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NATIONAL FREIGHT CAR SHORTAGE

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HEARINGS BEFORE THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 2230, H.R. 7165, and S. 1098

BILLS TO AMEND SECTION 1(14) (a) OF THE INTERSTATE
COMMERCE ACT TO INSURE THE ADEQUACY OF THE
NATIONAL RAILROAD FREIGHT CAR SUPPLY, AND FOR
OTHER PURPOSES

(AND SIMILAR BILLS)

OCTOBER 5, 6, AND 7, 1965

Serial No. 89-26

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HEARINGS
IN FRONT OF
COMMITTEE ON

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

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NATIONAL FREIGHT CAR SHORTAGE

TUESDAY, OCTOBER 5, 1965

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

The committee met at 10 a.m., pursuant to call, in room 2123, Rayburn House Office Building, Hon. Oren Harris (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Today the committee has scheduled hearings on H.R. 7165, the Senate passed bill 1098, and some 17 or 18 other bills of similar character, having to do with the methods which the Interstate Commerce Commission may use in establishing the amount of the per diem, that is, the daily amount, which railroads pay to another railroad for the use of freight cars.

All 19 bills have in common the purpose of attempting by means of the use of the per diem charge to alleviate the inadequacy of the national railroad freight car supply.

Increased authority in this field of establishing the per diem charge has been requested by the Commission for many years.

To carry out the recommendation, I introduced H.R. 7165, and the distinguished chairman of the Commerce Committee of the Senate, I understand, introduced the same bill, from which was developed the present bill that we have, passed by the other body.

These 19 bills fall into three classes. H.R. 7165 and 15 others are identical. H.R. 2230 and H.R. 4407 are the same as these 16 bills, except that they would add, as I understand, an extra section which would limit the authority for a period of 2 years.

The Senate passed bill, S. 1098, is the same as the House introduced bill, H.R. 7165, with the addition of certain exceptions which the Commission may make in its promulgation of rules covering per diem in order to take into account certain factors having to do with the so-called deficit ownership railroads; namely, those that receive more cars from connecting carriers than they originate and deliver to their connections.

We have many witnesses to be heard. This is a matter that has been before the Congress and the country for many years. There has been a lot of controversy over whether or not adjusting the per diem rate will get more boxcars or freight cars. The purpose here is to get more cars, and keep them rolling.

We have observed each year during the harvest season the great demands that have been made upon the railroad industry, and the complaints that come to Congress about the shortage of freight cars. I had not intended to take up this problem this year.

Because of the controversy, I had expected, perhaps, that it would go over until next year, when the matter could be gone into at greater length.

However, since the Senate committee has worked out a bill, which I have been told should at least be a step in the right direction, and since there is a feeling throughout the country that the very introduction of these bills would do something about the freight car shortage, and because of the general interest, I decided that even at this late time in the session it would be appropriate and advisable to hold hearings and make a record on the subject.

(H.R. 2230, H.R. 7165, S. 1098, and agency reports follow:)

[H. R. 2230, 89th Cong., 1st sess.]

A BILL To amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(14)(a) of the Interstate Commerce Act is amended by adding at the end thereof a new sentence reading as follows: "In fixing the compensation to be paid for the use of freight cars, the Commission shall give consideration to the level of freight car ownership and to other factors affecting the adequacy of the national freight car supply and shall, on the basis of such consideration, determine whether compensation should be computed on the basis of elements of ownership expense involved in owning and maintaining freight cars, including a fair return on value (which return shall be fixed at such level as in the Commission's judgment will encourage the acquisition and maintenance of an adequate freight car fleet), or should be computed on the basis of elements reflecting the value of use of freight cars, or upon such other basis or combination of bases as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

SEC. 2. The amendment made by this Act shall be effective only during the two-year period following the effective date of the first orders issued by the Interstate Commerce Commission under the authority of such amendment with respect to compensation to be paid for the use of freight cars.

[H. R. 7165, 89th Cong., 1st sess.]

A BILL To amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(14)(a) of the Interstate Commerce Act is amended by adding at the end thereof the following new sentence: "In fixing the compensation to be paid for the use of freight cars, the Commission shall give consideration to the level of freight car ownership and to other factors affecting the adequacy of the national freight car supply and shall, on the basis of such consideration, determine whether compensation should be computed on the basis of elements of ownership expense involved in owning and maintaining freight cars, including a fair return on value (which return shall be fixed at such level as in the Commission's judgment will encourage the acquisition and maintenance of an adequate freight car fleet), or should be computed on the basis of elements reflecting the value of use of freight cars, or upon such other basis or combination of bases as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

[S. 1098, 89th Cong., 1st sess.]

AN ACT To amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(14)(a) of the Interstate Commerce Act is amended by adding at the end thereof a new sentence reading as follows: "In fixing the compensation to be paid for the use of freight cars, the Commission shall give consideration to the level of freight car ownership and to other factors affecting the adequacy of the national freight car supply and shall, on the basis of such consideration, determine whether compensation should be computed on the basis of elements of ownership expense involved in owning and maintaining freight cars, including a fair return on value (which return shall be fixed at such level as in the Commission's judgment will encourage the acquisition and maintenance of an adequate freight car fleet), or should be computed on the basis of elements reflecting the value of use of freight cars, or upon such other basis or combination of bases as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense. In the consideration of any element included in determinations pursuant to this paragraph as an incentive to car acquisition and maintenance the Commission is empowered to make such element, or any part thereof, inapplicable: (1) to carriers determined by the Commission as owning an adequate number of freight cars to meet their responsibilities to the needs of commerce and the national defense; (2) to carriers which terminate a substantially higher percentage of interline traffic than they originate; (3) to types of freight cars the supply of which the Commission finds to be adequate; and (4) to such other cases or circumstances as the Commission finds to be in the public interest."

Passed the Senate June 30 (legislative day, June 29), 1965.

Attest:

FELTON M. JOHNSTON, *Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 7, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 425, a bill "to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes."

You are advised that the Bureau of the Budget would have no objection to the enactment of H.R. 425.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., April 9, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to H.R. 425, 89th Congress, a bill "to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes."

The purpose of the bill is to insure the adequacy of the national railroad freight car supply through adjustment by the Interstate Commerce Commission of the compensation to be paid for the use of freight cars. The bill prescribes the criteria to be employed by the Commission in considering methods by which

compensation may be adjusted so that it will be just and reasonable, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.

The Department of Defense is vitally interested in an adequate railroad freight car supply in the United States. It appears that enactment of the proposal may contribute in some measure toward improving the freight car supply situation in the United States in the future. Although it is believed that, under the Interstate Commerce Act as presently written, the Commission could utilize the criteria set forth in this bill, it would be advantageous if the Interstate Commerce Act were amended to be more specific and mandatory on this point. Accordingly, the Department of Defense recommends enactment of this legislation.

The fiscal effects of this proposal cannot be estimated.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

L. NIEDERLEHNER,
Acting General Counsel.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., September 2, 1965

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce, House of Representatives,
Washington, D.C.*

DEAR CHAIRMAN HARRIS: This is in response to your request for the Commission's comments on H.R. 425, H.R. 4165, and H.R. 4172, bills "to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes." I am authorized to submit the following comments in behalf of the Committee on Legislation:

H.R. 425, H.R. 4165, and H.R. 4172 (which are identical to legislative recommendation No. 6 in the Commission's 78th annual report), would grant the Interstate Commerce Commission authority to prescribe per diem charges for the use of railroad freight cars on a basis that will provide an economic incentive to the railroads to acquire and maintain a supply of freight cars adequate to meet the needs of commerce and the national defense.

The diminishing supply of railroad freight cars has been a matter of considerable concern to the Commission for many years. Despite the generally expanding economy of the country, the ownership of freight cars is now less than it was during World War II. As a result, critical shortages of increased duration and severity have become almost commonplace on the national transportation scene. Studies made in 1950 indicated that a total of 1,935,500 freight cars would be required by 1956 to meet the anticipated needs of shippers. As of January 1, 1956, however, freight-car ownership and control of class I railroads (including railroad owned or controlled refrigerator cars) totaled only 1,774,614 cars. As of January 1, 1956, this figure had fallen to 1,550,477 cars, a record low.

In addition to inadequate car ownership, one of the greatest contributing factors to recurring freight car shortages has been the failure of some carriers to utilize the existing fleet of equipment more efficiently. During periods of critical shortages the Commission has resorted to every means at its command to cope with the problem. We have issued numerous car service orders to assure equitable distribution and maximum utilization of the freight cars remaining in service. In addition, greatly stepped up demurrage charges have helped to insure prompt loading and unloading by shippers and receivers. While such actions have heretofore provided a measure of relief, they are becoming less effective and increasingly controversial as the total supply of freight cars continues to decline each year.

Since the earning value of freight cars often substantially exceeds the current scale of per diem charges, some of the carriers have found it cheaper to pay the per diem or car rental charge than to own cars. These carriers, therefore, lack sufficient economic incentive to provide their fair share of an adequate car supply. The assistance that can be expected from the institution of the multilevel per diem system established by the carriers is questionable. This system is based generally on the concept of adequate compensation to owners of cars purchased, on the basis of cost, condition, or age, but compliance with the plan is voluntary and some carriers have not accepted it.

Some time ago the Commission attempted to take the profit out of renting equipment by imposing a penalty per diem charge which it believed would furnish a pecuniary spur to deficit railroads to acquire a sufficient number of cars to at least take care of their own loading obligations. (*Increased Per Diem Charges on Freight Cars*, 268 I.C.C. 659 (1957).) However, in *Palmer v. United States* (73 F. Supp. 63 (1947)), the Commission's order was set aside by a three-judge district court which held that the Commission could not prescribe per diem charges for regulatory purposes. The effect of this decision has been construed as precluding the Commission from prescribing per diem charges which would produce a profit to the carrier-owner, provide an incentive for car ownership, recognize the value of the use of freight cars, and require the acquisition and maintenance of a car supply adequate to meet the needs of commerce and of the national defense. While the *Palmer* case may not place the stringent limitations upon the Commission which some suggest, we believe that there is sufficient doubt in this respect that it should be made clear in the statute that the Commission has authority to establish per diem charges above the bare cost of ownership and at a level that would make the advantages of owning equipment more attractive.

If the advantages of owning equipment could be made more attractive, there should be a greater willingness on the part of every railroad to make its just and equitable contribution to the national freight car fleet. These bills propose to accomplish this objective by amending section 1(14)(a) of the act so as to authorize the Commission in establishing a per diem charge for the use of freight cars to determine whether such charge should be computed upon the basis of the elements of ownership expense involved, including a fair return on value, or on elements reflecting the value of their use, or upon such other basis or combinations of bases as, in the Commission's judgment, will provide reasonable compensation to the owner, contribute to sound car service practices, and encourage the acquisition of an adequate national supply of freight cars. In essence, the proposal would authorize the Commission to fix per diem charges which would motivate every railroad to maintain its ownership of freight cars at a level which will meet the needs of the shipping public during normal times and provide a reasonable supply during periods of emergency. Its enactment would thus overcome the effect of the decision in the *Palmer* case and would be of substantial assistance to the Commission in its efforts to alleviate the crippling economic effects of freight car shortages.

For the above reasons we strongly support enactment of H.R. 425, H.R. 4165, and H.R. 4172.

Respectfully submitted.

JOHN W. BUSH,
LAURENCE K. WALRATH,
Acting Chairman, Committee on Legislation.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 29, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of April 9, 1965, requesting the views of the Bureau of the Budget on H.R. 7165, a bill to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes.

This bill would empower the Interstate Commerce Commission to fix the rate of compensation to be paid for the use of freight cars with a view to encouraging the acquisition and maintenance of cars adequate to meet national commerce and defense requirements. The Commission would be required to consider the cost of freight car ownership and the value of the use of freight cars in establishing per diem car rental rates as well as other factors deemed reasonable by the Commission. It appears that the existing freight car supply is not as efficiently utilized as it might be and that reasonable rental charges effectively enforced might result in substantially greater utilization and possibly in some increase in the freight carrying capability of the railroads. In reports being sent to your committee by the Departments of Commerce and Agriculture the underlying problems

are discussed in greater detail. Those agencies favor enactment of this or similar legislation.

You are advised that there would be no objection to the enactment of H. R. 7165 from the standpoint of the administration's objectives.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF THE ARMY,
Washington, D.C., October 5, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 7165, 89th Congress, a bill to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply and for other purposes. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The purpose of H. R. 7165, 89th Congress, which is identical to H. R. 198 and H. R. 2092, 88th Congress, is to insure the adequacy of the national railroad freight car supply through adjustment by the Interstate Commerce Commission of the compensation to be paid for the use of freight cars. The bill prescribes the criteria to be employed by the Commission in considering methods by which compensation may be adjusted so that it will be just and reasonable, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.

The Department of Defense is vitally interested in there being an adequate railroad freight car supply in the United States. It appears that enactment of H. R. 7165 may contribute in some measure toward improving the freight car supply situation in the United States in the future. Although it is believed that under the Interstate Commerce Act as presently written, the Commission could utilize the criteria set forth in this bill, it would be advantageous if the Interstate Commerce Act were amended to be more specific and mandatory on this point. Accordingly, the Department of the Army on behalf of the Department of Defense recommends enactment of H. R. 7165.

The fiscal effects of this bill cannot be estimated.

This report has been coordinated among the Departments in the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

STANLEY R. RESOR,
Secretary of the Army.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., May 6, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your requests for the views of this Department on H. R. 425 and H. R. 7165, identical bills to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes.

These bills would add a new sentence to section 1(14)(a) requiring the Interstate Commerce Commission, in fixing the compensation to be paid for the use of freight cars, to give consideration to the level of freight car ownership and to other factors affecting the adequacy of the national freight car supply. On the basis of such consideration, the Commission would be required to determine whether

compensation should be computed on the basis of elements of ownership expense, the value of use, or upon a combination of bases as in its judgment would provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.

This legislation has been recommended by the Commission annually since 1955. This proposal stemmed from the decision of the U.S. District Court for the District of Columbia in the *Palmer* case, a suit against an order of the Commission increasing per diem from \$1.15 to \$2 for 6 months, October 1, 1947 to March 31, 1948, to " * * * promote greater efficiency in the use and increase the supply of cars * * *". The court in holding the order invalid said "the specific power to fix compensation for the use of cars is not coextensive with the general power to regulate the use of cars." *Palmer v. United States*, 75 F. Supp. 63, 67 (D.C.D.C. 1947).

The current bills have been introduced to overcome the effect of the *Palmer* case by legislation which would give the Commission authority to fix the compensation paid for use of freight cars in relation to the national freight car supply, since the Court ruled it could not do this under the existing provisions of section 1(14)(a).

The purpose of these bills is purportedly to alleviate the freight car shortage, especially the seasonal shortage for boxcars. There are sometimes proclaimed shortages of other type cars, such as refrigerator cars. The Interstate Commerce Commission has made investigations from time to time and increased the per diem rate on boxcars from 20 cents to \$2.75 over a period of years, but the problem has not been solved by that method. The first extensive car shortage investigation by the Commission was in 1907, *Car Shortage—Insufficient Transportation Facilities*, 12 I.C.C. 561 (1907). The next was in 1917, *Car Supply Investigation*, 42 I.C.C. 657 (1917).

In 1930 the Commission, in *Rules for Car-Hire Settlement*, 160 I.C.C. 369, 378 (1930), noted that, under the "per diem agreement" then in force among the common carriers by railroad, "The per diem rate is supposed to reflect the average cost, to the owner, cost of taxes, cost of replacements, miscellaneous expenses, and 6-percent interest on the investment." Testimony at the hearings on "Freight car supply" in earlier Congresses, indicated that the per diem rate included, in addition, participation by the nonowner user in the idle time of the car and replacement cost based equally on cost of reproduction and on depreciation ledger value. Many specialists have counseled that the base figures used may be subject to question because the railroads follow Interstate Commerce Commission's bookkeeping classifications which do not require the segregation of car ownership costs from car use costs and other costs. It would appear appropriate to initiate changes in accounting procedures so that the cost of ownership can be segregated from the other costs which are lumped together.

The railroads are not uniform in their approach to the problem of freight car supply, the present system of car ownership, per diem car rentals, or the car service rules governing the distribution of freight cars. This divergence occurs generally between originating and terminating roads. Since originating roads must own enough cars to protect their traffic, they desire the prompt return of owned cars (especially during seasonal shortages) even if they must be moved empty. But terminating roads frequently find it advantageous to retain foreign cars and to minimize their own ownership, particularly when the revenue per loaded car-day exceeds the per diem rental and traffic is active.

