficulty today; if we, the Government, should put money into these railroads, is there any assurance that the same thing is not going to occur because we talked about Congress appropriating $500 million and then you added approximately an additional $100 million each year; is that right?

Mr. CROTTY. I don't believe, Mr. Metcalfe, that I mentioned the additional hundred million each year but I did mention the $500 million as a transfusion to get them back on their feet.

But I would not quarrel with anyone who said that they would need another $100 million a year for a period of time. I think that is possible.

Mr. METCALFE. In light of the fact that you are opposed to nationalization of the railroad, have you given any consideration to the fact that, suppose your proposal is not followed and there is some nationalization of a railroad, if you have given consideration to that, then how would you propose this nationalization take place? Had you given any consideration to it?

Mr. CROTTY. Yes; I have thought about that a lot, but obviously it is our belief and our hope that the type of a plan advocated by the ICC which I think stops short of nationalization, that it would be workable and that over a relatively short period of time, a few years, these railroads would become viable again.

I am visualizing a situation where the parent road, the Norfolk and Western, would take the Erie Lackawanna that I think they are responsible for. They own it now. They ought to be able to keep their child. I think the same way about the Reading that is owned by B. & O. Then you are narrowing down the number of brankrupt properties. Actually, what you have left is Penn Central, Lehigh Valley, and Boston and Maine.

I think that this is where our efforts should be directed, and I agree that this will take Federal funds for the first several years to put these roads back on their feet, but I think that is less costly and more desirable than nationalization.

Mr. METCALFE. Since one of the responsibilities of your union is to maintain the roadbed and the rolling stock, suppose that there is the private industry and they take back other railroads and there is no nationalization of the railroads, themselves: How do you propose that we have a successful and a viable operation?

Let's confine it to the issue of today, and that is the Northeast corridor: Isn't it a fact that the main reason that the railroads are in trouble today is a matter of traffic, both passenger and freight traffic? Isn't that the basic reason, or is it?

Mr. CROTTY. The railroads as of today are hauling a greater tonnage than they have ever hauled in their history.

Mr. METCALFE. That is on freight.

Mr. CROTTY. On freight.

Mr. METCALFE. What about passengers?

Mr. CROTTY. The passenger service is obviously a very small factor in the railroad picture any more. Railroad management contend that they never made any money on passenger service within the last 40 years so the loss of passenger service was not a great financial blow to the railroads. In fact, they said it was an asset.

Mr. METCALFE. What I am trying to elicit from you is: Given the present economics of the amount of freight and the amount of passengers in 1972, and in 1975, is there any barometer or any indication that there will be sufficient passenger or freight service that is going to put any company into the black and make it viable, a profitable company?

Mr. CROTTY. We are talking about the industry as a whole?

Mr. METCALFE. Yes; because I think we have to go to the basic cause of why is it in the financial plight that these railroad companies are in. It is not just one. We are talking about six.

Mr. CROTTY. With one or two exceptions, I feel that the railroad industry of the United States, discounting the northeast region, with one or two exceptions, I feel that this industry is in its healthiest financial state in all respects, and particularly financially, that it has been in its history and that the tonnage that they are going to be hauling tomorrow and next year and the year after that is astounding.

Right today, some of these big railroads in the West, the Burlington Northern, Union Pacific, Southern Pacific, Santa Fe, the Seaboard Coast Line, L. & N., Norfolk & Western, these roads are doing a greater business than they have ever done in their history and they expect to do a lot more.

Mr. METCALFE. I thought I had asked my final question but that prompts me to raise one more logical question.

Why is the Northeast corridor in such financial difficulty, then, contrasting what you said about the other railroads that are doing a good business and they are operating in a profitable manner?

You just finished telling me about the various railroads that are doing more business and I am assuming when you said that that you are saying they are operating in a profitable manner, that they are not operating in a deficit manner. Then, if that is the case, why is it that the Northeast corridor is in such financial difficulty today when other companies, other railroads, other sections of the country are not in the same condition?

Mr. CROTTY. The traffic in the corridor is 73 percent passenger traffic. Passenger traffic, as I have said, historically has not been a great generator of profits.

I might disagree with some railroads as to whether it is profitable or not but it is not a great profitmaker. As a consequence, the amount of freight hauled in the corridor is only about 25 percent of their traffic. But it is a high-cost area, a high-tax area, and it is not a long-haul area. The money in freight business is on longer hauls, of course.

Mr. METCALFE. The problem I have is that you have a greater population density in the Northeast corridor than you have in any other section of the United States. Am I right?

Mr. CROTTY. Yes, sir.

Mr. METCALFE. It would seem to me, therefore, that those people would need more services, more items that are going to be shipped by freight, and naturally, of course, the passenger service would be increased, and that is the problem that I have in finding out.

You would think that just the opposite would be true because of the mileage that the other railroads have to travel in the Midwest, the Far West, and even in the South and Southwest. You would think that because of the people being there, that they will need more of what is being shipped on the freight lines.

Mr. CROTTY. Mr. Metcalfe, it is perfectly true that the great population density in this area requires transporting of a tremendous amount of goods every day of our lives, and this is a service that is going to have to be continued, regardless of what any of us really think about these things. It has to be either continued as a free enterprise operation or as a nationalized operation, but it is essential to the well-being of that whole area of this country.

Mr. METCALFE. You have been very helpful, Mr. Crotty. I appreciate your answers. Thank you very kindly.

Thank you, Mr. Chairman.

Mr. DINGELL. Thank you, Mr. Metcalfe.

Gentlemen, the committee thanks you for your helpful testimony. We appreciate your presence and the assistance you have extended us this morning.

Mr. CROTTY. Thank you, Mr. Chairman.

Mr. DINGELL. Our next witness is Congressman Stewart McKinney. our colleague and friend from the State of Connecticut, who is here to introduce Deputy Commissioner F. Colin Pease, Connecticut Department of Transportation.

Mr. Pease, we are pleased to welcome you to the witness stand.

If you will identify yourself for the purpose of the record, we will be pleased to receive your testimony.

STATEMENT OF HON. STEWART B. McKINNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. MCKINNEY. Mr. Chairman, it is a pleasure to be here and I will be brief. My main reason for being here is I am the Congressman from the Fourth Congressional District of Connecticut and, as a nonpaying job, I am a member of the Connecticut Transportation Authority which has been wrestling with the commuter section of the Penn Central and before that the New Haven Railroad.

I would like to introduce the Governor's representative, Colin Pease, who is the Deputy Commissioner of Transportation, and the counsel to the Department of Transportation in the State of Connecticut, Samuel Kanell, who was my immediate executive boss on the CTA. They are going to read a statement from Governor Meskill.

I was going to come and testify before this committee but I did not want to add what my friend from New York has so suggestively called fertilizer to the meetings.

Mr. DINGELL. You will find that this plant is liable to get out of control in its growth unless we restrain that plant.

Mr. MCKINNEY. But I would simply say this. Representing mainly two types of constituents, one, a highly industrialized society; two, a commuting society; and having five of the largest communities in the State of Connecticut within my district, I would suggest to the gentlemen here, before they start their testimony, that with the ensuing energy crisis building upon us, with the condition of New England in general and Connecticut in particular caught between the hubs of Boston and New York, with no source of viable transportation today except the railroads, the continuing failure of the railroads both in terms of freight and passenger service is not just a matter of saving the Penn Central.

There are those on the New England caucus, who will meet this afternoon at 4:30 with representatives of Penn Central, who feel very distinctly that if the Northeast corridor is not buoyed up very quickly, that we could become and will become the logical next Appalachia of this country.

The reasons for this are so long and so involved that I won't go into them, but I think you are not just discussing the Penn Central. You are discussing the conditions rushing toward us in the areas of energy, pollution, environment, and everything else affecting the economic continuation of a part of the Nation in which 20 percent of the population of this country resides.

We are now at the point where there is no valid transportation between New York and Boston except the automobile. This is very discouraging when we see what is happening to fuel consumption, when we realize our roads have reached a saturation point and when we know full well that our land is unable to maintain more super highways.

The situation is not just temporal. It is desperate. I would suggest to you that the only difference in Connecticut today is that it now takes longer to get anywhere than it did in 1949. It takes longer to get to New York on the train than in 1947.

My son attends the same school I did. I used to drive a 76 horsepower Ford, and today's 400 horsepower car gets there 45 minutes slower than it did back in 1949.

We have in essence come to a grinding halt on our super highways and our rail service is threatened with collapse.

If this happens, the erosion of New York City and erosion of Boston will accelerate at such a pace that New England's existence as an international trade and international finance center is going to cease.

I would like now to turn to Mr. Pease and the Governor's statement.

Mr. DINGELL. Mr. McKinney, the committee is keenly aware of the problems to which you allude which is one of the reasons we are conducting these hearings to try to find a way to save some sort of rail service in the Northeastern United States.

I think in the interest of time, gentlemen, the chair will observe that Governor Meskill is well known to all of us on this committee. He served with us in the House. All of us have considerable respect and affection for him.

In order to save time, we will insert his full statement in the record. We will now recognize you gentlemen for such excerpts and comments as you choose to make.

STATEMENT OF F. COLIN PEASE, DEPUTY COMMISSIONER, CONNECTICUT DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY SAMUEL KANELL, COUNSEL; AND HON. STEWART B. McKINNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. PEASE. Thank you. I have also brought down with me a recently published position of the New England Governors' Conference regarding the Northeastern rail problem.

May I ask your permission to insert the policy statement of the New England Governors' Conference into the record?

Mr. DINGELL. Without objection the document will be inserted in the record at this point immediately following Governor Meskill's statement.

[Testimony resumes on p. 623.]

[Governor Meskill's prepared statement and the New England Governor's Conference policy statement on the Northeastern railroad problem follows:]

STATEMENT OF THOMAS J. MESKILL, GOVERNOR OF THE STATE OF CONNECTICUT

Mr. Chairman and Members of the Subcommittee:

On behalf of Connecticut, I am pleased to present the following testimony concerning the Northeast Rail Crisis, the subject of several bills now receiving your consideration.

The existence of rail service is essential to Connecticut's economy and environment. Its loss would be a devastating blow to our transportation network and would have severe primary and secondary ramifications within our State.

The immediate effect of service cancellation would be to increase motor freight haulage by approximately 1,000 trucks per day to carry the nearly 7.3 million tons per year of freight we currently move by rail. In addition, approximately 78,000 passenger vehicle trips would have to be added per day to serve the 18 million commuter trips now carried by rail annually.

The direct impact of additional motor vehicle dependence of this magnitude would be severe, especially since the added pressure would occur primarily in already congested areas of the State; and this, at a time when we are struggling to meet federally mandated clean air standards in these areas.

Further, with so much concern today about the energy crisis, it is interesting to note that moving freight by truck requires approximately 3,460 BTU's per ton mile, versus 624 BTU's per ton mile by rail.

Our Nation requires a balanced transportation system. There is today a developing parallel national commitment to rail and other modes of public transportation in addition to highways. To terminate or curtail rail service would run exactly counter to this commitment.

I am not at all in favor of nationalizing our railroad system. The railroads of our Country have traditionally been run by private enterprise and should continue this way, I believe; there is no way to spark improvements in a service faster than to inject the profit motive.

And yet, privately owned trucks, cars and buses use Government-constructed and Government-maintained highways. Privately owned airlines use Government-constructed and Government-maintained airports and flight control systems. This isn't encouraging private intramodal competition; this is Government-financed destruction of our oldest, most dependable and potentially most efficient form of ground transportation.

The analogy between highways and rail roadbeds is not entirely correct, as has been already pointed out. And yet, the two are close enough for us to be able, I think, to recognize a proper, yet limited, role for the Federal Government to participate in the maintenance of a private railroad system.

I cannot agree with those who contend that no action is necessary, based on the hope that more prosperous railroads will move promptly to take over the essential lines of our bankrupt eastern railroads. A program based on such hopes is a program for liquidation.

No investor will provide fresh capital for new rail equipment when he cannot expect a reasonable return on his investment. Our railroads are run today with worn out, obsolete equipment and facilities originally purchased by private capital. I see no hope that these facilities will be replaced by private capital when railroads are bankrupt.

Nor can I see any future in a program which does nothing more than establish a sophisticated administrative gradual dismemberment of our rail system. I think this will lead to liquidation and only prolong the agony.

I believe the three major factors in this crisis now upon us are these: lack of effective management, financial incapacity to provide the basic elements for profitable service, and procedural inability to move quickly enough to implement viable operations.

It has become obvious that the internal management of the Penn Central, for example, can be improved. As a result of the merger and past management inefficiencies, lines of communication within the organization have become obscured and now must be clarified. Responsibilities for operations must be set and specific lines of responsibility laid down. Further attention should be given to the more effective utilization of personnel. No industry can survive if plagued by poorly utilized employees.

It appears to me that the railroad is burdened, as is no other carrier, with providing and maintaining its own rights-of-way; all other modes of transportation are, in some form, subsidized by State and Federal government. It is imperative that if railroads are ever to reach their full potential, tracks must be upgraded in order to increase travel speeds, attract passengers and decrease operating expenses.

In order to improve rail service in the Northeast Corridor, the Federal Government, in conjunction with State governments, must make every effort to eliminate many speed restrictions which exist on present routes, such as sharp curves, limited track alignment and at grade crossings. Already, we have seen travel time between New Haven and Washington reduced by an average of one hour, which has assisted in attracting new customers. This time could be cut down considerably if greater emphasis were placed on upgrading of roadbeds and improving trackage.

(As you are aware, various levels of improved high speed rail service have been considered for the northeast. It has been suggested that travel time between Boston and New York could be reduced to two hours and 45 minutes; and indeed, a viable high speed ground transportation system could be developed if more emphasis were placed on improved roadbeds.)

But even if quick solutions could be found to the first two problems, the railroad industry will remain hamstrung as long as it must submit its operations to regulation by the Interstate Commerce Commission.

ICC regulating serves, in part, as protection for a healthy industry, such as trucking, by maintaining the proper balance of the indnstry's component parts. But once an industry goes into the red, the necessary delay inherent in the complex regulatory machinery of the ICC becomes a crippling factor in itself. Were the ICC to do nothing but cope with rail matters, it would be difficult enough to provide the railroad the lead time necessary to implement the dynamic leadership it must have if it is ever to succeed.

Over two years ago, when we were confronted with the possible loss of all intercity rail passenger service, the Congress enacted legislation establishing AMTRAK, a federally-supported corporation to assume financial responsibility for the operation and improvement of this vital service. The time has come to take similar action to preserve freight service. This is the backbone of the economy of our nation, especially the northeastern area now threatened with cessation of all rail service.

Whether we expand AMTRAK, an existing framework which could also be made to answer fully for its standard of operation, or establishe a new entity for this purpose (as proposed by Bills before the Committee) we must take action. I urge this not only to meet the immediate crisis posed by the threatened liquidation of Penn Central, but to establish a framework for preventing further crisis elsewhere. For I don't think anyone who has looked at the Northeast crisis carefully has any illusion that we're talking of only a local or even a regional problem. What has happened to Penn Central is just a taste of what will happen all across our Nation unless we are willing to diagnose and treat the basic illness rather than settle for a makeshift alleviation of the symptom.

I believe we should contstruct a fiscally responsible plan which will encourage the continuation and improvement of private ownership of trouble-beset railroad lines, by directing the federal role into a rehabilitation effort specifically designed to get these railroads back into profitable operation.

For many years, we have watched sadly the decline of railroad service in the northeast. Now, however, even our bareboned, essential service is on the block.

As we contemplate the enormous effects of this threat upon Connecticut, clogged highways and polluted airways reinforce our conviction that rail transportation must be rescued from its quagmire.

Thank you for providing me this opportunty to testify.

NEW ENGLAND GOVERNORS' CONFERENCE POLICY STATEMENT ON THE NORTHEASTERN RAILROAD PROBLEM, MAY 21, 1973, BOSTON, MASS.

A modern, efficient rail transportation system is essential to the continued health and growth of the nation's economy. Fuller and more advantageous utilization of our existing rail plant will not only contribute materially toward the realization of a balanced national transportation system but will serve also to enhance our environment by permitting more efficient land use, by reducing air and noise pollution, and by conserving our precious and threatened energy resources.

Significant segments of the New England economy are heavily dependent upon rail transportation for their continued existence. Loss of service will result in widespread and irreparable harm in terms of lost jobs, reduced employment opportunity, displaced industry and disruption of planned business and industrial development and expansion. Even the present, and in some instances long-standing threat of rail service loss or curtailment is having deleterious effects upon our economy.

The crisis is made more acute to New England in light of our region's changing economic base, a badly deteriorated rail physical plant, and the bankruptcy of two of New England's major railroads—the Boston and Maine and Penn Central. Penn Central poses an immediate threat to the region and, indeed, to the nation, in view of its bankruptcy court's directive that the railroad's trustees either file a plan of reorganization or a plan for liquidation by early July on the one hand, and on the other, the trustees' stated position that reorganization is not possible without immediate substantial Federal financial assistance.

It is abundantly clear that the financial dimensions and geography of the region's rail transportation system, and most significantly its interdependence with and reliance upon the balance of the nation's rail network, demand that the Federal government assume a decisive and leading role in revitalizing and in fostering and insuring the growth of this presently seriously troubled industry.

It is imperative that the Congress of the United States act with all deliberate speed in setting up a process for formulating and implementing long-term permanent solutions to the Northeastern Railroad Problem. Essential elements of this process must include (1) thorough and systematic analyses of the specific rail carriers, of the freight transportation industry as a whole, and of the economic and social impacts of the rail industry upon the regions it serves, (2) acceptance of a Federal financial role in the continuation of essential rail freight service, (3) identification of appropriate state and local government parts in assuring freight transportation service, and (4) recognition of and attack on the problems of all railroads, both profitable and bankrupt.

It is long overdue for the Congress to develop, to establish and to implement a national transportation policy of which rail is a fundamental part. Public investment priorities and other transportation decisions must reflect this policy. Just as the Northeastern railroads must be dealt with as parts of a larger integrated national rail system, so too must this system be viewed within the framework of a national intermodal transportation system.

There are immediate problems facing individual railroads and groups of railroads which must be confronted and resolved. There is a compelling and overriding public interest in continuous uninterrupted rail service. The system or any vital part of the system must not be permitted to shut down as the process of developing and implementing longer term remedies goes forward. The Congress must set up a mechanism, which might include short-term operating subsidies, to enable all existing rail freight service to continue.

Rail service abandonments should be halted until adequate consideration has been given to the effect each will have upon the whole rail system. To continue on the present piecemeal course may be counterproductive in terms of the economic effects on the system, may be illogical and inconsistent with the overall policy which is to be developed, may cause undue and grave harm to users and the public, and would serve only to occupy the time, energies and resources of persons and public and private agencies which could be more advantageously employed in dealing with the broader problem.

Implementation of high speed rail passenger service in the Northeast Corridor must take place without further delay. With twenty percent of the United States' population living on a land area comprising some two percent of the nation, with intercity traffic unsurpassed in terms of volume by any other area, with demand for intercity activity to continue to rise particularly between major urban centers, with alternatives to solving existing modal problems becoming increasingly restricted, there is no reasonable basis for continued Federal failure to finance and to acquire and construct the necessary facilities and equipment required for the realization of this priority project. The rail system in the Corridor has the capacity to carry a substantially greater number of intercity passengers while taking almost no land, creating little air and noise pollution, minimizing energy consumption, and providing a high level of safety. The program constitutes the best and least costly method of meeting some of the major intercity transportation needs of the Northeast with necessary and appropriate Federal financial assistance. It remains a high pay-off program that will yield important and enduring results at low risk to the Federal government. The States of Connecticut, New York, and Massachusetts have already acted in advancing the project through their acquisition of approximately one-hundred miles of the four-hundred and fifty mile right-of-way between Boston and Washington. Resolute and prompt Federal action on the Northeast Corridor Project will also contribute materially to solving the Northeast Railroad Problem.

GOVERNOR THOMAS J. MESKILL,
Chairman, Connecticut.
GOVERNOR THOMAS P. SALMON,
Vice-Chairman, Vermont.
GOVERNOR KENNETH M. CURTIS,
Maine.
GOVERNOR PHILIP W. NOEL,
Rhode Island.
GOVERNOR FRANCIS W. SARGENT,
Massachusetts.
GOVERNOR MELDRIM THOMSON, JR.,
New Hampshire.

Mr. PEASE. With that, sir, I would be happy to answer any questions that the members of the committee may have regarding Governor Meskill's testimony.

Mr. DINGELL. It is rare that we have such a cooperative and perceptive witness.

Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman.

Gentlemen, do you think you could get along with, in effect, one structured rail system in the New England area as opposed to having two or three competing lines?

Mr. PEASE. Yes sir, I think we could. I think that, however, in the past we found that there are three or four of the lines that do serve Connecticut that are highly competitive that have offered our shippers some latitude in choice of service.

Mr. ADAMS. Are they still out of bankruptcy?

Mr. PEASE. No, sir.

Mr. ADAMS. I know the D. & H. is, and I understand either Boston & Maine or Maine Central——

Mr. PEASE. Boston & Maine does not really come down to Connecticut. It mostly comes up from the South over the Maybrook line, and most of them are in bankruptcy and most of them are in direct competition with Penn Central.

Mr. ADAMS. So you would want some kind of additional chance for them to stay alive? That is what you are saying?

Mr. PEASE. I think we could go either way. Our goal for Connecticut is to insure that the service we presently have, which is quite minimal, is provided. The availability of good rail service particularly south from Connecticut at this point is minimal and I think is causing some of our major problems regarding congestion on our highways. We would look for suggestions as to how to improve that service south.

Mr. ADAMS. Mr. McKinney, we welcome you here and I agree completely with your comments. This is why we are trying to look at more of an overall solution than one for simply the Penn Central. Part of that deals with you gentlemen and your willingness, or lack of it, if we create a corporation that might take over the corridor to contract with that organization for the supply of commuter service in and out of your major cities.

Mr. McKinney. I will say Connecticut is a very unique State in two ways and then answer your first question.

No. 1, we have never let a rail line be abandoned in our State and torn up. The State has taken over responsibility for those feeder lines because we feel in the future we will need them.

Two, we already subsidize to the tune of about $4.5 million a year with the State of New York the commuter operation into the city of New York. We have cooperated financially on all of the improvement of the roadbeds and we have the option to buy the roadbeds. But you bring up a very interesting point. The competition now is important. Here is what the Penn Central does. Industry in Connecticut must wait somewhere between 4 and 7 days for freight to move from New Jersey through New York via the Penn Central into Connecticut.

Federal Government intervention is needed desperately to modernize the tracks.

Mr. Pease. The Penn Central prefers to ship freight from Stanford, Conn., down to New York City, up near Albany down to Jersey, and you are lucky to get it in 4 days, where by truck 2 days delivery is the norm.

Mr. Adams. They are using ferry transport across the river, aren't they?

Mr. Pease. The floatbridge is not there. It is virtually nonexistent.

Mr. McKinney. We also have the height problem with piggyback freight coming through New York and this amounts to about 20,000 trucks a day coming into Connecticut and New England on two interstate highways, totally stopping any effective transportation of individual automobiles or human beings from one point to another.

Mr. Adams. Then you are in agreement that this committee should be looking toward some sort of merger and usage of lines based on their most efficient use rather than trying to simply restructure the presently existing companies?

Mr. Pease. I think there has been a pattern over past years of inefficient use of rail corridors into Connecticut.

I think part of the problem with the railroad system as it exists now is you have this leftover competition among lines and even within the Penn Central system, as to which line they will utilize. You will find in some cases railroads utilizing their own rails and at increased expense to themselves rather than pay other lines to utilize their rails simply because of the competition so that a restructuring or realinment might well prove to improve the service particularly in to the Connecticut and New England area.

Mr. Adams. Thank you very much.

Mr. Dingell. Mr. Shoup?

Mr. Shoup. Thank you, Mr. Chairman.

I think the Governor has defined the problem very well on page 3 and page 6 very precisely giving us a solution.

At one other time before a Senate committee the Governor proposed that Amtrak take the responsibility of freight service. Is this still the position of the Governor?

Mr. Pease. Yes, sir, Amtrak or an Amtrak-type corporation.

Mr. Shoup. He is not tied to the Amtrak as such but merely the principle.

Mr. Pease. It is the principle he is endorsing.

Mr. SHOUP. I would like to compliment the Governor for his statement on page 6 for a solution. Although it sounds rather general and simplified, I think it is in the right direction of private ownership and directing the Federal role into a rehabilitation effort.

I think he should be commended on that.

I thank you for your attendance here.

Mr. DINGELL. Mr. Podell?

Mr. PODELL. Thank you, Mr. Chairman. I would like to join in welcoming the distinguished gentleman from Connecticut, Mr. McKinney. His interest and participation in this problem is well known to this committee.

I have two brief questions to you, Mr. Pease. You don't subscribe to the cutting back of any of the rail lines in your State, do you?

Mr. PEASE. No, sir, I don't. In fact, Connecticut is unique in the country in that any situation where a rail line has been abandoned, the State of Connecticut has purchased that line and we now keep what we call a railroad right-of-way bank in the event that these lines could be utilized in the future.

So we don't believe in giving up any rights of way.

Mr. PODELL. Are you aware that a spokesman for the administration appeared before this committee and stated that under any profit-based reorganization, there would have to be substantial abandonments, not to mention layoffs?

Mr. PEASE. I understand that. I don't necessarily agree with them because I think very often you will find that people who are proposing abandonment are not correctly and economically accounting for those abandonments.

Very often the moneys they are going to save are going to result in longer term losses and before they go about talking about any abandonment, I think these individuals should take a closer look on the effects on the total system as well as the effect on industry served by the line.

There was a study done by the New England Rail office which opposed abandonment of miles of track which they claimed would save $1 million.

Looking into the situation very carefully, the New England Rail office discovered that would be true but net loss over several years was considerably more than $1 million.

Mr. PODELL. Mr. Pease, I don't think I understood this to be your line of contention. You don't think that we can in some measure or form retain all of the services that we presently have and at the same time operate this railroad properly. That is not your contention, is it?

Mr. PEASE. No, it isn't.

Mr. PODELL. You would have to power in some kind of assistance, either State or Federal assistance, isn't that correct?

Mr. PEASE. I certainly think so, yes, sir.

Mr. PODELL. Since it is both our intention to maintain these services as completely and fully as we possibly can, haven't we come to the realization that we are going to have to cut back something unless Government lends a hand?

Mr. PEASE. I think we have heard too many things about cuts. One thing I have noticed in many of the bills before the Congress and many of the proposals of affected bodies is the complete lack of understanding of the need to serve the people that are presently served by the railroad.

Mr. PODELL. There is not a railroad in our area that can possibly give the service and operate profitably, and maintain the existing service that it is now giving.

Mr. PEASE. I think Connecticut has recognized that.

Mr. MCKINNEY. Connecticut's plan is not that we keep the service running. What we are doing is keeping the lines. We don't argue against consolidation of lines to make it run efficiently. We don't want the tracks torn up, because it is our position in the State that eventually we will need them and it would be penny-wise and pound-foolish to destroy these lines.

Connecticut is unique in another way now because these lines make natural power transmission corridors. They are also available for various other uses such as bicycle trails. We are trying to keep the existnce of all these little lines that we have running just so they are there. We don't necessarily use them at this point.

Mr. PODELL. I appreciate that.

On page 4 of your statement you suggest that the Government should pay for the upgrading of the track and then on page 5 you say the Government should assume financial responsibility for unprofitable freight service.

We are already paying for passenger service and Amtrak is already being supported by the Government and they are still losing money.

Since the Government is going to operate and run and actually pay for this show, will you tell me why in the world they are so sacrosanct about it being privately owned?

Mr. PEASE. I think private ownership would be more efficient.

Mr. PODELL. Let's say that the Government goes ahead and takes over the thing and hires these great efficient experts who have done so well over the years.

Mr. PEASE. I think they could possibly do a better job under direct private ownership with Federal and State governments contributing money.

I think the New Haven is seeing significant improvements. In fact, it is being subsidized, as Mr. McKinney commented.

Mr. PODELL. How many hundred million have we put into the New Haven line?

Mr. PEASE. It will be approximately $100 million by the time it is completed, and that will be complete rebirth of the road and including a subsidy by the State.

Mr. PODELL. I think we are both interested in the same thing. We are both interested in performing railroads. I think there is a question of just how sacrosanct a private ownership is. Certainly in view of the fact that these fellows have not run these railroads so well before, there is no reason for us to assume they are going to do a better job in the future.

Second, if we are going to pay for trackage and pay for unprofitable freight and pay for energy service, if we are going to pay for everything, I think we might as well own it.

If we own it, we can always hire these great experts who have done so well and have them continue on, except that they will be working for the Government.

Mr. KANELL. I want to give you a comparison in New York City. The State of New York bought the Long Island Road. It owns it. That is nationalization. While the corporation exists, it is wholly owned by the State. The net result is that any bargaining by employees is not done with management of the Long Island Road. It is with MTA or with the Legislature of New York.

The effect has been that wage rates or benefits of Long Island Railroad substantially exceed wage benefits of other rails.

Mr. PODELL. In other words, you think that employees get better results by negotiating with the legislature. Obviously, the Long Island Railroad is operating today better than it has ever before.

Mr. KANELL. It certainly is operating better and has the best deficit in its history, several million dollars a year, which is far larger than it was under private ownership. I don't mean to criticize it. They have done an excellent job. It is a well-run railroad, but the fact is in each instance where you have complete government ownership, the deficit has been substantially higher in every instance. Amtrak represents a marriage in a sense of the best arrangement whereby you preserve private ownership but government contracting for the service.

Mr. DINGELL. Will the gentleman yield?

Mr. PODELL. Yes.

Mr. DINGELL. Isn't it also a fact that where you had public ownership, you have always had better service.

Mr. KANELL. Not necessarily.

Mr. DINGELL. That is true in the case of the New York case, is it not?

Mr. KANELL. The service has improved because there have been improvements in the system for many years.

Mr. DINGELL. That is the point I am making. The service is better.

Mr. KANELL. The service certainly has improved.

Mr. PEASE. Although at this time we are not fully satisfied with service on the New Haven line, I think we will be in the next few years when through government money we are introducing a great deal of capital into the road, and yet the actual running of the road is in the hands of private operators, and I think you will find that the service in the end will be fine.

Mr. PODELL. Can you show me through experience where that has occurred? Give me one instance that will document what you have just said.

Mr. PEASE. I spoke of one that I hope will show you within 2 years.

Mr. PODELL. But I am talking about past history.

Mr. PEASE. I think past history has been pretty dismal on both ends. What we are looking for is a new approach, and this contract approach through Amtrak hopefully provides that for both sides.

Mr. PODELL. You know Amtrak is coming up here next week looking for more money.

Mr. MCKINNEY. I don't think anyone has been more publicly scathing of the Penn Central management than I have to the point of being told by various people that I was embarrassing them as a member of the Connecticut Transportation Authority.

Although we had certain notorious scandals on New Haven, basically I think the State, town, and Federal governments, in the case of the New England lines, acted to put the railroads out of business. We not only built our superhighways parallel to them, and we did it way before there was a Federal highway trust fund, but every town and jurisdiction along the line taxed the railroad to death. This was during the inception of our highway system, and there was no comparison between paying 15 cents on the Merritt Parkway, one of the first superhighways, and paying the money we have now with the trust fund. We systematically made railroads in the Northeast one of the most unattractive methods of transportation.

I admit that, and one of the reasons I have been so scathing is that the railroads have not done anything to compete. But considering their financial condition and considering their management, it is no wonder. I would stand here and say I don't want these guys to run the railroad either.

I would like to have American Airlines or United Airlines or TWA, and they would show you how to handle passengers and freight also.

Mr. PODELL. I thank you gentlemen.

Mr. DINGELL. Mr. Skubitz?

Mr. SKUBITZ. No questions.

Mr. DINGELL. Gentlemen, the committee thanks you for your helpful testimony. It was a pleasure to have you here today.

The subcommittee will stand adjourned until 10 o'clock tomorrow morning.

[Whereupon, at 12 noon, the committee adjourned, to reconvene at 10 a.m., Thursday, June 7, 1973.]

NORTHEAST RAIL TRANSPORTATION

THURSDAY, JUNE 7, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Bertram L. Podell presiding [John Jarman, chairman].

Mr. PODELL. Good morning. The hearing of the Subcommittee on Transportation and Aeronautics will resume, and the Chair calls its first witness, Mr. Paul Rodgers, general counsel, National Association of Regulatory Utility Commissioners. Mr. Rodgers.

STATEMENT OF PAUL RODGERS, GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (NARUC); ACCOMPANIED BY DAVID JEWELL, DIRECTOR OF PUBLIC RELATIONS

Mr. RODGERS. Thank you, Mr. Chairman and members of the committee.

Mr. PODELL. Mr. Rodgers, before you proceed, would you identify the gentleman sitting with you?

Mr. RODGERS. Yes. I am accompanied by David Jewell, a member of our staff here in Washington.

The National Association of Regulatory Utility Commissioners is an organization of the State commissions from all 50 States. My remarks this morning will be quite brief. I would appreciate my statement being inserted in the record.

Mr. PODELL. Without objection, it will be inserted in the record following your verbal statement.

Mr. RODGERS. What we are concerned about is that since 1958, the railroads in this country have had the election of taking intrastate rate increases direct to the Interstate Commerce Commission and thereby bypassing their State commissions.

The railroads have not done this very much, but there seems to be an increasing trend to do this. Of course, when that is done, the local shippers are denied generally the local forum in their State capitals to be heard.

The reason Congress did this was apparently because of the delay of some State commissions in deciding these cases. So what our amendment, which is set forth in our prepared text, proposes to do is to require the railroads in each instance to exhaust their remedy for intrastate rate increase by going to their State commission, but providing that if the State commission does not decide that rate increase within 120 days from the date it is prepared, the case can then be removed to the ICC.

Also, under the customary pattern, whenever a State commission does decide a case under the Interstate Commerce Act, the ICC, upon the railroad's application, has the right to review that decision to make sure there is not an undue burden cast against interstate commerce.

We have no objection to that. What we are talking about is an amendment which would look in the State ratemaking procedure into intrastate rates, in total fixing of intrastate rates but with two protections. One is that the State must act within 120 days; and the second is if it does act within 120 days, then the ICC can review that in terms of the Interstate Commerce Act.

We believe that such an amendment will benefit the shippers. The intrastate shippers provide about 25 percent of the revenues derived by the railroads of this country from traffic.

We feel it is important to maintain these local forums for shippers to be heard, because obviously, when the ICC considers it, it is unlikely they will send an examiner to your State. And in that way, unless local hearings are held in your State, there will be no practical opportunity for these local shippers to be heard.

Mr. PODELL. You have nothing else you care to add at this point?

Mr. RODGERS. No, sir. That is the crucial points as far as the State commissions are concerned, sir.

[Mr. Rodgers' prepared statement follows:]

STATEMENT OF PAUL RODGERS, ADMINISTRATIVE DIRECTOR AND GENERAL COUNSEL, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS (NARUC)

Mr. Chairman and members of the committee: My name is Paul Rodgers. I am the Administrative Director and General Counsel of the National Association of Regulatory Utility Commissioners, commonly known as the "NARUC." I have served in such capacity since November 1, 1965.

I am accompanied at the witness table today by David Jewell, the NARUC Director of Public Relations.

The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the *fifty* States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of carriers and utilities. The mission of the NARUC is to improve the quality and effectiveness of public regulation in America.

The members of the NARUC appreciate the opportunity you have given me as their spokesman to make their views known on various aspects of the following legislation now under consideration by the Committee:

(1) H.R. 4897, a bill proposing the Essential Rail Services Act of 1973;

(2) H.R. 5385, a bill proposing the Surface Transportation Act of 1973;

(3) H.R. 6591, a bill proposing the Federal-Aid Railroad Act of 1973;

(4) H.R. 7373, a bill proposing the Federal Railroad Transportation Authority Act of 1973; and

(5) H.J. Res. 50, a joint resolution to provide for the continued operation of the transportation properties owned or operated by Penn Central Transportation Company, to protect the security interest of the United States in such properties and to provide for the payment of just and reasonable compensation therefor.

INTRASTATE RAIL RATES

The NARUC respectfully urges the Committee to include the provisions of the proposed Intrastate Rail Rate Act (H.R. 7044, 92nd Congress) in any legislation reported. This proposal was introduced by Representative Fred B. Rooney of Pennsylvania at the request of the NARUC.

The proposed Intrastate Rail Rate Act would require a railroad to exhaust its State remedy for an intrastate rate increase (instead of going direct to the ICC), but would require a State agency to decide such an application within 120 days or lose jurisdiction over it to the ICC. The 120 day period for State action is quite modest in comparison with the seven months (210 days) accorded the ICC for ratemaking. 49 U.S.C., Sec. 15(7).

This legislation is needed because the Transportation Act of 1958, 72 Stat. 570, amended Section 13(4) of the Interstate Commerce Act [49 U.S.C.A., Sec. 13(4)] to provide that a railroad may seek from the Interstate Commerce Commission an increase in *intrastate* rates by alleging unjust discrimination against, or undue burden upon, interstate commerce, and that the ICC is required to take jurisdiction and to act upon the proposed rate increase "whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto."

Although this provision was placed in the law in 1958, the railroads apparently made no effort to bypass the State commissions until December 24, 1969, when approximately 80 railroads filed a blanket petition with the ICC to increase the intrastate rate level in nine Southern States to the then current interstate level prescribed by the ICC in Ex Parte 362. The petitioning railroads did not await or even seek intrastate rate relief from the commission of the nine Southern States. *Intrastate Freight Rates and Charges in Southern States*, 1969, Docket No. 35203. For a current case, see ICC Docket No. I&S 8844 concerning intrastate rates for pulpwood and woodchips with the Southeast.

Accordingly, the NARUC urges the adoption of its proposed Intrastate Rail Rate Act which would amend the Interstate Commerce Act by striking the parenthetical language in the proviso of Section 13(4) and inserting in lieu thereof the following language:

> (If the State authority having jurisdiction thereof shall have denied a petition duly filed with it by said carrier seeking relief regarding such rate, fare, charge, classification, regulation, or practice, in whole or in part, or shall not have acted finally on such petition within one hundred and twenty days after the presentation thereof.)

The Senate Committee on Commerce, in reporting S. 2362, a bill proposing the Surface Transportation Act, on September 15, 1972 (S. Rept. 92–1155), incorporated the provisions of our proposed Intrastate Rail Rate Act as Title V of the Bill.[1]

The Committee Report on the bill, page 15, stated the purpose of Title V as follows:

> Sec. 502 of the bill would amend Section 13(4) of the Interstate Commerce Act [49 U.S.C. Sec. 13(4)] to require a railroad subject to the Act to exhaust its State remedies for *intrastate* relief as to a rate, fare, charge, classification, regulation or practice, before applying to the Interstate Commerce Commission for such relief. If the State regulatory agency denies the requested relief, in whole or in part, or fails to act finally thereon within 120 days from the date the petition was filed, the petitioning railroad may then seek such relief from the ICC.
>
> The full protection of the consumer interest requires that State agencies exercise initial jurisdiction over the fixing of intrastate railroad rates. The intrastate traffic pattern in each State is unique and, therefore, each State should be permitted, consistent with constitutional and statutory criteria, to continue to seek low-cost transportation within its borders in order to stimulate business and to promote the general welfare and prosperity of its citizens.
>
> The exercise of initial State jurisdiction over intrastate rates will assure that consumers within the State, and especially small shippers, will have an opportunity to be heard in a local forum and before a State agency who, through its day-to-day contact with local problems, is in the best position to judge local needs within the framework of the overall revenue requirements of the railroads. The national interest is protected by retaining ICC jurisdiction to review and revise State decisions which unjustly discriminate against, or unduly burden, interstate commerce.

Intrastate shippers across the Nation provide approximately 25% of total railroad revenues derived from traffic. The adoption of our proposal will ensure

[1] Unfortunately, this bill did not pass the Senate due to the impending adjournment of the 92d Congress.

the right of these local shippers to be heard in a "home-state" forum and will preserve the traditional state role of initially acting on intrastate rate increase requests.

Once again, Gentlemen, I wish to thank you for affording the NARUC this opportunity to be heard on this vital issue of consumer concern.

Thank you for your attention.

Mr. PODELL. Mr. Harvey.

Mr. HARVEY. No questions.

Mr. PODELL. Mr. Kuykendall.

Mr. KUYKENDALL. No questions.

Mr. PODELL. Mr. Skubitz.

Mr. SKUBITZ. No questions.

Mr. PODELL. Thank you very much.

Mr. RODGERS. Thank you, sir.

Mr. PODELL. You have a record for brevity in this committee.

Our next witness is Mr. John E. Gross, general traffic manager, Inland Steel Co., Chicago, Ill., representing the American Iron and Steel Institute.

Mr. Gross, good morning, sir. Would you identify the gentlemen that are with you at the table?

STATEMENT OF JOHN E. GROSS, GENERAL TRAFFIC MANAGER, INLAND STEEL CO. AND CHAIRMAN, TRAFFIC COMMITTEE, AMERICAN IRON AND STEEL INSTITUTE; ACCOMPANIED BY WAYNE EMORY, ATTORNEY, UNITED STATES STEEL CORP.; AND PAUL MILLER, ATTORNEY, BETHLEHEM STEEL CO., REPRESENTING THE AMERICAN IRON AND STEEL INSTITUTE

Mr. GROSS. Yes, sir; this is Mr. Wayne Emory on my right from United States Steel. On my left, Mr. Paul Miller, from Bethlehem Steel, and both are attorneys for those companies.

Mr. PODELL. Please proceed.

Mr. GROSS. My name is John E. Gross. I am general traffic manager for Inland Steel Co., Chicago, and I am chairman of the traffic committee for the American Iron and Steel Institute. It is in the latter capacity in which this statement is submitted.

The American Iron and Steel Institute is the trade association of practically the entire steel-producing industry of the United States. Its membership includes 77 steel companies, representing 94 percent of the raw steel produced in the United States; these companies employ more than 700,000 workers.

The industry is highly capital intensive with steelmaking facilities located primarily in the Northeast. Approximately 80 percent of the total steel of the United States is produced in this area. The industry is highly dependent upon rail transportation; the railroads carry substantially all our raw materials moving overland and approximately one-half of our outbound finished products. We estimate that the service to and from steel mills comprises about 25 percent of the total transportation performed by the railroads of the Eastern United States, and very little of this transportation can be performed by any other mode, for reasons of safety, cost, material handling, service and just plain inability of other forms of transportation to absorb the burden.

CONTINUED OPERATION OF THE RAILROADS IS ESSENTIAL

It is our deepest conviction that the economic health and the well-being of the entire Nation depends upon continuous operation of the rail freight services now performed by the bankrupt lines in the East, yet we are concerned that their financial difficulties do threaten an end or an interruption to those services.

One of the most urgent reasons for my appearance here today is to convey to you the essential nature of these rail services, and to emphasize the importance of continued operation, without the slightest interruption.

We, of course, represent the steel industry, but many other industries depend on our product as an essential material for their own operations; this includes practically all production of machinery, consumer durables, construction, and much food packaging. In a sense, where we are involved, they are involved as well. Much is at stake, considering our industry alone, and there are many other industries which share our problems and concerns.

We believe you will wish to understand why it is that the steel industry depends so much on rail service and its continuous operation. To begin a brief explanation, we can separate our freight transportation needs in two parts: First, receipt of raw materials, and second, outflow of our production.

In the case of raw materials, which consists primarily of coal, iron ore, limestone and scrap iron, our sources, particularly our coal and ore mines, must operate at, or near, capacity to satisfy our current requirements. Our inability to receive, or the mines inability to ship, results in lost production, never to be replaced.

We hear, frequently, that there are alternate modes of transport today, and that we are no longer so dependent on the railroads as we once were. This is a misleading oversimplification, because for many classes of traffic, there is no alternate to rail.

As an example, consider the Inland Steel Co., my own employer: We, at our Indiana Harbor Works alone, consume daily about 12,900 tons of coal, 22,400 tons of iron ore and pellets, and 3,000 tons of purchased scrap. Practically all of these materials, and others, are transported, at least for part of the delivery route, by rail. Consider, for example, if we at Inland were to attempt to substitute highway trucks for the rail haul of the materials mentioned; to do so would call for about 1,900 full truckloads each day, Saturdays and Sundays, and holidays included. The fact that the trucks are not now available in sufficient numbers is an incidental consideration; more pertinent considerations include traffic congestion, secondary roadway conditions, highway safety, and the environment; these considerations compel us to ship these commodities via rail. There is no other way to handle this concentrated traffic. Keep in mind that my illustration was for only one steel plant, and it represents only about 33 percent of the steel-productive capacity in the immediate vicinity of Chicago, alone.

As a further measure of the enormity of the problem, the railroads now provide some four to five times the ton miles of transportation service provided by the whole of the regulated trucking industry. Quite obviously, a requirement of service of this magnitude can be met only by the railroads.

Outbound shipment of our finished steel products presents equally difficult problems if we were to discontinue rail deliveries. Perhaps you know that steel is produced by the mills in job lots, in compliance with customer specifications and time-of-delivery requirements. We make what the customer wants; finish it at the time when he wants it; and when his steel is ready, we ship it in the manner he prefers. Under this arrangement, there is very little need for warehouse space for an inventory of finished steel at the mills; consequently, only minimal space is provided.

Approximately half of the steel produced today is delivered via rail; if rail service were interrupted, the limited storage areas in the mills would soon become congested, and we would be compelled to curtail operations. Similarly, in many instances, the operations of our customers are equally dependent on regular flow of material, because business efficiency requires that inventories be minimized. The automotive industry is, of course, a prime example of this dependency, but most of our customers similarly specify mill shipping dates to correspond with their production schedules. Because this practice is so widespread, it is readily apparent that any interruption in the service of the railroads would soon cause a severe economic impact not only on our customer companies, but on the communities where they are located, their employees, and shortly on the national economy as a whole.

In sum, there are no practical alternatives to the rail services now used by the steel industry. To the extent that highway equipment is used, shortages have already been experienced, and there is no way in which the requisite capacity of the motor vehicle industry could be expanded, in any relevant time frame, to take up the slack which would result from a major interruption in railroad service. In addition, there is the large segment of rail traffic, such as iron ore and coal, which, as explained, moves in such great volume that it simply cannot be diverted to highway carriers.

I have emphasized, to the best of my ability, the importance of avoiding even a temporary disruption in the service of eastern railroads. Industry's needs are such that any program, for solving the present railroad crisis in the Northeast, must include assurances for continuity of rail freight service, without any interruption.

PRIVATELY OWNED, PROFITABLE RAILROADING

In our complex industrial economy, we believe it is generally recognized that the multitude of interrelated long- and short-range problems are solved best by private decisions, disciplined, ideally, by the forces of competition and little else. Our experience with the railroad freight industry, while it is regulated, has shown that it too can succeed in private hands. In spite of current difficulties, we believe this is still true of rail freight operations in the East. Consequently, we deem it essential that railroad freight service continue to be operated by privately owned, competing organizations. Only by continuing the private operation of these freight services can we avoid the prospect that all freight transportation will, in time, be Government operated. We urge that private ownership be a primary objective in making all reorganizational plans. But to assure a proper competitive balance, there must not be less than three independent rail freight systems in the Northeast.

However, to produce a proper atmosphere for the successful privately owned operation, there are two critical problems in the Northeast railroad situation which must be resolved, problems which have frustrated present managements and will continue to plague future managements until the issues are met. They are:

1. Unsatisfactory progress in improving labor productivity and its uniquely stringent protective agreements.
2. The burden imposed by maintenance of uneconomic services and facilities.

This combination of problems is particularly burdensome to the railroad industry. In other industries, such challenges can be met more readily by management. Public interest concerns have, however, prevented the railroads from resorting to solutions available in other industries. The delay in dealing with these problems has drained the financial strength of the present companies so that even if these public-interest concerns were now to be disregarded, these immediate problems cannot be solved without substantial Government involvement and assistance.

As to the first problem, rail unions have been slow in their acquiescence in changes in work rules to reflect technological change in the industry. Couple this with the relatively low rate of rail traffic growth, particularly in the Northeast, and we have a situation in which the rail freight business cannot now be operated economically by privately-owned companies. No successful reorganization of the bankrupt lines in the Northeast can be accomplished by either the Government or the private sector unless some means is developed for relieving any present or future operator of the financial burden associated with these protective conditions.

Being advocates of the free enterprise system, we would prefer that problems involving work rules and manpower requirements be resolved by collective bargaining. If some new system of negotiation could be worked out which would avoid the threat of strikes in transportation, we would be gratified by its adoption. Development of such machinery is rightfully a goal worthy of all efforts needed to attain it.

However, we have reached the conclusion that the current impasse, in combination with the financial crisis, constitutes a social problem and, therefore, deserves the help of the people. One possible approach, for consideration by Congress, would be to provide for the security of displaced railroad employees, where necessary, and funded by the Federal Government.

The second problem, that is the maintenance of uneconomic services and facilities, has two parts: (1) unprofitable low-density lines, and (2) nonprofitable passenger service.

Abandonment of low-density lines has been the target of railroad managements' efforts for a long time, but if one or more new private, and profitable, core systems are to emerge from the lines of the bankrupt roads in the East, they must first be relieved of this burden.

Abandonment, however, carries with it some socially significant overtones, too. More than short-term economics is involved. For example, is it wise to abandon a right-of-way and perhaps preclude all possibilities of its ever being reestablished? This could choke off future econmomic development which later generations may need. We are equally familiar with the hardships which abandonment of some of these lines could impose on the workers and the communities and industries which such rail lines serve. With these considerations in mind, we conclude that the rail line abandonment problem, or rather the goal of preserving those low-density lines of high potential value, is one which should be assumed by the public.

To accomplish this, we would endorse the concept of local support for the continuation of the more important low-density lines, such support being contributed by local industries or local governments, or both, and possibly supplemented by Federal assistance. The requirement of local participation would assure well-reasoned selections of the lines worth saving.

Passenger service is the other aspect of the second problem. This should be fully compensatory, either from fares or public support. Passenger service should not be a burden on either the railroads or the shippers of freight. To the extent that it can be shown that the railroads are not fully compensated for passenger operations performed for Amtrak, fees should be adjusted upward. In addition, we advocate the formation of regional commutation districts, constituted so as to fully compensate the carriers and to distribute any public funds equitably among them. Finally, we sense there is considerable wisdom in acquiring a Boston-New York-Washington rail corridor, to be dedicated exclusively to passenger service. We believe this concept warrants careful study, and suspect that such a facility, if not needed today, may become a priceless asset sometime in the future.

Once the railroads are relieved of the burdens imposed by the foregoing problems, we believe the economic environment would then be suitable for a new rail freight system, or systems, to emerge from the lines of the bankrupt railroads of the Northeast. Such systems, stripped of uneconomic low-density lines, manned with an efficient labor force, and compensated fully for all services performed, surely hold the promise of becoming profitable enterprises, capable of rewarding investors sufficiently to attract the additional funds needed for subsequent improvements in service.

THE TRANSITION

While we are confident of the ultimate success of any emerging new systems, we face the question of whether they could generate sufficient funds at the very outset of their existence to continue operating. Frankly, we doubt if they could, and it is our position that we cannot accept any risk, however slight, of the possibility of interrupted service. The Department of Transportation has said that such new, unburdened systems would be able to attract all the funds they need from private sources and would be able to obtain the financing as soon as it is needed. This would be ideal, but we believe there is a strong possibility that such optimism is not justified, and we should not risk it.

The economic well-being of virtually the entire Nation depends so much upon continued rail freight service, without interruption, that we cannot tolerate even a remote possibility of a stoppage. Financial assistance must be immediately available, and provision for it should be made well in advance of the time when it may be needed. So long as any possibility exists that the surviving systems may need a helpful push to get started, we believe the public should be prepared to lend a hand.

As to the form of the financial assistance, and its source, we, as industrial users of transportation, have only two comments:

First, any assistance should be consistent with the concept that the emerging rail freight systems will be private, and, since the new systems will be in competition with other railroads, they should not be given an unfair advantage.

Second, we refer to the suggestion of the Interstate Commerce Commission that the source of such funds be a 1-percent tax on all surface transportation for hire. This would obviously represent a substantial expense to the steel industry and to its customers, but the possibility of a loss of rail freight service is so serious that if there be no other source of the necessary funds, the 1-percent surcharge tax would be acceptable for a period of 3 years. This is far preferable to any interruption in rail freight service. Should any such tax be adopted, it is essential that funds collected must be used only for rehabilitation, maintenance, modernization, and any necessary restructuring of essential rail lines. Furthermore, it is vital that this burden be recognized by the Interstate Commerce Commission in its consideration of any upward adjustment of the rates of the regulated carriers.

CONCLUSION

Time is running out, and action by Congress is mandatory in the public interest and for the protection of the national economy.

Nationalization of the bankrupt railroad properties is not the answer, nor is it desirable. Freight service in the Northeast quadrant must be maintained and continued within the framework of private ownership and operation. Whatever the price to the public, to the shippers, to rail management, to rail labor, to rail investors and to the Congress, it must be paid and a solution developed and implemented.

Congress has the authority and responsibility to provide the leadership, and we urge it to do so before the present crisis results in economic catastrophe.

Mr. PODELL. Mr. Gross, we thank you for your very enlightened statement and would appreciate your remaining to submit to a few questions by the members of the committee.

I would like to first ask you this. I know that by your statement a high percentage of your transportation is dependent on rail service.

Mr. GROSS. Yes.

Mr. PODELL. And there is a great interrelation between the two, between your industry and rail. Would you care to buy six bankrupt railroads and operate them?

Mr. GROSS. Well, I don't know how we would finance it.

Mr. PODELL. You say you are going to make it pay. You say that private industry should do it. Well, if private industry can do it and it can be successful, maybe the steel industry would like to buy them and run them.

Mr. GROSS. I am not authorized to speak to that question.

Mr. PODELL. I am not asking you to make an offer but as a businessman, would you invest your money in any one or all of those six railroads? I am talking from a point of view of a man in leadership in the steel industry.

Mr. Gross. Well, I think that when a person considers an investment, he considers his alternatives, of course. People have already invested in the railroads and I suspect that some have lost money in doing so.

Mr. Podell. So you would not be that anxious to invest your money in it, would you?

Mr. Gross. I have not considered buying any Penn Central stock recently, no.

Mr. Podell. What I am trying to bring out, Mr. Gross, if a steel man, who is truly dependent on the rail industry, would not invest his money in the railroad business, will you tell me how in the world you are going to get anybody else to do it because of the fact that you at least have a primary interest. There is some relationship.

We are talking about infusion of big private capital.

Mr. Gross. That is right.

Mr. Podell. Whose private capital?

Mr. Gross. There is already a considerable amount of capital invested in it. There are creditors and there are States there. I am persuaded that if certain of these difficulties could be removed from the railroad operating situation, some of the work rules, some of the low density lines abandoned, full compensation for passenger service, and so forth, I am persuaded that if the bankrupt roads could be so reconstituted as to relieve them of these burdens, there is every reason for me to believe that they would be an equally good investment as the roads that are now profitable and operated in the same part of the country.

Mr. Podell. In other words, assuming those things are done, we can count on your purchase of some of that stock that is going to come out, right?

Mr. Gross. I would not rule out the possibility.

Mr. Podell. I would like to have your opinion as to whether you have any estimates. I have information here that elimination of the trackage system of the Penn Central, cutting it down, if I may quote this, "The trustees state that they can live with a 15,000-mile core system since the labor protection annual payments would be only $18 million for a 15,000-mile system as opposed to $177 million in 1976."

The trustees further state that if they cut the trackage from 20,000 miles to 11,000 miles, the cost in labor protection alone, this is just the Penn Central now, would be $177 million per year.

That is just the one small facet of the total cost to subsidize a program that would be in keeping with your suggestion that we cut some of the trackage out. Do you have any estimates that you think would be available to this committee insofar as the elimination of trackage and how much it would cost or how much it would save?

Mr. Gross. No, I don't have that. We rely upon the advice of the railroad operating people in such matters.

Mr. Podell. You state an page 6 "the rail freight business cannot now be operated economically by privately owned companies."

On page 11 you turn around and say "freight service in the Northeast quadrant must be maintained and continued within the framework of private ownership and operation."

You can't have it both ways. You have admitted that private enterprise has failed with these bankrupt lines, yet you state that only private enterprise can bring them back.

Don't you think that statement on your part is not truly substantiated by the facts and is contradicted by your own statement?