Even though the per diem charge may cover the overall cost of ownership and car repair, the method used in assessing the charge—a flat per diem rate regardless of type of car, season of the year, or length of usage—does not provide a rental revenue system which takes varying cost and value situations into account. Alternative bases of charges should be considered, and put into effect, which apportion the cost of car ownership more equitably among the various classes of users, particularly those requiring premium service or service exclusively during the peak demand periods.

Insofar as the railroad industry cannot agree on any suitable system of charges which takes into account an equitable apportionment of the cost of car ownership and repair, it is logical that the regulatory agency should have the authority to assist the industry develop a more suitable system in the public interest. To this end, the present legal restrictions need to be modified through amendment to the Interstate Commerce Act.

An equitable apportionment of the cost of ownership among car users does not in any way imply support of penalty charges designed solely to punish railroads and other car users by collecting rentals or other charges over and above the cost of ownership and repair. The objectives of a penalty per diem system can better be met through the Commission's ample authority to move cars under car service orders.

A system for the equitable apportionment of car costs is similar to the well-accepted principles of utility pricing which assesses premium and peak users differentially higher rates than other users on the ground of the greater cost of providing service. H.R. 425 and H.R. 7165 make possible such differential charges for railroad car use.

Because of the need to provide a more equitable apportionment of railroad car costs, and because the railroad industry requires the assistance of the regulatory authorities in developing such a system of charges, the Department favors the enactment of the provisions of these bills as a means of accomplishing these objectives.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 30, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,*

DEAR MR. CHAIRMAN: This will reply to your letter of April 9, 1965, inviting comments on H.R. 7165, a bill "To amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes."

This bill would add a new sentence to the above section, as follows: "In fixing the compensation to be paid for the use of freight cars, the Commission shall give consideration to the level of freight car ownership and to other factors affecting the adequacy of the national freight car supply and shall, on the basis of such consideration, determine whether compensation should be computed on the basis of elements of ownership expense involved in owning and maintaining freight cars, including a fair return on value (which return shall be fixed at such level as in the Commission's judgment will encourage the acquisition and maintenance of an adequate freight car fleet), or should be computed on the basis of elements reflecting the value of use of freight cars, or upon such other basis or combination of bases as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

The Department recommends passage of this bill.

The supply of serviceable freight cars has hit a new low. This inadequate car supply has placed a burden not only on domestic commerce but on our exports of agricultural commodities. We believe that the cause of the recurring car supply problem is inadequate ownership of rail cars. Failure to utilize efficiently the existing equipment is also a contributing factor as is reflected by the increase from 13 days in 1947 to 19 days in 1961 in the average car turn-around time.

Until the variable per diem schedule was adopted in 1964, the method of car compensation provided little incentive for some railroads to own cars. Rather, it provided incentive to use other railroads' cars.

Even under the variable per diem schedule the rates for the vast majority of the cars are lower than the former rate of \$2.88. That variable rates alone will do the job is seriously to be questioned. There is a more severe car shortage this year than last, and the number of cars owned has not materially improved.

The bill, if enacted, would not provide a complete solution to the car shortage problem. We do believe, however, that this bill is a step in the right direction. It would give the Interstate Commerce Commission the authority to establish per diem charges to encourage increases in ownership of cars. Specifically, the bill would authorize the Commission to prescribe per diem charges which would (1) produce a profit for the carrier-owner, (2) provide incentive for car ownership, (3) contribute to sound car service practices, (4) recognize the value of freight car use, and (5) encourage acquisition and maintenance of a car supply adequate to the needs of commerce and national defense.

The Department and the agricultural community have a vital interest in improving the car supply situation. The efficiencies of our marketing system should not be nullified by the lack of rail cars or by inability of the railroads to make their cars available where they are needed, or when they are needed.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF EMERGENCY PLANNING,
Washington, D.C., April 21, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 7165, 89th Congress, a bill to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply, and for other purposes.

Past periods of car shortages and surpluses have shown that the national freight car inventory reflects changes in the level of tariff, rather than changes in the amount charged for freight car hire. However, we are in favor of measures which would encourage railroads to construct rather than rent boxcars and believe that this bill might assist in attaining that objective.

While it is not certain that this bill will contribute substantially to strengthening the mobilization base, we favor the proposed authorization of the Interstate Commerce Commission to consider freight car supply as a factor in its determination of rental rates.

From the standpoint of the administration's program, the Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely,

BUFORD ELLINGTON, *Director.*

The CHAIRMAN. We are very glad to welcome to this committee this morning our colleague, the distinguished U.S. Senator, chairman of the Commerce Committee of the U.S. Senate, a former colleague in the House, whom we have known and I personally have had the honor of serving and working with for many years.

He did, whether it was a wise choice or not, decide to leave the House of Representatives, in order to go across the way. We will not get into the argument of whether it was a mistake. Nevertheless, in this case, I would be the first to admit that it was a wise move, because not only was he successful in his endeavor, but with the

wisdom, and the experience he has had, he has become chairman of one of the great committees of the U.S. Senate.

Senator, Mr. Chairman, we welcome you. We are glad that you did come over here, not only for the purpose of advising us of your interest in and your knowledge of this proposal, but simply because you are chairman of our counterpart in the other body, and so you might see these new facilities that we have. [Laughter.]

We would be glad to hear from you first.

STATEMENT OF HON. WARREN G. MAGNUSON, U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator MAGNUSON. Thank you, Mr. Chairman. I appreciate what you had to say. I am not so sure, after having my first view of this magnificent committee room, that I didn't make a mistake. It is a beautiful room, and it is a fitting tribute to a former chairman, distinguished Speaker, Sam Rayburn, in his own building.

I have a very brief statement, and I don't intend to take up the time of the committee at any length, because you have some very expert witnesses on this problem that want to appear.

As you pointed out, this is a problem that has plagued us in the West, in particular, in Congress for many many sessions. I don't know how many times I have introduced bills in the Senate, and in the House, I believe, when I was here, and other Members of the Senate have. You do have, as you pointed out, 19 bills over here now, and we hope by this bill to make a start in solving this problem which seems to be getting worse. I do have a short statement, in which I want to point out some facts to the committee which I am sure they will hear from other witnesses in ample supply anyway, but I will reiterate them; and of course, I am pleased at the invitation to be here.

This legislation, in my opinion, is urgently needed to prevent serious losses to grain, lumber, mining, and other industries vital to the Nation's economy through the inability of farmers, lumber interests, and mining enterprises to move their products.

Our national economy is now lagging 60 days behind because buyers cannot obtain the goods they have ordered for that length of time because of freight car shortages.

Unless this slowdown in the movement of our Nation's goods is speedily corrected, the national rebuilding program President Johnson has advocated will take 50 years, instead of the planned 35 years.

The chronic perennial freight car shortages plaguing our Nation occur because in the last 20 years railroads have retired over 300,000 more freight cars than they have built. These 300,000 lost freight cars would make a solid train which placed end to end would stretch from the west coast to Washington, D.C.

My script says that it will stretch from Seattle to Washington, D.C., but in deference to Mr. Younger, I will call it the west coast.

S. 1098 passed the Senate without a dissenting vote on June 30 of this year. S. 1098 was reported unanimously by the Senate Committee on Commerce, and I must say after we had long hearings and much discussion regarding a particular amendment which they thought might make it equitable to certain New England railroad areas.

S. 1098 is strongly supported by the Interstate Commerce Commission. You have many prominent members here of the Commission, which has recommended legislation like this designed to improve the freight car supply in its annual reports since 1955.

Enactment of S. 1098 is favored by the Department of Commerce, the Department of Agriculture, the Department of Defense, the General Services Administration, the Comptroller General, and the Office of Emergency Planning.

S. 1098 is supported by the National Association of Railroad and Utilities Commissioners. It also has the support, I believe, of the industry and the public. The American Farm Bureau Federation, the American Plywood Association, the National Council of Farmers Cooperatives, a substantial segment of the railroad industry, shippers and shipping organizations, particularly in the grain, milling, and lumber trades, and many States, cities, and ports strongly support the enactment of this measure.

I have received—and I suppose you have, over here—telegrams and letters from shippers in nearly every State, urging its speedy enactment. Severe car shortages are no longer confined to a few regions of this country, and to particular types of equipment. They occur every year with increasing severity, and in about every producing area in the country.

Foremost is the shortage of boxcars which this year is running about 4,400 boxcars per day short, with, of course, a severe impact on shippers of grain, lumber, milling trades, and other bulk commodities.

Shortages of coal hopper cars yearly affect coal mine operators in such States as Indiana, Kentucky, Missouri, Oklahoma, West Virginia, and Pennsylvania.

Shortages of gondolas, and heavy duty flatcars affect shippers of steel products and other commodities. If our Nation's railroads owned a sufficient number of freight cars, there would be no shortages. Overall, the average daily shortage of all kinds of cars last week was 7,500 per day.

Since January 1, 1965, this Nation's supply of plain boxcars has dropped from over 508,000 to less than 487,000 in these few short months. In 9 months, this Nation has lost over 22,000 plain boxcars, an average decrease per month of 2,770.

Ten years ago, this Nation had over 1,700,000 freight cars owned by its class I railroads. Today, we have less than 1,500,000 freight cars—an average drop of 20,000 cars per year.

But not even this minimal supply of freight cars is available to shippers. The number of bad-order cars awaiting repairs on eastern roads is 6.9 percent, far above the Nation's average, and nearly double that of the central western railroads.

The foregoing figures amply demonstrate that the national freight car fleet, presently plagued by daily car shortages of nearly 7,500 cars, is continuing to decrease. To meet the needs of commerce, of a growing economy, and of our national defense, this Nation must have more freight cars in operation each year, not fewer and fewer cars.

As long as it remains cheaper to rent another railroad's cars rather than to own them, our car supply will dwindle. Some railroads still refuse to pay more than \$2 per day for the rental of a new boxcar that costs its owner \$15,000 to build.

As the Interstate Commerce Commission has pointed out:

This policy in practice discourages construction of new freight cars and in effect, places a premium upon inadequate car ownership and will continue to do so as long as it is cheaper to rent a car than it is to own one.

S. 1098 and H.R. 7165 and the other 19 bills you mentioned, all having the same objective, would insure an adequate national fleet of freight cars, we hope, by providing incentives for increased car ownership through operation of economic laws and the profit motive.

In practical effect, these bills state a series of objectives in the public interest, including the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense; recognize the important influence exerted by daily rental or per diem charges on the adequacy of the national car supply; and direct the ICC, after hearing, and I quote, and emphasize "after hearing," to fix per diem charges upon any basis which in its judgment will tend to accomplish these objectives.

These bills would direct the ICC, as an arm of Congress, to use its best efforts to reverse this trend by the establishment of per diem charges which in its judgment will provide an incentive for increased freight car ownership, and insure the adequacy of a national freight car supply.

Again this year, the Nation is facing a severe car shortage, greater, I think, than any other year, except during the war years, when the cars were designated for certain purposes. And year after year, conditions have become progressively worse. So I urge and I hope that you will take action this year to start these procedures in action.

Now it is true that it may not have the immediate effect this year, legislatively, that we would expect, but it certainly would have a psychological effect, and a practical effect upon the railroads themselves, to enter into agreements, voluntary or otherwise, pending the ICC investigation of freight car shortage and their determinations, to make some plans for building cars that will meet the needs of this growing economy of these United States.

Thank you again very much.

The CHAIRMAN. Mr. Chairman, thank you very much for your statement, and again, for your personal appearance here. We appreciate the very candid statement that you made on the subject. We realize your interest in this subject matter over a period of time, and we realize that this has been, traditionally, a fight, primarily, between the eastern and the western railroads.

We might as well face the facts. Unfortunately, the eastern roads have not kept up with the production of cars. We held hearings on this subject, about 3 years ago, had very extensive hearings on it, and there is no question in anyone's mind but what we are losing ground.

We are losing more cars every month than we are bringing into the fleet. We are observing some almost revolutionary changes in our transportation facilities, particularly in view of the big jumbo cars that are now hauling grain from the Midwest. These cars do not lend themselves to any other kind of haul for a backhaul.

It creates problems, too. I understand the new techniques in coal cars, now, that are being produced, which present similar problems, and the tremendous, I guess we would call it backhaul, or return,

utilization of cars, is something, because they are going empty. I have forgotten what the ratio is, but it is pretty high.

So no one will question the fact that we have a shortage, and it is getting more acute every day. These people that you mentioned, the Farm Bureau Federation, the plywood people, farmers cooperatives, and shippers and what have you, and a lot of our colleagues, think that these bills will get more cars rolling and available. I just have some leary feeling over the years that you don't get more cars by just merely increasing the per diem. You just make the railroads pay more for them, and of course, they are going to be right in with the Interstate Commerce Commission, asking for higher rates to take care of it.

Senator MAGNUSON. Well, I suppose this could be a factor, but the cold, hard fact is that we ought to make some start with this problem, hoping we can encourage the building of more cars.

As you mentioned earlier, the turnaround, and utilization. You and I know, Mr. Chairman, and some of the rest of us, this used to be a peculiarly western problem, and I remember one time I had the bill on the Senate floor, and I counted noses, and everybody east of the Mississippi was against it, and everybody west of the Mississippi was for this bill, and they outnumbered us, and that was the end of that.

But the car shortages have now spread to the southern railroads, and partially because—and in all fairness, I must say that—some of the railroads that we mentioned that obviously are short on cars, financially just can't do it. This is their problem.

We hope the ICC, by evaluating all these things, and we have an amendment in the bill which was agreed to by particularly the New England people, the New Haven, Boston & Maine, which this committee knows is in serious financial trouble, agreed to this amendment, the ICC submitted the language, and we are hopeful that we can have them make a start, and have sufficient authority to see if you can't adjust this matter. It used to be just on grain, as you will remember.

We would have grain out in our country stacked on the sidings—out in the open. But now it has spread to a lot of things, because of the progressiveness of the shortage. We have in the lumber industry, the plywood people, a difficult time in getting products to the docks. This is almost a local operation, but the cars aren't available, because they are someplace else.

And then in all frankness, we used to have a problem with Canada and Mexico on cars. It used to be when a car got below the border in Mexico, I will say to my friend from Texas, we never found it again, and we would make a protest to the Mexican Government, and they would say, "Yes, we will look for it. We will check it, and we will get it back." Well, they never did find it. And the Canadians used to have that 14-day leadtime.

They would hold cars, but that has been pretty much settled. But I think it is an overall matter that I would like—I just say that—I don't know just how much we can do. I would like to make a start, and I would like the ICC in its wisdom, with proper hearings for these people, with their problems—and they have problems, financial and otherwise—to be able to make a start on this, because if we don't we are going to be in this room and in my little small committee room, compared to this—my poverty room over there [laughter]—

we are going to be there for a long, long time, discussing freight car shortage.

The CHAIRMAN. Well, I agree with you that we should make a start. We should do something to try to stop the trend, and start it in a different direction.

Senator MAGNUSON. See if we can reverse it.

The CHAIRMAN. But I think it ought to be made very clear, however, that this bill is not going to relieve any immediate shortage.

Senator MAGNUSON. That's right. It couldn't possibly this year, but we would be another year behind if we didn't make a start this year. That is a practical situation. And then I must say, and I know this committee knows this, I think the railroads themselves have been making tremendous progress in technological advancements in types of cars, and these ought to be available. They have done a real good job in freight car advancement, in the making of a car for all purposes, and these things. They have done a good job, and they are going to do more, but there must be some rules of the game on how these cars shift around.

The CHAIRMAN. Mr. Rogers, any questions?

Mr. ROGERS of Texas. Senator, just one. Did I understand you to say this about the amendment? Now the amendment, as I understand it, is additional language to the Senate bill which actually was the same as the House bill?

Senator MAGNUSON. Yes.

Mr. ROGERS of Texas. And the addition is the part where they could make certain elements inapplicable to certain specified roads?

Senator MAGNUSON. Yes.

Mr. ROGERS of Texas. Now, you state the Interstate Commerce Commission worked out this language?

Senator MAGNUSON. Well, the Interstate Commerce Commission—and they can correct me—we had some language in the committee, and then the Interstate Commerce Commission had some amendments to the language, because they thought it might handicap them in their whole study, and we finally agreed on a compromise, and the Interstate Commerce Commission, in effect—and they can testify to this, if I am not correct—in effect said to us that they can live with this other language which relieved some of these railroads that are in real trouble, particularly New England.

And they are here to testify. Is that about it? In effect, you would rather have had the broader language we had in the Senate bill, but they said they can live with this and do something with it.

Mr. ROGERS of Texas. The New England roads all agree?