Mr. GROSS. What I am trying to express is that once the conditions which we have suggested are accomplished, private enterprise then could operate the bankrupt roads profitably. We do go on that premise.

Mr. PODELL. You are from Chicago. The Chicago Transit System is publicly owned. I don't think it operates in the black, does it?

Mr. GROSS. No, I understand not.

Mr. PODELL. Since Mayor Daley is not known as an outstanding socialist, there must be some economic reason for the fact that the Chicago Transit System is in public ownership. Private enterprise will never willingly operate any service at a loss regardless of how essential it is to the public.

Private enterprise is not concerned with essential public service. They are concerned with a return on their investment, which is natural. So the Government had to step in in Chicago and take over the railroad.

Don't you think this is also true of the Northeastern railroads? Don't you think that to protect your industry, the only solution is that the Government step in and run the show?

Mr. GROSS. I certainly would hope not. However, we do advocate Government assistance, substantial Government assistance in passenger services.

Mr. PODELL. Forget passenger service. We are already paying for passenger service. We are now talking about just the operation of the railroads. I think the word "Government ownership" seems to frighten everybody on its face and I have yet to hear one individual give me a salient argument as to why they are truly opposed to it.

Perhaps you could help me. Give me a valid reason why you feel that Government ownership is not going to work. After all, we are going to pay for it. We are going to pour in hundreds of millions of dollars every year.

What would be wrong with the Government taking over the operation and hiring competent and able people to run it? You wouldn't have the concern as far as your industry is concerned, coming here to testify, because you will be out of business if the railroad is out of business.

Mr. GROSS. I suspect that I should answer first that we—my answer is largely personal because this answer to your question was not really deliberated in our meetings in preparation for this paper.

I would say that one reason is that if a single rail system were to be publicly owned by the Federal Government and competing railroads were not, and I am speaking specifically of the Norfolk and Western Chessie system, it could easily be that the revenue sources of the Federal Government, being vastly greater than those of the privately owned carriers, that it would be very easy to introduce a distortion there, making it unfair in competition between the still privately owned systems and the publicly owned system.

We are having a discussion in the Chicago area right now which deals with this. The CTA runs as far north as Wilmette, Ill. The Chicago-Northwestern serves Wilmette also.

While I don't commute from there, I understand there is a big difference in the fares charged by the Northwestern and by the CTA.

I consider that one of the reasons to avoid nationalization is that you do have a difference in the competitive standards of each company, the private one and the public one.

Mr. PODELL. Well, I don't want to take up the entire questioning myself. I will yield to Mr. Harvey.

Mr. HARVEY. Thank you, Mr. Chairman.

Mr. Gross, if I undestand correctly what you are saying, you are telling us that the steel industry could not live with a central core system such as has been proposed by the trustees and has been proposed by the Transportation Department as well, is that correct?

Mr. GROSS. Could not live?

Mr. HARVEY. Yes.

Mr. GROSS. Oh, I did not mean to convey that.

Mr. HARVEY. Let me recite these facts. The trustees say they presently have about 20,000 miles of track, that they currently do about 85 percent of their business on 11,000 miles of that track, and they can live with about 15,000-mile core system. What they are urging, therefore, is the abandonment of about 5,000 miles of track. That is only the one railroad, the trustees of the Penn Central?

Mr. GROSS. Yes.

Mr. HARVEY. Now you are telling us that the steel industry could not live with that sort of a system, is that correct?

Mr. GROSS. No, I did not mean to say that. I meant to say that rail services are essential, but not all of the services and not all of the lines are essential. There are some we recognize as being lines that could be abandoned.

Mr. HARVEY. Have you made any conclusion as to how much could be abandoned?

Mr. GROSS. No. We would need to rely upon studies in depth, great depth.

Mr. HARVEY. The problem that the railroad industry currently faces stems from not only the abandonment of the lines, but also the displacement of the employees. If I understand your testimony correctly, in both instances you urge public funding.

Mr. GROSS. Yes.

Mr. HARVEY. Could I ask you what percentage do you believe that local contribution should be in the case of the abandonment of lines in determining whether a line should be abandoned or not?

Mr. GROSS. Our position is that this is a matter which your judgment should influence. However, I don't have any reason to believe that our committee would object to the 30-percent, 70-percent split which has been proposed, the latter being the Federal Government's contribution. I don't believe that we would consider that to be an inappropriate division.

Mr. HARVEY. Do you have any estimates of costs both with regard to Federal costs involving the public funding of the displaced employees and the abandonment of the lines?

Mr. GROSS. We don't have any information such as that. We would again need to rely upon information that the railroads would supply, and I don't suppose that could even be generated until you have a definition of your new core system or systems, which would be made up from the properties, the choicest properties, the more densely used lines of the railroads that are bankrupt.

Once you have reconstituted these lines, and I would think not until then, would you know what lines could be subject to abandonment.

At that point, your cost estimates would be made. I don't suppose you could make them before that.

Mr. HARVEY. How many companies comprise the American Iron and Steel Institute?

Mr. GROSS. Seventy-seven.

Mr. HARVEY. They consist of all of the major manufacturers of steel, is that correct?

Mr. GROSS. Yes, sir, they do. They consist of 94 percent, and most or very nearly all of the remaining 6 percent is produced by two companies that are also manufacturers and customers of ours and therefore are not in the institute.

Mr. HARVEY. Thank you very much, Mr. Gross, for your testimony.

Mr. PODELL. Mr. Shoup.

Mr. SHOUP. Thank you, Mr. Chairman.

Mr. Gross, one question concerning the financing. You endorse the recommendation of the Interstate Commerce Commission for a 1-percent surcharge tax on all surface transportation for hire?

Mr. GROSS. Well, we did not endorse it, we qualified our position more than that. We said if it were determined that this were the only way that the needed financing could be obtained, we would be agreeable to it for a period of 3 years.

Mr. SHOUP. As I have stated to other witnesses who endorse this principle, including the Interstate Commerce Commission, it bothers me somewhat to tax the entire transportation industry for the benefit of a segment of it.

I could equate it to your paying a tax to support a competitive business that the steel industry has. It does not seem quite fair unless, of course, we would make all taxes equal on all segments, and I could refer to, let's say, those taxes that are going to a highway trust fund.

Would you advocate or support that if those who use the highways must pay this surcharge to assist the railroads, then the railroads should pay into the highway trust fund?

Mr. GROSS. No, we are not advocating that.

Mr. SHOUP. I have no further questions.

Mr. PODELL. On page 8, Mr. Gross, you indicate that there is wisdom in acquiring a Boston-New York-Washington rail corridor to be dedicated exclusively to passenger service. What about the freight service that goes over that corridor?

Mr. GROSS. I understand, from discussions with railroad people who are familiar with these properties in the East, that the freight service could be operated entirely independently of the passenger service, and they say as an operational matter, it would be much safer to do it this way.

I gather there are questions of right-of-way space alongside the fast-moving trains that are being contemplated.

Mr. PODELL. You mean building another line?

Mr. GROSS. Building a line just for passengers. This line could be built with a superior roadbed and superior signaling equipment and curvatures that are more gradual with steeper banks and the like, and from the way I understand it, it would be best to keep it entirely independent from the freight operations.

Mr. PODELL. Who is going to pay for that?

Mr. GROSS. We have suggested only that a very careful study be made of it, and I suppose that it could come down to a recommendation, I made at least, that the Federal Government might be the people to become involved in that.

Mr. PODELL. You don't have any possible idea as to what that would cost, do you?

Mr. GROSS. I haven't the slightest idea.

Mr. PODELL. You have no idea?

Mr. GROSS. No.

Mr. PODELL. The trustees seem to indicate that it is over $1 billion. Of course, it would be ideal to have a separate fast passenger train right down the corridor.

As one who travels that route continually by air most of the time, I certainly would look forward to that kind of fast track, and maybe someday we will see trains going over that track at 250 or 300 miles per hour.

But we are talking about buying now a whole new passenger rail system. We are talking about paying for labor protection. We are talking about cutting down on trackage. Obviously the trackage you would like to see abandoned is not one that will abut your steel mills, now, is it?

Mr. GROSS. I don't know of any of the major steel plants that are served by lines that would be low-density lines. Inland does have at least one factory that I suppose would lose rail service.

Mr. PODELL. You leave it to the DOT. They will find one.

I thank you for your testimony. It has been helpful. I thank the gentlemen who accompanied you.

Mr. GROSS. Thank you very much.

Mr. PODELL. If there are no other witnesses this morning, this hearing is adjourned.

[The following telegrams, statements, and letters were received for the record:]

[Telegram]

AKRON, OHIO, *April 16, 1973.*

Hon. JOHN JARMAN,
Chairman, House Subcommittee on Transportation and Aeronautics, U.S. House of Representatives, Washington, D.C.

On April 5, I was privileged to be a participant in a Transportation Association of America seminar on the northeastern railroad crisis. In my presentation, I endorsed Secretary Brinegar's D.O.T. plan for solutions to the northeastern railroad problems subject to two qualifications: (a) that short-term Federal aid was essential in order to allow for the development of a program that would attract sufficient private investor's confidence to permit the eventual private ownership solution, and (b) that entry in event of suspension of service should not be wide open, but should require compliance with all Federal regulations for fitness, safety, etc., and include provisions for protection of alternate carrier's rights who already serve the point in question.

As a user, I supported expedited proceedings for suspension of service or abandonment and pledged to work toward equitable alternate solutions in the event any of our own plants were involved in abandonment proceedings. This would include exploring the cost-benefit ratios of substitute service, assessment of surcharges to offset losses for the service, purchase and operation of the branch line as a private corporation or a joint effort along these lines with other users affected by same proceedings.

LEE CISNEROS,
Director, Corporate Transportation,
Firestone Tire and Rubber Co., Akron, Ohio.

[Telegram]

MINNEAPOLIS, MINN.,
April 16, 1973.

Congressman JOHN JARMAN,
Chairman, Subcommittee on Transportation and Aeronautics,
House of Representatives,
Rayburn House Office Building, Washington, D.C.

Chairman Jarman. Please include this telegram in your record of your current hearings on the northeastern railroad problem. General Mills, Inc., supports the private funding program submitted by Secretary Brinegar in response to Senate Joint Resolution 59-2. We believe that a solution to the problem is obtainable along the lines proposed by the Secretary including the modernization of regulatory procedures. We suggest that all concerned parties, including your subcommittee, devote fullest effort and highest priority to working out with private investors the implementation of the Secretary's proposal. If such efforts find that private funds cannot be available in sufficient amount or time then modifications of the proposal are in order. But first the private funding solution to the problem should be given your immediate and most comprehensive evaluation.

W. K. SMITH,
Vice President, General Mills, Inc.

STATEMENT OF HON. JAMES HARVEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, I wish to include in the record and commend to the attention of my colleagues on the Subcommittee a letter from S. Dean Evans, Sr., a constituent of Congressman Garner E. Shriver, of Kansas. Mr. Evans raises a very important and timely issue regarding the abandonment of railroad lines and its potential effect on the delivery of agricultural commodities. Mr. Evans' letter follows:

EVANS GRAIN CO.,
Salina, Kans., July 27, 1973.

Hon. GARNER E. SHRIVER,
House Office Building,
Washington, D.C.

DEAR GARNER: I have carefully reviewed Title III of H.R. 5385 which deals with the abandonment of nonproductive rail facilities. Under this bill a railroad could abandon any portion of a line of railroad or operation thereof upon filing an application with the Interstate Commerce Commission unless the Interstate Commerce Commission shall have issued an order finding such abandonment not consistent with public convenience and necessity. The Commission could not refuse to permit the abandonment unless the continued operation of the line proposed to be abandoned "will produce sufficient revenue to cover the relevant variable costs of handling traffic to, from, and beyond the line".

I do not know precisely what the "relevant variable costs of handling traffic to, from, and beyond the line" might be, but I doubt if any capable accountant could not establish that any segment of any railroad line could not produce sufficient revenue to cover such relevant variable costs. You will note that the relevant variable costs do not pertain to the cost of operating the segment of the line to be abandoned, but the handling of traffic to, from, and beyond the line to be abandoned.

Another provision of the bill provides that if the Commission determines that the revenues attributable to the line to be abandoned may become sufficient to cover the relevant variable costs as a result of improved operating efficiencies, rate adjustments or direct financial compensation from users or any state or political subdivision thereof or changed circumstances, then the issuance of a Certificate of Abandonment may be suspended for a period of six months. If at the end of the six month period the revenue has not been generated from these sources, then the Certificate of Abandonment must be issued.

It is apparent from this provision that the six month extension is designed solely for the purpose of affording the railroad with an opportunity to demand contributions from users and communities who would be adversely affected by the abandonment. Improvement of operating efficiencies after the fact and within a short period of six months is hardly a standard to be considered and discriminatory rate adjustments could eliminate the usefulness of the railroad in the area in any event.

It seems to me that this bill would give a railroad a blank check to discontinue and abandon any segment of its operations without regard to public convenience and necessity and without any realistic method of determining the actual cost of providing service to the line proposed to be abandoned.

The abandonment of railroad lines is a matter of utmost importance in providing a means of delivering agricultural commodities to the various markets. In the event there is an abandonment of lines serving country and terminal elevator facilities, then other and more expensive methods of delivering commodities to markets must be obtained. Any increase in freight rates will necessarily be reflected in the price of commodities, both to the producers and the consumers.

I do not desire to force a railroad to incur actual losses in connection with the operation of any segment of its line. My concern is the inability to determine the loss which a railroad may sustain with respect to the operation of any part of its line. I am opposed to the simplification of abandonment procedures without adequate safeguards as to the actual use and need for the line by shippers and receivers. The abandonment of lines would be a serious blow to the agricultural and economic growth of the small communities in Kansas and Nebraska.

Frankly, I feel that if a railroad seeks to abandon any segment of its line, then the railroad should be required to offer for sale at public auction all of the property (other than rolling stock) owned by the railroad and its subsidiaries and affiliates in the area which is served by the line proposed to be abandoned. Such sale would be without reservation on the part of the railroad and would include all property located in the area served by the line to be abandoned, including road beds, rails, real estate, depots, storage areas, investment real estate, mineral interests and any and all other property in the area. In such event, the railroad would not be entitled to any compensation for the operating rights sought to be abandoned, and the Interstate Commerce Commission should be required to grant a certificate of public convenience and necessity to any person who is willing to undertake the operation of the line proposed to be abandoned. There would have to be provisions made to permit a successor operator to interline at all connecting points on the basis of a reasonable division of the tariffs.

We would appreciate receiving your ideas.

Sincerely yours,

S. DEAN EVANS, Sr.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 21, 1973.

Hon. JOHN JARMAN,
Chairman, Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are a letter from Erie County Executive Edward V. Regan and an analysis of the Northeastern railroad situation and the impact on the Western New York area.

In view of your current subcommittee hearings, I thought they would be of interest to you, and I would very much appreciate it if you would have them made a part of the hearing record.

With kindest personal regards,

Sincerely yours,

T. J. DULSKI.

Enclosure.

COUNTY OF ERIE,
Buffalo, N.Y., May 15, 1973.

Mr. THADDEUS J. DULSKI,
U.S. Congressman,
Cannon House Office Building,
Washington, D.C.

DEAR TED: I am enclosing for your information an analysis of the Northeastern railroad situation and its impact on our area which was prepared by Perry Trimmer, the Economic Coordinator for the county. I am sending it along for your information and comments.

Since this study was prepared, the trustees of the Penn Central have come out in support of the I.C.C. program. It appears to us that they have done so for reasons which they are not publicly admitting and because the I.C.C. program would be an easy way out of their present predicament. In other words, they are apparently not getting the cooperation they think they need from the labor unions nor from the I.C.C. itself with respect to abandoning excess trackage. I very much dislike seeing the general public burdened with additional taxes to pay for subsidies. This approach seems to be the only answer we can come up with whenever we run into a difficult economic problem in this country. We simply can not afford to subsidize every business that gets into trouble.

As pointed out in Page 4 of the analysis, Penn Central's loss in 1972 was less than half the total of its depreciation and taxes. We do not have the figures to separate into various categories the various taxes which the railroad is paying and those which they have defaulted on. It is possible that a substantial part of the 140.5 million dollars of these taxes are payroll taxes which they are paying, but another substantial part of that amount must be in real estate and similar taxes which, based on our own experience, they are not paying. Depreciation is, of course, a non-cash charge and funds arising from that source would normally be used to replace worn out equipment, but it does not appear that the railroad is doing so. All the new equipment they have obtained recently has been contracted for under long-term leases which do not require immediate cash payment, but are a rental type expense.

I would like to comment on the tax situation as it affects the county. The total taxes we should be receiving, including property and school taxes, for the year 1973 is $1,376,194. The three bankrupt railroads serving this area are in default for the large majority of those taxes. Specifically, they owe the county $1,028,750 of which $246,474 is owed to the school districts and these funds have been advanced to them by the county. The Penn Central alone is in default on a total $667,438 including both school districts and real property taxes in the County of Erie and presumably they are not paying such taxes in any other jurisdictions throughout their system. Getting these railroads back on a sound financial basis is, therefore, of real importance to us.

I think the conclusions in the enclosed analysis are valid. The railroads are a vital part of this community and their survival is essential to us. I would be pleased to have your reaction to this data.

Sincerely yours,

EDWARD V. REGAN,
County Executive.

Enclosure.

ERIE COUNTY EXECUTIVE'S OFFICE MEMORANDUM

From: Perry R. Trimmer, Economic Coordinator.
To: County Executive Edward V. Regan.
Subject: Northeastern railroad situation.

It has been suggested by Deputy County Executive Barnes that the very serious situation in which many of the railroads serving the County of Erie find themselves will eventually require the County Executive and his associates as well as our state and federal legislators to comment on or commit themselves to some remedial course of action. These railroads are obviously of vital importance to this area. Buffalo is at least the third largest railroad center in the country and at one time was the second largest. Clearly, any further deterioration of the railroads serving Western New York would affect the local economy very seriously resulting not only in the loss of jobs directly, but also in the loss of the expenditures these railroads make in this area for purchases and taxes. There are seven railroad systems servicing Buffalo and all three of the railroads that connect this area to the east are in bankruptcy. The seriousness of the problems of the northeastern railroads is such that the United States Congress required the Federal Department of Transportation to come up with a solution and that department released an outline of its program just a couple of weeks ago. In addition, the Interstate Commerce Commission has come up with its own program which I shall comment upon later. It is very possible that either of these programs could be quite harmful to the entire Niagara Frontier. We have only to look at our experience with AMTRAK as a guide. It is not my purpose to criticize that organization since intercity passenger traffic other than in heavily populated corridors such as between Washington and New York City is probably a thing of the past and all AMTRAK is accomplishing is to fight a delaying action. Nevertheless, Western New York did not fare as well as other areas when AMTRAK took over the railroads' passenger services.

It should be noted that all the bankrupt railroads of any significance are located in the northeastern part of the country and most of the railroads operating in the rest of the nation are quite profitable although there are three or four roads which are marginal. The reasons that the railroads in this part of the country are unprofitable have been commented on at length in the newspapers and there is no need to elaborate to any great degree on these reasons. One basic fact, however, should be recognized and that is that industrial growth has been much less in the northeast than in other sections of the country and the railroads in this area have not been able to increase their traffic as have those in other sections to the degree necessary to overcome their constantly rising costs. Nevertheless, the railroad industry as a whole is solvent and many railroads are earning a net profit after all charges and taxes well in excess of the net profits of industry which have averaged about 4.3%. The following statistical data illustrates this situation:

All railroads	1971	1970
Gross revenues	$12,700,000,000	$12,000,000,000
Net income	347,100,000	226,600,000
Return on gross revenues (percent)	2.7	1.9

1972 Gross Revenues and Net income for certain selected railroads:

	Chesapeake & Ohio (consol.)	Norfolk Western	Burlington Northern	Southern Railway	Southern Pacific
Gross revenues (millions)	$1,025.4	$795.0	$1,098.0	$723.8	$1,120.0
Net income (millions)	$56.5	$89.8	$48.7	$85.3	$93.1
Return on gross revenues (percent)	5.5	11.3	4.4	11.8	8.3

[In millions]

	Erie-Lackawanna	Lehigh-Valley	Penn Central
Gross revenues	$263.6	$51.1	$1,825.5
Net operating loss [1]	−7.7	−8.9	−105.2

[1] Before other income and expenses or interest expenses.

The above statistics cover two railroads, the Chesapeake and Ohio system and the Norfolk and Western which, although admittedly special situations due to their heavy coal traffic, operate partially in the northeastern area. The other roads are representative of the southern, western, and northwestern areas of the country while the three strictly northeastern roads listed are in varying degrees of trouble. The losses of the Lehigh Valley are so substantial that its threat to cease operations in October cannot be taken as empty. The Erie-Lackawanna was operating on close to a break-even basis prior to 1972 when its operations were severely effected by tropical storm Agnes. The Penn Central, as the largest railroad in the country on the basis of gross revenues, is a special case in itself since to shut it down in the event of liquidation would cripple industry throughout the section it serves. Suggestions that it do so and a portion of its lines be taken over by solvent carriers such as have emanated from the trustee of the Central Railroad of New Jersey are completely ridiculous.

The trustees of the Penn Central have stated that in order for that railroad to become a viable operation three things are necessary. These are the elimination of the passenger deficit, the elimination of unnecessary and duplicating trackage, and a reduction in the work force through attrition. Many criticisms could be made of the management of the Penn Central under Stuart Saunders and such criticims have been fully documented in the press. However, the present management headed by Jervis Langdon as the senior trustee and William Moore, President, is obviously above reproach and dedicated to the progress of the company. While Langdon is a lawyer, he has had long experience in railroading, having been the Chief Executive Officer of both the Baltimore and Ohio Roalroad and the Rock Island prior to assuming his present duties. Mr. Moore was one of the Senior Vice Presidents of the Southern Railway prior to being hired away by the Penn Central trustees and the Southern is generally considered to be among the most progressive railroads in the country. In spite of all the reports indicating that the Penn Central is having a series of financial crisis and might have to cease operations, these gentlemen have made considerable progress.

This is shown by the fact that for the year 1971 the railroad had a net operating loss, before taking into consideration such items as other income from real estate and investments and before taking into consideration interest owned on its debt, of 179.8 million dollars, which loss had been reduced by 1972 on the same basis to 105.2 million dollars. This was the loss after allowing for depreciation, which is a non-cash charge, amounting to 85.6 million dollars and after accruing taxes (net of an income tax refund of 7.1 million dollars) of 140.5 million dollars. This would indicate that the present management of Penn Central has made progress and would also indicate that, if it was given half the leeway that government agencies would get under either the ICC program or the Department of Transportation program, it could put this railroad on a profitable and taxpaying basis.

The above figures indicate that the railroads as a whole had very unsatisfactory earnings in 1970 and 1971 but it should be remembered that this total includes all the bankrupt lines such as the Penn Central. In addition, in 1970 in particular, there were many charge-offs by all the railroads which resulted from the fact that they were getting out of the passenger business and this probably affected their net profits to the extent these charge-offs were not accounted for as a reduction in retained earnings. Clearly any solution to the very localized northeastern railroad problem that destroyed the profitability of the rest of the industry would not be in the interest of the general public. One solution that has been occasionally suggested; namely, nationalization of the northeastern lines, would do exactly that because it would provide those lines with advantages in taxes and otherwise that would have a significant effect on railroads in other sections of the country. It would also undoubtedly aggravate the labor situation since the nationalized segment would have less compulsion to resist the demands of the unions. In fact, the president of one of the major western railroads has stated that should the northeastern railroads be nationalized, it would drive all the rest of the railroads in the country into bankruptcy. The only result would be to eliminate the healthy railroads as very major taxpayers and replace this vital source of income for the various governments with a subsidy which would have to be paid by the general public.

To illustrate the above we need only to compare the two Canadian railroads one of which, Canadian National Railways, is owned by the government of Canada, while the other, Canadian Pacific, is a private enterprise. In the 50 years since it began operating in 1923 Canadian National Railways has earned a profit in only one or two years, those being during World War II. In 1971 it had a net loss after all charges of 24.3 million dollars while in the same year the privately operated Canadian Pacific had a net profit after all charges and taxes of 65.5 million dollars. As a matter of fact, the Canadian National's deficits ran about three times as much as that reported for 1971 up until about 10 years ago when some bookkeeping adjustments were made which technically reduced its charges. In the 50 years since it was organized, the Canadian National Railways is estimated to have cost the taxpayers of Canada well over two billion dollars. At the same time, the Canadian Pacific has borne all the normal tax burdens of any private company and, since it is profitable, paid substantial income taxes as well. In the year 1971 it paid a total of 28.4 million dollars in income taxes alone and in 1972 this was up to 34.5 million dollars. It will be said that the Canadian National has certain disadvantages, compared to the Canadian Pacific since the latter has large investments in steam ships, an airline, trucking, hotels and mineral developments. The Canadian National owns AIR CANADA and also has investments in hotels and land. Although the total of these investments are not as great proportionately or in total as those of the Canadian Pacific, the basic fact of the matter is that in 50 years the Canadian National Railways has not, because of political pressure and the lack of the profit motive, been able to adjust itself to the point where it could relieve the taxpayers of Canada of the burden of its deficits while the Canadian Pacific has continued to contribute to the support of the Canadian people since, as noted, it always earns a profit and always pays substantial income taxes. Taxation is currently excessive in the United States and is reaching the point where it acts as a disincentive as was recognized by the late President John F. Kennedy. We can ill afford another subsidy to sustain an inefficiency.

The Federal Department of Transportation has not yet issued its own detailed plan but has issued an outline which appears similar to the ICC plan. The ICC has presented a fairly complete proposal for the solution of the northeastern railroad problem. This calls for the formation of a public corporation which would purchase the railroads involved apparently by issuing its own securities to the present creditors. It is noteworthy that this corporation would not only take over the six bankrupt lines, but would also take over the very profitable C & O and N & W systems. Presumably it would also take over three smaller roads in the area which are still solvent. The reason it would take these roads is stated to be due to the fact that, if the new public corporation took over only the bankrupt ones, the solvent roads would be placed at a substantial disadvantage. This in itself tends to validate the criticism already mentioned that any form of nationalization of the bankrupt railroads would tend to drive the rest of the industry into bankruptcy. Under the ICC's plan, there would be a 1% tax on freight, whether it was hauled by railroads, trucks, pipelines or barges. This would not include air freight. It is estimated that such a tax would raise $500,000,000 anually and the ICC plan calls for spending approximately $600,000,000 a year to upgrade trackage, equipment, and modernize yards. In addition, the plan assumes that there would be an operating deficit for at least the first three years after it goes into effect and that it would be necessary for the Federal Government to provide between $150,000,000 and $200,000,000 on an annual basis to offset that.

Under the plan, the public corporation might sell off the profitable trackage to other railroads. This makes very little sense to me for two reasons. First of all, the ICC proposes to take over two of the wealthiest roads in the country. and, if I understand their plan correctly, they then would turn around and sell the profitable trackage of those roads to other railroads. The result would be that a lot of trackage which is marginal or might even be losing money and is presently part of two highly solvent railroads would be needlessly torn up. A lot of jobs would be lost, a lot of communities would be deprived of railroad service and a lot of governmental units would be deprived of a very significant portion of their tax revenues. Secondly, it is inconceivable to me that any of the railroads in the other sections of the country would have the resources to purchase any significant portion of the profitable trackage involved nor would they have the desire to do so since such an action might jeopardize their own profitability.

The ICC plan further provides for the mandatory abandonment of those railroad lines that are presently operating at a loss. Notice must be given 18 months in advance and the commission must make a determination in six months as to whether the losses exist. The only way such lines can continue to be operated after the 18 month period is if the governmental units along the right-of-way give up all taxes including real estate taxes on those particular lines. Each state then decides which of these losing lines shall be kept going and a subsidy is provided to make up the operating deficit. The funds for this subsidy come 70% from the Federal Government and 30% from the State Governments. We are presently faced in this area with exactly this type of situation since the Penn Central wishes to abandon its Ontario branch which runs from Lewiston to Rochester along the southern shore of the lake of the same name. There is no question but that that line is losing money. There are six industries located on it which would be severely injured if it was closed down. Chem-Trol, which is a new company that has developed a process for disposal of chemical wastes, could, within a few years, provide quite a bit of tonnage to the railroad if its business develops as rapidly as it projects. However, the railroad states that these are only projections and cannot be taken into account. This information was given to me by Mr. Pyle of the New York State Department of Commerce. He said that the railroad suggested to these companies that they take over the operation of the Ontario branch. He further said that the railroad states that it would cost $500,000 just to put the trackage in shape for the safe operation of trains. None of the companies involved is large enough, nor are all of them together large enough, to make the required investment even assuming that the railroad for all practical purposes gives them the branch. I am sure that this type of problem would be multiplied many times if the ICC's plan was put into effect. I am also sure that due to political pressures most of the lines that are losing money would not be shut down and we would find the

Federal and State Governments shoveling out large subsidies to keep such operations going, thus defeating the very objectives of the plan.

Another major problem is that under the ICC plan a very large number of railroad jobs would disappear. The summary of the plan which I read in Moody's Transportation Manual, from which all the figures I have used are taken, states merely that the Federal Government might have to assume the labor costs that would arise from the elimination of these jobs. These costs alone would be very, very substantial and I doubt that there is any real estimate of what they would be.

It appears to me that the ICC plan and others like it would not only cost huge amounts of money, but would also be extremely costly to the communities presently served by the railroads in this section of the country. The latter type of costs can hardly be measured, but obviously involve tax revenues, jobs, and loss of railroad service. The very privileges which the ICC wants to give a public corporation such as the right to abandon unprofitable trackage and to dismiss thousands of workers are those which neither the Federal Government nor any other agency will give to the court-appointed trustees of the bankrupt railroads. There is no question in my mind that if the Penn Central could reduce its work force substantially, and be relieved of paying any taxes on lines that it could be proven are operating at a loss, that that railroad would be solvent in a reasonable period of time. Unfortunately, the labor union representing Penn Central employees will not allow it to abolish jobs even though the trustees do not propose to fire anybody outright, but simply to eliminate the jobs through attrition. It seems to me that the union is being extremely short-sighted since under any of the plans proposed to date which involve government intervention, many of their members' jobs would simply be abolished outright. There would also be tremendous opposition among governmental units and probably large sections of the public to foregoing taxes on railroad lines that are not making money. However, under any of the government proposed plans such lines are either going to be torn up at the end of 18 months or the communities involved will not only give up their tax revenues, but will also have to share the burden of the subsidies necessary to keep such lines in operation.

It seems clear to me that the proper solution to this problem is to give the trustees and the courts that appointed them the power to abolish jobs through attrition and to abandon unprofitable lines after a relatively short fixed period of time. This could be modified to require the railroad to continue to operate marginal lines if the communities involved would forego all their taxes on such a line and it could be proven that with such forgiveness the line was at least operating on a break-even basis.

We should also allow consolidations such as that proposed by the trustee of the Lehigh Valley which would merge his railroad with the Central Railroad of New Jersey and the Reading Company. It is possible that such a consolidation of those three railroads together with the abandonment of their marginal lines might give them the ability to operate at least on a break-even basis. No solvent railroad wants to take over those roads under the present conditions. As a matter of fact, the C&O-B&O system holds the majority of stock both in the Reading Company and Central Railroad of New Jersey and allowed those railroads to go into bankruptcy rather than send good money after bad. However, if a consolidation of these three railroads was successful, the C&O-B&O system would have a very vital interest in it because they provide its only possible entrance into the very important New York harbor area. It appears to me that if the Lehigh Valley, Central Railroad of New Jersey, Reading combination was economically viable, then the C&O-B&O system would be willing to invest substantial sums in it.

Let us assume that the ICC plan becomes a reality. It is possible and even probable that the "experts" would decide the whole Lehigh Valley Railroad is uneconomic with the result that most of its 1,000 miles of trackage would be torn up. There would be an immediate loss of jobs—which could not be replaced. Western New York would lose one of its three routes to New York harbor. The communities which are screaming now because, being bankrupt, the railroad is not paying its taxes would lose any possibility of ever getting any taxes even on a reduced scale. In addition they would lose the service the railroad presently provides which is important to the Finger Lakes region and northeastern Pennsylvania. To make a consolidation viable, it would be necessary to tear up about 30% at least of the trackage of the three railroads involved and to eliminate the jobs and service that go with it but even "half a loaf is better than none." If the remainder could survive as a viable operation, all concerned would be far better off. If everybody demands their pound of flesh, no one will get anything.

In summary, the labor unions must be willing to concede to the court-appointed trustees the right to eliminate jobs through attrition or face the far harsher action that would be taken by a public corporation. The communities involved have got to be willing to reduce or even give up their tax revenues or face the far harsher alternative of some type of government operation where they would not only give up their tax revenues, but quite possibly the services and the jobs involved as well. The cheapest and least drastic solution, which in my opinion would preserve more jobs, more service, and even more tax revenues as well as eliminating the need for huge subsidies, would be to give the court-appointed trustees the necessary powers and let them straighten things out. I believe they would be far less ruthless in eliminating jobs and service than any governmental unit or quasi-public corporation. Furthermore, I believe railroad management, particularly where they have no selfish interests because they are responsible to the courts, are far better qualified to do the job than a group of bureaucrats with little real expertise drawing lines on a map. The final objective should be to restore the northeastern railroads to financial health and make them efficient, taxpaying enterprises, not just another burden on the already over-taxed general public.

Statement of R. D. Timpany, Trustee in Reorganization, the Central Railroad Co. of New Jersey

My name is R. D. Timpany. I have been in the railroad business since 1941 and have been serving as the Trustee in Reorganization of The Central Railroad Company of New Jersey since January of 1971.

I appreicate this opportunity to state my views concerning the Northeast Railroad problem and am particularly aware of your concerns about the Penn Central and the possibilities of disruption to the public if a cessation of operations of the Penn Central is ordered by its Reorganization Court.

My views on these questions are largely contained in my statement to the Senate Subcommittee on Surface Transportation of the Senate Committee on Commerce and in a Supplemental Statement I recently filed with the Interstate Commerce Commission in connection with their Northeast Railroad Investigation. I attach my statement to the Senate Subcommittee as Exhibit I and my statement to the I.C.C. as Exhibit II.

I would emphasize two points made in detail in the Exhibits. The first is that adequate federal power already exists, by virtue of the provisions of the Emergency Rail Services Act of 1970, to protect the public against the risks of disruption from a cessation of Penn Central's operations. The second is that the market system can and, if permitted, will provide a desirable solution to the Penn Central problem. The rail lines of the Chessie System, the N & W System, and other Northeastern railroads, some in reorganization or close to it, duplicate and compete with the lines of the Penn Central for the still substantial rail traffic of the Northeast. Any artificial propping-up of the Penn Central will injure these competing lines and delay solntion to the Northeast problem. On the other hand, if the Penn Central ceases to operate, these competing lines will provide the essential rail service now performed by the Penn Central, increasing their revenues, strengthening the healthy systems, and providing a basis for reorganization of a number of the bankrupt lines.

I urge you to approach your legislative task aware of the federal government's existing powers to prevent disruption. I urge you not to sell short the potentialities for self-correction inhering in our market system and to help the market in those areas where it cannot presently do the job. I am confident that if failing companies are allowed to fail, if there is regulatory reform, and if modest funds are made available to improve the remaining plant; the nation will see light at the end of the tunnel of the Northeast problem.

Thank you.

EXHIBIT I

Statement of R. D. Timpany to the Senate Subcommittee on Surface Transportation of the Senate Committee on Commerce

My name is R. D. Timpany. I live at 737 Camp Woods Road, Villanova, Pennsylvania. I have been in the railroad business since 1941. Over the years I have had various responsibilities involving most of the functions of the industry throughout the Northeast. In January of 1971 I became the Trustee in Reorganization of The Central Railroad Company of New Jersey (CNJ) and presently serve in that capacity.

I appreciate your invitation and welcome the opportunity to state my views concerning the Northeastern railroad situation and the various ways in which the situation can be improved.

It is important to underscore that the problem at this time is essentially regional and not national and that the freight business, unlike the passenger business, can still be run profitably. A number of the Western and Southern roads are alive and well and give every indication of continuing to thrive and prosper. Even within the Northeast there are roads such as the Chessie system and the Norfolk & Western which give similar indications.

While there are many factors contributing to the crisis, the root cause is the presence in the Northeast of a massive amount of excess obsolete rail facilities—too many carriers with too much plant serving too little business. How we reached this point—the overbuilding in the 19th century, the movement of heavy industry out of the Northeast, the increased competition from trucks stimulated by federal highway programs, the decline of coal, etc.—has all been meticulously documented elsewhere and is well known to you. The basic issue is how to reduce these excess facilities with the concommitant reduction in investment in plant and equipment and in the fixed charges, taxes, maintenance expenses and other costs associated with the redundant facilities. There are various methods which alone or in combination can lead to this reduction.

First, there are abandonments. In other businesses, managements are free based upon economic considerations to discontinue unprofitable operations. Not so in the railroad business. We are all aware of the difficulties in obtaining abandonments under the Interstate Commerce Act. Castigation of the ICC has become fashionable and is the favorite pastime of some. Abandonments need not create dislocation; and our experience on the CNJ illustrates the point. Within the past year CNJ has abandoned operations over approximately 33% of line miles operated. Exhibit A to my statement shows CNJ's operations prior to April 1, 1972 and its operations today. The economics of the abandonments are reflected in the improvement in CNJ's net income account illustrated by Exhibits B and C—the December, 1971 and December, 1972 Income Accounts respectively. The abandonments contributed substantially to the improvement. Few if any former customers of CNJ lost rail service; and therein lies an important lesson for the future; *i.e.*, other rail carriers with duplicative facilities will take over existing freight business at incremental costs to their own substantial benefit. In our case Lehigh Valley became the substitute carrier selected by the ICC over other competing applicants. The transfer of CNJ's Pennsylvania operations to the Lehigh Valley was in the interests of both roads and the public and would have been even if there had been more disruption to shippers than occurred. It is perfectly obvious to me that the present legal requirements surrounding abandonments should be relaxed; and I support efforts to accomplish this result.

A second way to facilitate a reduction of redundant facilities is for the federal government to stop supporting redundant facilities. Our market system, when left to its own devices, weeds out the failing and sick companies which simply go out of business and liquidate. I think with all the attention given to Penn Central we tend to ignore how federal action in alleviating Penn Central's cash crises has delayed solutions to the problems of the Northeast and how further attempts to support the Penn Central will only prolong those problems. Federal support or funding of excess facilities perpetuates rather than resolves the problem of excess facilities. The market place, if Congress permits, will solve the Penn Central problem—and in my view without significant disruption to the essential rail freight services presently performed by that carrier. Without additional federal support the Penn Central will cease its existing operations. It is not a viable system; and its trustees concede this. Exhibit D shows the spaghetti in the Northeast; and Exhibits E and F show the extent to which the rail lines of the Chessie system, the N&W system and other Northeastern railroads, some in reorganization or close to it, duplicate and compete with the lines of the Penn Central for the still substantial traffic of the Northeast.

In my judgment if the Penn Central ceased to operate at a pre-determined date, the vast preponderance of traffic presently flowing over its lines will flow over the lines of these other railroads. Where substantial traffic can only be originated or terminated from a Penn Central line, those lines will either be purchased or leased by the other carriers involved—dealing in many instances with present lessors of the Penn Central, whose leases may be threatened with rejection, and in other instances with the Penn Central estate. I am confident that other railroads—some healthy, some marginal and some in reorganization—could and would meet the nation's essential rail service needs at incremental costs and with considerable profit from the increased traffic. In this way the market place will solve the Penn Central problem and avoid the ill-founded fear of major disruption to shippers. Other railroads in reorganization may, as a result of the increased revenues accruing to them, be able to reorganize themselves. The healthy Chessie and N&W systems will be strengthened and perhaps be induced to complete the task, abandoned in recent years, of structuring a two system solution for the Northeast. Such a two system solution will, in turn, immeasurably simplify re-adjustment of divisions between the Western and Southern roads on the one hand and the Eastern roads on the other and considerably simplify rate making in the industry resulting from a reduced number of carriers. The foregoing indicates my predilection in favor of the market system and my view that federal interventions have tended to compound rather than resolve the problems of the Northeast. This gives me pause concerning new legislative solutions for further federal intervention in the Northeast.

A third path toward the reduction of facilities can be seen in the various efforts at private and state governmental levels to achieve consolidation. It is well known that a number of the bankrupt railroads have for someone been at work on the problem, discussing various methods of reducing their respective plants and consolidating their operations. These efforts have received effective direction from the Hon. William T. Cahill, Governor of the State of New Jersey. Under his impetus the firm of DeLeuw, Cather has been retained to develop the cost benefit relationships to the public and to the several railroad estates in the areas outlined in Exhibit G and to recommend the specific coordinations of facilities and operations that should be effectuated. Governor Cahill has also taken the initiative to convene a meeting of the other Northeast Governors intimately involved in the rail crisis and to appear in these hearings. His approach is essentially one of the use of the good offices of government to prod, advise, indicate directions, accommodate conflicting viewpoints, and provide, where absolutely necessary, some financial assistance. This approach can serve as the model for the proper governmental role in the solution of the problem. It would be considerably enhanced if federal funding (particularly for the upgrading of essential facilities and construction of new facilities needed for consolidations) could be made available to the Governors involved for judicious disbursement in getting the job done.

What I have said above leaves decisions as to which facilities shall be eliminated and which retained largely to market forces, management decision and negotiation. I believe that is where the decision ought to be; though I concede to an occasional desire for a super-body, with overall view, planning and implementing a co-ordinated rationalization. Such desires are moments of weakness; for experience has taught me that the vision of individuals is fallible and that the decision of such super-bodies tends to be more subject to political pressure than to reason.

Perhaps I should say a further word about money. If Congress decides to take our facilities, the CNJ will oppose liquidation value as the measure of the consideration to be paid. We believe our alternative opportunities, protected by the U.S. Constitution, require more. If other railroads are of similar mind, the acquisition costs to the government of buying not only the essential but also the obsolete lines will be astronomical. Some may complain that our national priorities will not permit a diversion of tax monies from welfare programs and the cities to the task of shoring up the pre-bankruptcy investments in our estates of the institutions and financial community; and others may complain that we are embarking on a first step toward nationalization, questioning what basis we have for believing we can improve upon the sorry experience of other nations that have gone down that path. As a Trustee of a railroad estate in reorganization, I won't complain if the price is right. But I will complain bitterly if Penn Central becomes the special object of your beneficence. Massive funding for the Penn Central will require massive funding for other roads—both in and out of bankruptcy—to avoid government created competitive disadvantage in the market place.

Thus, we see that when it comes to Federal funding, Adam Smith would say "give to none"; Penn Central would say "give to one"; and your most recent legislative proposal would say "give to all"—though maybe not adequately to any. I believe that the taxpayer should bear the burden of the provision of necessary, though inherently unprofitable inter-city and commuter passenger services. But freight service need not be unprofitable even in the Northeast; and in general I remain skeptical concerning federal intrusion into or control over those operations. Of course, I welcome efforts to bring the railroads to a parity with competing truck, air and water modes which have long enjoyed more favorable treatment as a result of government policy. Railroads pay for the acquisition and maintenance of their right of way and signal systems. The other modes do not. The recent proposal for the federal purchase and maintenance of the right of way is a step in the right direction—though if adopted it may tend to delay the elimination in the market place of unviable competitors. The availability of modest amounts of federal funds to be disbursed, by loan or otherwise, by the involved state governments in the upgrading of essential rail facilities as part of a balanced transportation plan for the respective states in question can be an even more important step—if as I expect the states can and will co-ordinate their transportation plans on a regional basis.

The times speak of crises; and legislators tend to believe they must do something quickly to solve crises. A decision not to act imaginatively and boldly or to postpone such action may in certain circumstances bring the healthiest long-range solution. I would hope that in your deliberations you will not sell short the potentialities for self-correction inherent in our market system and that the products of your labors will facilitate rather than impede such potentialities.

I appreciate the opportunity you have extended to me to express my views and hope that in some small measure I have been able to contribute to your consideration of the Northeast rail crisis.

Thank you.

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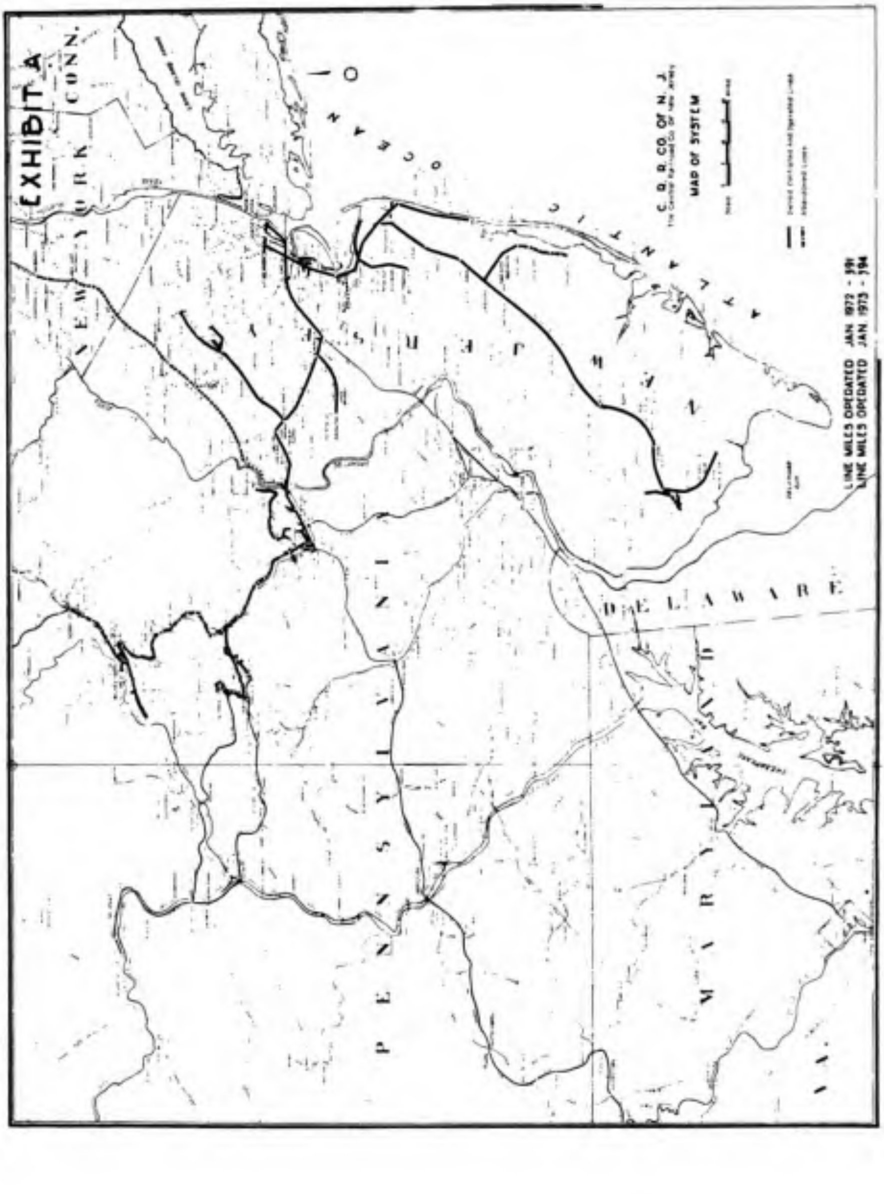
EXHIBIT A
NEW YORK
CONN.
NEW JERSEY
PENNSYLVANIA
DELAWARE
MARYLAND
ATLANTIC OCEAN
C. R. R. CO. OF N. J.
MAP OF SYSTEM
LINE MILES OPERATED JAN 1972 - 391
LINE MILES OPERATED JAN 1973 - 394

Exhibit B

Income Account for the Month of December 1971

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

I—Operating income:	
A. Railway Operating Income:	
501—Railway operating revenues	$3, 973, 290
531—Railway operating expenses	3, 625, 477
Net revenue from railway operations	347, 813
532—Railway tax accruals	459, 188
Railway operating income	(111, 375)
B. Rent income:	
504—Rent from locomotives	9, 995
505—Rent from passenger-train cars	----------
506—Rent from floating equipment	14, 427
507—Rent from work equipment	2, 896
508—Joint facility rent income	44, 222
Total rent income	71, 540
C. Rents payable:	
536—Hire of freight cars—Debit balance	390, 226
537—Rent for locomotives	11, 191
538—Rent for passenger-train cars	1, 771
539—Rent for floating equipment	----------
540—Rent for work equipment	1, 117
541—Joint facility rents	83, 229
Total rents payable	487, 534
Net rents	(415, 994)
Net railway operating income	(527, 369)
II—Other income:	
510—Miscellaneous rent income	41, 315
511—Income from non-operating property	41, 605
513—Dividend income	----------
514—Interest income	21, 109
516—Income from sinking and other reserve funds	24, 370
517—Relase of premiums on funded debt	----------
519—Miscellaneous income	1, 876
Total other income	130, 275
Total income	(397, 094)
III—Miscellaneous deductions from income:	
543—Miscellaneous rents	450
544—Miscellaneous tax accruals	----------
549—Maintenance of investment organization	----------
551—Miscellaneous income charges	63, 462
Total miscellaneous deductions	63, 912
Income available for fixed charges	(461, 006)

EXHIBIT B—Continued

INCOME ACCOUNT FOR THE MONTH OF DECEMBER 1971—Continued

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY—continued

IV—Fixed charges:	
542—Rent for leased roads and equipment	192, 222
546—Interest on funded debt—Fixed interest	217, 413
547—Interest on unfunded debt	----------
548—Amortization of discount on funded debt	----------
Total fixed charges	409, 635
Ordinary Net Income (Loss)	(870, 641)
570—Extraordinary and prior period items (debit)	625, 436
Net Income (Loss)	(1, 496, 077)

EXHIBIT C

INCOME ACCOUNT FOR THE MONTH OF DECEMBER 1972

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

I—Operating income:	
A. Railway operating income:	
501 Railway operating revenues	$3, 173, 907
531 Railway operating expenses	2, 478, 354
Net revenue from railway operations	695, 553
532 Railway tax accruals	248, 667
Railway operating income	446, 886
B. Rent income:	
504 Rent from locomotives	3, 723
505 Rent from passenger-train cars	----------
506 Rent from floating equipment	2, 000
507 Rent from work equipment	(71)
508 Joint facility rent income	8, 263
Total rent income	13, 915
C. Rents payable:	
536 Hire of freight cars—Debit balance	364, 356
537 Rent for locomotives	4, 029
538 Rent for passenger-train cars	1, 540
539 Rent for floating equipment	(1, 000)
540 Rent for work equipment	----------
541 Joint facility rents	75, 304
Total rents payable	444, 229
Net rents	(430, 314)
Net railway operating income	16, 572
II—Other income:	
510 Miscellaneous rent income	32, 012
511 Income from non-operating property	76, 413
513 Dividend income	----------
514 Interest income	19, 803
516 Income from sinking and other reserve funds	38, 956
517 Release of premiums on funded debt	----------
519 Miscellaneous income	75, 256
Total other income	242, 440
Total income	259, 012

EXHIBIT B—Continued

INCOME ACCOUNT FOR THE MONTH OF DECEMBER 1971—Continued

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY—continued

III—Miscellaneous deductions from income:	
543 Miscellaneous rents	----------
544 Miscellaneous tax accruals	(9, 778)
549 Maintenance of investment organization	----------
551 Miscellaneous income charges	120, 695
Total miscellaneous deductions	110, 917
Income available for fixed charges	148, 095
IV—Fixed charges:	
542 Rent for leased roads and equipment	135
546 Interest on funded debt—Fixed interest	220, 987
547 Interest on unfunded debt	----------
548 Amortization of discount on funded debt	----------
Total fixed charges	221, 122
Net income after fixed charges (loss)	(73, 027)

I hereby certify that this is a true copy of the income account of the Central Railroad Co. of New Jersey for the month of December 1972.

BYRON C. CASSEL,
Comptroller.