Senator MAGNUSON. And some of the members of my committee made very impassioned speeches for the bill, in the Senate.

Mr. ROGERS of Texas. Thank you.

The CHAIRMAN. I would just like to comment in that regard that everybody was unanimous. You have a unique way, and I want to sit down and talk with you about it sometime, over in the Senate, of getting very important bills, many of them, agreed to unanimously, and unanimously supported by the committee and reported, and called up on the floor, and then when it gets over here, the House falls in. Now that has been a complaint of mine for some time.

Senator MAGNUSON. It shouldn't be a complaint. We just give you a bill that is easier to work with, and then, half the time, we accept your amendments in conference.

The CHAIRMAN. My complaint is not with you and the committee. My complaint is that it gets by over there and then it starts over here, and I might say to you, as I have already, that immediately when that happens, and a bill gets over here, some of the industry has already been to see me, and they are seriously objecting, because I don't want to show that everybody is all for this, now.

Senator MAGNUSON. Well, I can only be guided by the vote over there.

The CHAIRMAN. We are going to smoke it out and see how far that objection is going to go.

Senator MAGNUSON. Well, I think that sometimes happens. You and I and all of us in the Congress have had bills passed, and people have said nothing in one body at all, and then when it comes over to the other, they come around, and say, "Well, we are against that."

And we say, "Why didn't you appear over there?" They say, "The climate wasn't right over there. It is much better over here," or vice versa, in both places.

You would think that every railroad, all railroad management in this country, would agree that something has to be done about this matter. They may have their problems as to how they fit into it, but they will agree that if this keeps on, they are all going to be hurt, because this is not only a Western problem anymore. This is a problem all over, and particularly in view of the fact that we do have a very expanding, growing economy, this is one segment of the railroads, although technologically, they are doing everything, I think, they need to do, and they are doing a very good job.

The CHAIRMAN. Mr. Younger?

Mr. YOUNGER. Thank you, Mr. Chairman.

I think the importance of the problem is evident in the fact that in 13 years that I have been on this committee, it is the first time we have had the pleasure of the chairman of our counterpart appearing before the committee.

Senator MAGNUSON. Well, it is just because I haven't been invited.

Mr. YOUNGER. You are certainly welcome, Senator.

There are just a couple of questions here. I notice that you depend entirely on the number of cars. When we had our hearing before, and the railroads appeared, they gave the carrying capacity of the freight cars as compared to the carrying capacity before. It isn't the number of cars that we are concerned with, it is the carrying capacity; and they showed that even though the number of cars had gone down, the carrying capacity hadn't gone down as much as the number of cars would indicate. And you do not treat that at all in your testimony.

Senator MAGNUSON. Well, I didn't want to get into that feature of it, because that makes it even worse. If you need a car out West, that will only carry one-half the capacity, and it wasn't there, and then they finally have even larger cars that have double the carrying capacity that are not there, it makes it worse.

Mr. YOUNGER. Well, that may be, and I don't know why you left it out of your testimony, but nevertheless, the railroads do have that. One other question.

Senator MAGNUSON. Well, I think, Congressman, that one of the reasons we keep talking about cars is that because in this field, particularly of grain and lumber, and not necessarily mining, we are talking about the ordinary freight car, which hasn't changed very much. It is the ordinary freight car that you and I see along the way, and some of these new cars, of course, are of tremendous capacity, and they have been able to more economically load them and unload them.

Their demurrage charges when they stand on the line, the time is much shorter, because they can unload them. But there is this shortage, and we would like to even have those of the larger capacity, but I think that is the reason. The ICC can give you all of that testimony.

Mr. YOUNGER. One other question. In your testimony, you do not treat with why the ICC can't do this under the present law, by regulation and hearings, without the passage of this legislation.

Senator MAGNUSON. Well, I think, No. 1, the ICC would like to have the opinion, the sense of Congress in what they can do, and No. 2, I think they would have very great difficulty in enforcing an order under their present authority. Even on the turnaround, now, they sometimes suggest to a railroad that you do this or do that, and the railroad doesn't do it, and there isn't much they can do about it. I think this would strengthen their hand.

Mr. YOUNGER. But there is no reason, legally, why they couldn't have a hearing and put in a larger per diem fee.

Senator MAGNUSON. They could have a hearing, but they could not do anything about it after they came to a conclusion.

Mr. YOUNGER. Could they put in a higher fee, if they wanted to?

Senator MAGNUSON. I doubt if they could, legally.

Mr. YOUNGER. That's all.

Senator MAGNUSON. I am not an expert on this legally, but I doubt if they could, right now, without something like this.

Mr. YOUNGER. Well, they are coming on later.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS of Florida. Thank you, Mr. Chairman.

I, too, want to welcome you here. We are delighted to see you here and have the benefit of your advice.

As I see it, you are giving a free hand to the Commission to do whatever they may in this problem. However, in the bill, you are putting two considerations—that they must consider a fair return on value, and the value of use. Now are there any other considerations that you feel should actually be brought to the attention and in the law of requiring consideration of any factor other than those two?

Senator MAGNUSON. Well, I think under the amendment, they have to consider also the factor that supposing they find a railroad that is derelict in these two things. What is the position of the railroad? Can it do it, or can it not do it? And this would be one of the factors.

Mr. ROGERS of Florida. That is in the amendment?

Senator MAGNUSON. Yes, that's in the amendment.

Mr. ROGERS of Florida. Where it would be feasible for them to do it?

Senator MAGNUSON. Yes.

Mr. ROGERS of Florida. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Pickle?

Mr. PICKLE. Senator, this way be something that the ICC people would be more familiar with, but I am advised that there is a certain shortage in the field of rail tank cars, particularly those types of tanks that are used for the movement of petroleum products?

Senator MAGNUSON. Yes.

Mr. PICKLE. Do you have any knowledge of whether there is a shortage in this particular field? It is similar to the type of shortage that exists in regular freight cars?

Senator MAGNUSON. I can't answer that, Congressman Pickle, because I would think that in the tank field, there are so many private cars that use the rights-of-way, you know, the oil companies or people who have their own, that I just don't know whether there is the shortage in that particular field. But I would think that an overall deterioration of freight cars would be bound to have some kind of secondary effect on this.

Mr. PICKLE. Well, similar to what the gentleman from California had said, I think since World War II, there has been a good bit of conversion of the tank cars from the 8,000 to 10,000 capacity tanks into what they call the jumbo tanks.

Senator MAGNUSON. Yes.

Mr. PICKLE. But as a result of it, the overall gallonage has been decreased.

Now there may be other factors, such as pipelines. I don't know what is causing it, but apparently there would be a shortage in this field, too. Would it be your feeling that if there is a shortage, then that aspect of it ought to be included in this bill?

Senator MAGNUSON. I think you would have the authority, yes, to go into that.

Mr. PICKLE. Thank you.

Senator MAGNUSON. And actually, a lot of it is geographical, because of the nature of the country. You might take a tank car; say there was an overall sufficient number of tank cars to move, let's say, petroleum products in the country, but when they get back on the congested eastern roads, the tank car may be available, but it is not where it belongs at the particular time, and this shortage tightens everything up, and the whole system would reflect a shortage in all kinds of cars.

Mr. PICKLE. It might not be a problem, I would assume, under normal circumstances, but in case of a national emergency, this would be a serious problem.

Senator MAGNUSON. Yes. It sure would.

Mr. PICKLE. I thank you very much.

Senator MAGNUSON. Probably the lack of petroleum or movement of petroleum products would have more direct effect on the economy and the welfare of the people than even the grain cars we are talking about. I suppose you can get along a little while without plywood, but it is pretty hard back here to get along without petroleum products.

Mr. PICKLE. I certainly agree.

Senator MAGNUSON. Out in our country, Mr. Chairman, we export, you know, a lot of lumber products. We hope to export more. The inability to get this in cars to the docks and a fact that most people also don't realize, you can't let lumber stay outside too long. It

becomes a different product. It is not the grade of lumber that the fellow ordered, after a while. It has got to move, and this has a lot to do with it. This is affecting our balance of trade out there, because of the lack of cars, and this is a local haul. You can use pretty near any kind of car for lumber. Gondola, or a regular old freight car, or anything, and the railroads realize this, but it is important.

I am just hopeful that we can make a start. That's all I am pleading. We have some problems with it, and the ICC would be the last to say we don't have problems.

Mr. PICKLE. That's all, Mr. Chairman.

Senator MAGNUSON. Well, Mr. Chairman, I won't take up any more of your time.

The CHAIRMAN. Any other members of the committee have any questions? Mr. Ronan, Mr. Williams, Mr. Satterfield?

Senator MAGNUSON. I thank you very, very much for giving me this time, and I want to express something on this hearing that is off the record.

(Discussion off the record.)

The CHAIRMAN. Thank you very much.

We also have with us another distinguished gentleman from the other body, Senator Carl Curtis. We welcome this opportunity to hear your views Senator.

STATEMENT OF HON. CARL T. CURTIS, U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator CURTIS. Mr. Chairman, I am grateful for the opportunity to submit this endorsement of S. 1098 and similar House bills intended to relieve shortages of freight cars which annually create such problems in the Midwestern and Western sections of the United States.

I will not burden your committee's record with a mass of technical details. Those much more qualified than I will supply this information. You have available the extensive record of hearings by the Senate Commerce Committee, and I am confident your committee will study that record.

This problem, Mr. Chairman, is not one of recent origin. The Congress has been called upon to deal with it almost every year over a long period. The Interstate Commerce Commission has sought legislation of the sort now before you, in its effort to solve the problem. Presently, the ICC authority is limited; enactment of S. 1098 would broaden that authority, would give the ICC the tools with which to effectively cope with the situation.

There are two aspects of the boxcar shortage problem, Mr. Chairman. You will recall that I discussed both in my letter to you requesting that hearings be scheduled.

First is the alarming rate of decline in the country's boxcar supply; second is the inability of railroads owning cars to retain control of them and put them to beneficial use on their own lines, serving their own areas. Car service orders designed to promote efficient use of cars simply are stopgap measures. As the ICC has said—

the service order technique does not add cars; it simply requires all shippers to share in this freight car poverty.

S. 1098, which I cosponsored, would encourage acquisition and maintenance by the railroads of adequate fleets of cars to meet the

needs of commerce and defense. It would also assure owning railroads fair compensation for the use of their cars by other lines, when they are not themselves in control of their own cars.

You will recall, Mr. Chairman, in my letter to you requesting these hearings I cited the testimony before the Senate committee of a midwestern railroad's representative who said a 2-year study by his railroad, covering 600 new boxcars, showed that the owning line had the use of these cars on its own lines only 12 percent of the time. In other words, other railroads were "renting" these cars 88 percent of the time, thus depriving shippers in the owning line's service area of their use.

Legislation now before you has the endorsement of the Interstate Commerce Commission and all other executive departments and agencies asked to comment, except the Department of Justice. That Department withheld comment because it is not directly affected.

Permit me to quote just one brief paragraph from the Senate committee hearings, when ICC Chairman Charles A. Webb was the witness. Said Mr. Webb:

The Commission believes that in view of the recurring critical shortage of freight cars, it is imperative that ownership of such equipment be increased, and that it be maintained at a level capable of meeting the needs of the shipping public during normal times and at the same time providing a reasonably adequate supply during periods of emergency.

Concluding his statement, Chairman Webb told the Senate committee that "we urge early and favorable consideration of S. 1098."

Interest in enactment of S. 1098 is not confined to governmental circles, Mr. Chairman. A special subcommittee of the Senate Committee on Commerce last spring scheduled a series of hearings outside Washington. These hearings were held at Denver, Colo.; Omaha, Nebr.; and Kansas City, Kans. It was my privilege to participate in the Omaha hearing at the invitation of Senator James Pearson of Kansas. I commend to your committee's attention the record of those hearings. The numerous statements and significant testimony presented at those hearings give a full understanding of the grassroots sentiment on this question.

These people live with the boxcar shortage as a part of their daily lives. They look to Congress for assistance in solving this problem. They are not seeking special favors; they simply ask for assistance with a problem that is beyond them, a problem which is putting a blight on my part of the country.

I appreciate your scheduling this hearing, Mr. Chairman, and I am confident that your committee will come to grips with the problem and favorably report the legislation before you.

The CHAIRMAN. Thank you, Senator. Your remarks are greatly appreciated. We will now welcome our colleague, the Honorable Dave Martin, who has sponsored similar legislation.

STATEMENT OF HON. DAVE MARTIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. MARTIN. Mr. Chairman, my appearance before the Committee on Interstate and Foreign Commerce is in support of H.R. 2230, a bill which I introduced. This legislation is designed to alleviate and cure a serious transportation problem which recurs from time to time and which has plagued our Nation for many years.

The problem is a shortage of cars in our national railroad car fleet. While the shortage of cars may embrace different types of cars, my principal concern is with the plain boxcar which is the workhorse of the fleet. Replacement of this type has lagged behind other types and new construction has not been sufficient numerically to meet the needs of our commerce and industry.

In my part of the country, the plain boxcar is in great demand for shipment of our farmers' and ranchers' products. Nebraska is a great agricultural State. Every year our grain cannot be handled by the railroads simply because they cannot get enough of their own cars back on line to carry these grain shipments. As a consequence, we must resort to ground storage. This is needless waste. It results in excess handling, waste, and nonproductive labor.

Last year we were faced with the most serious shortage ever in Nebraska. The Interstate Commerce Commission has repeatedly warned that this condition was expected to get worse. And it did during certain parts of the last year. At present there is an average daily shortage of cars in excess of 4,300. Again the Commission expects the shortage to become more severe.

Enactment of legislation to solve this problem is essential now. The best way to do it is to enact H.R. 2230 as law. Such action will provide the incentive for railroads to invest their money in new cars which they will own. When per diem charges are adequate, and by that I mean profitable, railroad management will invest and expand their own car fleet rather than rely upon renting another railroad's car.

With the incentives provided by this legislation, our Nation's transportation needs will be met. The United States will have an adequate car fleet to meet the needs of its agricultural, commercial, and industrial shippers.

At the time I introduced H.R. 2230, some thought was given to providing in section 2 of the bill for a 2-year limitation. After watching the car situation continue to remain serious during the present year and remembering the acute shortages of recent years, I am now of the opinion that corrective action will take more time. Therefore, I request that consideration be given to reporting out of committee a bill without section 2. I am convinced there is no need for it and that no limitation should be incorporated in our transportation law.

As the committee will also be considering the Senate-passed bill, I should like to comment on the amendment adopted by the Senate Commerce Committee and contained in the legislation as passed by the Senate.

Under the language which was added, it would empower the Interstate Commerce Commission to set different per diem rates for different sections of the United States and also for different railroads taking into consideration the financial health of various railroads and other economic factors.

This additional language is unnecessary to achieve the desired result. Further, it would lead to discrimination because there would not be a uniform rate. There might even be a serious question of deprivation or use of property belonging to another without just compensation. The per diem rate should be uniform. It should be the fair rental value for the equipment that is used.

Separate and apart from the considerations which I have mentioned would be burden and the complexities of a system of accounting such

language would require. I ask the committee to consider reporting a bill without the Senate language which was added to S. 1098. Such action would simplify the legislation. It would also make the administration of the law easier for the regulatory agency and the railroad industry would be relieved of a burdensome accounting task.

It is my earnest hope that the committee will report section 1 of my bill favorably at an early date. It is a sound proposal which will strengthen our basic transportation law.

The CHAIRMAN. We are very glad to welcome our colleague for a few remarks who is one of the sponsors of the legislation, the gentleman from Minnesota, Mr. Nelsen.

STATEMENT OF HON. ANCHER NELSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. NELSEN. Mr. Chairman and members of the committee, I am pleased to submit a statement at this hearing in support of my bill H.R. 3397 and others like it, and urge such legislation be favorably reported.

As you know, our bills would amend section 1(14)(a) of the Interstate Commerce Act in an endeavor to insure an adequate national railroad freight car supply in all parts of the country.

The amendment reads:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(14)(a) of the Interstate Commerce Act is amended by adding at the end thereof a new section reading as follows: "In fixing the compensation to be paid for the use of freight cars, the Commission shall give consideration to the level of freight car ownership and to other factors affecting the adequacy of the national freight car supply and shall, on the basis of such consideration, determine whether compensation should be computed on the basis of elements of ownership expense involved in owning and maintaining freight cars, including a fair return on value (which return shall be fixed at such level as in the Commission's judgment will encourage the acquisition and maintenance of an adequate freight car fleet), or should be computed on the basis of elements reflecting the value of use of freight cars, or upon such other basis or combination of bases as in the Commission's judgment will provide just and reasonable compensation to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

What this amendment means simply is that the Interstate Commerce Commission would be given needed additional ratesetting authority in order to provide incentives for construction of additional freight cars.

Mr. Chairman, the need for such legislation has long been apparent to those of us who live in the Midwest, and particularly to farmers, the grain trade, and other shippers of farm produce from country to commercial centers and shipping points in the Nation.

Repeatedly, those of us from the rural areas of the Midwest and West have sought such legislation because we have witnessed a perennial boxcar shortage, particularly devastating at harvesttime. Farmers struggling to get their crops to market while prices remained high have found themselves without adequate boxcar transportation, and have seen their grain crops dumped alongside the railroad tracks until such time as boxcars could be made available, often a considerable period.

Obviously such procedures entail waste and cost, and exercise a price-depressing effect on the grain market. This situation exists today.

As a matter of fact, the situation has become so serious the Nebraska State Journal of Lincoln, Nebr., felt compelled to comment a few months ago:

In this age of transportation miracles, it has become almost as simple to send a man to the moon as to ship a boxcar of grain out of the Midwest.

Even discounting severe crop losses brought on by the recent bad weather, the boxcar shortage in the Midwest this year may well be the worst in peacetime history.

The reasons for this deplorable situation are numerous. Some railroads find themselves in a precarious financial condition which makes construction of new boxcars difficult. Moreover, the decline in new car construction has been greater in the past 2 or 3 years than ever before.

However, the problem has been seriously aggravated by boxcars shipped into areas where per diem rental rates are so attractive, additional boxcar construction is discouraged. When lines do not return boxcars promptly to their proper owners, the shortages inevitably result.

Mr. Chairman, I firmly believe the proposed legislation is fully justified. In view of the Senate's adoption earlier this year of similar legislation, the time is ripe to act. We will never have a better opportunity to obtain this needed legislation. We must strike while the iron is hot.

And I wish to include with my remarks a telegram from Earl Requa, vice president and general counsel of the Northern Pacific Railroad, at this point.

(The telegram referred to follows:)

[Telegram]

ST. PAUL, MINN., *September 30, 1965.*

HON. ANCHER NELSEN,
House of Representatives,
House Office Building, Washington, D.C.:

I have been informed that the House Commerce Committee has scheduled hearings for October 5 and 6 on freight car per diem (rental) legislation (H.R. 7165), introduced by Chairman Harris, and 15 other identical bills. Eldon Martin, vice president and general counsel of Burlington Railroad, will present our argument. We urgently request that you consider favorably this bill without the objectionable Senate amendment and hope that the House committee will favorably report the bill to the House for passage without the Senate amendment as it will go a long way to alleviate the serious car shortage in our Midwest and Western States.

Kindest regards,

EARL F. REQUA,
Vice President and General Counsel, Northern Pacific Railway.

Mr. NELSEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Nelsen, for your statement. Are there any questions? Mr. Jarman? Mr. Younger?

Mr. YOUNGER. Just one. To our colleague. You do not limit your support just to your own bill?

Mr. NELSEN. No; I do not.

Mr. YOUNGER. You are in favor of the principle?

Mr. NELSEN. I am. Thank you.

The CHAIRMAN. Mr. Nelsen, there may be other questions. Mr. Moss? Mr. Pickle? Mr. Williams? Mr. Satterfield?

Thank you very much, Mr. Nelsen, for your presentation.

Our next witness is the Honorable Mark Andrews, Member of Congress from North Dakota, and we are happy to have you before the committee.

STATEMENT OF HON. MARK ANDREWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. ANDREWS. Thank you, Mr. Chairman. It is a privilege to be here.

After the eloquent testimony that our native son, Senator Warren Magnuson gave, there is little use for the rest of us to follow him up. You know, he was raised in our hometown, and we have long known him, and he does a wonderful job.

Mr. Chairman, representing the farm State of North Dakota I appear in support of H.R. 8950, which is my bill, and others similar to it.

This type of legislation, by encouraging railroads to increase their supply of cars, will help solve the chronic boxcar shortages which have recurrently plagued my area. As a matter of fact, the boxcar shortage in North Dakota is a whale of a lot like the weather—everybody complains about it but nobody does anything about it. And just as certain as Christmas comes in the end of December, when autumn comes around you'll hear the wild clamor go up, "Where are our boxcars."

It is a pretty favorite political whipping boy. Everyone seems to want to get into the act, but the people who get it in the neck are the farmers and the business people in the communities.

Being brought up on a farm, I can't think of an autumn when we haven't had this problem, and commonsense dictates that it's about time we took steps to alleviate it. It seems to me that there's only one real solution to this problem, and that's the enactment of legislation such as H.R. 8950.

My bill gives the Interstate Commerce Commission power to fix more adequate rents which one railroad pays another for the use of cars. Present and past car rentals have been so low as to discourage new car building and to encourage railroads in some areas to rent cars of others rather than to buy their own.

Because it has been cheaper to rent than to build and own cars, the number of freight cars in the country has declined by about 200,000. I don't think much of this slack has been taken up, Mr. Chairman, by the construction of these overlarge jumbo cars. In fact, it is, as the Senator points out, doubly depressing to sit there and expect a big boxcar to come and not get it than it is to look for the smaller one which you have been used to seeing for many years.

North Dakota is a farm State. In 1964 it grew about 150 million bushels of wheat and was exceeded only by Kansas of all States in raising that grain. Farmers in North Dakota also raise huge amounts of potatoes, barley, sugarbeets, corn, and other farm products.

North Dakota's economy is largely dependent on shipping to primary markets in the East and West grain and other crops. About 85 percent of its crops are moved to market by railroad and the rest by truck.

Elevator operators, farmers, and other shippers in our area have been plagued with severe railroad car shortages over the past few years. At times hundreds and even thousands of cars can be used but simply are not available.

In August of this year, for example, the shortage was so severe that just one of the major railroads in the State reported that it had up to 177 blocked elevators on its line and over 200,000 bushels of North Dakota grain stored on the ground along its line exposed to wind, rain, and rot. And incidentally, and significantly, the situation has gotten worse. North Dakota has had a unique fall this year, and we have had 5 weeks of nothing but rain and continual cloudy weather.

We have now some 25 to 30 percent of our crop still exposed in the swath, and as a result, the price of wheat has gone up on the open market. I mean, it has made this much of an impact. Many of these farmers feel that had their elevators not been plugged at harvest time, they could have gotten their crop in from the fields and marketed, and the delay caused by shortage of boxcars at the critical point of harvest has cost these farmers thousands of dollars as individuals in our State.

The road I mentioned had only 80 percent of its own ownership on line to serve its shippers, at a time when it should have had 110 to 125 percent of ownership on its line, because this was its peak hauling time.

Its fleet of boxcars numbers higher than what it was 10 and 15 years ago. Other roads, particularly in the East, have permitted their fleets to decline.

The present railroad car rental system has been established by the industry and is voluntary. These rents are now \$4.50 per day for a car worth between \$10,000 and \$15,000; \$6.15 per car-day for cars worth \$15,000 to \$20,000; \$7.11 per car-day for cars worth less than \$10,000; and higher rates for cars worth more than \$25,000.

But Mr. Chairman, I would like to point out that it costs about \$12,000 to \$15,000 to build an average railroad boxcar today. The advantage of renting under this system can easily be seen by comparing the railroad car rental for a \$12,000 car—\$4.50 per car-day—with the automobile rental for a \$3,500 Chevrolet—\$10 per day plus 8 cents per mile—almost twice as much per day for an automobile that is worth one-third as much, or less. Nevertheless, some roads have for years refused to pay the voluntary industry-established rate on the ground that even it is too high.

Bills such as mine, if enacted, will permit the ICC to require all roads to pay rates which the Commission establishes at levels which adequately compensate the owner for all the costs and economic risks, of car ownership. It will encourage restoring the car fleet through economic incentives. For these reasons it has my strong support.

I recognize that the cards are stacked against a bill such as this, because the roads that do not build cars have the preponderance of representatives in the Congress.

But, actually, this is a nationwide problem, and it is important to the entire Nation, since it affects the earning power of our basic industry, agriculture, and many other industries, such as construction and mining.

The key to agricultural prosperity is the price the farmer gets for his products. Our farmers produce bulk commodities that have to be shipped over long distances. Rail rates and the availability and cost of transportation can often mean the difference between profit and loss to the family farmer.

We in the Congress spend months worrying over sensible farm legislation; yet, a bill like this, by providing more adequate and, in the long run, cheaper transportation could, by adding 10 cents a bushel to the grain farmer's return on his crop, mean the difference in itself between profit and loss.

On the basis of simple justice, I urge your favorable consideration of this much needed legislation.

I do appreciate the opportunity to be here.

The CHAIRMAN. Thank you, Mr. Andrews. Are there any questions? Thank you very much, Mr. Andrews, for your contribution to the record.

The CHAIRMAN. Our next witness is Hon. Floyd V. Hicks, Member of Congress from the State of Washington. Congressman, it is nice to have you.

STATEMENT OF HON. FLOYD V. HICKS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HICKS. Thank you, Mr. Chairman. Let me start off by saying that I don't purport to be an expert of any kind, and it is probably unfortunate, in a way, that the committee has to sit here and expose itself to the nonexperts, while you have so many people here who can actually give you the facts on all these matters, although I think you had a true expert here in the senior Senator from my State, Senator Magnuson.

I had a script prepared for me, too, and the first page has a lot of figures on it that I don't know anything about, and the experts here will undoubtedly give you the same things, and tell you a little bit about them, but I do know a little about my own local problems.

The CHAIRMAN. Mr. Hicks, would you like to have this statement inserted in the record?

Mr. HICKS. It is short, and if I may I will read from it. I would like to give just a little bit about the actual impact it has in my local area.

The CHAIRMAN. You may proceed as you desire.

Mr. HICKS. Thank you, Mr. Chairman. I would like first to thank the chairman and members for granting me the courtesy of appearing before this committee.

I am not an expert on railroads or freight cars, or on the various factors which bear on the freight car shortage. I have, however, been exposed to certain information on the effect of that shortage on business, labor, and other segments of the economy of the Sixth Congressional District of Washington, and the State of Washington in general.

That there is a shortage, there can be no doubt. Nor can there be any question that the shortage is growing more severe day by day.

I have been provided with some figures that indicate the scope of the shortage, and the pace at which the shortage is increasing. As of January 1, 1956, the total carrying capacity of all cars owned by class 1 railroads was 91 million tons.

And as of January 1, 1965, the total carrying capacity had declined to 87 million tons. That is a loss of 4 million tons capacity, and during a period when production of goods and produce to be shipped increased.

But even these alarming figures do not state the case as firmly as they might, at least insofar as my part of the country is concerned. For much of this total carrying capacity is accounted for in what railroads call "equipped" cars; that is, those designed for specific cargoes, such as tank cars which just cannot carry plywood, for example.

And in the Northwest we are more interested in the plain old freight car, the boxcar, for we ship more forest and agricultural products in general-purpose cars than goods which require special-use cars.

The ICC's Bureau of Safety and Services last Thursday afternoon quoted figures for me that show the decline of that plain old boxcar. I won't go into the entire list, since that no doubt duplicates other testimony at this hearing. Suffice it to note that we started the year 1965 with 508,713 general-purpose freight cars and ended the month of August with 486,556. That is a net loss of 22,157.

The loss in January was 1,618. In February it was 1,681. And so on at an irregular rate, until in May the loss went to over 2,000 cars for the month, and in June it neared 3,000. The loss in July was 4,134 cars. In August the loss was 5,417 boxcars. In other words, during the harvest months of July and August, when they were needed the most, the net loss of freight cars was much greater even than in the preceding months—and it was bad enough in those earlier months.

The cause of the growing shortage of freight cars is simple enough. More cars are wearing out than are being built. And the cause of that is simple enough too. It is cheaper for a railroad to rent a boxcar than to build one, under present conditions.

We in the West ship perhaps three times as much of our products eastward as we receive in return because of the bulk of our products as compared with the manufactured goods we get from the eastern part of the country.

The western freight cars stay in the East in large numbers, because the eastern roads are able to rent them by regulation at a rate that would make it foolish for them to build their own replacements for wornout cars.

That has already been told to you. The results of the boxcar shortage in my district, my State, and the entire western and mid-western part of the United States range from the generally serious to the locally drastic. Agricultural crops do not get to their markets, for there aren't enough freight cars to move them there. Manufactured goods go into storage awaiting freight cars to move them to their markets.

Forest products are of particular concern to me, for the economy of western Washington is based in large part on our forests. Lumber,

plywood, chipboard, fiberboard, paper products—these are our mainstays, and they are physically bulky. They require considerable space for shipping, and considerable space for storage.

And they may be considered semiperishable, in the sense that if they are stored outside long enough the weather affects their value adversely. So when a lumber mill or a plywood mill has produced a certain amount of dimension lumber or plywood, its normal storage capacity becomes exhausted, creating additional problems.

In addition, with no products moving to market, collections fall off, adding to the woes of the companies, particularly the smaller ones.

So the mill shuts down until it can move its products. This means the millworkers are laid off. So are the lumberjacks in the woods. So are the truckdrivers, and all the other people who depend on the mill for their income, directly and indirectly. The effect can be drastic on a town or an area which is almost totally dependent on a mill, as are many in the Northwest.

This is just one small matter here, but just to document this, I would like to quote a letter written by the sales manager for plywood and doors of the Simpson Timber Co., located in western Washington.

The letter was written July 2, 1965, and addressed to Mr. Boyce F. Glenn, Jr., manager, Building Material and Equipment Co., Anderson, S.C. The letter follows:

DEAR MR. GLENN: Your recent letter advising you were deducting extra handling costs incurred due to our carload shipment of fir plywood in a 6-foot single-door boxcar has been reviewed.

It is with reluctance that we issue credit covering these costs that are beyond our control. I think it is only fair to inform you we cannot accept any purchase orders in the future that demand 10-foot or wider equipment. It is our wish to ship all of our products in double door or wider door cars. However, this year we are experiencing the worst car shortage in many years. It has only begun. It will be so much worse later this summer after the grain shipments get underway.

We are asking our customers to write their Congressmen and Representatives to do what they can to alleviate this situation. There are times when our plants do not receive any railroad equipment—even 6-foot single doors—so you can see these plants would be quickly shut down for lack of available inventory space if our customers fail to cooperate with us.

Therefore we must ask our customers to bear with us through this critical period allowing us to ship in the equipment available at time of shipment.

It is signed by Robert H. Fletcher.

So here we have a case of a company which, even though it was lucky enough or effective enough to get a boxcar to ship its products, still was penalized in cash because it wasn't the kind of boxcar that was needed. Nevertheless, the company considered itself fortunate to have any boxcar at all.

A report in the June 1, 1965, issue of the Wall Street Journal indicates another aspect which is of at least as deep concern to me as a member of the House Committee on Armed Services, and that is that the boxcar shortage can have an adverse effect on our defense efforts. Ammunition destined for Vietnam has been delayed because of the scarcity of freight cars, according to the Journal article.

What can be done to alleviate this situation? Since more freight cars are most seriously needed, and since they are not being produced because of the low rental rates, a step in the solution of this problem

would be the adjustment of the rental rates so it becomes more attractive to a railroad to own boxcars than to rent them.

This is precisely what the legislation now before the committee is designed to do. I most earnestly support this legislation, hope the committee will give it favorable consideration.

Now earlier in here, I said that the cause of the growing shortage of freight cars is simple enough. More cars are wearing out than are being built, and the cause of that is simple enough, too. It is cheaper for railroads to rent a boxcar than to build one under present conditions.

Apparently it is not quite that simple from the statement made by Mr. Harris, the chairman. However, as Senator Magnuson pointed out, a step in the right direction, or a step in any direction, may start help to alleviate this situation, and I would certainly urge that this legislation be favorably reported, and since I am not an expert, I won't expect any questions from you gentlemen, and I appreciate the opportunity to appear before the committee.

The CHAIRMAN. Thank you very much, Mr. Hicks, for your presentation.

Our next witness is the Honorable Lloyd Meeds, Member of Congress from the State of Washington. Congressman, it is nice to have you before this committee.

STATEMENT OF HON. LLOYD MEEDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. MEEDS. Thank you, Mr. Chairman and members of the committee. I am grateful for the opportunity to appear before the committee today and testify in favor of H.R. 7165 and similar bills, one of them introduced by myself, designed to help end the railroad freight car shortage and thereby to help bolster our economy.

The legislation before us is a responsible answer to a most serious question: How can we increase the flow of goods when we lack the necessary freight cars to put these goods into the stream of commerce?