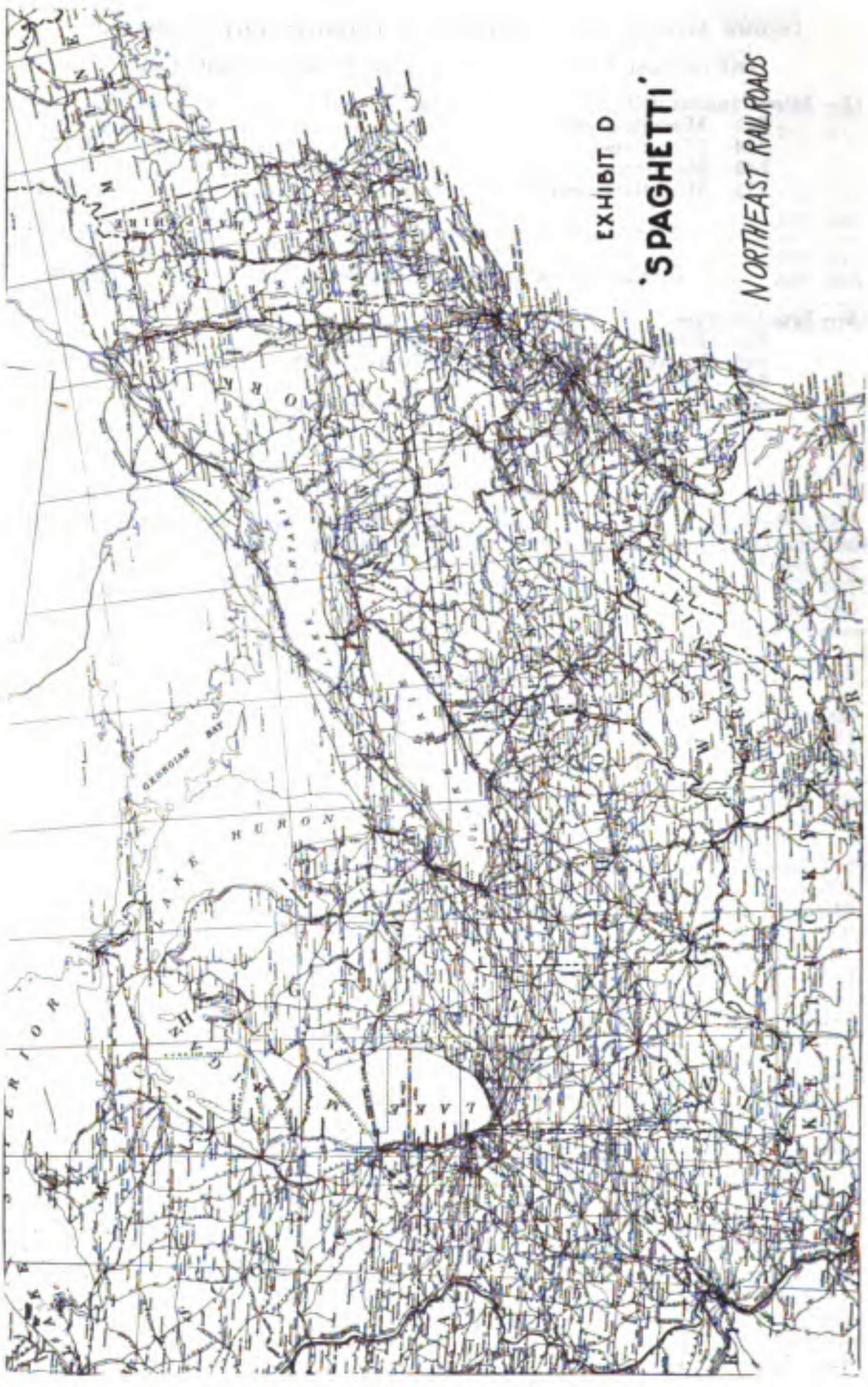
EXHIBIT D
'SPAGHETTI'
NORTHEAST RAILROADS
LAKE HURON
GEORGIAN BAY

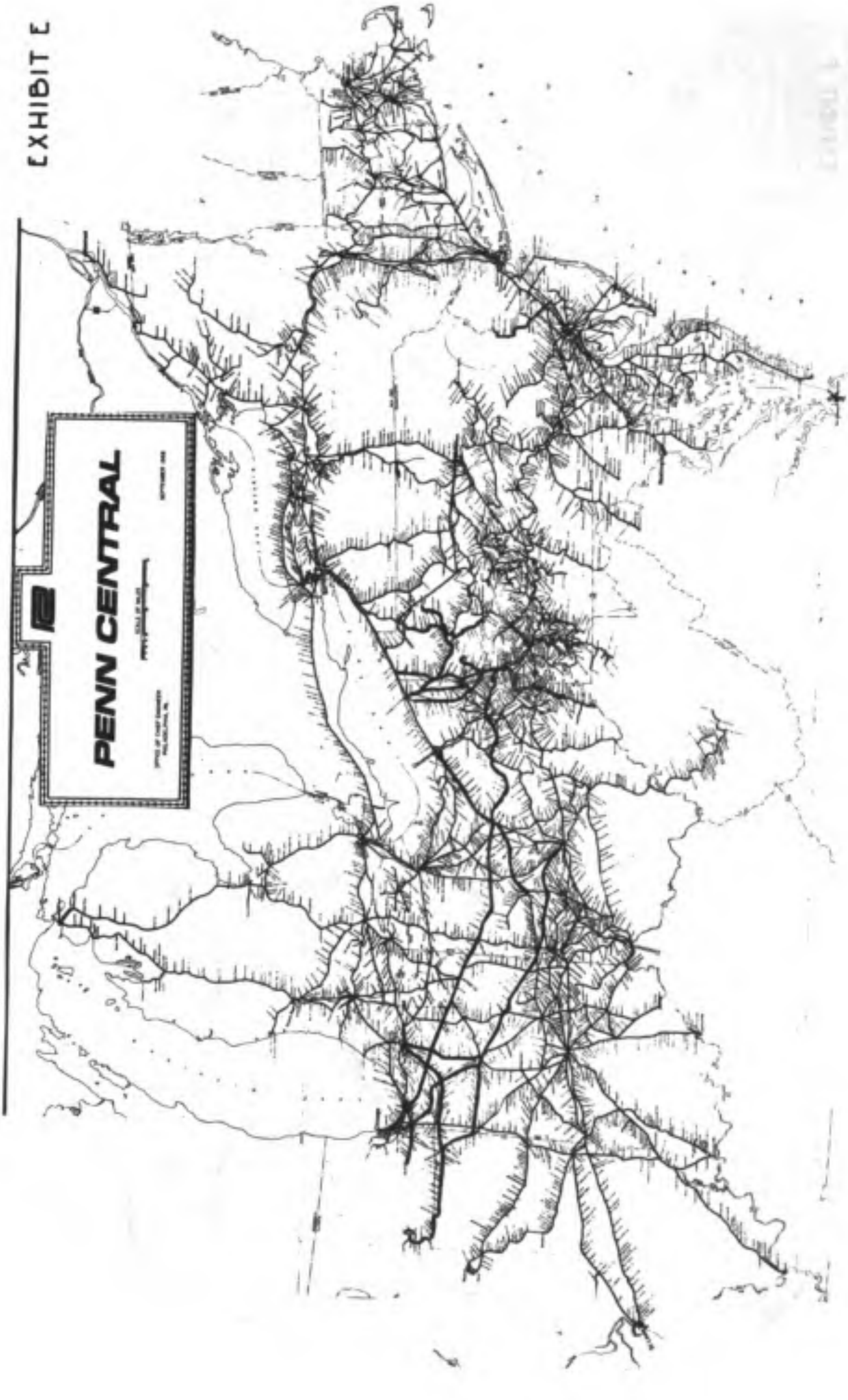
EXHIBIT E
PENN CENTRAL

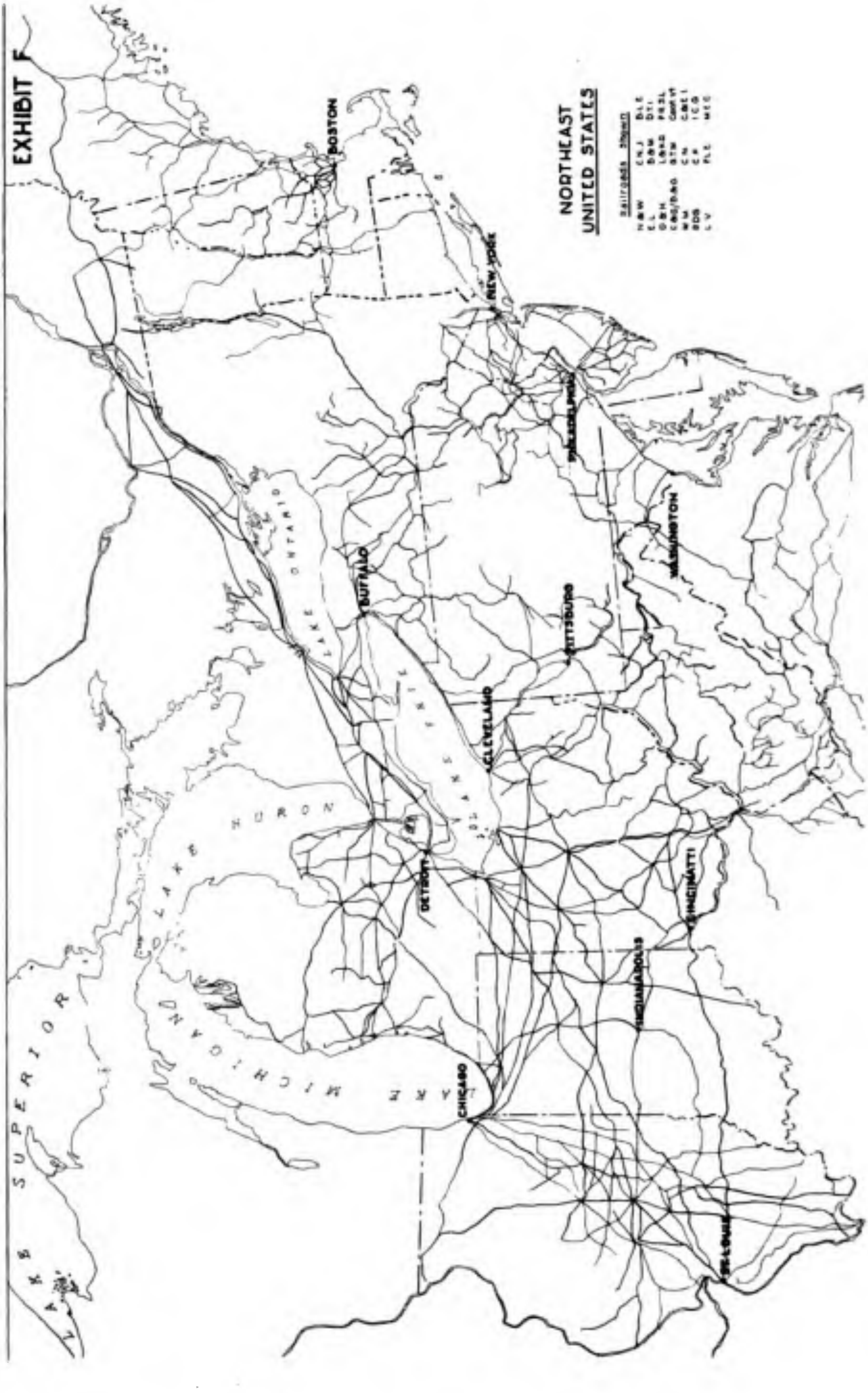
EXHIBIT F
NORTHEAST
UNITED STATES
BOSTON
NEW YORK
PHILADELPHIA
WASHINGTON
PITTSBURGH
BUFFALO
CLEVELAND
DETROIT
CINCINNATI
INDIANAPOLIS
CHICAGO
ST. LOUIS
LAKE ONTARIO
LAKE ERIE
LAKE HURON
LAKE MICHIGAN
LAKE SUPERIOR

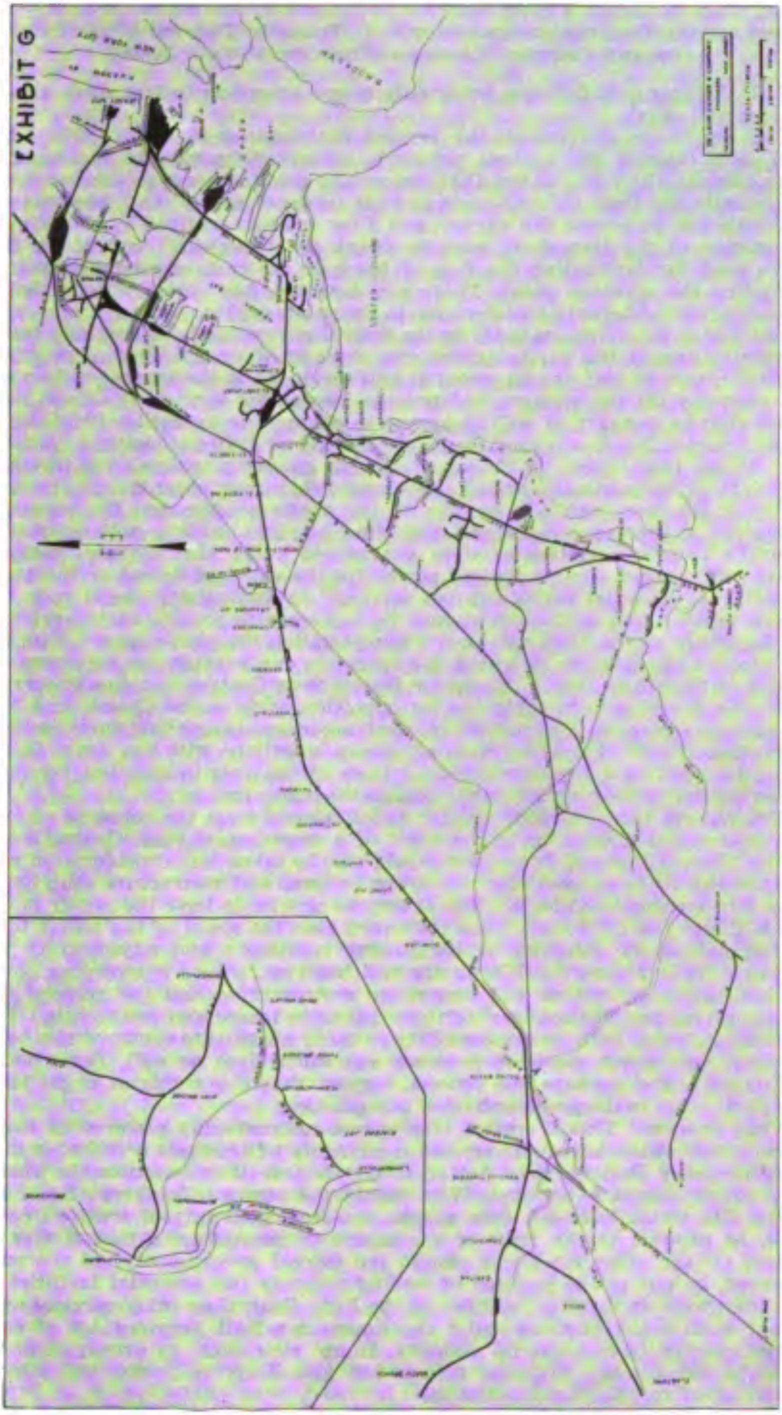
EXHIBIT G

EXHIBIT II

SUPPLEMENTAL VERIFIED STATEMENT OF R. D. TIMPANY, TRUSTEE OF THE PROPERTY OF THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

R. D. Timpany, of full age, being duly sworn according to law, upon his oath deposes and says:

This Statement supplements my Verified Statement of March 12, 1973. I have read with interest the various proposals submitted by private organizations, state officials, the ICC and the DOT concerning the Northeast problem and more particularly the Penn Central crisis and the threat of disruption it presents. The proposals are numerous and varied; and I for one was gratified by the extent of recognition of the immediate need to shrink the "spaghetti" and of the long-range need for facilitating the flow of funds to the task of rehabilitating and upgrading the essential plant. There are, however, two points which I believe have received inadequate consideration in the public debate.

The first is the existence today in the federal government of emergency leasing powers to protect the public against the risks of disruption in the event Penn Central ceases to perform its essential rail services and the market system does not promptly fill the vacuum and provide alternative service. It should be recalled that in January of 1971 Congress, in response to an earlier Penn Central crisis, enacted the Emergency Rail Services Act of 1970 authorizing the Secretary of the Department of Transportation to guaranty trustee's certificates of railroads in reorganization which could establish, among other things, the essentiality of its transportation services to the public welfare and the reasonable prospects of becoming self-sustaining. One hundred million dollars of Penn Central's trustees' certificates were guaranteed under that statute. Section 3 (b)(4) of the Act creates federal power "in the event of actual or threatened cessation of essential transportation services" to immediately lease such lines of the railroad and equipment as may be necessary to provide such services by the Secretary of the Department of Transportation "or his assignee". Judicious selection of the lines to be leased for operation can provide the necessary protection to the public against disruption from a Penn Central cessation of services. Judicious selection as to assignees for operation, such as the Chessie and N&W systems, can provide the vehicle for restructuring—permitting such assignees to provide the service while they, or others, negotiate with the Penn Central estate for the long-range acquisition or lease of the lines in question. Operating agreements with the assignees could protect the public treasury.

This federal power already exists; and it should calm the concerns of those who fear major disruption in the event of a cessation of Penn Central's operations. The existence of this power should also be taken into consideration when viewing the ICC's proposal for the power to lease and restructure contained in Title 2 of its suggested legislation. It may be unwise to have the power in both the ICC and the DOT; and I am concerned that the grant of the power to the ICC threatens the integrity of its general regulatory and adjudicatory role. Proposed Title 2 puts the ICC in the rail business, giving it sweeping powers as to detailed operations and long-range restructuring and the responsibility for improving the "bottom line" of the roads to be leased and restructured. Such a position clashes with its responsibility to fairly adjudicate controversies before it which may affect the lines it leases and other lines as well. Basic notions of fair play, and perhaps due process, suggest that the regulator ought not to be a participant in the process which it is regulating.

While proposed Title 2 creates leasing and restructuring power with respect to railroads which have not received a guaranty of trustee's certificates under the Emergency Rail Services Act of 1970, I believe it is questionable whether such power should be created. Why should the stronger bankrupt lines, such as the EL, which have not even sought a federal guaranty of trustee's certificates, be exposed to the risks of a compulsory restructuring that it may not desire? On the other hand why should the federal government, and the public taxpayer, be put in the position of leasing not only the essential facilities but also the excess duplicative facilities of the Penn Central or other carriers which cannot sustain the burdens under the Emergency Rail Services Act of establishing essentially or potential viability. In my view such an arrangement will not only throw away taxpayer monies but also delay a proper and salutory resolution of the Northeast problem.

The second point that I believe has received inadequate consideration is the potentiality for self-correction inherent in our market system. The ICC proposal explicitly assumes that the market cannot do the job of restructuring—while the fact is that the market generally has not been given a chance to show what it can do, *i.e.*, failing companies have rarely been permitted to fail. When given a chance in the past, the market has risen to the occasion—witness the NYO&W experience or even CNJ's withdrawal from Pennsylvania. The DOT proposal expresses faith in the market but goes on to suggest a federally sponsored new entity or entities. If the DOT regulatory reforms are implemented, why shouldn't private parties be both motivated and able to structure such new entities without such federal endorsement? My concern with the DOT proposal is that the federal endorsement will give inequitable competitive advantage to a new entity resulting in a single-system solution for the Northeast of which the Penn Central would be the nucleus.

It is difficult to quarrel with the *theoretical* advantages of a super body, with overall view, implementing a coordinated rationalization. The problem is that my *practical* experience has demonstrated that, not only do such solutions involve unnecessary compulsion and the spring board for further federal instrusions, but they also involve decisions made on inadequate information and institutional bias. My point is illustrated by the following observations at page 30 of the ICC report concerning the CNJ of which I have personal knowledge:

> The Jersey Central has already had to cease operation over its lines in Pennsylvania. Only prompt action by trustees of the Lehigh Valley, the reorganization courts, and the Commission made it possible to continue service to the many businesses and communities located on CNJ's lines. Only continuing subsidies from the State of New Jersey, provided on the assumption that the essential railroad service in that state can eventually be successfully restructured, has made it possible for the Jersey Central to keep operating at all.

The above observations concerning CNJ's cessation of Pennsylvania operations are largely inaccurate as are the observations concerning the relation between New Jersey's continuing subsidies and CNJ's continuing operations. CNJ's withdrawal from Pennsylvania was esesntially a result of its own efforts, thwarted for substantial periods of time by others, and finally made possible by an order of its own Reorganization Court. The State of New Jersey's continuing subsidies have been necessary—not to CNJ's continued operations—but rather to the continuation by CNJ of uneconomic, though desirable, passenger services. The subsidies have not and still do not pay for the cost of such service. The effect upon CNJ's net income resulting from the abandonment of its Pennsylvania operations and a recent step-up in its passenger subsidy to cover only the historical avoidable costs of passenger operations (and not the full cost of such service) can be seen from the following table:

December 1971	$1,496,077
January 1972	1,134,081
February 1972	1,081,672
March 1972	1,030,710
December 1972	[1] 73,027
January 1973	316,189
February 1973	213,802
March 1973	303,769

[1] A preliminary number; the final number of the month including extraordinary items was a gain of $3,182,350.

If the State of New Jersey pays the full cost of passenger service, as present law authorizes it to do, CNJ can be reorganized.

In my view Washington is too far from the actual facts to provide a forum for decision making superior to that provided by our private enterprise system. For this reason as well as the others previously mentioned, I persist in the view that neither innovative federal solutions nor massive federal funding are necessary or desirable to meet the Penn Central crisis.

Joint Statement of the Trustees and the President and Chief Executive Officer of Erie Lackawanna Railway Company

The undersigned, Thomas F. Patton and Ralph S. Tyler, Jr., Trustees of the Property of Erie Lackawanna Railway Company, and Gregory W. Maxwell, President and Chief Executive Officer of Erie Lackawanna, appreciate this opportunity to lay before this Subcommittee their views with respect to the railroad crisis in the Northeastern Region of the United States. Mr. Patton is the retired

Chairman and Chief Executive Officer of Republic Steel Corporation, and Mr. Tyler is the retired Chairman of the Board of The Lubrizol Corporation.

You are doubtless aware that Erie Lackawanna filed for reorganization under Section 77 of the Bankruptcy Act on June 26, 1972, very shortly after the Agnes storms had devastated the lines of the railroad in lower New York and Eastern Pennsylvania.

The undersigned Trustees were qualified on August 16, 1972. You can see, therefore, that we have been on the job for only a limited period of time. We have, however, been actively engaged in our work long enough to become quite aware of the difficulties which face the railroad industry generally and which, in particular, face Erie Lackawanna and other railroads in the Northeast.

We have also been in office long enough to become acquainted with Mr. Maxwell and the fine management team that supports him in his work of running the railroad properly. We have made visits to the field and observed the able people working in lower supervisory positions on the railroad and indeed members of the rank and file.

All three of the undersigned want to express our appreciation for the hard work that has been done by the Department of Transportation, the Interstate Commerce Commission, and the Committees of the Senate and House dealing with transportation matters. The problems to be faced are of great magnitude and are of urgent nature.

At the outset we would like to point out several factors which characterize the reorganization proceedings of Erie Lackawanna and which indicate that our problems are different in essential respects from those which beset Penn Central and the other bankrupt railroads in the Northeast. In that regard, Erie Lackawanna does not have the problem of shrinking its plant in any major respect. Of the 3000 miles of road operated, we have presently applied for abandonment of 170 miles of branch line, or about 6 percent of the total mileage. This is about all we feel is necessary.

Moreover, we are not burdened with extensive passenger service. Our commuter service in New Jersey is being conducted under a mutually satisfactory contract with the State, pursuant to which Erie Lackawanna is made whole in respect of "avoidable costs" of rendering the service. The State furnishes new commutation equipment and funds other capital projects related to the service.

Finally, due to its revenue generating power and the reorganization court's prohibition of the payment of property taxes and interest on funded debt totaling approximately $1.3 million per month, Erie Lackawanna is operating on a positive cash flow basis. The Company's cash position has strengthened substantially since reorganization commenced.

The Trustees, their financial adviser, the leading investment banking firm of Salomon Brothers, and the management of Erie Lackawanna believe that reorganization of the Company is probably feasible within a reasonable period of time.

Turning now to proposed legislative solutions to the problems of the Northeastern railroads, we would like to place on the record our ideas as to what principles should govern the drafting of legislation in assistance of the railroads of the Northeast. In that connection, we believe that our problems should not be considered as peculiar to the Northeast, because the problems which we face are the problems faced generally by the railroads in this country. The Northeastern railroads simply are in a more crowded territory intricately laced with the interstate highway system, which has rendered many, many miles of railroad right-of-way obsolete. That fact, plus the other burdens which beset all railroads, require that our problems be viewed from a nationwide standpoint.

To sum up our views about this problem, we believe that the legislative program to be followed should include:

(i) A definition of a network of essential rail services in the Northeastern region.

(ii) The continuation of a sufficient number of rail systems to provide reasonable competition within the Northeastern region.

(iii) The selling off of rail lines not within the network of essential rail services with the operations of those lines shut down unless states or localities or other interested parties were willing to acquire them and pay for their operation.

(iv) The assumption by the federal government of the social costs involved in protecting personnel whose jobs are adversely affected by abandonment, mergers, and consolidations, or by increase efficiency.

(v) Financial assistance by the federal government accorded to railroads by way of loans for capital improvements, provided the parties are satisfied the loans will be repaid in full.

(vi) An amendment of the Railway Labor Act providing for final and binding arbitration of labor disputes, which is one of the most important—if not the most important—pieces of legislation vitally needed by the bankrupt railroads and the other members of the railroad industry.

(vii) Regulatory revisions recently proposed by the U.S. Department of Transportation involving principally liberalized and accelerated Interstate Commerce Commission procedures related to rail abandonments, mergers, and intermodal ownership, greater rate-making flexibility, elimination of discriminatory state and local taxation of rail assets, and amendments to Section 77 of the Bankruptcy Act.

We would urge that any legislation be subject to the following guidelines:

(1) *That there be no nationalization of railroads.*

If any proof is needed regarding the results of nationalization, it is only necessary to point to the latest available results (1971) of the nationalized railroads listed in Exhibit A. Despite the financial plight of the Northeast railroads, all Class I Railroads in the United States managed to earn a profit of over $300 million during 1971.

In contrast, you will note that the 1971 deficits of the nationalized rail systems studied ranged from $100 million to a staggering $1.6 billion. More importantly, the cost of shipping a ton of freight one mile (revenue per ton mile) is very substantially higher on all the nationalized railroads, except the Canadian National, than it is in the United States. Nationalizing the American railroads or even those in the Northeast would be a fiscal catastrophe.

(2) *That there be at least four rail systems operating railroads in the Northeast.*

At the present time, Penn Central Transportation Corporation (PCTC) obviously dominates the scene and tends to attract the lion's share of the attention. We believe, however, that care should be taken to avoid focusing all of our attention on PCTC and its difficulties to the exclusion of the railroads generally in the Northeast and, indeed, the railroads of the nation at large. We believe that a definition should be made promptly of a network of essential rail services in the Northeast.

Obviously, Norfolk and Western Railway Company and the Chessie System are very important factors; and we believe Erie Lackawanna shares in making an important contribution to the economy of this territory.

It may be that, over the long pull, the Northeast will be served by three major systems; but certainly if it is in the public interest (and we think it is) to provide sturdy competition within the network, it will be necessary to build an axis on EL, the Delaware and Hudson Railway Company (D&H) and Boston and Maine Corporation (B&M) in order fully to develop competition in New England. This will open up the ports of Boston and Portland to effective competition. Another axis of EL will continue to provide competition to the New York and New Jersey area.

We believe that the record will show that two important rail systems serving New England—PCTC on the one hand, and EL and D&H and B&M on the other—will offer the desired competition there and that, at the least, a four system rail service west of the Hudson will insure good service for shippers in the rest of the Northeast territory.

We cannot quarrel with the judgment of the Trustees of the Lehigh Valley that their railroad cannot be made a viable economic entity; nor can it contribute much, if anything, to any other railroad or railroads. The Central of New Jersey and the Reading Railroads will, we believe, be included in one of the other systems.

DOT's proposal calls for the determination of a "core system," and the ICC's proposal in the "Federal Aid Railroad System" (FARS) is very much like the DOT "core" in concept. We suggest that the term "core system" be avoided as it conveys the idea of a single system Northeast railroad.

We believe the term "network of essential rail services" is much more appropriate.

(3) *That Federal assistance for capital purposes be made available to railroads by way of loan rather than grant.*

We would emphasize our belief that loans to railroads shall be made for capital purposes only, and upon the basis of evidence which satisfies the parties that the borrower will be able to make repayment in full.

Clearly much needs to be done to bring the rail plant in the Northeast up to a high standard, but it is also desirable that if we believe in private enterprise (and we do), we should support the idea of paying our way as we go to the best of our ability. We think we shall have that capability if we can strike off some of the shackles that have frustrated our efforts in the past.

(4) *That labor protection costs should be paid by the Federal Government.* Any legislative action taken should provide for appropriate Labor protection and for the Federal payment therefor. This obligation is clearly a "social cost," for as the ICC report to the Congress states (see Page 37), "It must also be recognized that the Federal government's presence has long been felt at the bargaining table and that that presence has been an influence exerted more on labor's behalf than otherwise . . . Also, many of the benefits which would be owing to a worker in the event of his separation stem from the statutory requirements of the Interstate Commerce Act . . . Thus it would appear clear that at least some of the costs of compensating rail employees, should their jobs be eliminated, can be laid to a consistent government policy of protection for railroad labor—a policy which is not evident to the same extent in any other field."

(5) *That abandonments of little used facilities be permitted to go forward expeditiously.*

We have noted both DOT and ICC support this thesis, and it appears that the draftsman of S. 1031 has a similar objective. But the mechanisms set up for accomplishing the objectives will, we believe, accomplish only inordinate delays. We suggest that if it can be shown that revenues properly allocable to the line proposed for abandonment are less than the above-the-rail costs; and if alternative transportation is available, the presumption should be that the line should be abandoned. Therefore, abandonments should be permitted on 60 days' notice with the burden placed on any protestant to overcome the suggested presumption by presenation of evidence at a hearing or hearings to be held within the 60 day period.

In this connection, we believe it eminently wise and fair that if a state or local government agency or private group insists on continuation of a line proved to be a "loser"', that entity should be required—possibly with federal government assistance—to pick up the excess costs of operating the line, as suggested by DOT and by ICC.

Alternatively, those entities might well buy the properties from the bankrupt's estate and contract with the railroad to operate the road.

TRUSTEES OF THE PROPERTY OF ERIE LACKAWANNA RAILWAY COMPANY, DEBTOR,

THOMAS F. PATTON
RALPH S. TYLER, Jr.

GREGORY W. MAXWELL,
President and Chief Executive Officer.

EXHIBIT A

OPERATING STATISTICS OF RAILROADS OF SELECTED INDUSTRIAL COUNTRIES*

Table I.—Rail Systems 1971 Profit (Loss) Excluding Subsidies

	Millions
United States (all class I)	$313
Canadian Pacific Limited	48
Canadian National Railways	(100)
Netherlands Railways	(111)
British Railways	(219)
Japanese National Railways	**(752)
Italian State Railways	(1, 133)
French National Railways	(1, 184)
German Federal Railways	(1, 595)

*Source: "A Brief Survey of Railroads of Selected Industrial Countries" (Union Pacific Railroad Co., April 1973).

**Includes Government subsidy—amount not published.

Table II.—Freight Revenues Per Ton-Mile Excluding Subsidies, 1971

	Cents
Canadian Pacific Limited	1.3
Canadian National Railways	1.5
United States (all class I)	1.6
Japanese National Railways	1.8
Netherlands Railways	2.5
Italian State Railways	2.7
French National Railways	2.8
British Railways	3.0
German Federal Railways	4.6

Statement of Edwin M. Wheeler, President, the Fertilizer Institute

At the outset, we wish to stress that our industry is dependent upon a viable rail transportation system within the Northeast. By virtue of the nature of our traffic (large volume and low value) there is simply no acceptable alternative to the continued use of rail transportation. Apart from the problems of capacity and commercial feasibility, the resulting increase in highway congestion, air pollution and the shortage of diesel fuel rules out the possibility of substituting other modes, such as motor carrier transportation. For this reason, we are inalterably opposed to the Penn Central Trustee's proposal to eliminate approximately 9,000 of that railroad's 20,000 miles of track. While we recognize that certain branch lines may have outlived their usefulness and must therefore be done away with on a fairly expedited basis, it is inconceivable that the elimination of 45% of the Penn Central system comports with the public interest.

The DOT Report

We are similarly opposed to the purported solution to the Northeast Railroad crisis advanced by the Department of Transportation.

First, we strenuously object to the DOT's cavalier treatment of the difficult problem of rail abandonments.

Without specifying precisely what they have in mind, the DOT proposes that rail abandonment procedures be liberalized. As justification DOT erroneously asserts that:

"Existing regulatory procedure tends to discourage rail abandonments. Abandonment cases often entail protracted hearings and too often offer a railroad only the prospect of expense and delay. In addition, the standards for the adjudication of these cases lead to uncertaintly and prevent the early settlement of issues. *As a result, despite the availability to shippers of highway, and, in some cases, water and pipeline networks, light density lines continue to operate long after they should have been abandoned.*" [DOT Report at 49, emphasis added]

The actual facts with respect to abandonment cases are as follows:

(i) of the nearly 1,000 abandonment applications filed by the carriers in the last 10 years, the ICC issued orders in 70% of those cases without even holding hearings. Within that group orders were issued in two thirds of the cases within 60 days from time of filing and 85% of the requested mileage was eliminated.

(ii) more recently, in 1971, of the 145 cases handled, only 2 were denied. 85% of the cases were decided without hearing and had final orders granted within 6 months from the time of filing.

In the light of the above facts, one would wonder what is contemplated by the DOT other than possibly permitting the carriers to unilaterally halt operations whenever it suits their purposes.

Of far greater importance, however, is DOT's misrepresentation that alternative modes of transportation are available. Hundreds of fertilizer retailers are absolutely dependent on rail service. There is relatively little trucking of fertilizer materials. Per Exhibit "A" (attached) the states served by Penn Central used 9.5 million tons (23% of total for U.S.) of fertilizer material in 1972. The substantial majority of this fertilizer was sold by retailers located on rural branch lines. Without the distribution of these fertilizer materials, how is this nation going to be able to produce needed food supplies?

Second, the DOT proposal contains features which in our view would severely undermine the existing regulatory system to the detriment of both our industry and the public. Specifically, we are opposed to:

(i) DOT's reliance upon an outmoded concept of the anti-trust laws in connection with its proposed changes to the practices of the rail bureaus; and

(ii) DOT's nomination of itself rather than the ICC as the architect of the so-called core-rail service.

Finally, and perhaps most important, we cannot find within the DOT report any semblance of the "full and comprehensive plan for preservation of essential rail transportation service in the northeast section of the nation . . ." which Congress requested. In essence, the DOT proposal represents an approach which does not depend on the funding of the railroads by the Federal Government. Although that approach may be emminently acceptable to the DOT and the Office of Management and Budget, it offers no assurance whatsoever that vital rail service will be maintained.

THE ICC REPORT

We believe that the ICC has made a good faith effort at formulating a solution to the Northeast railroad crisis. We agree with the basic objectives set forth in the Commission's report, as well as the points identified by the Commission which must be addressed in order to accomplish those objectives. We also agree with the Commission's recommendation that there should be at least two privately operated, economically viable competitive railroad systems in the Northeast.

We have several specific recommendations with respect to the portions of the ICC's legislative proposal dealing with railroad abandonments. We believe that additional protection must be afforded shippers in connection with the Commission's authority to approve emergency restructuring plans which entail the abandonment of rail service. For example, we need substantially more lead-time prior to abandonment than the 30 day period proposed by the Commission. In addition, we believe that the criteria for determining whether a line should be abandoned must be spelled out in much greater detail. As a minimum, we consider it imperative that the carriers be required to demonstrate that the lines to be abandoned are not meeting out-of-pocket costs.

We also believe that a more comprehensive plan is needed with respect to railroad abandonments than that proposed by the Commission. First, a priority list should be prepared by the carriers and made public. Industry can then plan for alternate transportation where available, or for the orderly closing out of the effected facilities.

A state or regional planning authority should simultaneously be engaged in a determination of the impact resulting from the abandonment on the community. If it should be determined that a branch or portions thereof must be maintained, then the losses incurred should be borne primarily by the public and not the carriers. Logically, the federal and local governments and the carriers should all contribute, preferably on an equitable basis of interest. In addition, a procedure should be established whereby the Commission could consider arbitrary rates as an alternative to abandonment and if all else fails, users of the service should be afforded the opportunity to purchase the abandoned property with the option of establishing a connection with competing lines.

We do not support the Commission's position with respect to the 1% transportation tax. We favor direct federal subsidization for the reason that a national waybill tax would be extremely difficult and costly to administer, and would in any event be absorbed by the general public in the form of higher prices for goods and services.

Respectfully submitted,

EDWIN M. WHEELER, *President.*

EXHIBIT "A"

FERTILIZER CONSUMPTION IN STATES SERVED BY PENN CENTRAL*

State:	Tons of material
Connecticut	61, 373
Delaware	116, 176
Illinois	3, 148, 120
Indiana	1, 925, 100
Maryland	334, 774
Michigan	948, 445
New Jersey	189, 789
New York	632, 497
Ohio	1, 480, 344
Pennsylvania	657, 642
Total	9, 494, 260

*Commercial Fertilizer Consumption Report, USDA, 1972 (Preliminary).

STATEMENT OF CARL E. BAGGE, PRESIDENT, NATIONAL COAL ASSOCIATION

My name is Carl E. Bagge. I am the president of the National Coal Association which represents the major coal producing and coal sales companies of the nation.

On behalf of the coal industry we urge legislation to help maintain a viable transportation system which will permit the expeditious, secure, and economical movement of America's coal production to the point of ultimate consumption. Specifically, we wish to reemphasize the interdependence between coal and the railroads and to underscore the need for federal assistance to the Northeastern railroads, including the Penn Central, Central of New Jersey, Lehigh Valley, Reading, Erie Lackawanna and the Boston and Maine. As this committee is all to painfully aware, all of these railroads are now in bankruptcy.

Viewed conceptually, the coal industry is a part of a total energy system which begins at the mine and ends at the smokestack. A vital subsystem is the transportation network tying production to consumption. For it is readily apparent that any breakdown in the transportation component must preclude both the consumption of any commodity—in this case coal—and obviate the development of America's most abundant energy resource—coal.

Of all of the transportation subsystems, the railroads are by far the most significant. In 1971, 355 million tons of coal were originated by rail, 64.3% of the total production for that year.

Indeed, developments in the railroad industry have complemented the efforts of coal to remain viable through productivity improvements. Notable among such developments has been the unit train. Virtually unknown a scant decade ago, unit trains move more than 20% of the coal now going by rail.

Economics made possible by unit train movement have done much to stabilize coal's market share and permit it to move into markets heretofore closed to it. For example, the next several years will see a unit train movement of coal from Wyoming to Texas in the heart of the natural gas producing area.

But the flow of value is not one-sided. Coal is a vital part of the financial structure of the nation's rail system. Coal related rail revenues were $1.3 billion in 1971, accounting for 10.7% of total rail revenues for that year.

Such national totals, of course, understate the impact of coal on specific rail systems. Attached as Appendix I is a table showing coal revenue as a percentage of total for selected railroads. This table clearly validates the point under discussion.

In fact, as we shall point out, the loss of coal traffic is a major if not a compelling cause of the present Northeast rail crisis.

But the real interdependence of coal, the railroads, and the national welfare is best viewed against projected energy demands.

In 1972 coal production in the U.S. was 590 million tons. By 1985, according to estimates by the National Petroleum Council, coal production will exceed one billion tons. Much of that tonnage will be in traditional markets, principally the electric utilities. Therefore, we can anticipate reliance upon the traditional transportation modes, although there may well be major advances in both technology and economics.

To produce more than one billion tons of coal in 1985, a capital investment in coal of between $9 billion and $14 billion will be required. New mines will have to be opened, thousands of new miners employed, and additional machinery produced and installed.

To move this coal, the transportation system will have to be significantly expanded. The NPC projection puts the capital requirement for this at $6 billion by 1985, a hefty increase, one that will tax the financial capability of rail systems to the fullest.

Along with the rapid increase in demand is the accelerating change in the pattern of demand. Coal demand is now largely captive, i.e., dedicated to specific customers. New utility plants are invariably tied by contract to one or two mines with unit train movement linking producers and consumers. Careful logistical coordination is absolutely essential for both reliability and economic viability. Within this environment, a healthy, progressive and dynamic rail system is an absolute necessity.

The current energy crisis may well add a new dimension to the problems under discussion. If any significant oil fired capacity has to be converted to coal, the railroads will have to move the bulk of that tonnage. The magnitude of the problem is made clear. NCA estimates that about 50 million tons of coal would be required to replace oil in PAD District I—the East Coast—alone at plants formerly consuming coal but now burning oil.

The President's energy message underscores the need for increased coal consumption both to insure energy availability and to forestall increasing reliance upon uncertain Mid-East sources. Obviously, in the territories served by Northeast railroads, conversion back to coal would require a sound rail system with the ability to move large volumes of coal to consumers now burning oil.

Turning specifically to the Northeast rail crisis we see the results of atrophy on coal movements.

For example, on Appendix II, we show the loss of coal traffic for the six Northeast railroads between 1967 and 1972. Obviously, this loss has been a major contributing factor to the current financial insolvency of the roads involved.

How important it is may be gauged by public statements by representatives of the Penn Central and the Reading Railroad.

Charles H. Wolfinger, assistant vice president, coal and ore, of the Penn Central, stated in a letter to Senator Henry Jackson on November 29, 1972, the following points:

(1) "The Eastern railroads' loss of the coastal coal market in Penn Central territory to import oil and some gas is now depriving them of about $167 million annually. Further relaxation of import oil/gas controls to the interior markets would jeopardize Penn Central's reorganization from bankruptcy. Other coal hauling railroads would also be seriously affected."

(2) "Loss of coal traffic into the Eastern Seaboard market was one of the major contributing factors to the bankruptcy of Penn Central as well as the Reading, Erie Lackawanna, Lehigh Valley and Central New Jersey."

(3) "Today foreign oil has taken over at least 95% of the industrial institutional and electric utility steam coal market on the Eastern Seaboard from Maine to Maryland."

(4) "The drastic reduction in coal revenues and the high cost of maintaining surplus coal lines to protect future development of coal reserves, as well as the cost of surplus equipment and facilities on stand-by basis, added significantly to the railroad's financial problems. Under Penn Central's present plight, it can no longer afford to own and maintain this surplus on a stand-by basis . . ."

(5) "In Penn Central's marketing area, the annual loss of coal traffic to imported oil in the six year period 1962–1967 amounted to 7.5 million tons, with gas conversion a negligible factor. In the next five year period, 1968—1972, the annual loss had grown to 36.6 million tons from imported oil and 4.9 million tons from gas, a total of 41.5 million tons or 5.5 times that of the preceding years."

(6) "After World War II the Penn Central system had about 134,000 hopper cars. By 1966, when import oil quotas were relaxed, it had 76,000 cars. At present it owns 60,000 hopper cars."

(7) "If the steam coal goes, the following coal-originating railroads tributary to Penn Central will disappear: Pittsburgh & Shawmut; Lake Erie Franklin & Clarion; Monongahela Railway; Montour Railroad; Algers Winslow and Western Railroad."

The president and chief executive officer of the Reading, C. E. Bertrand reiterated the importance of coal to Northeastern railroads when he testified before the Senate Surface Transportation Subcommittee on March 3, 1973, saying:

"If our freight traffic were to return to 1967 levels in bituminous coal alone there would be a 193% increase in our bituminous carloadings and a $27 million improvement in our revenues and we could, in my opinion, easily attain the customary income-based reorganization."

Simply stated, a sustained increase in coal traffic would do much to return solvency to the Northeast rail system. To be sure, improved coal loadings will not solve the totality of the problem, but will, nonetheless, be a significant step in that direction. Indeed, we suggest that without a return of coal in some magnitude, the dilemma confronting these systems may well be insoluble within the parameters of the free enterprise system and without heavy government subsidy under any system.

Against this background, we would suggest certain steps which will permit an increase in coal traffic to the Northeast railroads, particularly the Penn Central, the Reading, and the Central of New Jersey.

First, there must be a determination at the highest levels to utilize coal to the fullest extent possible. Such a determination would be reflected in several ways.

For example, as President Nixon suggested, pollution standards should be relaxed to permit the use of higher sulfur coals within the overall constraints imposed by health considerations. It is a real paradox to consider that New Jersey utilities are now burning oil with a higher sulfur content than the coal it replaced.

We are not suggesting the abandonment of the primary standards designed to protect human health. We are suggesting the use of the regional concept to determine sulfur levels and the substitution of ambient rather than emission standards.

This action would result in additional shipments on almost all of the railroads in question. It would be particularly helpful in coastal areas, in the Mid-Atlantic region, especially in Pennsylvania, New York, and almost all of New Jersey. It would also do much to provide a competitive alternative to the high-priced foreign oil to consumers in those areas. And there would not be any adverse impact on human health, given stringent regulatory control and the full range of abatement options open to large industrial and utility consumers.

Energy imports must be restructured so as to create the proper climate for expanded coal production. Currently, the United States is importing one-quarter of its oil supply, and many projections indicate that the nation will nearly double that dependence on foreign sources by 1985.

This dependence is particularly strong on the East Coast, which today relies on residual oil imports for more than 90% of its heavy industrial fuel needs, and the tide of foreign oil is moving inland. Plants that formerly burned 33 million tons of coal annually have converted to oil, and projections indicate the switchovers to imported oil will cost the coal industry 2 to 3 million tons this year.

Meanwhile, the short-term price allure of oil imports has been replaced by what environmental concern has made a quality appeal—low sulfur content. For many plants, the only available means of meeting new sulfur dioxide emission limits was—and still is—to import low sulfur oil. Neither the coal nor the domestic oil readily available to the heavily industrialized eastern half of the country can satisfy stringent air pollution regulations without assuming the burden of high cost and technological complexity required to desulfurize either the fuel or the stack gases produced by combustion.

If we cannot realistically roll back oil imports during an energy crisis, at least we must keep them under the tightest possible rein to have any hope of winning back our energy independence through the growth of a domestic coal system including a healthy rail system. With uncontrolled access to foreign fuels, can we really expect the domestic coal and rail industries to expand their ability to meet our national energy needs through indigenous resource development?

We in coal are tied to the railroads. I appeared before your committee on May 3, 1972, and outlined the position of the bituminous coal industry with respect to several proposals, including financial assistance to the railroads. Because of the vital interest of the coal industry in a sound national transportation industry, I make this statement on behalf of the Northeastern railroads because the health of the rail system nationwide seems to us to be tied to that of the railroads in question.

Plans designed to solve the present dilemma have been advanced by the Department of Transportation and, after an extensive investigation in Ex Parte No. 293, *Northeastern Railroad Investigation*, by the Interstate Commerce Commission. Several bills have been introduced by Senators Hartke and Pell and Representative Brock Adams.

At this time, the coal industry does not endorse any of the specific proposals pending before this committee. We do believe that to resolve all of the problems now facing the Northeast carriers there is a need for interim government financial assistance to aid the social costs involved in abolishing thousands of railroad jobs, and some method to shift the financial burden of passenger service away from the freight segment of the rail industry.

A sound national transportation industry is necessary for the rational development of the nation's coal industry. The efficient movement of bituminous coal, a major component of the nation's energy requirements, depends upon an adequate and financially sound transportation industry.

We urge the committee to approve legislation that will meet the financial requirements of the railroads in question, while protecting the interest of the coal industry and other large shippers who must rely on the carriers for the movement of their commodities.

The question before you—the Northeast rail crisis—is inextricably tied to the question of energy. As such, your decision on the Northeast rail crisis will ultimately touch every person in this country both now and in future generations. We urge you to insure the viability of rail transportation of coal in the Northeast and so structure the rail system there that it will be able to meet any contingency in the energy field which it may encounter.

APPENDIX I

Bituminous Coal Handled by Leading Coal Carriers and Revenue Received, 1971

Class I Railroads	Thousands of Net Tons: Originated	Other	Total [a]	% of Total [b]	Revenue - Thousands of Dollars: Coal	% of Total [b]	Total Freight	% of Coal to Total
Penn Central	39,759	40,837	80,596	14.5	$ 208,596	15.9	$ 1,608,699	13.C
Norfolk & Western	64,760	8,255	73,015	13.2	268,424	20.4	719,920	37.3
Chesapeake & Ohio	50,287	9,802	60,C89	10.8	189,291	14.4	440,410	43.0
Louisville & Nashville	49,167	1,952	51,119	9.2	107,374	8.2	446,150	24.1
Baltimore & Ohio	30,663	9,125	39,788	7.2	107,018	8.1	497,347	21.5
Southern	12,016	13,628	25,644	4.6	48,000	3.7	410,913	11.7
Illinois Central	23,258	492	23,750	4.3	44,996	3.4	350,539	12.8
Burlington Northern	20,917	2,324	23,241	4.2	68,568	5.2	913,723	7.5
Seaboard Coast Line	3	17,354	17,357	3.1	26,399	2.0	515,676	5.1
Clinchfield	6,672	7,637	14,309	2.6	20,584	1.6	37,801	54.5
Western Maryland	6,159	5,949	12,108	2.2	15,269	1.2	48,787	31.3
Reading	3	11,243	11,246	2.0	18,089	1.4	95,969	18.8
Bessemer & Lake Erie	3,520	6,278	9,798	1.8	16,213	1.2	54,475	29.8
Elgin, Joliet & Eastern	-	9,289	9,289	1.7	9,411	0.7	43,015	21.9
Chicago & North Western	3,020	5,694	8,714	1.6	18,001	1.4	302,043	6.0
Denver & Rio Grande Western	6,796	1,699	8,495	1.5	13,545	1.0	110,171	12.3
Monongahela	6,718	-	6,718	1.2	6,062	0.5	6,253	96.9
Gulf, Mobile & Ohio	5,128	952	6,080	1.1	7,153	0.5	107,338	6.7
Union Pacific	2,739	3,342	6,081	1.1	21,736	1.7	673,594	3.2
Pittsburgh & Lake Erie	2,166	3,468	5,634	1.0	7,517	0.6	38,988	19.3
Chicago, Milw., St. Paul & Pac.	3,088	1,979	5,067	0.9	10,408	0.8	292,465	3.6
Missouri Pacific	4,229	779	5,008	0.9	6,479	0.5	435,751	1.5
Erie-Lackawanna	482	3,809	4,291	0.8	9,629	0.7	250,930	3.8
Atchison, Topeka & Santa Fe	1,411	2,396	3,807	0.7	8,446	0.6	777,894	1.1
Central of Georgia	-	3,138	3,138	0.6	4,167	0.3	68,562	6.1
Chicago & Eastern Illinois	2,352	596	2,948	0.5	5,415	0.4	39,561	13.7
Georgia	1	2,659	2,660	0.5	3,671	0.3	12,225	30.0
Cincinnati, New Orleans & Texas Pac.	919	3,299	4,218	0.8	4,387	0.3	66,109	6.6
Chicago, Rock Island & Pacific	1,479	849	2,328	0.4	3,915	0.3	290,742	1.3
Alabama Great Southern	265	1,971	2,236	0.4	2,464	0.2	46,015	5.4
St. Louis - San Francisco	2,281	13	2,294	0.4	4,233	0.3	213,013	2.0
Central RR of New Jersey	1	2,214	2,215	0.4	1,525	0.1	38,370	4.0
Missouri Illinois	1,709	370	2,079	0.4	1,854	0.1	7,323	25.3
Ann Arbor	-	1,864	1,864	0.3	1,366	0.1	10,505	13.0
Detroit, Toledo & Ironton	-	1,816	1,816	0.3	1,844	0.1	37,121	5.0
Lehigh Valley	2	1,610	1,612	0.3	2,302	0.2	47,843	4.8
Illinois Terminal	-	1,467	1,467	0.3	441	-	11,709	3.8
Detroit & Toledo Shore Line	-	1,382	1,382	0.2	1,160	0.1	7,600	15.5
Missouri-Kansas-Texas	1,228	25	1,253	0.2	1,474	0.1	74,664	2.0
Grand Trunk Western	-	1,242	1,242	0.2	1,697	0.1	82,914	2.0
Boston & Maine	1	1,018	1,019	0.2	1,809	0.1	64,870	2.8
All other Class I Roads	1,601	5,210	6,810	1.2	13,153	1.0	1,938,336	0.7
Total	354,954	200,159	555,112	100.0	$ 1,314,837	100.0	$12,217,102	10.7

a - The total tonnage for each road includes originating, connecting, and terminating tonnages. In most cases, portions of tonnage shown for one road will also be included in one or more other roads.

b - Percent of Grand Total.

Note: Figures may not add due to rounding.

Source: Association of American Railroads.

APPENDIX II

BITUMINOUS COAL HANDLED 1967 AND 1972

[In net tons]

Railroad	Total carried 1967	Total carried 1972	Decrease 1972-67 (percent)
Boston & Maine	1,346,500	1,300,559	−3.4
Central of New Jersey	7,617,350	572,481	−92.5
Erie Lackawanna	5,291,340	3,389,048	−36.0
Lehigh Valley	2,253,008	1,754,136	−22.1
Penn Central	[1] 109,686,294	82,495,253	−24.8
Reading Co	21,191,557	7,878,847	−62.8
Total	147,386,049	97,390,324	−33.9

[1] Includes New York Central.

Source: ICC Commodity Statistics.

STATEMENT OF A. E. LEITHERER, PRESIDENT, THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE

Mr. Chairman, Members of the Committee. My name is A. E. Leitherer. I appear here on behalf of The National Industrial Traffic League, of which I am Presiwent. I am also Vice President, Traffic, Allied Mills, Inc., 110 North Wacker Drive, Chicago, Illinois 60606.

I have been actively engaged in the field of traffic and transportation for approximately forty years. I have been with my present company for more than 21 years and have served as its Vice President, Traffic, for the last five years.

I was elected to serve as President of the League in November of 1972. Prior to my election I served a two year term (1968–1970) as Chairman of the League's Executive Committee and a two year term (1970—1972) as Vice President of the League.

IDENTITY AND INTEREST OF THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE

The National Industrial Traffic League (which I shall sometimes refer to as the League) is a voluntary organization of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with rates, traffic and transportation services of all carrier modes. The League is dedicated (1) to the attainment and preservation of an adequate and efficient national transportation system, privately owned and operated, and (2) to the protection of the shippers' interests in the field of transportation. The League has been in continuous existence for over sixty-five years and throughout that time it has concerned itself with substantial issues affecting transportation both before the Congress and the federal regulatory agencies.

Representatives of the League, concerned with national transportation problems, over the years have appeared before the committees of the Congress in an effort to contribute to a proper solution to the problems. We hope that the positions expressed by the League have been helpful.

The transportation industry in this country is now at a juncture. There is an obvious extreme critical situation in the Northeast. There are grave problems with respect to transportation elsewhere in the country. It is the firm conviction of the League that we must now face up to these difficult questions; to subject them to a searching analysis and; in the national interest, to seek and achieve fundamental and lasting solutions. The time has come "to bite the bullet."

PRIOR ANALYSIS BY THE LEAGUE

As I have earlier suggested the League has been continually analyzing and seeking solutions to the growing transportation problem, including the need for legislation to resolve those problems. To that end, early in the present Congress in February of 1973, the League prepared and distributed to members of yonr Committee and others a document which I am attaching for ready reference as Appendix A entitled "Position Paper Of The National Industrial Traffic League On Surface Transportation Legislation".

At this time, on behalf of the League I wish to address myself to specific issues with respect to prospective legislation now before your Subcommittee. While my comments will be directed primarily to the northeastern railroad, they also pertain to the national transportation problem.

In the League's view, as critical as is the northeastern railroad problem, it cannot and should not be treated separately and apart from the rail transportation problems facing the Nation as a whole. The League indicated in its Position Paper referred to above that:

"If a single bill is introduced to implement the suggestions of the Administration, the surface transportation modes, the regulatory agencies, and the users (including the League) it should include basic provisions pertaining to: (1) financial assistance; (2) regulatory reform; (3) improvement in service—all modes; and (4) overall improvement to the purchaser of transportation service—the consumer. Improvement in carrier ratemaking activities and entry-exit procedures should not be omitted from a cohesive bill and left to be considered separately during the 93rd Congress or by another Congress."

The above still represents the official position of the League. A regulatory reform package should include financial assistance for railroads.

We must start on a solution soon and if the "first step" is in the Northeast, it must be followed up with additional steps for the Nation as a whole.

As earlier suggested in a very real sense the members of the League comprise practically every type of industrial and commercial enterprise in the country, utilizing all modes of transportation. They are substantial users of railroad service. Highly qualified transportation executives serve on the League's committees and are active in its deliberations. Over the years the League has enunciated key Transportation Policies directly bearing upon critical transportation problems, looking to their solution. They are pertinent to the subject matters before this Subcommittee.

NATIONALIZATION OF THE RAILROADS

A basic and widely asked question is whether the railroads in financial difficulty in the Northeast should be nationalized or whether private ownership should be retained.

The railroads should not be nationalized. Private ownership should be retained and, as indicated in its transportation policy A-1, the League is of the firm conviction that "under the American plan of private enterprise, a transportation system privately owned and operated can best serve the public and meet the needs of the commerce of the United States."

It is the League's position that Government ownership should not be utilized when privately owned and operated railroad facilities are adequate and available. This is stressed in our policy A-2 which provides:

"*Government Ownership or Operation of Transportation Facilities.* (a) The Federal Government should not engage in the transportation business when privately owned and operated facilities are adequate and will be made available."

RESTRUCTURING OF THE NORTHEASTERN RAILROADS

At this point the League recognizes the critical situation confronting the railroads in the Northeast. It seems clear that there must be a restructuring of the bankrupt railroads in the Northeast. If this is undertaken, basic questions arise. How many rail systems should evolve? What is to happen to the non-bankrupt railroads? How much of the present rail service should be curtailed? What is to be done about displaced labor, shippers, communities and regions adversely affected?

Transportation Policies of the League, in our view, are pertinent to these questions.

First, the League wishes to stress emphatically the need, so far as possible, for placing responsibility for solutions of the problem upon carrier management. In this connection I cite our policy A-4 as follows:

"*Responsibility and Freedom of Carrier Management.* There should be the greatest degree of responsibility upon, and freedom of, carrier management in providing the public with the transportation service which it needs. Regulation should be limited to that reasonably necessary in the public interest and should not encroach upon the proper sphere of managerial discretion and responsibility either in the field of traffic or actual physical operation."

I would note in connection with implementing the foregoing that the League's Position Paper (Appendix A hereto) has set forth our views calling for changes in the present regulatory laws.

In the light of the number of bankrupt carriers in the northeastern quadrant of the Nation, the matter of consolidations and mergers is pertinent to the subject of restructuring of such railroads. League transportation policy B–19 on this subject is as follows:

"*Consolidations and Mergers.* The League favors soundly conceived mergers and consolidations between carriers of the same type which will tend to strengthen the transportation industry, produce improved service at reduced cost, establish or continue adequate competition in transportation service and be consistent with the long-range public interest in the maintenance of an adequate common carrier system. Such consolidations should be on a voluntary basis and accomplished under existing statutes, such as, Section 5, Part I, Interstate Commerce Act, in the case of surface carriers. (The use of the words 'of the same type' is not to be taken to indicate either approval or disapproval of the principle of common ownership). Furthermore the goals of carrier regulation and the public interest are best served by the Commission deciding each application proceeding upon its own merits and the record presented as expeditiously as possible consistent with orderly procedure, and that under only the most compelling circumstances should any decision, particularly relative to merger or control of rail carriers, be delayed on account of the pendency of other similar proceedings involving other carriers."

Policy B–8 is directly related to policy B–19 and follows:

"*Common Ownership or Coordination.* Carriers should be permitted and encouraged to coordinate their services within a single field and between different fields to the end that each carrier will transport the traffic and perform for the public the service for which it is best adapted.

"Except as provided in Policy J–1(b),[1] it should be permissive by law for one form of transportation, through ownership or contractual arrangements, to operate other forms of transportation for the purpose of providing a complete transportation service for the public. Such arrangements should be subject to a requirement that they must not unduly restrict competition.