Since January of 1956 the number of freight cars has decreased by over 200,000. Since January of 1965, the number of plain boxcars alone has decreased by 22,156. As a result, critical shortages of cars have occurred throughout the United States. This crisis is not regional or sectional.

In the Pacific Northwest we originate more traffic than we terminate. This is particularly true in areas producing forest products. While manufacturers of plywood and other wood products are currently enjoying a boom, the boxcar shortage is threatening to severely depress wages, profits, and employment.

Already six mills in Oregon have shut down. The American Plywood Association estimates that first, its member mills are operating at 98 percent of capacity and, second, that these mills need about 750 cars each day to transport their goods. But they have 650 cars at most. Their products are filling the yards.

The proposed legislation will authorize the Interstate Commerce Commission to prescribe car rental rates that will encourage new car building and that will speed the return of existing cars. Since we do

originate more traffic than we terminate, this will mean that we will have fewer costly delays resulting from having to wait long periods until our cars are returned from the East and South.

But the speedy return of existing cars will only mean that other areas of the United States will be left without cars. That is, unless the carriers build or purchase new cars, we will not adequately meet the problem.

The ICC has said that their first step following passage of this legislation will be to determine what railroads are lacking in what type of cars. In the Pacific Northwest there is a critical shortage of wide-door cars.

Plywood is manufactured in large sheets, and it can be loaded economically only if it is loaded by forklift into cars with 8-foot doors. Loading through a 6-foot door is a very expensive process, and the total loading-unloading expense can run as high as \$215 over the expense of normal automatic loading.

Ninety percent of all wood products are shipped by rail. And here we have a dangerous squeeze developing. On one hand, the demand for plywood is rapidly growing. On the other hand, the number of usable cars is decreasing. Serious long-range economic downturn will result unless we take action.

It is clear that the present per diem rates only encourage hoarding and depress profits of our leading industries. Better circulation of cars will not alone solve this problem. American industry needs more cars, not less. The ICC should have the authority to establish incentive rates. I strongly urge the committee to approve this legislation.

Mr. Chairman, I feel that the bills which we are considering today are a responsible answer to a very serious and complex problem. Since January of 1956, the boxcars in this country have decreased by over 200,000, and again, even this year, we find a decrease, although it is not as bad as it has been.

I, too, originally entered this matter on a provincial basis, thinking that the Pacific Northwest was the sole recipient of this problem, but upon a little more thorough investigation, determined that it is not just a problem for the Pacific Northwest or the West, or the Midwest, but it is a national problem, which must be met by some responsible legislation.

Like Mr. Hicks, I am sure that I can speak with some authority about the problems of the timber products industry in the State of Washington. We have the unique situation in our area of originating about four times, between three and four times as much goods as we take off the line. This, of course, makes our problem more serious with regard to the shortage.

We have at the present time in the State of Oregon, six plywood mills which are closed down at this very time, today, because of a shortage of boxcars. I have a telegram this morning from a very responsible and respected plywood organization in my district, in Anacortes, Wash., in which, and I will just quote part of it, the manager tells me that:

Many days, only a third of the required cars are available.

This problem, gentlemen of the committee, is particularly depressing at a time when our plywood industry is operating and able to sell its products at almost full capacity, but when they need a total of 750 cars per day, and only have 650 available, you can see the depressing effect upon their ability to compete in a very competitive market.

The bill which we are considering today, or the bills which we are considering today, I think will have a dual effect. One, they will speed the return of cars which are being hoarded in some instances, and two, the bills will provide an impetus for the building of more cars. Certainly, either one of these, standing alone, would not be sufficient, but I sincerely feel that the legislation will have this dual effect.

The Interstate Commerce Commission has assured us that upon the passage of this legislation, they would make a thorough investigation to determine the problems which will be involved, and none of us here, certainly want to mitigate the seriousness of this problem to the railroads, either.

While it has been called a sectional problem, it is obviously a serious problem in which many factors have to be considered. It is my feeling that the Senate amendment, or the amendment which was added in the Senate, will help clarify this problem, will help the Interstate Commerce Commission in their investigation to give the correct weight to the problems which some of the eastern railroads have, and in this way, I think enable this legislation to better serve all of us.

I would like to speak also, particularly with regard to the matter of the type of cars which are available. We have, as Mr. Hicks pointed out, a situation in which plywood, and this, incidentally, gentlemen, is no longer specifically a Pacific Northwest or a Northwest problem. Certainly the Southern States are experiencing the same situation now with the increased plywood industry in their areas.

We have the problem of needing wide-door cars for the efficient loading and unloading of this product, and it is costing in some instances as much as \$215 to \$290 more per car to load and unload a 6-foot door car than it does an 8-foot door car.

Fortunately, most of the new cars being built are 8-foot door cars.

I feel that the better circulation of the cars which are presently in operation and the increased impetus to build new cars provided by this bill will be a step in the right direction, and I strongly urge the committee to approve this legislation.

The CHAIRMAN. Thank you, Mr. Meeds.

Are there any questions of the Congressman?

If not, thank you very much for your contribution.

Mr. MEEDS. Thank you.

Mr. HICKS. Mr. Chairman, could I interject for a moment? I had a call from the director of the port of Seattle, and they have sent a letter in here, and they asked that this letter be included in the record, and I spoke to one of the staff members, and it hasn't been found.

The CHAIRMAN. Without objection, it will be included in the record at this point.

(The document referred to follows:)

PORT OF SEATTLE,
Seattle, Wash., September 24, 1965.

HON. OREN HARRIS,
Chairman, House of Representatives,
Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: We desire to call to your attention the desirability of scheduling action on H.R. 9272 before the present session of Congress adjourns.

There is positive need for long-range planning in the replacement of railroad cars for the orderly transport and marketing of the West's basic raw materials.

Your early action is again requested on the above resolution.

Yours very truly,

J. ELDON OPHEIM, *General Manager.*

Mr. CUNNINGHAM. As you know I favor this legislation and have introduced a companion bill. I also have a letter from the Nebraska Grain & Feed Dealers Association, for the legislation, which I would like to put in the record.

The CHAIRMAN. Without objection, it will be included, and will be received subject to the rules of the committee, and if appropriate, will be included in the record at the appropriate place.

(The document referred to follows:)

NEBRASKA GRAIN & FEED DEALERS ASSOCIATION,
Lincoln, Nebr., October 1, 1965.

Congressman OREN HARRIS,
Chairman, Commerce Committee,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: This association is composed of 850 members who are country elevators, terminal and subterminal elevators and feed manufacturers. This is about 90 percent of the industry in Nebraska. We are served by two major railroads in our grain-producing areas, namely, the Union Pacific and the C.B. & Q. Railroads. Nebraska is an important grain and livestock producing state. We are now entering the harvest season on corn and grain sorghums. We are at the present time, according to the two above-mentioned railroads, 4,500 boxcars short in meeting demand. As harvest continues on a grain sorghum crop that will exceed 147 million bushels, the demand for cars will increase for some time to come.

During the past number of years, it has been necessary that this crop be piled on the ground which requires that it be handled twice before it reaches market. This is expensive and wasteful. In 1965 this will become more of a problem than normal because of the wet condition of the grain and the excessive rainfall during the summer growing season and particularly during the month of September.

Anything that can be done to insure that western railroads can operate with more nearly 100 percent of ownership of cars would be helpful. This might be done by an increase in per diem during times of need. This has been suggested, and we endorse the legislation introduced and passed by the U.S. Senate in S. 1098 to amend the interstate Commerce Act to insure the adequacy of the national boxcar supply and to insure better distribution of cars owned by specific railroads.

Another problem that enters the discussion immediately is the inadequacy of the supply of boxcars. According to figures the supply of boxcars in 1925 was 2,357,000 cars and at the end of 1964 there were 1,492,000 cars, yet freight hauled has gone up 60 percent over 1925. This has been accomplished by two things, namely, bigger capacity cars and faster schedules. There is, however, a limit to both of these factors.

We would like to suggest again that the Congress of the United States consider giving the railroads an incentive to build and own box cars. This could be accomplished by a fast tax depreciation schedule for a number of years on new cars. This would make it possible for the railroads to obtain sufficient capital to replenish the supply of cars in a short period of time. This, in our opinion, would do more to remedy this critical transportation problem than any one other solution.

We sincerely suggest that your committee consider and act favorably on legislation which will promote better distribution of cars, encourage the ownership of cars, and encourage more efficient use of existing cars.

We would like to thank you for the opportunity of expressing our opinion.
Yours, very truly,

HOWARD W. ELM, *Executive Secretary.*

The CHAIRMAN. The next witness is our colleague from Montana, the Honorable Arnold Olsen. Mr. Olsen, we will be glad to hear you at this time.

STATEMENT OF HON. ARNOLD OLSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MONTANA

Mr. OLSEN. Mr. Chairman, I wish to express my support for the freight car shortage bills, H.R. 7165, H.R. 425, and similar bills.

As I have stated before, it is of utmost urgency that the Interstate and Foreign Commerce Committee report out and the Congress pass the bill which would alleviate the dangerous and economically depressing freight car shortage which exists in the country today.

I will not repeat at length the facts which the Interstate and Foreign Commerce Committee has heard over and over again by representatives of the farming, lumber, mining, and railroad industries. These, in brief, are the summation of complaints as they have been presented to me:

1. No matter what the productivity and output of the farming, lumber, and mining industries, no income is received if this output is not transported to markets and to the consumers. Over the years the number of boxcars in use has fallen such that this fact alone would make it more difficult to transport the greatly increased output of these industries to the markets.

2. Compounding this shortage, existing legislation permits railroads to hold and use cars which they did not build and do not own for a minimal rent which makes it much cheaper to keep cars from other roads than it is to build new cars. Thus, a western railroad which has a drastic car shortage will not spend upward of \$15,000 to build a new car when this car will become the rental property of some other railroad at a ridiculously low price of \$2 per day.

3. For these reasons, over the past 10 years the Nation has lost an average of 20,000 boxcars per year. The result is only too obviously disastrous for commerce. This shortage affects coal miners in Appalachia, grain producers in the Midwest, lumber mills on the Pacific coast, and all these industries in Montana. Plywood mills say they must close in certain heavily affected areas. Wholesale and retail trade is seriously curtailed in all geographical areas which depend upon these industries. In Montana these are the major industries, and all are affected by this blight. The effect on wages, profits, and employment on all trades and businesses in the affected areas is evident. This legislation is clearly in the national interest.

This legislation would make the advantages of boxcar ownership more attractive in the interest of encouraging carriers to make a just and equitable contribution to the national car fleet. The Interstate Commerce Commission would be empowered to adjust per diem rates on boxcar rentals to give economic incentive to purchase cars to those

railroads who now find it cheaper to keep cars from other railroads and pay a low per diem charge.

I wholeheartedly support this legislation and again urge the committee to approve this bill this session.

The CHAIRMAN. We appreciate your testimony, Mr. Olsen.

Mr. OLSEN. Thank you for the opportunity, Mr. Chairman.

The CHAIRMAN. We will now hear from the Honorable James Battin.

STATEMENT OF HON. JAMES F. BATTIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MONTANA

Mr. BATTIN. Mr. Chairman, for many years, Montana wheat producers have suffered severe economic consequences resulting from boxcar shortages when cars were most needed.

Inability to ship wheat when it must be shipped has been very costly and has caused great inconvenience in normal grain marketing channels. A particularly ominous development in recent years, however, has been the increased severity of the car shortages. And they are no longer confined to the wheat harvesting season.

A commonsense approach to the problem of getting more freight cars is contained in H. R. 7165 and 18 identical bills introduced during this session. These bills provide logical incentive for railroads to acquire more cars and in an orderly way.

I concur with the philosophy of H. R. 7165 and other bills: That if freight car ownership is made financially attractive the railroads will build or acquire more cars. Not all railroads may choose to do so for some may not be financially able. But most railroads will choose to do so because freight cars will have become a sensible investment to make by railroad officers charged with such decisions.

In short, these bills introduce the infallible logic of supply and demand. When a demand exists for a product, service—or a railroad freight car—the market will meet this demand provided it can be done so profitably.

That is what these bills will do and I strongly support them in the interests of all shippers, farmers, and businessmen in Montana.

The CHAIRMAN. Thank you, Mr. Battin.

Our next witness is Congressman Mize. You may proceed as you wish Mr. Mize.

STATEMENT OF HON. CHESTER MIZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. MIZE. Mr. Chairman, members of the Interstate and Foreign Commerce Committee, thank you for this opportunity to testify in behalf of the legislation I have introduced, H. R. 5875, dealing with the problem of the railroad freight car shortage.

As a businessman in the Midwest, I have been particularly aware of this problem for a long time. I know what it means not to have enough boxcars to transport the Kansas wheat crop at harvest time. I've seen ton upon ton of valuable grain piled upon the ground along the railroad sidings waiting for shipment which had to be delayed weeks and months until enough freight cars could be made available.

When freight cars were diverted to take care of the grain harvest, other lines of business suffered because their shipments were held up due to lack of adequate shipping space.

The acute problems we have had in the Midwest have now become nationwide. This shortage is no longer peculiar to the Midwest and the far West. The South and the East have begun to feel the pinch. They know what it means to have vital commerce delayed. The universality of the problem is one of the reasons we are getting attention at this time.

When I came to Congress, I was obligated to carry on the fight for corrective measures which had been waged for years by my predecessors. I've studied the hearings and I've seen the volumes of testimony which have been filed calling attention to the problems and offering solutions which could be brought about through legislative action.

I would be remiss if I did not recognize the leadership which Kansas legislators of both political persuasions have taken in the annual battle to get Congress to move in adopting legislation which would get to the crux of this problem. I am particularly cognizant of what Gov. Bill Avery did when he represented the Second District of Kansas. Senator James Pearson, of Kansas, conducted hearings in the Midwest this year and has been recognized by his colleagues in the Senate Commerce Committee for the contribution which he made by making it possible for many people to testify who could not otherwise have come to Washington.

Gentlemen, the arguments for legislative action have been made time and time again. I can only emphasize the validity of these arguments in calling for action on the legislation you have before you. To all of these, permit me to add the impelling urgency of the moment. We are where everyone close to this problem predicted we would be—smack in the middle of the worst freight car shortage in history. Something must be done.

A bill, S. 1098, has passed the Senate. It carries incentive amendments which should be included. There are some particular problems with respect to the terminal lines which must be recognized. We also must take into account those railroads which are doing a good job in maintaining an adequate fleet of freight cars. The Interstate Commerce Commission can take these items into consideration in setting realistic rates for freight car rental. If the Commission continues on the variable rental fee basis, we should see more improvement, although it is admitted there is not much evidence that the variable rates are the whole answer. It could be that they are still too low, and many lines are still finding it more economical to rent cars and not return them than to build them and own them outright.

At any rate, we should give the Interstate Commerce Commission the green light so that the necessary rate adjustments can be made and we can start working ourselves out of this perennial crisis.

I respectfully urge adoption of the language of the legislation I have introduced, H.R. 5875, plus the committee amendments to S. 1098 which were approved by the Senate. It is obvious that the national interest will be served when we have an adequate supply of freight cars, not only to move all of the goods which flow in peacetime com-

merce, but to take care of the extra demands which are made whenever a cold war front heats up.

Thank you.

The CHAIRMAN. Are there any questions? If not, we thank you for your testimony, Mr. Mize. Next to be heard will be Congressman Bob Dole. Welcome to the committee Mr. Dole.

STATEMENT OF HON. BOB DOLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. DOLE. Mr. Chairman and members of the committee, I appreciate this opportunity to present my views on pending legislation concerning the shortage of railway freight cars throughout the Nation.

The supply of serviceable boxcars has been declining yearly at an alarming rate, and the situation with respect to the reasonable movement of grain in western Kansas, as well as the entire Great Plains area, is becoming more acute each year.

As a member of the House Committee on Agriculture who represents one of the greatest Winter wheat and grain sorghum producing areas in the United States, I am perhaps more keenly aware of the impact of the car shortage than if the economy of my district were not basically agricultural. For the past 15 years or more, each time wheat harvest approached, there has been an inadequate supply of boxcars to meet the requirements of farmers and grain shippers. There have been times when it has become necessary to pile thousands of bushels of harvested wheat and milo on the ground along railroad sidings or even in the main streets of towns, causing severe losses to producers and shippers. At this time, the milo harvest is commencing, and I have received numerous calls from grain handlers in recent days asking for cars to move grain in storage to make room for the new milo crop. Officials of railroads serving the Great Plains area, as well as those of the appropriate Federal agencies, have always been most cooperative in helping to alleviate these situations as they have arisen, but such relief as was forthcoming has been only of a temporary nature.