"No proposed acquisition of ownership or coordination should be denied solely on the ground that the carriers are in different fields as rail and motor, rail and water, motor and water. It is highly essential, however, that the statute require the maintenance of competition and preserve the Commission's power to impose restrictions to insure such competition. The statute should qualify this power by providing it shall not be exercised 'unless and to the extent that the Commission finds, on the evidence after hearings, that such denial, terms, conditions, or limitations are necessary to prevent undue restraint of competition.' "

The foregoing transportation policies contemplate the management and operation of the rail carriers as viable business enterprises. I recognize that we must face the fact that some of these railroads are now in bankruptcy proceedings and others throughout the Nation may well be in serious financial difficulty.

Specifically discussing the northeastern situation, it seems to the League that it will be necessary to effect a restructuring of the railroads in the Northeast.

It is obvious that the present rail transportation system does not adequately meet the needs of the shipping public. Shippers cannot continue to support a deteriorating system. There must be a restructuring and it must be done before there is additional deterioration.

THE NEED FOR AN EXPERT BODY WITH FINAL AUTHORITY AS TO RESTRUCTURING OF THE RAILROADS

The League does not underestimate the magnitude of this railroad restructuring problem. The solution of that problem should be undertaken by an impartial, knowledgeable, expert, politically independent, and practical body, designated by this Congress to study this northeastern rail situation and within a reasonable and not unduly protracted period of time to present a binding proposal for restructuring the northeastern railroads. We would expect that such a body so charged would avail itself of all sources which would shed light on a proper solution.

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[1] For ready reference J–1(b) is as follows: "Regulated freight forwarders should not be allowed to control underlying carriers of any classification (rail, motor, or otherwise) by ownership, operating control, or any other device by which control may be accomplished."

It would be the hope and expectation of the League that the ultimate restructuring plan of this expert body would meet an objective long sought by the League: "to provide for and develop, under the free enterprise system of dynamic competition, a strong, efficient and financially sound national transportation industry by water, highway, and rail, as well as other means, which will at all times, remain fully adequate for national defense, the postal service, and commerce."

I would particularly emphasize the view of the League that any such restructuring should aim to meet the needs of the freight shippers of the country. I refer here both to present needs and to identifiable potential needs. The League would urge that the expert body proceed to its ultimate determination as expeditiously as possible, consistent with orderly procedure. I would especially emphasize that the restructuring and related arrangements as determined by the expert body should be final. Delays in facing up to this problem have already exacted a heavy toll. It is imperative that a final solution be selected and be implemented without delay.

CONTINUATION OF ESSENTIAL RAIL SERVICES; ELIMINATION OF UNNECESSARY RAIL SERVICES

The League visualizes that this expert body will ultimately provide for a restructured railroad system genuinely meeting the essential needs of the shipping public. This presents a question as to the disposition of remaining rail service. Such remaining rail service, in the League's view, should be offered to shippers, to states, to communities, to other railroads or to other private parties so that alternate provisions can be made for continuation of those particular services.

Some services may not be sought by other railroads, by governmental bodies, by shippers, etc. As to such residue of railroad services, under appropriate criteria the Interstate Commerce Commission should be authorized and empowered to provide for orderly and expeditious suspension of service and/or outright abandonment of track. More specifically, such authority vested in the I.C.C. should include criteria whereby certain railroad operations may be suspended but where abandonment of track will not be permitted where there is identifiable, substantial potential need. Such criteria should also provide for adequate notice to the shipping public, for the receipt of evidence from shippers and other interested parties, and for final action upon such applications by the Commission within a period of four months from the completion of service of notice to the public. The League has in mind, of course, that the Commission would be carrying out these responsibilities pursuant to specific mandate of the Congress.

PROVISION FOR AFFECTED LABOR

The League recognizes that such a program of restructuring the bankrupt northeastern railroads will present a problem of displaced labor and the possible need for retraining of such personnel. We would emphasize that the expert body charged with bringing about the restructuring should not allow the problem of displaced labor, or the problem of retraining such personnel, to obstruct achieving the desired restructured railroad system. Those costs associated with displacement and/or retraining of personnel, occasioned by this restructuring, that cannot be met from the funds ultimately available from the bankrupt estates of the carriers, should be deemed social in nature and be borne by the federal government. The League would contemplate that any such program would be the responsibility of the U.S. Department of Labor. We might also suggest Congress can make an added contribution to the solution of this problem by amending the Railroad Retirement Act to provide for a reduction in the mandatory retirement age.

The subject of crew consist comes to mind. In this connection the views of the League apply either to railroads within the restructured system or to the non-bankrupt railroads. It is embodied in transportation policy B–14 as follows:

"*Make-Work Rules:* It is the policy of The National Industrial Traffic League that all archaic work rules which are inconsistent with modern operating practices or with sound economic conditions in transportation should be eliminated; the League favors fair and flexible work rules which are in harmony with modern, economical transportation methods."

RAIL PASSENGER OPERATIONS

A partial solution to the crisis is to determine whether intercity and commuter passenger traffic should be consolidated and whether so-called "people-moving" problems should be separated from problems pertaining to freight traffic.

The League does not have any specific policy on the question of whether intercity and commuter passenger traffic should be consolidated. The League does endorse the principle that commuter and intercity service should be self-supporting and if it is not self-supporting it should be publicly subsidized.

Turning to the balance of the question the League is of the strong view that so-called "people-moving" problems should be separated from those problems pertaining to freight traffic. The League is emphatic in its views both in its policy A-2 and D-1 that:

"Passenger service if required in the public interest should be paid by the public and not by freight shippers."

It has come to the League's attention that some railroads providing passenger service, under contracts with governmental authorities, take the position that they are not being fully compensated for such passenger service. In the case of passenger service contracted for by governmental agencies it is the League's view that the railroads should be adequately compensated for such passenger service. This immediately presents the related question of how the matter will be resolved where there is disagreement between the contracting railroads and the governmental authorities. In our view the Interstate Commerce Commission should be vested with necessary final authority to settle such disputes between the railroads and the various governmental authorities with whom they have contracts governing passenger service. Any doubts on this issue should be removed.

SHOULD THERE BE FINANCIAL PARTICIPATION BY THE FEDERAL GOVERNMENT?

The next question is whether there should be government financial participation in solving the northeastern railroad problems and if so, how, and in what areas.

Directly related to this is the question of how much and what kind of federal overview of operations should be established, if there is to be government financial participation. At this juncture I want again to stress the fact, pointed out earlier, that the League favors the conduct of railroad operations under private enterprise and favors reliance upon carrier management as far as possible to solve the transportation problem.

The League is mindful of the basic approach suggested by the U.S. Department of Transportation which would contemplate reliance, as far as possible, upon private capital for achieving solution of the transportation problem in the Northeast (and presumably elsewhere in the country). The League does not feel it is in a position to state at this time whether the necessary funds to meet this critical financial situation of the bankrupt northeastern rail carriers can be met by private funds alone. I do want to make it clear, however, that the alternative of private capital should not simply be brushed aside, but should be carefully explored, even as a partial solution.

It is the view held in many circles that during the immediate future, possibly up to a year, the bankrupt railroads in the Northeast, in order to survive, will be absolutely dependent upon the infusion of additional funds, aside from those derived from normal private sources. If this should prove to be the case it is the view of the League that this should be accomplished, as far as possible, through the U.S. Government guarantee of private loans rather than through outright subsidy. We do not mean that there would be anything automatic about this program. There may well be some carriers where the purgative effect of a bankruptcy proceeding may well be necessary. On the other hand, we are mindful that there are railroads now before Bankruptcy Courts where outside funds appear absolutely necessary.

The League is also suggesting that any Government guarantee of such loans should be carried out on an informed, intelligent and realistic basis. It will, of course, be necessary to establish appropriate criteria to determine when, as, and if the Government will guarantee particular loans. It would seem to us that such a program could be entrusted to the U.S. Department of Transportation acting under the guidelines enunciated by the Congress.

While my comments relate primarily to the railroads in the northeastern quadrant of the country, the League is mindful that the problem may well not be limited to carriers in that geographical area alone. Thus, the right to apply for such Government guarantee of loans should be available to railroads wherever they are located throughout the country with the provision that they must meet the pertinent criteria for receiving such a guaranteed loan.

I have talked primarily about the interim period while the program to effect a restructuring of the railroads goes forward. At this point I do not mean to rule out the possibility of comparable financial assistance by way of guaranteed loans once the restructuring does take place.

I want to make it clear that the League recognizes that guaranteed loans under the conditions which I have outlined are not the final and full answer to this problem, by any means. Undoubtedly there are and will be situations where the guaranteed loan approach would not meet the need. This may well be the case for example with respect to the necessity for substantial upgrading of railroad track in the Northeast and elsewhere. The League is continuing to give intensive consideration to this matter. The League has policies relating to user charges (D-4), opposition to subsidies to carriers except during the development period (D-1), etc. The League is mindful of suggestions that needed additional funds, over and above the guaranteed loan program, be derived from a 1% waybill tax or that these additional funds be provided from the general revenues of the Treasury. At this precise time the League is not taking any final position with respect to these or other alternatives. We merely wish to emphasize that the League is aware of this particular problem and is continuing to give it intensive study.

MODERNIZATION OF THE BANKRUPTCY LAWS

Observing the current situation of the railroads in the Northeast it is increasingly apparent to the League that the bankruptcy laws must be modernized to meet the present situation. Because of the technical nature of such laws, at this time the League will not propose specific amendments. We would point out, however, the desirability of enabling the bankruptcy courts, in the interest of efficient and viable railroad service, to make appropriate adjustments in existing labor agreements particularly with respect to work rules, work forces and other conditions of employment.

As this Subcommittee knows, there are various bankruptcy court proceedings under way at present in the Northeast. In our view the bankruptcy laws should be amended to provide additional authority for coordination of these individual bankruptcy court actions in appropriate circumstances. The League thinks that coordination of the various railroad bankrupt estates, before a single court, would contribute substantially to the achievement of improved railroad service for the benefit of all concerned, including the shipping public.

CONCLUSION

I want to close on the note on which I began this Statement. The effort should be constant and vigorous to continue operation of the Nation's railroads as private enterprises. This will necessarily require able, creative and efficient carrier management to meet and to solve the challenging problems confronting the Nation's railroads.

The ultimate aim to which the League directs its efforts is insuring the development and preservation of national transportation service, adequate at all times to meet economically and efficiently the full needs of the commerce of the United States.

We hope the suggestions the League has presented will be helpful to this Subcommittee and to the Congress in your commendable efforts directed to achieving a sound, fundamental, and lasting solution to the railroad problem in the Northeast and elsewhere throughout the Nation.

In behalf of the members of The National Industrial Traffic League, I wish to express our thanks for this opportunity to present our views on this very vital and complex subject.

Appendix A

POSITION PAPER OF
THE NATIONAL INDUSTRIAL TRAFFIC LEAGUE
ON SURFACE TRANSPORTATION LEGISLATION

In all probability, the 93rd Congress will give early consideration to transportation legislation. On behalf of The National Industrial Traffic League, I would like to submit the following policy positions on subjects that might be considered by the Congress in drafting cohesive transportation legislation.

The National Industrial Traffic League is a voluntary organization of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with rates, traffic and transportation services of all carrier modes. The League is dedicated (1) to the attainment and preservation of an adequate and efficient national transportation system, privately owned and operated, and (2) to the protection of the shippers' interests in transportation problems.

If a single bill is introduced to implement the suggestions of the Administration, the surface transportation modes, the regulatory agencies, and the users (including the League) it should include basic provisions pertaining to: (1) financial assistance; (2) regulatory reform; (3) improvement in service--all modes; and (4) overall improvement to the purchaser of transportation service--the consumer. Improvement in carrier ratemaking activities and entry-exit procedures should not be omitted from a cohesive bill and left to be considered separately during the 93rd Congress or by another Congress.

Hopefully, the following positions will be helpful in your consideration of meaningful and beneficial legislation. As the nucleus for the League's position paper, we would like to use, for convenience only, the format of H.R. 16281 (92nd Congress), a bill to restore and maintain a healthy transportation system, to provide financial assistance, to improve competitive equity among surface transportation modes, to improve the process of government regulation, and for other purposes. Reference will be made to similar provisions in S. 2362, S. 2841 or S. 2842.

FINANCIAL ASSISTANCE TO SURFACE
TRANSPORTATION COMPANIES

Three basic elements were included in Title I of H.R. 16281, i.e., (1) establishment of a revenue financing division in DOT with power to provide \$2-billion in loan guarantees for other than railroad rolling stock; (2) establishment of a railroad equipment obligation insurance fund under DOT--with provision for loan guarantees of \$3-billion for railroad rolling stock; and (3) a \$35-million appropriation for the development of a rolling stock scheduling and control system. Similar provisions were in Title I of S. 2362 and S. 2841.

The League generally supports the above provisions relating to financial assistance for railroads but strongly recommends that any assistance be temporary in nature, that it be part of a package which would include regulatory reform, and that financial assistance be of a guarantee nature rather than direct loans.

DISCRIMINATORY STATE TAXATION

Title II of H.R. 16281 would amend the Interstate Commerce Act so as to restrain discriminatory state taxation of carrier property if it exceeded certain guidelines. A related provision was in Title II of both S. 2362 and S. 2841.

The League supports removal of discriminatory property taxation by the various states of property of interstate carriers. At the same time, safeguards or guidelines should be included in any new legislation so that the property tax rate for the carriers would not be lower than the tax rate generally applicable to commercial and industrial property in the taxing district. In other words, the carriers should not be preferred to the point where they would be paying a lower tax rate than commercial or industrial companies.

Inclusion of this proposal in an overall cohesive transportation package should be conditioned on broadening the format of the package to include more regulatory modernization.

ABANDONMENT PROCEDURES

Title III of H.R. 16281 sets forth expedited procedures for abandonment of non-productive railroad facilities. Title III of both S. 2362 and S. 2842 proposed similar procedures. Included in the proposed procedures are (1) a 90-day notice to the public; (2) advertising in local newspapers; and (3) notice to all shippers and receivers who have used the line in the preceding 18 months. This section also requires a railroad to diagram its system and show those lines on which less than 35 carloads per mile originated or terminated during the prior calendar year.

The League favors the principle of new abandonment procedures. It is extremely difficult, however, to establish equitable guidelines that would adequately protect the interests of all shippers, receivers, and/or communities. Basically, however, it is the League's position that the railroads should give notice of the abandonment application to anyone who has used the involved track as either a consignor or a consignee at an origin or destination on the involved track during the 18 months prior to notice to abandon. Also, there should be provision for at least 45 days notice to the Interstate Commerce Commission; the burden of proof in support of abandonment should be borne by the railroad; and no certificate to abandon would be issued until adequate proof has been submitted or unless satisfactory alternate rail service has been arranged.

Congress, in its deliberations on this proposal, should weigh the submittals of those shippers, receivers and/or communities that would be directly involved as a result of rail abandonment procedures.

Here again, the League considers any provision for abandonment of nonproductive rail facilities should also include as a package a proposal that would permit expansion of motor and water carrier services.

NEW SERVICE

The League's basic policy on new service is that a motor carrier (common or contract) shall not be denied a certificate of public convenience and necessity on the grounds that the certification would divert business from any existing carrier. What the League favors would be a new test established for public convenience and necessity. A certification would be made if there was not a diminution of the total quantity and quality of service then enjoyed by the shipping public.

The new test, for public convenience and necessity, should be restricted for two years following the enactment of any legislation to already existing certificated motor carriers.

The League also believes that certificated motor carriers should be permitted to eliminate limitations and restrictions in their present certificates and permits. These restrictions pertain to commodities carried, points served, etc.

These new service provisions should also extend to the regulated water carrier industry. The ICC should be directed to administer all provisions of the Interstate Commerce Act so as to achieve the objective of less restricted and more efficient service. Also, the railroads should be permitted to become certificated truckers if it is in their interest to move freight by truck rather than by rail between points served by the railroad and to do so without key point restrictions. As part of the justification for issuing new certificates of public convenience and necessity, the ICC should consider cost and rate information submitted by the proponent.

The inclusion of provisions for expansion of carrier service would make a proposed Surface Transportation Act more cohesive. It would appear that a separate proposal for expansion of motor carrier service would have little chance if not tied in with other proposals.

PRICING OF CARRIER SERVICES

Title IV of H.R. 16281 contains provisions relating to competitive equity. The League opposes the section relating to development and implementation of interim rate adjustments and the section relating to report filing and rate publication extension to water transport of dry bulk commodities. In principle, League policies would support those sections relating to (1) establishment of minimum compensatory rates by carriers and (2) development and implementation of adequate revenue levels by carriers.

Legislation containing sections on competitive equity or rate reform should also be coupled with provisions for improving the practices and procedures of Section 5a rate bureaus. The League's position on rate bureaus is detailed later in this position paper.

The League has adopted specific policies dealing with rate matters. In general, the League supports proposals by carrier managements as to new methods or techniques of ratemaking which lend promise of improvement of carrier revenues and of increasing or preserving the traffic of the carriers proposing them when there are substantial benefits to the shipping public. As an alternative to existing sections of Title IV of the H.R. 16281 version of the Surface Transportation Act, the League suggests implementation of the following League policy:

> "Rates for each carrier or mode of transportation should be at the lowest level consistent with a fair return to the carriers necessary to provide the public with adequate and efficient transportation service, and should reflect the cost advantages each has to offer so that in every case the public may exercise its choice in the light of the particular task to be performed. In determining whether a rate is lower than a reasonable minimum rate, consideration must be given to the facts and circumstances attending the movement of traffic by the carrier or carriers to which the rate is applicable, and no rate shall be held up to a particular level in order to preserve the rate structure, traffic or revenue of some other carrier or mode of transportation."

To implement this policy, the following legislative language is suggested:

> "In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management, to provide such service.
>
> "In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation. Each form of transportation shall have the opportunity to make rates reflecting the different cost advantages each has to offer so that in every case the public may exercise its choice, in the light of the particular transportation task to be performed."

The League also has a policy on maximum and minimum rates and that policy provides for limiting the power of the ICC to prescribing just and reasonable maximum rates and minimum rates which shall not be less than compensatory for the service performed, i.e., which fail to cover the directly ascertainable costs of performing the service. The requirements of Section 1 of the Interstate Commerce Act under which carriers are required to establish and maintain just and reasonable rates, fares and charges, should be continued. Section 15 should be amended, however, to limit the rate prescription power of the Commission to prescribing maximum reasonable rates and minimum reasonable rates except that in unusual proceedings whereby reason of special circumstances it becomes necessary to prescribe the exact basis for compliance with its finding, the Commission may prescribe the precise rates.

RATE BUREAUS

Title V covers modernization of Section 5a rate bureaus and includes sections on (1) disposition of rates by bureaus; (2) single-line rates (railroads only); (3) study of rate bureaus; and (4) independent actions. The League, of course, supports these various sections but is of the opinion that they should be tied in with other Section 5a reforms as outlined below.

The League believes that Section 5a of the Interstate Commerce Act should be amended with respect to all carriers so that it can no longer be applied to inhibit competition and retard the establishment of rate and service improvements which individual carriers may consider appropriate. There are definite advantages to the rate bureau operations permitted by Section 5a and this section of the Act should be preserved subject to some very important modifications.

Among other things, the League feels that all proposals as to rates, charges and related rules should be originated by carrier members, not by rate bureau employees, in strict accordance with the ICC approved rate procedures, and under no circumstances should an employee board be delegated with the power of final determination or with any policy setting or rate originating prerogatives. The League also believes that ratemaking procedures should be orderly and guarantee all shippers and interested parties the right to (1) submit proposals for consideration; (2) receive adequate notice of proposals and dispositions; (3) appear before rate bureau rate groups and express views; and (4) appeal unfavorable determinations. First and foremost should be the fact that individual carriers be completely free to exercise the right to independent action.

The League suggests that Section 5a should be amended so that (a) A carrier is no longer accorded anti-trust immunity to discuss collectively with other carriers individual single-line rates where the carrier serves both the origin and destination; (b) Carriers are not accorded anti-trust immunity to discuss or agree upon joint-line rates if a party to such a discussion or agreement is a carrier which cannot practically participate in the particular traffic involved; (c) Carriers and their rate bureaus are not accorded anti-trust immunity to act through rate bureaus for the purpose of protesting, seeking suspension of, complaining against or otherwise interfering with rate or tariff changes proposed by any other carrier or carriers; (d) Carriers and their rate bureaus shall continue to have anti-trust immunity for the purpose of publishing and filing rates with regulatory commissions and distributing to carriers, shippers and other interested parties such rate and tariff publications. The bureau would also have immunity to establish reasonable pre-notification procedures whereunder a carrier having acted independently can provide through a rate bureau the publicity and advance notice publication that the carrier has decided to establish a rate or other tariff change. Such pre-notification procedures, however, are not to be employed in such a way as to delay or retard the establishment of such rate or tariff changes; (e) Carriers and their rate bureaus shall continue to have anti-trust immunity to discuss and agree upon broad tariff changes of general application throughout a territory or territories; and (f) Section 6 of the Interstate Commerce Act should also be amended to provide general relief from the 30-day statutory notice for filing tariffs to permit competitive carriers of the same mode, to meet rates which have been independently established.

SECTION 22 RATES

Title VI of H.R. 16281 would amend Section 22 of the Interstate Commerce Act so as to repeal discriminatory government rates and specifically provides that Section 22 quotations shall not be less than the variable cost of handling the traffic. A similar provision was in Title II of S. 2842. The League has always supported legislation to modify Section 22 as indicated in the following policy:

> "The League supports repeal of Section 22 of the Interstate Commerce Act except for use during wartime emergency based on the understanding that Federal, state and municipal governments should be required to pay the full applicable commercial rates, fares or charges for transportation of persons or property by any common carrier subject to the provisions of the Interstate Commerce Act, provided, however, that where existing commercial rates are not considered appropriate or satisfactory for movements of government freight or where the movements of persons or property do not have the usual characteristics of commercial freight (like the movement of troops and equipment), agreed rates may be established, but should be set forth in published tariffs filed with the Interstate Commerce Commissionon statutory notice (or short notice, if allowed by the Commission) subject to the provisions of Section 6 of the Act."

UNIFORM COST ACCOUNTING

Title VII relates to the establishment of a uniform cost accounting system under the Interstate Commerce Act. Title II of S. 2842 contained a similar provision. The League has previously maintained and is still of the opinion that any proposal for establishing cost and revenue accounting methods and standards should remain the responsibility of the Interstate Commerce Commission and not the Department of Transportation.

ICC BUDGET

The proposal enunciated in Title VII of H.R. 16281 provides for the direct submission to the Congress of the Interstate Commerce Commission budget. Title VI of S. 2362 contained a similar procedure. This proposal has been before Congress for several years and although the League has no position on this specific proposal, it does believe that the ICC should remain an independent and viable agency primarily oriented to economic regulation of railroads (except passenger), motor carriers, forwarders and water lines. The Interstate Commerce Commission should, however, become more accessible to the public and more oriented toward protection of the public interest.

The League has previously supported the Interstate Commerce Commission in securing approval of its budget requests. This support was aimed primarily at assisting the Commission to discharge its duties to Congress, the carriers, the shipping public and the consumer. In general, the League feels that the ICC would be the proper party to comment upon and explain the need for direct submission of its budget to the Congress.

Statement of Paul J. Tierney, President, Transportation Association of America

My name is Paul J. Tierney, and I am President of the Transportation Association of America, with headquarters in Washington, D.C. I am presenting a number of proposals on behalf of TAA for consideration by your Subcommittee in any plan that it develops to resolve problems of the bankrupt railroads in the northeastern quadrant of the United States. For the record, TAA is a national policy organization composed of users, investors, and carriers of all modes (air, freight forwarder, highway, pipeline, rail, and water) who work together to help develop policies designed to maintain the strongest possible transportation system in this country under private enterprise principles.

I should like to stress the point that policy positions of TAA are not developed and approved without very careful consideration. All the Association's policies are first cleared through eight permanent advisory committees, or Panels, representing the above-mentioned transport interests; then finally approved by the 115-member TAA Board of Directors, which likewise represents across-the-board business interests. All the underlying policies on which this statement is based have gone through this policymaking procedure and have either the support of, or are not opposed by, all the eight Panels representing user, investor, and carrier interests. Two of these policies were just approved at the Board's May 15, 1973 meeting.

TTA APPROACH

Recognizing the vital stake that shippers have in adequate rail service in the northeast part of the country, TAA asked a group of its shipper members—all heavy users of bankrupt railroads' services—to review the various proposals of the DOT, ICC, and others and then draft their own recommendations, within the broad framework of TAA policies. These recommendations were then reviewed by a group of TAA investor members, who likewise have a direct interest in the bankrupt railroads through their creditor status. Some revisions were made, and a similar review was made by a group of railroad presidents, also TAA members. The final proposals were then developed and cleared by a special Advisory Council composed of all three of these interests: shippers, investors, and railroads, plus several transport equipment manufacturers.

PRIVATE ENTERPRISE SOLUTION

As a strong believer in private enterprise, TAA obviously favors the adoption of this approach to the maximum extent possible in any attempt to resolve problems of the northeastern bankrupt railroads. Therefore, we strongly oppose any plan to have the Federal Government take over and directly control, whether by outright ownership or by a long-term lease, all or portions of the rail freight network in this part of the country. Such TAA opposition would also apply to giving either the DOT or ICC broad managerial powers over the operations of bankrupt railroads.

The proper role of the Federal Government that, in our opinion, will best promote the public interest is to improve the environment in which bankrupt railroads must operate and compete—lending financial assistance where absolutely necessary but to the minimum extent required. Unfortunately, since bankrupt railroads have been prevented by existing regulations and laws from making changes to help restore their viability, they have no recourse but to seek financial assistance at the Federal, state, and local levels pending a change in the legislative and regulatory environment in which they must operate.

We believe that direct subsidies to these bankrupt carriers should be considered a stop-gap measure and designed to maintain essential operations and to prevent further erosion of their estates while the needed restructuring of both operations and facilities takes place. Subsidized operations should not be continued any longer than necessary, since they tend to perpetuate inefficiencies and delay the making of decisions needed to make the carriers viable.

Our railroad freight system is unique in the world in that it is still privately owned and operated, and TAA firmly believes that the overall freight service rendered by American railroads is second to none. We also feel that our private enterprise incentives have been a major factor in creating this superior service.

The recently updated study by the Union Pacific Railroad that compares operations of U.S. vs. eight foreign railroad systems clearly substantiates the claims that the general public gains from private-enterprise railroads. This updated study shows—as did the first version—that only the privately owned and operated U.S. and Canadian Pacific railroads are reporting net income and thus contributing tax revenues to their nation's general economies. The actual losses of the nationalized railroads ranged from $100 million in 1971 for one system to a high of $1,595 million for another system, three of which exceeded $1 billion in losses for that year. We have no doubt in our minds that a heavy deficit income figure would quickly follow nationalization of even portions of our railroad network.

The Union Pacific analysis also clearly pointed out that the private railroads have been providing freight service at a much lower cost to their shippers than the nationalized roads.

RAIL PASSENGER SERVICE

As recognized by the Congress a short time ago, the railroad passenger service problem is one that had to be treated separately. Faced with very heavy losses—caused by a combination of factors largely beyond the control of railroad management, but mostly because of auto, bus, and airline competition and changing American travel habits—the railroads sought to discontinue unprofitable and little-used passenger trains, but with increasing resistance. The creation of AMTRAK was the result, which was a compromise solution whereby the Federal Government was to assume financial responsibility for a basic intercity rail passenger service network on a contractual basis with all but a few of the railroads.

One of the major controversies confronting the bankrupt Penn Central Railroad relates to the proper payment by AMTRAK for rail passenger service, especially along the high-density Northeast Corridor between Boston and Washington, D.C. Inadequate compensation likewise is claimed by some of the smaller bankrupt railroads for unprofitable commutation service that they are required to provide in the public interest. TAA believes that such rail passenger services should be paid for on a full-cost basis, and that the ICC should have the authority to determine the level of payment for interstate carriers. Furthermore, if the Penn Central has been underpaid by AMTRAK for Corridor service, as claimed, it should be entitled to retroactive reimbursement since the start of this contracted service.

If the Penn Central finds that it cannot obtain full-cost reimbursement for its Northeast Corridor passenger service for AMTRAK, then consideration should be given to the sale of the Corridor's right-of-way to the Federal Government for rail passenger service use.