One factor which seems to complicate this situation is that many of the railroads find it cheaper to rent another's boxcars than to replace their own. This practice, resulting in hundreds of cars being concentrated in other areas of the country at a time when they were needed to move grain, appears to have been one of the conditions having the most serious impact. To help overcome this situation, the variable basis of per diem charges as proposed in the Senate-passed bill, S. 1098, would go far in my opinion, but a permanent solution can be found only by insuring the total boxcar supply is increased.

My colleague from Kansas, the Honorable Chester Mize, and others, have bills pending which are designed to encourage increased car ownership. This, I submit, is the solution, for if the supply is not increased our problems can only be expected to become more critical as time goes on.

It is my hope that due to the urgency involved, early congressional action will be taken bringing an end to this nagging problem.

Thank you.

The CHAIRMAN. Thank you, Mr. Dole. Now, if there are no questions we will hear from another colleague, the Honorable Teno Roncalio. You may proceed Mr. Roncalio.

**STATEMENT OF HON. TENO RONCALIO, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF WYOMING**

Mr. RONCALIO. Mr. Chairman, the chief objective of H.R. 4543 is to insure the adequacy of railroad freight cars to meet the needs of commerce. The need is genuine, based on the decline of the U.S. rail car fleet. At the end of 1964, the fleet totaled 1,492,000 cars, down from the 1,512,000 total of a year earlier.

There are two reasons for this decline: A high retirement rate on old cars too far deteriorated to be worth repair; and low rental rates railroads pay each other for use of cars, making it cheaper to rent old cars than produce new ones.

In essence, my bill will provide that the Interstate Commerce Commission in fixing the compensation to be paid by one railroad to another for the use of freight cars—per diem—a basic power which the ICC has long held—shall consider the adequacy of the national car fleet, and prescribe such car rental charges as will “encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.”

The bill also states other objectives, “sound car service practices,” and “reasonable compensation to freight car owners.” It states that the ICC may consider “value of use” of freight cars, as well as ownership expense. But its basic thrust is an effort to get more freight cars by providing incentives for increased car ownership through operation of economic laws and the profit motive. It would also contribute to sound car service practices by promoting more expeditious movement of existing equipment.

Supporters of this legislation believe that the now almost continuous freight car shortage is due to the simple fact that, for generations, freight cars have been an unattractive investment—because of the low rental charges which have been available to the user of cars owned by other railroads.

They think that if the ICC will put some profit into car ownership, more freight cars will be bought and built. They also think existing equipment will move more quickly, because that is the only way the renter can reduce the per diem charges he must pay while a car, owned by another railroad, is in his possession.

From the viewpoint of labor generally, the bill would be helpful, because under present conditions, large industrial plants, grain elevators, et cetera, are frequently compelled to shut down for lack of freight cars, and this has an immediate adverse effect upon pay-rolls.

It would seem vitally important to railroad labor for several reasons. In the first place, freight car shortages have diverted large quantities of traffic to other forms of transport, with a consequent reduction in the need for railroad workers. If the car supply can be increased by enactment of the bill, railroads will be enabled to handle more traffic, with consequent need for more workers.

It is a certainty that enactment of this legislation would be beneficial to all industrial labor; particularly to railroad labor, and still more beneficial to those railroad crafts engaged in construction, repair, or rehabilitation of freight equipment.

Mr. Chairman, I respectfully submit that passage of H.R. 4543 will bring about an increase in the national freight car fleet—an objective beneficial to the whole economy.

The CHAIRMAN. Thank you, Mr. Roncalio. We will now hear from Congressman Karth in support of his bill, H.R. 4172.

STATEMENT OF HON. JOSEPH E. KARTH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. KARTH. The recurring national freight car shortage has been allowed to get progressively worse in the last two decades because of a per diem rate structure which makes it more profitable for many railroads to "rent" foreign cars than to build and maintain their own fleets.

Efforts by the Interstate Commerce Commission to establish realistic per diem charges have been made ineffective by the resort by some railroads to a Federal District Court decision in the case *Palmer v. United States* (75 F. Supp. 63 (1947)), which strikes down the Commission's authority to use other criteria than "bare bones" construction costs in setting per diem charges. Congress has been made aware of the need for specific corrective legislative action which will make it possible for the ICC to set a realistic per diem rate structure and will encourage railroads to rebuild depleted freight car fleets. I certainly hope that at long last in this 89th Congress we will enact such legislation before the freight car supply which has worsened since 1945 reaches crisis stage, perhaps during some national emergency.

I am advised by one western railroad that during August 1965 there were 49 blocked elevators on its lines in Minnesota. During that month there was also, in Minnesota, grain on the ground amounting to as much as 190,000 bushels because boxcars were not available. On August 1, 1965, this railroad had only 77.3 percent of its boxcar ownership on line and was by the end of the month to get only 90.2 percent of ownership, notwithstanding AAR car service orders. There were many complaints from local elevators during August because this railroad was unable to provide necessary boxcars.

This example could be multiplied manifold in the Midwest this summer and fall. It is a real tragedy that Congress did not intervene in this situation years ago to help farmers, business, industry and labor to move more efficiently and speedily the products of this Nation's fields, factories, and enterprises and to assure adequately our national defense needs.

I hope the House Committee on Interstate and Foreign Commerce will adopt the language of H.R. 4172 and will reject S. 1098 as amended by the Senate Committee on Commerce. In my opinion the Senate committee amendment not only destroys the effectiveness of the original bill but also unnecessarily complicates its application by introducing additional vague criteria which the Commission must also consider in determining freight car value.

In one particular respect I believe the language of the Senate amendment would negate the objectives of this legislation. I refer to the power given to the Commission in the Senate committee amendment to make fair value determinations inapplicable—

to carriers which terminate a substantially higher percentage of interline traffic than they originate.

One of the factors which has contributed to the freight car supply problem is that terminating railroads unfairly hold and use foreign cars. I point specifically to that portion of the Department of Commerce comment on page 13 of Senate Report No. 386 which reads:

But terminating roads frequently find it advantageous to retain foreign cars and to minimize their ownership. Particularly when the revenue per loaded car-day exceeds the per diem rental and traffic is active.

If Congress is really serious about ending the chronic freight car shortage (and I believe we must be to preserve the unprecedented forward thrust of our economy and to provide for our national defense), your committee ought speedily to approve legislation similar to H.R. 4172, without the Senate committee amendment.

The CHAIRMAN. Thank you, Mr. Karth. We have several more of our colleagues and sponsors of similar bills to hear from, so we will move right along now and hear the Honorable Al Ullman.

STATEMENT OF HON. AL ULLMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. ULLMAN. Mr. Chairman and members of the committee, first, I wish to thank the distinguished chairman and members of the committee for the opportunity to present my views on a matter of great and continuing concern to many parts of the Nation. I welcome the chance to urge the committee's approval of the measures proposed in my bill, H.R. 6432, and in the Senate-passed S. 1098, to amend the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply.

It is a paradox that in these times of growing national productivity, in a period of unprecedented economic expansion, that the wheels of industry and commerce are permitted to slow or grind to a halt—for lack of markets, not for lack of raw materials, not for a shortage of skilled labor—but simply because freight cars are not available to assure continuous flow of the Nation's commodities to market. This Congress has, in recent years, demonstrated a major concern with elements of our economy that served as a brake on economic expansion. We have reduced income taxes, eliminated excise taxes, revised depreciation schedules, introduced the investment tax credit, and have taken many other constructive steps—many of which originated in this committee—to help assure that the elements of a strong free-enterprise economy are able to work to the Nation's benefit. It must be recognized, however, that since 1945—in a period during which national productivity has expanded greatly—the number of railroad freight cars has declined by 15 percent.

Some argue that the decline in freight cars since World War II reflects a declining level of carloadings. I am inclined to think that just the opposite might be true. An article in the Wall Street Journal of June 1, 1965, characterizes the rail car shortage as follows:

But the shortage, in the main, is a consequence of the biggest peacetime business boom in the Nation's history. The railroads simply have been unable—or in some cases unwilling—to add new cars to their fleets at a fast-enough pace to meet rising demand from shippers.

This suggests, does it not, that carloadings may be down because a sufficient number of freight cars of the type required by today's businesses and industries have simply not been available. When lumber mills and plywood plants in my State of Oregon have to shut

down for several days or a week because they are unable to ship from existing inventories, when grain-terminal employees are laid off at the height of the grain shipping season, when desperate appeals to several railroads for rolling stock to meet immediate shipping needs fail to turn up even a fraction of the requirements, the reality of the Nation's freight-car shortage cannot be denied.

The Interstate Commerce Commission has repeatedly recognized this reality, and has issued orders, within the limits of present authority, to encourage more efficient distribution of existing freight-car stocks. The only effective solution, however, is to reverse the steady attrition and deterioration of the Nation's boxcar supply.

The primary cause of this deterioration, in my opinion, is the per diem rental structure which governs their use. Because the average daily earning of a freight car greatly exceeds the per diem rental charge, operators—particularly those in terminal areas for incoming shipments—have found it "good business" to hold and use this equipment at their own discretion. This creates a continual hardship on the railroads that invest in specialized rolling stock particularly suited for originating shipments in their areas of operation. They are not only deprived of the use of this equipment when needed, but often are unable to acquire the use of older or inferior equipment.

This happens year in and year out in Oregon's lumber and plywood industry, where special wide-door cars are needed to facilitate loading and unloading of these bulky commodities. These cars, instead, wind up doing general duty throughout the country at the discretion of lines that have no interest in the requirements of other areas. Oregon shippers must have assurances of an adequate freight car supply for marketing the State's lumber, agricultural, and industrial products. The alarming decline in the number of freight cars must be reversed. Per diem rates must encourage the efficient use of all available equipment.

Mr. Chairman and members of the committee, to remedy the inequities that are working at odds with our national goal of increased productivity and efficiency in distribution of the Nation's commodities, I urge your approval of legislation to allow the Interstate Commerce Commission to establish a system of freight car per diem rates which will facilitate the acquisition, maintenance, and efficiency of a freight car fleet to meet the needs of America's commerce. In my judgment, the legislation under consideration here today will help to achieve that goal.

The CHAIRMAN. Thank you, Mr. Ullman.

Mr. ULLMAN. Thank you for the opportunity, Mr. Chairman.

The CHAIRMAN. Next we will hear from Congressman Wyatt.

STATEMENT OF HON. WENDELL WYATT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WYATT. Mr. Chairman, I wish to express to you and the distinguished members of your committee my deep appreciation to you for conducting these hearings and affording me the opportunity to testify. The subject you are considering today is one of the most important pieces of proposed transportation legislation to come before Congress. Its provisions offer the basis for effective action in decreasing railroad car shortages and alleviation of the repeated paralytic effects of such shortages on the economy of many areas of our country.

One such area is Oregon where inadequate car supply again threatens shutdowns of our mills and other industries associated with production and marketing of forest products. Producers of other products in Oregon have also suffered the effects of car shortage.

I believe it has been well confirmed, as noted in the Senate committee report of S. 1098 this year and S. 1063 last session, that the per diem rate is so low as to make it cheaper for certain railroads to rent cars of others than to acquire cars of their own. This circumstance, of course, contributes not only to inadequate ownership but delays return of cars to areas such as Oregon, whose serving carriers are attempting to maintain high levels of car ownership. It is the economic element of the deficient per diem charge which S. 1098 deals with as a tool in achieving its objective of insuring the adequacy of a national freight car supply.

Oregon feels the effects of shortages early, it feels them long, it feels them hard and recently it has been feeling them continuously. My State is primarily a producer and manufacturer of products much of which must be marketed in areas far removed from Oregon. If its economy is to be unimpaired and competitive it must be able to market those products in accordance with production and order schedules. We have the raw material resources, we have the production plants and personnel, we have developed markets for our products, and we have the orders for eastern delivery, but the one vital link, that of an adequate, reliable supply of rail cars to get our produce to market continually breaks or only half holds, thus retarding our entire economy.

One of the effects of freight car shortages which is often overlooked but which constitutes a very real threat to our forest products industry is that of customer diversion from use of these products to substitute materials. Oregon's lumber and plywood industry has worked long and hard to gain increasing acceptance of their materials. Yet when they cannot supply the material as it is wanted they face the prospect of increasing customer diversion to use of substitute materials. Such action will result in severe and long lasting damage to our producers and their labor force.

In conclusion, let me point out that every year and every day that goes by in which our shippers receive only a portion of the cars they need not only saps the strength of our economy, but belies the claim of some railroads that they will remedy the situation themselves. They have not done so and we can wait no longer. It is for these reasons that S. 1098 urgently needs to be passed, giving its remedial potential to the Interstate Commerce Commission for effective implementation.

The CHAIRMAN. Thank you, Mr. Wyatt. Out next witness will be the Honorable Rolland Redlin.

STATEMENT OF HON. ROLLAND REDLIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. REDLIN. The fertile plains of North Dakota produce vast tonnages of high-grade wheat which must be marketed in an orderly manner. When normal marketing patterns are disrupted, wheat

farms and all those in North Dakota whose livelihood derives from the growing and marketing of wheat are seriously disadvantaged.

Over the years, as probably every adult American knows, there have been shortages of boxcars during harvest season. In North Dakota, we feel the pinch of the inadequate boxcar supply every year at harvest season. Not infrequently wheat must be piled up on the ground awaiting boxcars to move the crop to market.

During recent years, shortages of boxcars have become more severe and have been experienced at many times of the year. The virtual paralysis to the economy of areas of my State during these severe car shortages cannot be overemphasized.

The reason is simple. Since 1945, the Nation's railroads have retired nearly 300,000 more cars than they have built. This year, the number of serviceable boxcars is down 3,600 from 1964.

The major cause of the shortage is that railroads can rent cars more cheaply than they can build them. As we all know, railroads are required to permit other railroad lines to transport their cars, in order to allow a free flow of commerce from coast to coast.

Mr. Chairman, North Dakotans are in agreement on the need for relief to this growing problem of freight car shortages.

H.R. 7165 is one of some 19 bills now before Congress that provide a logical solution to the problem. This bill would appoint the Interstate Commerce Commission an impartial arbiter of the question of daily freight car rentals. This is the heart of the problem. If the car rental rate is high enough to produce a profit to its owner, more cars will be built, because it will be good business for the roads to own cars. When car rentals are too low to produce a profit to the owner, fewer cars will be built because it will be attractive for many railroads to rent the cars of others at less cost than building new ones. Basically, this is a difference of opinion between railroads which load far more cars than they unload, and railroads which unload far more cars than they load.

Those railroads which unload more cars than they load have at their disposal all the cars they can use, even in times of great shortage in other parts of the country—and North Dakota is invariably one of these car-short areas. Naturally, with all the cars they can use always on their lines, these terminating railroads want to be able to rent these cars for as little as possible. More specifically, they want to rent cars owned by other railroads as cheaply as possible. It is even cheaper for them, when car rental rates are low, to allow their own cars that need repairs to rust on sidings while renting the better cars of other lines. This fact has contributed greatly to the car shortage crisis.

The time is here to end this unreal and unfair situation. Since the railroads cannot agree on a scale of daily car rentals that will provide enough freight cars, let us give this job to the Interstate Commerce Commission, which has no ax to grind other than the interests of most Americans in obtaining sufficient freight cars.

I strongly support H.R. 7166 or any other identical bill.

The CHAIRMAN. Now our next witness is the Honorable Charles A. Webb, Chairman of the Interstate Commerce Commission.

Mr. Chairman, it is nice to have you before the committee again.

STATEMENT OF HON. CHARLES A. WEBB, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY ROBERT P. PFAHLER, DIRECTOR, BUREAU OF SAFETY AND SERVICE, INTERSTATE COMMERCE COMMISSION

Mr. WEBB. Thank you, Mr. Chairman, members of the committee. I would like to ask Mr. Robert P. Pfahler, who is the Director of our Bureau of Safety and Service, to sit at the table with me, and also I would like to announce for the record that Commissioner Goff, Commissioner Brown, and Commissioner Deason are attending the hearing this morning.

I appreciate this opportunity to testify on H.R. 7165, which, as has been indicated, would implement the legislative recommendation that we have made to the Congress, extending back over the past 10 years.

The purpose of this bill is to grant the Interstate Commerce Commission authority to prescribe per diem charges for the use of railroad freight cars on a basis that will encourage railroads to acquire and maintain their fair share of freight cars required to meet the needs of commerce and the national defense.

Although many factors contribute to freight car shortages, the two principal causes are inadequate car ownership and the failure to utilize existing equipment efficiently.

The diminishing supply of railroad freight cars and the efficient utilization of the remaining fleet have been of major concern to the Commission for many years.

To cope with the problem, railroad management voluntarily established car service rules to promote prompt handling, movement, and return of freight cars.

For many years those rules and their accompanying per diem schedules have provided the best plan that railroad management has been able to devise for efficient car utilization. But, an inherent weakness in the car service rules is the lack of sanctions for their enforcement. At times there has been widespread disregard of the rules.

As was indicated in Congressman Younger's question to Senator Magnuson, there has been an increase in the average capacity per car. However, this increase in average capacity has not offset the total loss in capacity resulting from the reduction in the number of cars.

As of January 1, 1956, the total carrying capacity of all cars owned by class I railroads was 91 million tons. By January 1, 1965, this total had been reduced to 87 million tons.

Between January 1956 and January 1965, the number of freight cars declined from 1,774,614 to 1,550,447, a decrease of over 200,000 cars.

As a result, critical shortages of varying duration and severity have occurred in every producing area of the country, and, as has been indicated by previous witnesses, this is no longer a regional or a sectional problem.

During these periods when critical shortages have occurred, the Commission has resorted to every means it has at its command to cope with the problem. Increased demurrage charges have helped

to insure prompt loading and unloading, insofar as shippers and receivers are concerned. These charges, of course, do not apply to the handling of cars by carriers.

We have attempted to alleviate the impact of car shortages through the issuance of service orders. Car service orders have been issued requiring the prompt handling of cars by carriers, prescribing the return of certain cars to owning lines, restricting the loading of certain cars to specified areas, and prohibiting the circuitous routing of traffic.

Just last Friday, for example, the Commission issued service order No. 968, which became effective yesterday, October 4, 1965. This order requires plain boxcars which are at least 50 feet long, as well as those cars which are at least 40 feet long with side doors 8 feet or wider, to be returned promptly to owning roads or in the direction of owning roads.

In addition, we issued orders yesterday, to become effective on Thursday, which require particular railroads to turn over a specified number of empty cars to other railroads serving areas where the shortage is most acute.

This is an example of robbing Peter to pay Paul; although Peter is needy, Paul's needs are the greater.

In short, our existing authority enables us to engage in a sort of share-the-poverty program, and we are asking for this authority in the hope that we will be able to get the railroads in a position where they can share an abundance of the freight car equipment.

During the past 15 years, the divergent views of railroads as to the proper charges to be paid each other for the use of freight cars have culminated in proceedings before the Commission.

The charges paid by one railroad to another for the time it has the other's car on its line are established by vote of the members of an agreement approved pursuant to section 5a of the Interstate Commerce Act and administered generally by the Association of American Railroads.

A number of railroads are of the view that the per diem charges promulgated since 1953 have been unreasonably high, while others contend that they are too low and, as a result, have encouraged delay in the return of cars and contributed to the decline in the total supply of cars in interchange service.

The problem is complicated by the inherent conflict that exists between the two highly desirable objectives:

1. The prompt return of cars from major terminating areas to major originating areas, and
2. Return loading to make the most economical and efficient use of freight cars.

Delays necessary to return a car with a revenue-producing load frequently are preferable to extensive crosshauling of empty cars. However, any undue delay or failure to comply with rules for return of cars naturally would aggravate the car shortage problem.

Car service rules of the Association of American Railroads are designed to promote efficient use of cars. They prohibit a terminating carrier from loading its own car for an off-line movement if it has

available a car of another carrier which can be loaded for movement back to the owning line.

An increase in the supply of cars owned by railroads which terminate substantially more traffic than they originate would not necessarily improve the car supply situation since the ability of such carriers to load their own cars in interchange service is limited.

The Commission believes that in view of the recurring critical shortages of freight cars, it is imperative that ownership of such equipment be increased, and that it be maintained at a level capable not only of meeting the needs of the shipping public during normal times but at the same time providing a reasonably adequate supply during periods of emergency.

It is extremely difficult to determine whether the number of cars owned by a particular carrier represents a fair and equitable contribution to the total number required for a reasonably adequate national supply.

In general, however, it would seem that each railroad should own freight cars of various types which, together with foreign cars used in strict accordance with car service rules, are sufficient in number to protect the loadings it originates. This does not mean, I hasten to add, that we prejudge any car ownership formula or obligation that may be proposed in proceedings before the Commission.

The earning value of freight cars generally exceeds the current per diem charges, which today range from \$2.16 to \$12.18, depending on the value of the car.

The largest number of cars, 649,883, is in group 2, valued at \$1,001 to \$5,000 and having a per diem rate of \$2.79. Before the sliding scale based on value was established, the standard rate was \$2.88. The next largest group of cars, 377,385, is group 3.

These are relatively new cars, valued at \$5,001 to \$10,000 and carry a per diem rate of \$3.58. The first value group has 348,756 cars. Cars in this group are valued at less than \$1,001 and they carry a per diem rate of \$2.16.

Some carriers find it more attractive to pay the car rental charge than to own cars. Carriers in this position obviously have no economic incentive to purchase the cars necessary to enable them to provide their fair share of an adequate car supply.

We believe that the Commission should be authorized to make the advantages of ownership more attractive in the interest of encouraging carriers to make a just and equitable contribution to the national car fleet.

The Commission at one time attempted to increase car ownership by the imposition of per diem charges designed to encourage such ownership by the railroads—increased per diem charges on freight cars, 268 I.C.C. 659 (1947). However, in *Palmer v. United States*, 75 F. Supp. 63 (1947), a three-judge district court set aside the Commission's order on the ground that the Commission could not prescribe per diem charges for regulatory purposes.

Although the legal implications on the *Palmer* case decided in 1947, are not entirely clear, the decision reasonably may be construed as precluding the Commission from prescribing per diem which would

not only produce a fair return on investment, but would also provide an added incentive for car ownership, recognize the value of the use of freight cars, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and of the national defense.

Accordingly, we believe that the Commission should be clearly authorized to establish per diem charges at a level or levels that would make ownership of equipment more attractive. The Commission should not be prevented from fixing per diem charges which would, in the language of the bills under consideration: "* * * provide just and reasonable compensation to freight car owners, contribute to sound car service practices and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

It should be emphasized that large net per diem debits do not necessarily indicate that the debtors are deficient in car ownership. Some railroads which supply great numbers of cars to the interchange fleet are net per diem debtors.

Other railroads terminate so much more traffic than they originate that they would be substantial net per diem debtors even if they owned more cars than they needed.

Conversely, it is conceivable that railroads which consistently show net per diem credits may not own enough freight cars of a particular type.

We recognize that an indiscriminate increase in the number of freight cars could result in an uneconomic surplus of cars of various types and in wasteful transportation practices. Accordingly, if the proposed legislation were approved, the Commission would exercise extreme caution in setting incentive per diem rates.

In addition, I would like to point out that no sudden change in per diem charges would be effected by the proposed legislation. Section 1(14) of the act, as proposed to be amended, provides for hearings. The Commission's decision, after hearings, would be subject to judicial review.

Hearings would be necessary in any event to determine, among other things, deficiencies by type of cars and by carriers, and the most equitable means of correcting these deficiencies.

A comprehensive study of traffic requirements, including peak loadings, would be necessary. Separate studies would be required for particular types of equipment, such as box, gondola, flat, hopper, refrigerator, and other special types of cars.

In addition, it would be necessary to consider the type and flow of traffic and the extent to which particular carriers are originating, terminating, or bridge lines.

In fixing the compensation to be paid for the use of freight cars, the Commission would have to determine what basis of compensation would provide a fair return on investment to freight car owners, contribute to sound car service practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense.

It would be necessary for us to determine whether the compensation should be computed on the basis of elements of ownership costs involved in owning and maintaining freight cars including a fair return on investment, whether compensation should include an element reflecting the value of use of freight cars, or whether it should be fixed upon some other basis or combination of bases.

It would also be necessary to determine whether to prescribe incentive per diem rates industrywide, or to prescribe separate incentive rates for individual carriers by type of car.

Some of the information required for such a determination is being developed in Ex parte 241. This proceeding was instituted on December 20, 1963, to obtain specific and current information on the adequacy of freight car ownership and to formulate, if possible, more effective rules for the alleviation of car shortages.

Carriers were required to collect and submit statistical data. This information has been filed recently with the Commission.

The Commission is now reviewing this data in an effort to determine the extent of the freight car shortage and will attempt to formulate rules, including car service rules, which will help to alleviate this perennial shortage.

As you know, the language of H.R. 7165 is virtually identical to that of S. 1098, as introduced in the Senate. However, the Senate added an amendment to its bill which empowers the Commission to make the incentive element of any per diem rate applicable:

1. To carriers determined by the Commission as owning an adequate number of freight cars to meet their responsibilities to the needs of commerce and the national defense;
2. To carriers which terminate a substantially higher percentage of interline traffic than they originate;
3. To types of freight cars the supply of which the Commission finds to be in the public interest.

The Commission did not object to the Senate amendment because all the factors specified therein would have been considered under the language of the bill, as introduced, and would be considered, of course, under the language of H.R. 7165.

Should the proposed legislation be enacted, the Commission would move promptly to initiate proceedings to establish per diem rates to accomplish the objectives of the proposed legislation. However, even if the proposed legislation were enacted in this session of the Congress, it would require considerable time for the Commission to hold hearings and to reach a decision.

In addition, there is always the possibility of judicial review. Consequently, incentive per diem rates could probably not be established until late 1966.

For the foregoing reasons, we urge prompt and favorable consideration of H.R. 7165.

For the convenience of the committee, three exhibits are attached to my statement.

Exhibit A indicates the trend in ownership of cars, serviceable and unserviceable, during the past 17 years. Exhibit B indicates the trend in plain and equipped boxcar ownership. Exhibit C indicates the loss in plain serviceable boxcars from 1956 to 1965.

(Exhibits referred to follow:)

EXHIBIT A.—Unserviceable and serviceable freight cars, class I railroads, total freight cars

	Ownership	Gain or loss ¹	Unserviceable	Percent	Serviceable	Gain or loss ¹
Jan. 1, 1947	1,739,930		67,266	3.9	1,672,664	
Jan. 1, 1952	1,751,731	+11,801	90,276	5.2	1,661,455	-11,209
Jan. 1, 1957	1,707,683	-44,048	68,104	4.0	1,639,579	-21,876
Jan. 1, 1962	1,606,696	-100,987	141,128	8.8	1,465,568	-174,011
Jan. 1, 1964	1,515,139	-91,557	103,003	6.8	1,412,136	-53,432
Jan. 1, 1965	1,494,703	-20,436	88,507	5.9	1,406,196	-5,940
BOX CARS						
Jan. 1, 1947	726,069		23,678	3.3	702,391	
Jan. 1, 1952	733,069	+7,000	33,989	4.6	699,080	-3,311
Jan. 1, 1957	725,477	-7,592	28,430	3.9	697,047	-2,033
Jan. 1, 1962	663,762	-61,715	53,714	8.1	610,048	-86,999
Jan. 1, 1964	615,887	-47,875	41,637	6.8	574,250	-35,798
Jan. 1, 1965	596,902	-18,985	36,702	6.2	560,200	-14,050
HOPPER CARS						
Jan. 1, 1947	² 532,694		² 20,640	3.9	² 512,054	
Jan. 1, 1952	552,127	+19,433	31,743	5.7	520,384	+8,330
Jan. 1, 1957	507,619	-44,508	19,150	3.8	488,469	-31,915
Jan. 1, 1962	465,342	-42,277	42,668	9.2	422,674	-65,795
Jan. 1, 1964	434,516	-30,826	26,277	6.0	408,289	-14,385
Jan. 1, 1965	434,234	-282	26,131	6.0	408,103	-186
GONDOLA CARS						
Jan. 1, 1947	328,461		16,196	4.9	312,265	
Jan. 1, 1952	294,027	-34,434	16,179	5.5	277,848	-34,417
Jan. 1, 1957	277,430	-16,597	12,893	4.6	264,537	-13,311
Jan. 1, 1962	256,749	-20,681	33,666	13.1	223,083	-41,454
Jan. 1, 1964	237,127	-19,622	26,463	11.2	210,664	-12,419
Jan. 1, 1965	223,681	-13,446	17,551	7.8	210,235	-429

¹ Gain or loss in relation to previous period.

² Includes covered hoppers.

NATIONAL FREIGHT CAR SHORTAGE

EXHIBIT B.—Plain and equipped boxcar ownership

	Jan. 1, 1956				Jan. 1, 1960				Jan. 1, 1965			
	Owned	b/o	Percent	Service-able	Owned	b/o	Percent	Service-able	Owned	b/o	Percent	Service-able
Eastern district:												
Plain.....	108,347	3,523	3.3	104,824	107,447	13,128	12.2	94,319	69,794	4,905	7.0	64,880
Equipped.....	15,155	1,085	7.2	14,070	12,016	8,902	7.1	13,371	13,371	808	6.0	12,593
Total.....	123,502	4,608	3.7	118,894	120,063	14,020	11.7	106,043	83,165	5,713	6.9	77,472
Allegheny district:												
Plain.....	99,293	5,684	5.7	93,609	92,394	14,826	16.0	77,568	55,720	7,145	12.8	48,575
Equipped.....	8,475	1,190	2.2	8,285	10,758	8,809	7.5	9,049	15,193	6,10	4.0	14,583
Total.....	107,768	5,874	2.4	101,894	103,152	15,635	15.2	87,517	70,913	7,755	10.9	63,158
Peachontas district:												
Plain.....	50,918	1,186	2.3	49,732	51,080	2,959	5.7	48,721	39,198	3,730	9.5	35,468
Equipped.....	5,351	157	2.9	5,194	3,338	122	3.7	3,216	11,963	3,885	3.2	11,578
Total.....	56,269	1,343	2.4	54,926	55,018	3,081	5.6	51,937	51,161	4,115	8.0	47,046
Southern district:												
Plain.....	95,746	2,841	3.0	92,905	96,204	5,585	5.8	90,019	77,481	5,301	6.8	72,180
Equipped.....	2,844	49	1.7	2,795	2,973	60	2.0	2,913	18,062	173	1.0	17,880
Total.....	98,590	2,890	2.9	95,700	99,177	5,645	5.7	93,532	95,543	5,474	5.7	90,060
Total eastern, Allegheny, Peachontas, and southern districts:												
Plain.....	354,304	13,234	3.7	341,070	347,725	36,498	10.5	311,227	242,193	21,081	8.7	221,112
Equipped.....	31,825	1,481	4.7	30,344	29,685	1,883	6.3	27,802	58,589	1,976	3.4	56,613
Total.....	386,129	14,715	3.8	371,414	377,410	38,381	10.2	339,029	300,782	23,057	7.7	277,725
Northwestern district:												
Plain.....	108,945	4,190	3.8	104,755	105,627	3,623	3.4	102,004	97,069	5,093	5.2	91,976
Equipped.....	2,926	392	13.4	2,534	171	2,542	6.7	2,371	4,641	57	1.2	4,584
Total.....	111,871	4,582	4.1	107,289	108,199	3,794	3.5	104,375	101,710	5,150	5.1	96,560
Central western district:												
Plain.....	140,618	3,214	2.3	137,404	142,412	4,248	3.0	138,164	133,481	5,015	3.8	128,466
Equipped.....	14,303	854	6.0	13,449	15,248	668	4.4	14,580	17,198	377	2.2	16,821
Total.....	154,921	4,068	2.6	150,853	157,660	4,916	3.1	152,744	150,679	5,392	3.6	145,287
Southwestern district:												
Plain.....	60,481	1,805	3.0	58,676	59,654	2,774	4.7	56,880	35,970	2,892	8.0	33,078
Equipped.....	3,443	249	7.2	3,194	2,845	208	7.3	2,637	7,260	211	2.8	7,260
Total.....	63,924	2,054	3.2	61,870	62,499	2,982	4.8	59,517	43,431	3,103	7.1	40,338
Total western districts:												
Plain.....	310,044	9,209	3.0	300,835	307,693	10,645	3.5	297,048	266,520	13,000	4.9	233,520
Equipped.....	20,672	1,405	7.2	19,177	20,635	1,047	5.1	19,588	29,300	645	2.2	28,690
Total.....	330,716	10,704	3.2	320,012	328,328	11,692	3.6	316,636	295,820	13,645	4.6	262,175
Total United States:												
Plain.....	694,348	22,443	3.4	641,905	655,418	47,143	7.2	608,270	508,713	34,081	6.7	474,632
Equipped.....	52,497	2,976	5.7	49,521	50,320	2,980	5.8	47,300	87,889	2,621	3.0	85,268
Total.....	716,845	25,419	3.5	691,426	705,738	50,073	7.1	655,665	596,602	36,702	6.2	559,900