ESSENTIAL RAIL FREIGHT CORE

While TAA has no firm position as to what agency should delineate an Essential Rail Freight Core in the northeastern quadrant, we believe that the DOT is in the best position to make the initial determination on an expedited basis. We also agree that such a Core Plan should cover both bankrupt and currently viable railroads, stressing the geographic points that should be served and the degree and adequacy of both existing and projected services.

Following the submission of this initial Core Plan, possibly within 60 days, the ICC, trustees of bankrupt railroads, and other directly affected interests, should be given ample opportunity to comment on the plan and to suggest changes. This should be done on a specific time table—again possibly within 60 days—so that the DOT can finalize its Core Plan for submission to Congress in the shortest possible time. The final plan would be more specific, with actual lines designated, along with location of terminals, and would include recommendations for consolidating duplicate facilities and services.

The final Core Plan should, to the extent possible, for expedited implementation purposes, classify rail lines, terminals, and facilities into three major categories: (1) essential, (2) possibly needed, and (3) not needed. In other words, the rail services in the Plan in category (1) would clearly be retained, while those in category (3) could be dropped at the earliest practical date. Those in category (2) would in all likelihood require ICC review and approval before any discontinuances, abandonments, consolidations, etc. In such instances, however, we believe the ICC should be required to act on an expedited basis. Furthermore, we see no reason why the Commission should not continue to consider and act on any discontinuance/abandonment cases now before it. Thus, we urge your Subcommittee not to impose a moratorium on all such cases pending development and implementation of a Freight Core Plan.

Stated in simpler terms, we would like to see the restructuring of the bankrupt railroads start at the earliest possible date, with initial emphasis on discontinuance of the clearly nonessential services. The forced continuation of *all* of the existing services is unrealistic, in our opinion, even if the Federal Government steps in to cover any losses.

USE OF FREIGHT CORE PLAN

How to implement the Core Plan is the area of greatest controversy. We consider the designation of any such Plan as a recommended solution—not the final answer. While we believe that services and facilities included in the "essential" category of such a Plan should be retained—at least until shown that they belong in another category—we think what remains should be subjected to implementing action as soon as possible.

Based on a policy position just adopted by the TAA Board, we believe the individual bankruptcy courts should be given greater authority to act on their own, utilizing the expertise of the trustees and the ICC. Using the Core Plan as a guide, these courts should be able to act, to the extent they deem appropriate, to discontinue little-used services, to consolidate facilities, to sell lines, and to restructure the railroad plant. The courts would still be required to obtain the advice of the ICC before making any such changes, but they would not be prevented, as they now are, from acting without ICC approval. Such authority could be granted the bankruptcy courts by a relatively minor change in Paragraph (o) of Section 77 of the Federal Bankruptcy Laws.

The new TAA policy also recognizes other limitations placed on the courts that handle rail bankruptcy cases, which impose similar roadblocks to any successful restructuring of railroads into viable enterprises. One such roadblock is the statutory restriction in Paragraph (n) of Section 77 against the court's changing existing labor contracts. This restriction has had the effect of preventing constructive changes by the courts in an area that represents well over one half of the total costs of the affected carriers. Surely, it is not unreasonable to expect rail labor to share some of the burdens of bankrutcy, along with users, investors, railroads, and general taxpayers at the Federal, state, and local levels that have been, or will be, sharing the cost of continued services.

If individual bankruptcy courts refuse to act on changes recommended in the Core Plan, provision should be made in Section 77 for interested parties to seek consolidation of two or more Section 77 cases in a separate court. In this way, recommended changes involving several railroads could be acted on without undue delay.

ICC ACTION STILL NEEDED

We recognize the bankrutcy courts may not feel they have the expertise to make judgments involving many of the services that would fall in the category of "possibly needed". In such cases, provision should be made for such decisions to be delegated to the ICC for appropriate action, but governed by new, expedited procedures. For example, based on newly adopted TAA policy, we recommend that the ICC be required to make an initial finding within four months as to whether freight *service* on an unprofitable line should be discontinued. If it finds the service to be an undue burden on the railroad, but considered essential by governmental or other responsible interests, the Commission should authorize continuation of such service so long as such interests are willing to support it on a contractual basis; or in the case of private interests, by operating it themselves.

NEED FOR A SEPARATE IMPLEMENTING ENTITY

TAA realizes that the above suggestions for implementing the Core Plan through action of the bankruptcy courts and the ICC differ sharply from those offered by others, such as the DOT and the ICC. Their proposals call for creation of a separate corporation to implement the Plan, with very broad powers to restructure the northeastern railroads and, in some instances, to exercise what we believe to be managerial powers over actual operations. If your Subcommittee decides to adopt such a procedure, we urge that the Board of Directors of any such corporation be made up of persons with a sound knowledge of railroad operations, financing, and business practices. In other words, we would strongly oppose any such corporation whose majority consists of elected government officials and others who would be subjected to strong pressures to maintain the largest possible railroad network regardless of the cost—which we firmly believe will open the door to Federal take-over.

We think this could be avoided by having any such Board include the following: A prominent individual to be Chairman who can be considered as representing the general public. Representatives from Federal Departments and agencies such as the DOT, Treasury, and ICC. Representatives from users of rail freight services. Representatives from railroads located in the West and in the South. Representatives from railroad labor, and at least one representative from the investment community.

If such a corporation is created to implement the Core Plan, we also believe that it should have the power to seek changes in services, facilities, etc. through expedited ICC action. Subsidizing *all* existing services for a prolonged period, as stated previously, will simply delay many actions that are clearly warranted.

FUNDING

If a Core Plan is to be developed and implemented, it will require time—probably at least a year for *final* implementation. Under the TAA approach, however, the implementation would take place on a continuing basis, thus reducing the amount of financial assistance that will be required. During this implementation period, the estate of the bankrupt railroads will obviously continue to erode unless some form of financial relief is provided.

Such financial assistance can take several forms. Most immediate would be direct U.S. grants, plus retroactive reimbursement for any underpaid passenger services. To the extent possible, such aid should take the form of private loans guaranteed by the U.S.; and, second, in the form of direct U.S. loans. The initial objective, thus, is to prevent further erosion of the carriers' estates, which, of course, is the objective of the bankruptcy courts that must otherwise consider liquidation. The other major purposes of the financial assistance would be to enable the carriers to rehabilitate their plant and facilities, and, to the extent necessary, to help cover labor displacement costs.

As to needed rolling stock, TAA is in favor of the use of U.S.-guaranteed private loans for the creation of a privately owned corporation to purchase freight cars and locomotives. If this is done, it should prove very helpful to restoring the bankrupt railroads to economic viability.

Other financial assistance would come in the form of direct payments from local governments and/or shippers for continuation of services that would otherwise be discontinued; and relief from rail property taxes on lines with services being continued on a contractual basis.

LABOR DISPLACEMENT COSTS

Perhaps the most difficult of the many problems relating to the bankrupt railroads is that of excess labor costs. In our opinion, the key to any solution is for the affected employees to accept the elimination of jobs—not actual employees—on an attrition basis. This should have an immediate and sizeable impact, as we are adviced that 6.9 percent of the 130,775 employees working on these six bankrupt railroads (as of 1971) were at least 60 years of age with 30 or more years of service. Another 16.1 percent were at least 55 years of age with 25 or more years of service.

We believe adoption of the attrition concept would represent a fair solution to both carriers and employees. While we hope rail unions would agree to such a plan, we favor giving the bankruptcy courts authority to impose it if necessary.

Largely through the expedited action of the House Interstate and Foreign Commerce Committee, legislation is now in the final stages of Congressional action that would amend the Railroad Retirement Act in such a way that retirement at age 60 would be encouraged. This, we believe, could also have a favorable impact on the bankrupt railroads with their large number of eligible early retirees.

If the desired rehabilitation of the plant of the bankrupt railroads becomes possible, there will be need for retention of many workers for this purpose. We would also be hopeful that other railroads would be willing to hire displaced workers on a priority basis. Retraining programs, with backing from the Department of Labor, should also help to ease the labor displacement problem. To the extent that some sort of payments are required for actual lay-off of workers, they should not be too sizeable for the nearly 22 percent of employees of the bankrupt railroads that have less than 5 years of service (as of 1971).

With proper cooperation by rail labor, all the railroads, and the Federal Government, the costs required to rationalize the bankrupt railroads' utilization of labor should be reasonable. However, if such cooperation proves impossible—as has been the case to date—and the Congress is not willing to make the necessary statutory changes to permit the efficient utilization of labor, then we see no other course than to have the U.S. pay for labor displacements or unneeded retentions as "public costs".

SUMMARY

In summary, TAA favors a private enterprise approach to the resolution of problems of the northeast bankrupt railroads, to the maximum extent possible. We believe the passenger service problem should be resolved primarily through payment by AMTRAK for services on a full-cost basis. An essential Rail Freight Core Plan should be developed quickly for the northeastern quadrant and implemented on a continuing basis—initially by the bankruptcy courts, with advice from the trustees and the ICC, and finally by the ICC under expedited procedures. The ICC should continue to act on all current discontinuance/abandonment cases, and no moratorium should be imposed on *all* such cases.

If a separate corporation is created to implement the Freight Core Plan, its Board should not be composed of a majority of members, such as state and local officials, who would be subjected to strong pressures to maintain the largest possible rail network despite the costs.

Federal financial assistance will be required to prevent further erosion of the bankrupt railroads pending implementation of the Core Plan, but this should be in the form of guaranteed private loans to the maximum extent possible, supplemented by direct U.S. loans and, finally, U.S. grants. Labor displacement costs should be handled through attrition of jobs, not workers, early retirements, and job training programs backed by the Labor Department.

TAA fully recognizes that any final solution to the very serious problems of the northeastern bankrupt railroads will require considerable give and take by the affected interests. With broad representation of such interests within the TAA membership, we stand ready to assist to whatever extent possible in trying to find the best answers to these many problems.

STATEMENT OF WESTINGHOUSE CORP.

Westinghouse Electric Corporation manufactures electric generators, transformers, and other very large sized apparatus, which are essential to the generation and transmission of electrical energy by utility companies. Because of the large physical size and weight of this equipment, many shipments from our manufacturing plants to the electric utility companies, our customers, are captive to railroad transportation. There is no other efficient, economical means for transporting this apparatus, because of its great physical size and weight.

The current critical situation of the railroads in the Northeastern United States causes us and manufacturers of similar equipment deep concern. Unless remedied, this critical situation can be a significant problem for electric utilities in the Northeast and elsewhere in the United States. If electric utilities are unable to obtain prompt delivery of large generating and transmission equipment needed to provide adequate, reliable, electric service, the entire economy can be jeopardized.

During recent years, the cost of electric power has risen only slightly compared to other costs (during the period 1967–1972, electric power costs rose 18.9% compared to a 25.3% rise in the cost of living). This has been due to increased inefficiency through the use of advanced technology which includes the use of electric generation and transmission equipment of increased physical size and weight.

Large electrical equipment must be shipped by rail and only a limited number of rail routes are now available. These rail shipments are generally known in the industry as high, wide, and heavy loads or "clearance" shipments. These shipments, when loaded on specialized rail equipment, can reach a gross weight of 1,675,000 pounds and measure approximately 175 feet long, 14½ feet wide, and 20 feet high from top of rail (Appendix "A" shows some of our equipment in its rail transportation environment). With track abandonment proceeding and reduction of thousands of miles of trackage in the Northeast in the planning stages, our ability to efficiently transport high, wide, and heavy type rail shipments is in jeopardy.

Because of Penn Central plans to abandon a segment of its Harlem Division trackage near New York City, shipments of large power transformers will be stalled in this area. To get around this one problem, approximately $300,000 worth of new tracks may have to be constructed. Another large power transformer shipment recently had to be re-routed with considerable difficulty at premium expense because of the deteriorated condition of a Penn Central bridge near Hartford, Connecticut. At present, we are working on a problem where we have no rail shipment "clearance" for a generator stator due for delivery to Oswego, N.Y. in the fall of 1974. Track abandonment proceedings as well as poor track and bridge conditions on the Penn Central, at this point in time, obstruct our ability to deliver. An identical generator stator to this unit was handled by the Penn Central all the way to this very same location just a few weeks ago.

On the whole, we have less ability to deliver high, wide, and heavy rail shipments today than we had a year ago. The Northeastern railroad problem is bad and getting worse owing not only to track abandonment plans, but to the deferral of repair and maintenance to trackage, bridges, and other rail operating facilities. Alternate modes of shipment for large electrical equipment are either nonexistent or extremely slow and complicated. If such large equipment is forced to be transported by a combination of modes (for example, rail—highway—barge—highway), the loading, transloading, heavy hauling, rigging, and planning expenses required to utilize different carriers over make-shift routes could seriously retard delivery, increase risk of transport loss or damage due to excessive rehandlings, and in some cases double the final cost of the equipment itself.

Bills pending in Congress and the hearings on such bills propose varying solutions for the Northeastern railroad transportation crisis. Included in some of the solutions are plans to cease operations on sections of railroads which are not used very heavily, so-called "low density lines", leaving only "high density use lines" in operation. To identify all rail trackage necessary for the preservation of high, wide, and heavy shipment capability is an involved and complicated task. For this reason, adequate provisions should be made in any adopted legislation for detailed study and thorough investigation of required "clearance" routes to protect this vital transportation need. We would be glad to participate in any study and feel sure that other concerned shippers of high, wide and heavy apparatus would also cooperate fully in this important task.

Westinghouse Electric Corporation does not support or oppose any particular bill, but it does urge the subcommittee, the full committee and the Congress to provide for retaining in operation those sections of lines which are essential to movement of high, wide and heavy type "clearance" shipments. Unless these lines are maintained or substitute lines provided by the upgrading of all core system lines to handle high, wide, and heavy type "clearance" shipments, critical delays of many months could be incurred in the transportation of vitally needed electrical equipment. The resultant impact on the availability of adequate electric equipment in the Northeastern United States could be very detrimental. Involved is not only installation of new equipment, but repair and replacement of presently operating equipment to keep it functioning. The recent power shortage and voltage reduction on June 11, 1973 is but a token example of what can happen to electrical systems.

Westinghouse urges the Congress to assure that rail lines essential to this purpose are not shut down.

APPENDIX A
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PICTURE NO. 1 Schnabel rail car loaded with electric generator stator.

PICTURE NO. 2 Schnabel rail car (end view) loaded with electric generator stator.

PICTURE NO. 3 Schnabel rail car (end view) loaded with electric generator stator depicting width of shipment in relation to width of normal rail car.

PICTURE NO. 4 Schnabel rail car loaded with electric power transformer.

APPENDIX A
Page 2

PICTURE NO. 5 Steam turbine rotor loaded on heavy capacity depressed center rail car.

PICTURE NO. 6 Steam turbine rotor loaded on heavy capacity depressed center rail car crossing bridge with narrow clearance.

PICTURE NO. 7 Same shipment as picture No. 6 passing bridge structures.

PICTURE NO. 8 Electric generator shipment loaded on heavy capacity flat car entering tunnel with narrow clearance.

STATEMENT OF PETER K. KOCH, CHAIRMAN, LEGISLATIVE COMMITTEE, THE NATIONAL ASSOCIATION OF CEMENT SHIPPERS

The National Association of Cement Shippers is an association concerned primarily with the passage and enforcement of laws relating to the transportation of cement and raw materials used in its manufacture. The combined production of the cement manufacturers which make up the NACS membership accounts for more than 80% of the total cement produced in the United States.

As Chairman of the Legislative Committee of NACS, I have been authorized by the Board of Directors to submit this statement to the Senate Commerce Committee and House Interstate and Foreign Commerce Committee concerning the various legislative proposals designed to maintain essential rail service in the Northeast.

By way of background to an understanding as to the importance of a healthy and profitable transportation system to our industry, it is important to know that in excess of 82 million tons of cement was shipped within the United States in 1972, and over 400 million dollars were expended in this transportation. Further, some 37% of the total cement shipped in 1972 was in the Northeast region.

We recognize the perilous financial state of rail transportation in the Northeast, and today's critical situation. We recognize too, the incalculable disastrous economic effect that a total failure of rail transportation in the Northeast would have, not only within the confines of the Northeast, but on the entire United States.

We have carefully studied three alternatives before Congress and strongly urge that it pass H.R. 6591 (known as the Federal Aid Railroad Act of 1973) minus the 1% tax proposal noted later. This is the bill sponsored by Congressman Harley O. Staggers on behalf of the Interstate Commerce Commission.

The provisions of H.R. 6591, with the exception of the 1% transportation tax contained in the final section of Title III, are in our opinion best suited to the problems of the railroads and are also in the best interests of the cement shippers. Primarily, we support this bill because:

1. It provides immediate and vitally necessary Federal funding.
2. It provides for eventual reimbursement, and thereby maintains the railroad industry as private enterprise.
3. It provides sufficient time for shippers to study the effects of proposed abandonments so as to avoid severe economic hardships and preclude total collapse of operations as a consequence of lack of rail service due to such abandonments.
4. It preserves the prerogative of the Interstate Commerce Commission in its regulatory and adjudicatory capacity, a position NACS strongly upholds.

With reference to the final section of Title III which establishes a 1% surface transportation tax, however, NACS strongly opposes such measure and believes that alternative methods of financing can be found that are less discriminatory.

In conclusion, we respectfully urge that H.R. 6591 be promptly passed with the aforementioned exclusion.

STATEMENT OF CLINTON H. VESCELIUS, CHAIRMAN, TRANSPORTATION AND DISTRIBUTION COMMITTEE, MANUFACTURING CHEMISTS ASSOCIATION

Mr. Chairman and members of the committee, my name is Clinton H. Vescelius. I am presenting this statement on behalf of the Manufacturing Chemists Association (MCA).

MCA is a nonprofit trade association of 171 United States member companies, both large and small, that collectively represent more than 90 percent of the production capacity of basic industrial chemicals in this country. I am chairman of the Association's Transportation and Distribution Committee and employed as Director of Transportation of one of its member companies.

MCA member companies have more than 1600 plants in the United States with representation in almost every state. In normal daily operation these plants make use of all modes of transportation for inbound shipment of raw materials to be used in manufacturing processes and for distribution of manufactured products to warehouse points as well as directly to consumers.

According to Freight Commodity Statistics published by the Interstate Commerce Commission's Bureau of Accounts for the year ending December 31, 1971, the nation's railroads transported 1.39 billion tons of freight and received total revenues of 12.25 billion dollars. Chemical and allied industries generate 71 million tons and 1.07 billion dollars of revenue. These figures indicate that chemical and allied industries shipped 5.1 percent of the total railroad tonnage in 1971 and contributed 8.8 percent of the total railroad revenue. In addition, the chemical industry owns and operates over 65,000 tank cars plus a significant number of covered hopper cars in rail service. The tank cars alone represent an investment of approximately one billion dollars in rail equipment. We are dependent on rail service in the northeast, as well as the rest of the nation, and are concerned about the threat to seriously interrupt or curtail this service. For many of our shipments there is no feasible alternative to rail transportation.

A viable railroad system should be continued under private enterprise. Government ownership poses many problems and creates inequities for other railroads operating under private ownerships whether they are competing in the same geographical area or are connecting with a Government-owned railroad in the national railroad network. Although there appears to be some support for the 1 percent tax on regulated rail, motor and water carrier charges over a ten-year period, chemical shippers generally find it objectionable and believe other alternatives should first be exhausted. MCA favors financial proposals which, on a long-term basis, rely on the private sector of the business community as opposed to government financing or subsidization.

Any solution to the Northeast rail crisis should develop one or more systems tailored to meet the present and future needs of commerce including those of the chemical industry. The system(s) thus created should maintain the viability of the Norfolk and Western and the B&O/C&O systems now competing with bankrupt roads in the Northeast sector. The system(s) developed should be operated by profit-making organization(s).

Freight shippers should not contribute to the cost of moving people. Therefore, passenger operation, including commuter services, should be entirely separated from freight operations. In the Northeast Boston-to-Washington corridor we recommend that AMTRAK assume full financial and operational responsibility for the passenger traffic. In other areas of passenger service, contract authorities—such as AMTRAK—should assume full financial responsibility and, where practical, full operating responsibility.

There are several plans under consideration for government, quasi-government and private operation of a railroad system in the Northeast. We believe the private sector, including the shipping public, should participate equally with the government in defining the "CORE" system.

In this frame of reference the DOT proposal calls for public participation *after* DOT has completed its study. We believe the validity of input information into such a study is essential to its success. Participation by the private sector is desirable *as the study proceeds.*

At hearings on surface transportation legislation during the 92d Congress, MCA expressed the view that rail carriers should be permitted to reduce or eliminate unnecessary operating and capital costs through expeditious administrative procedures for abandonment of nonproductive facilities. MCA objected to the establishment of one million ton miles of track, or for that matter any legislative criterion, as a standard to measure the profitability of a railroad line. The provision that revenues equal or exceed variable costs as defined by present ICC formulas is considered sufficient.

However, in the case of railroads involved in bankruptcy proceedings such as in the Northeast, MCA favors further simplification of provisions to facilitate quick and easy abandonment when revenues do not equal or exceed variable cost, and when adequate notice is provided to allow shippers to arrange alternate or substitute service. Acquisition or cost sharing of segments of bankrupt railroad systems by other railroads are considered to be forms of alternate service.

On September 13, 1972, Mr. W. J. Driver, MCA President, wrote to the Chairman of the Committee on Labor and Public Welfare stating, "There is a deep concern within the Chemical Industry about the inadequacy of existing laws to deal effectively with work stoppages in transportation." He also stated, "Any new legislation, we believe, should be broad enough in scope to include virtually all transport labor disputes and should not be limited to so-called 'National emergency' situations."

Mr. Driver indicated in his letter that a "partial" shutdown is a total shutdown for those industries served by that "partial" portion of the system. He went on to further state that "The key element of any new legislation should be to provide the President with an arsenal of weapons, including the power to make a final decision. Lack of finality is the basic flaw in the present procedures, and any new statutory approach should permit continuing efforts toward the resolution of the dispute and ensure that none of the options would be foreclosed until the dispute has been resolved." MCA still maintains this position in relation to railroad labor problems, but recognizes that solutions to the current rail crisis may require some protection for labor. In this eventuality, we believe that any necessary cost incurred for the protection of displaced railroad labor should be provided by the U.S. Government and funded by a department of the Government, such as the Department of Labor.

MCA is well aware of the tremendous complexities of the situation now being presented to the Congress. Time is undoubtedly limited in which to find an acceptable solution. However, to bring about an orderly transition, we suggest that Congress provide a reasonable interim period in which to develop a solution, free from the pressures imposed by reorganization proceedings and threats of liquidation. Supporting funds, if determined to be necessary, should be provided by the Government only during the transitional period. Afforded this breathing room, a sensible, equitable and economically reasonable solution should—and indeed must—emerge.

NATIONAL ASSOCIATION OF MOTOR BUS OWNERS,
Washington, D.C., May 24, 1973.

Subject: Proposed Surface Transportation Act of 1973 (H.R. 5385 and H.R. 6880).

Hon. JOHN JARMAN,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the National Association of Motor Bus Owners (NAMBO), I would like to register our support for the proposed Surface Transportation Act of 1973 insofar as it would affect interstate motor carriers of passengers.

NAMBO is the national trade association for the intercity bus industry. Its 450 members provide over 90 percent of the intercity bus transportation in the United States.

The proposed Surface Transportation Act of 1973 represents a commendable effort by the three major modes of surface transportation to attain a greater measure of competitive equality and to establish a bulwark against the looming threat of nationalization. Although intercity bus operators are not directly affected by some provisions of the proposed legislation, we have no objection to any feature of the bills.

Title I of the bills authorizes the Secretary of Transportation to guarantee loans made to surface common carriers in the total amount of $2,000,000,000 outstanding at any one time. That guaranteed loan authority would be subject to the usual limitations respecting the nonavailability of conventional financing on reasonable terms and the borrower's ability, through the pledging of security or its prospective earning power, to repay the loan. The proposed legislation further provides that financial assistance to any single carrier shall not exceed 15 percent of the total amount appropriated. Thus, one carrier conceivably could receive as much as $300,000,000 in Federally guaranteed loans.

Section 618(1) of the new Part VI of the Interstate Commerce Act which would be added by Title I of the proposed legislation would make interstate motor common carriers of passengers eligible for Federal loan assistance. The larger intercity bus operators, who account for approximately 80 percent of the industry's gross operating revenues, have no immediate or foreseeable need for the loan assistance proposed to be provided in Title I. However, a majority of NAMBO's members who account for approximately 20 percent of the industry's gross operating revenues favor legislation under which loans for the modernization of equipment could be guaranteed by the Federal government.

A large number of relatively small intercity bus operators probably would apply for guarantees of loans in the amounts of $65,000 to $650,000 for the purchase of one to ten new buses. Such a program of equipment modernization would be especially beneficial to residents in isolated or remote areas which are served by bus routes on which traffic is thin and profits are marginal.

NAMBO favors the elimination of discriminatory State and local property taxes as provided in Title II of the proposed legislation. In general, intercity bus companies have not been victimized by State and local property taxes which are higher than those imposed on non-transportation property in the same taxing district. That form of discrimination has been experienced by the railroads. It is manifestly unjust and ought to be prohibited.

So far, the intercity bus industry has not been required by the Interstate Commerce Commission to maintain inadequate rate levels. NAMBO has no objection, however, to the provisions of Title IV of the proposed legislation respecting the development and implementation of adequate rate levels and interim rate adjustments.

To fortify the position of the Interstate Commerce Commission as an arm of the Congress, we believe the Commission's budget should be submitted directly, to the Congress, as provided in Title VIII of the proposed legislation.

In conclusion, I request that this letter be included in the printed record of the hearings of the Subcommittee on H.R. 5385 and H.R. 6880.

Sincerely yours,

CHARLES A. WEBB,
President.

GREATER CINCINNATI CHAMBER OF COMMERCE,
Cincinnati, Ohio, June 1, 1973.

Hon. HARLEY O. STAGGERS,
U.S. House of Representatives,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN STAGGERS: The Greater Cincinnati Chamber of Commerce believes that the purpose of rail carriers, and all other common carriers, is to provide efficient, dependable service to meet the needs of the Nation's expanding economy. The role of the Federal Government is to administer transportation regulations and programs which will safeguard the legitimate interests of common carriers consistent with the public interest, thereby enabling carriers to provide the transport services demanded by the public. The role of the Federal Government does not encompass ownership and/or operation of any common carrier.

In studying the situation of the railroads, particularly those in the Northeast, the Chamber's Subcommittee on Railroads found that their legitimate interests are not being adequately safeguarded. The Committee has identified several problems widespread in the railroad industry which must be eliminated if the rail carriers are to operate profitably:

(1) an excess of labor due to outmoded work rules

(2) duplicating facilities and services; forced operation of unprofitable facilities and services

(3) antiquated rate regulations

(4) discriminatory state and local taxes on rail assets.

In order to reduce and hopefully eliminate those problems, to provide for the reorganization of unprofitable railroads and to establish a framework for future profitable operations of United States railroads, our Board of Trustees adopted the following guidelines for legislation and regulations affecting the future of railroads in America:

(1) *Operating Concept and Funding:* continue ownership and operation of rail carriers by the private sector, as suggested by the Department of Transportation and the Surface Transportation Act of 1973; provision of Federal loan guarantees for capital improvements in plant and equipment for financially weak rail carriers.

(2) *Abandonment:* provision for abandonment of unprofitable services and facilities with mandatory Interstate Commerce Commission approval within a short period of time while affording other parties the opportunity to provide substitute services; permit easy entry of water and motor carriers to pick up service of traffic abandoned by rails.

(3) *Labor:* eliminate excess labor force through attrition and early retirement programs; renegotiate work rules with unions to provide efficient service in the best interest of the railroads, the unions and the public; protect those jobs made unnecessary by abandonment and renegotiated work rules.

(4) *Regulatory Reform:* permit more flexibility in rate making—below-cost rail rates should be brought up to variable cost level, enable rates to go into effect if reduced to variable cost; prohibit rate bureau from protesting independent action where rates are above compensatory cost; eliminate subsidization of government service at the expense of others.

(5) *Tax Reforms:* eliminate discriminating state and local taxes of rail assets.

We hope that you will help expedite the passage of that legislation which best embodies these guidelines.

Sincerely,

ANDREW R. NEIDERT,
Chairman, Transportation Committee.

[Whereupon, at 11:20 a.m., the subcommittee was adjourned.]

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