NATIONAL FREIGHT CAR SHORTAGE

	Jan. 1, 1965, versus Jan. 1, 1966—Gain or loss			Jan. 1, 1965, versus Jan. 1, 1960—Gain or loss			Percent of total ownership			Percent of service-able ownership		
	Total	Percent	Service-able	Percent	Service-able	Percent	1966	1960	1965	1966	1960	1965
Eastern district:												
Plain.....	38,553	55.6	39,685	36.9	57,653	35.0	15.3	16.4	13.7	15.5	13.7	13.7
Equipped.....	1,784	11.8	1,677	10.7	753	6.0	28.9	25.1	13.2	24.7	14.7	14.7
Total.....	40,337	32.7	41,442	34.9	36,886	30.7	17.2	17.0	13.9	17.2	16.2	13.8
Allegheny district:												
Plain.....	43,673	43.9	46,034	49.7	39,074	39.7	14.9	14.1	11.0	14.6	12.8	10.2
Equipped.....	6,718	70.3	6,288	76.0	4,435	41.2	46.1	21.4	17.3	16.8	21.0	17.1
Total.....	50,391	34.2	52,322	37.3	43,509	31.3	15.0	14.6	11.9	14.7	13.3	11.3
Pocononas district:												
Plain.....	11,789	23.0	14,264	38.7	12,482	31.2	7.7	7.7	7.7	7.7	8.0	7.5
Equipped.....	6,612	123.6	6,384	122.9	5,623	191.3	10.2	6.6	13.6	10.5	6.8	13.6
Total.....	18,401	9.1	20,648	74.3	18,105	4.9	7.9	7.8	8.5	8.0	7.9	8.4
Southern district:												
Plain.....	18,265	19.1	20,725	22.3	18,723	19.5	14.4	14.7	15.2	14.5	14.9	15.2
Equipped.....	13,218	611.7	13,094	540.0	13,089	57.5	5.4	5.9	20.6	5.6	6.1	21.0
Total.....	31,483	3.1	33,819	5.9	31,812	3.7	13.8	14.1	16.0	13.8	14.3	16.1
Total eastern, Allegheny, Pocononas, and southern districts:												
Plain.....	12,111	31.6	119,988	35.2	105,532	30.3	53.3	53.1	47.6	53.1	51.2	46.6
Equipped.....	26,704	84.1	23,269	86.6	28,904	97.4	103.6	60.6	59.0	61.3	58.6	66.4
Total.....	38,815	22.1	38,689	25.2	70,628	20.3	18.1	18.1	53.9	53.7	51.7	49.6
Northwestern district:												
Plain.....	11,876	10.9	12,779	12.2	8,558	8.1	16.4	16.1	19.1	16.3	16.8	19.4
Equipped.....	1,713	58.6	2,030	80.9	5,099	82.6	5.6	5.1	5.3	5.1	5.0	5.4
Total.....	10,161	9.1	10,729	10.0	6,459	6.0	7.5	15.6	15.3	15.5	15.9	17.2
Central western district:												
Plain.....	7,137	5.1	8,938	6.5	8,031	6.3	7.0	21.7	26.2	21.4	22.7	27.1
Equipped.....	2,895	20.2	3,373	25.1	1,950	12.8	2.41	30.3	19.5	27.2	30.8	16.7
Total.....	4,242	2.7	5,606	3.7	6,981	4.4	4.9	21.6	22.3	21.8	23.3	26.0
Southwestern district:												
Plain.....	24,511	40.5	25,598	43.6	23,634	39.7	41.8	9.1	7.1	9.2	9.3	6.9
Equipped.....	4,018	116.7	4,056	127.0	4,616	162.2	174.9	6.6	5.6	6.4	5.6	8.5
Total.....	28,529	32.1	31,542	34.8	19,068	30.5	32.2	8.9	7.3	9.0	9.1	7.2
Total western districts:												
Plain.....	43,524	14.0	47,815	15.7	41,173	13.4	46.7	46.9	52.4	46.9	48.8	53.4
Equipped.....	8,628	41.7	9,478	49.4	8,665	42.0	46.3	39.4	41.0	33.3	38.7	41.4
Total.....	34,896	10.6	37,897	11.8	32,608	9.9	10.9	46.1	46.5	46.3	48.3	50.4
Total United States:												
Plain.....	155,635	23.4	167,273	26.1	146,705	22.4	100.0	100.0	100.0	100.0	100.0	100.0
Equipped.....	35,392	67.4	37,747	72.2	37,878	74.7	79.9	100.0	100.0	100.0	100.0	100.0
Total.....	120,243	16.8	131,526	19.0	109,136	15.5	100.0	100.0	100.0	100.0	100.0	100.0

Note.—Italic figures represent loss.

EXHIBIT C.—Plain boxcars—Loss in serviceable ownership and percentage of loss by districts

	Cars	Percent
Eastern.....	39,935	36.9
Allegheny.....	45,034	49.7
Poconantas.....	14,264	28.7
Southern.....	20,725	22.3
Northwestern.....	12,779	12.2
Central western.....	8,938	6.5
Southwestern.....	25,598	43.6

Mr. WEBB. Thank you.

Mr. ROGERS of Texas (presiding). Thank you very much, Mr. Webb.

There are two questions in my mind. The first one is with regard to the *Palmer* case. Now the court held in that case that you did not have the power under regulatory powers to fix this per diem rate, did it not?

Mr. WEBB. Yes, that is correct, Mr. Chairman. The court held that in setting per diem rates, that we could not be guided by regulatory objectives, such as increasing the total national car supply.

Mr. ROGERS of Texas. Now would they go so far, Mr. Webb, as to say subsequently that because of their position in that case, that a statute could not grant to you powers that you would not have under ordinary regulatory procedures?

Mr. WEBB. Well, I think the court in the *Palmer* case recognized that what we were attempting to do in 1947 could certainly be accomplished if the Congress amended the Interstate Commerce Act.

Mr. ROGERS of Texas. In other words, creating this as a regulatory power, a power in the regulatory field.

Mr. WEBB. Yes, the Congress has delegated to us authority to set the level of per diem rates, but the court held, in effect, that the Congress had not delegated to us the power to set them for the purpose and at a level designed to increase car ownership.

Mr. ROGERS of Texas. Now the other question is with regard to the language I was asking Senator Magnuson about. I gathered from your statement that you would consider this surplusage, which is what I did at first—it seems to me that you have all the powers in the added language, that you have all the powers in the basic bill that you have in the added language.

Mr. WEBB. Yes, I would agree. We don't believe that the added language is necessary, but as Senator Magnuson indicated, we worked with his committee, and we certainly don't find the additional language objectionable.

Mr. ROGERS of Texas. You don't think the expressions of those four items creates any restrictions on the powers?

Mr. WEBB. No, sir, I do not.

Mr. ROGERS of Texas. Mr. Jarman?

Mr. JARMAN. Thank you.

Mr. Chairman, on page 2 of your statement, you refer to railroad management voluntarily establishing car service rules to promote prompt handling, movement, et cetera. How far back does that go?

Mr. WEBB. I would like to ask Director Pfahler if he knows when those were first established.

Mr. PFAHLER. It goes back at least before the First World War. I can't say specifically, but it has been a longstanding operation of the railroad association.

Mr. JARMAN. As I understand it, the per diem charges are established on a voluntary basis by the railroads. How far back do the per diem rates go?

Mr. PFAHLER. They go back about the same period, as far as I know.

Mr. JARMAN. Mr. Chairman, in your statement on page 4, you refer to a number of railroads of the view that per diem charges promulgated since 1953 have been unreasonably high, while others contend that they are too low.

Mr. WEBB. Yes, sir.

Mr. JARMAN. Has there been a constant change in the per diem rates?

Mr. WEBB. Yes; they have gone up, over the years. These per diem rates are established by the railroads under the permission granted by section 5a of the act, but each rail carrier is guaranteed the right of independent action.

As a result, some railroads, for example, the Boston & Maine and the New Haven, have refused to go along with the rates agreed to by a majority of the carriers, and their attack on the level of the existing per diem charges is now a matter being considered in a proceeding before the Commission.

Mr. JARMAN. I have just two other questions that occur to me. What is considered the average life of a freight car?

Mr. WEBB. I would like to ask Director Pfahler.

Mr. PFAHLER. I think it is about 27 years for tax purposes, but most of the car fleet in service, the cars go back to the 1930's, up until the present time.

Mr. JARMAN. Well, based on the per diem rates that have been referred to in the hearing this morning, can the owner of the average freight car expect a fair return on his investment on the rates that are now determined?

Mr. WEBB. Well, it is our responsibility to assure that the owner receives just compensation. I think one of the problems, Congressman Jarman, is that the railroads, with limited funds for investment, find that investment in special-purpose cars make a greater return to them.

For example, a specially equipped boxcar designed to serve automobile manufacturers costs some \$34,000, and it is used exclusively in that particular service. I think the investment being made in such special equipment accounts in part for the very sharp decline in general-purpose boxcars.

Mr. JARMAN. Thank you.

Mr. ROGERS of Texas. Mr. Younger?

Mr. YOUNGER. Thank you, Mr. Chairman.

On page 5, Mr. Webb, you say that the range of the earning value of freight cars is from \$2.61 to \$12.18, and then you proceed to give certain categories, but you do not give a category that would have a charge of \$12.18.

Mr. WEBB. No; I think Director Pfahler could supply that for you right now.

Mr. PFAHLER. \$12.18 would be \$35,000 or more.

Mr. YOUNGER. What kind of cars are those?

Mr. PFAHLER. Well, they would be the biggest hopper cars that are being built.

Mr. YOUNGER. Now are those rates fixed by the Commission, or are those ARA rates?

Mr. WEBB. Those are the rates voluntarily agreed to by a majority of the railroads operating under the section 5a agreement.

Mr. YOUNGER. Now what is the other rate that you have now, that gave rise to the *Palmer* case?

Mr. WEBB. The rate which gave rise to the *Palmer* case, I think at that time, was only about \$1.51. The *Palmer* case was decided in 1947.

Mr. YOUNGER. Yes, but was that a rate fixed by the Commission or was that an ARA rate?

Mr. WEBB. That was a rate fixed by the Commission, for the purpose not only of providing just compensation to the owners of cars, but also designed to increase the total supply of freight cars.

Mr. YOUNGER. Well, now, in the *Palmer* case, the court held, as I understand, that the Commission had no right to fix a rate that was a penalty rate.

Mr. WEBB. That is true. Another purpose that the Commission had in mind at that time was to establish a much higher per diem rate, and apply it to carriers to the extent that they failed to abide by the Commission's car service rules. That was a penalty provision, and the courts said we had no authority to impose it.

Mr. YOUNGER. But what did they say about your authority to fix a compensation at per diem rate?

Mr. WEBB. Oh, we have that authority, Mr. Younger, at the present time, and we have always had it.

Mr. YOUNGER. Isn't that what the bill says now?

Mr. WEBB. No; the bill would permit us to add to the rate, which is found to provide just compensation, some incentive element to encourage carriers to build more freight cars.

Mr. YOUNGER. If I understand the decision, the decision didn't deny that. All they said was that you hadn't made a case.

So far as fixing rates, that would be compensatory. You hadn't made the case for it. They didn't say that you didn't have the right, as I understand it.

Now, is my understanding correct of that case?

Mr. WEBB. As I pointed out, Congressman Younger, the implications of the decision are not entirely clear, but we fear that it reasonably may be construed to deny the Commission the power to set an incentive per diem rate, which is designed not merely to afford reasonable compensation, but to accomplish regulatory objectives.

Mr. YOUNGER. Yes; but that's just your own decision. This has been running along for a long time. And you haven't tested it out, you haven't done anything about it to find out if that was the decision of the court or to test it.

Now, as I understand, there are a lot of opinions on the side that the court had no intention of saying that you didn't have a right to fix a per diem rental rate, as long as it wasn't a penalty rate.

It could be as high as you wanted to fix, if you made the proper case for it. And the thing that I can't understand is that if the ICC

and the Comptroller of the Currency and the Commerce Department and every department of the Government recommends this kind of legislation, then why can't you make a case for it?

Why do you have to come back to us? That's the thing that I can't understand.

Mr. WEBB. Because we think that we are confronted by a court decision which holds that we do not possess the authority under the act.

Mr. YOUNGER. No; they didn't say that. Now if I am informed properly, and I think I am, the court merely said that you hadn't made a sufficient case for an increase on a per diem basis. It didn't say that you didn't have the authority on that side. They said you couldn't fix a rate on the basis of penalty.

Mr. WEBB. Well, the court bottomed its opinion on two grounds, really. They said first our order was not supported by adequate findings.

Second, as I read the opinion, it said that we may not use our authority to prescribe per diem rates to accomplish regulatory objectives.

Mr. ROGERS of Texas. Would the gentleman yield to me?

Mr. YOUNGER. Yes.

Mr. ROGERS of Texas. Mr. Webb, with regard to the recent order that you issued, now what procedures of enforcement do you have for those?

Mr. WEBB. The orders to which I referred, Mr. Chairman, are issued under paragraph 15 of section 1. These are emergency car service rules and orders which we may issue when there is an emergency, without any hearing.

Mr. ROGERS of Texas. Suppose the road says, "Well, we are not going to do this"?

Mr. WEBB. Well, paragraph 17 of section 1 of the act does provide for penalties. We are authorized to proceed against those who violate our orders, and the penalty is not less than \$100, nor more than \$500 for each offense, and \$50 for each and every day of the continuation of the offense.

So, if the emergency car service orders are violated, we may proceed against the carriers in court.

Mr. ROGERS of Texas. I thank the gentleman.

Mr. Younger?

Mr. YOUNGER. I am very glad, Mr. Webb, to hear you say that that is the amendment to 14(a) instead of 14(b). It might have been far more controversial.

One other thing that is hard for me to understand, where this is considered such a vital issue, and the information that you say you could obtain by hearings, and this goes back a long time over all these years—I think it is 3 years ago we had these hearings—why hasn't the ICC proceeded under their own authority to hold hearings?

The court didn't say that you couldn't hold hearings and to develop all of these facts, before you come to us for the legislation. Now why hasn't that been done?

Mr. WEBB. Well, we instituted this comprehensive investigation, as I pointed out, Congressman Younger, in December of 1963. We felt that we needed it, in view of the fact that the car shortages were

growing progressively worse, and we also appreciated that if legislation such as we proposed were enacted, that the information would be most valuable in carrying out our responsibilities under the legislation that we seek.

Mr. YOUNGER. I agree with you, but that is clear back in December 1963 and you recognized then that you ought to develop all of these facts which you mention in your testimony here of preparing a case, so that you could go to the courts or to anybody with a substantial amount of evidence, supporting your views, we come up here now, we do not have the evidence, and you say now we have to have a hearing again, probably lasting and continuing for another year or so, and if the problem—and it is no different now than it was a year ago, and it is no different a year ago than it was 3 years ago—if it is that important, I can't understand why, on your own initiative, the ICC hasn't proceeded with these hearings to develop all the facts that you say now you would develop if this bill were passed and you would hold hearings, because you have had the authority to hold hearings all the time.

Mr. WEBB. Well, as I say, we are proceeding with our investigation to develop more detailed information.

Mr. YOUNGER. Well, that was in 1963. We are now closing 1965. That's closing the gap to December 1965 shortly, and we still do not have the facts which you say you have to develop if you were granted the authority and held new hearings.

That's the thing that I can't understand.

That's all, Mr. Chairman.

Mr. HARRIS (presiding). Mr. Pickle?

Mr. PICKLE. Mr. Chairman, you say that the problem comes about because of an inadequate car ownership, and then failure to utilize existing equipment efficiently, and you go on to say that though you have established certain car service rules, there is a basic weakness in it because of the lack of authority.

How do we, the Congress, need to give authority to enforce these car service rules, or do you have a law within your own ICC regulation that would permit you to enforce these car service rules?

Can you enforce them? It seems to me like that would come nearer settling it than even the per diem approach, if you require the carriers to move these cars at a regular schedule.

Mr. WEBB. Well, we have, we think, sufficient authority with respect to car service rules, Congressman Pickle. But the problem there is that while we can redistribute the available car supply, there is an overall shortage which we think is a basic and a chronic problem.

Mr. PICKLE. Well, perhaps the overall shortage is something that you still must try to find an answer for, but it seems to me that from the immediate standpoint, if you would just put some teeth into what regulations you have, requiring these cars to move at regular schedules, it would help you more than any other one factor.

The thing that comes back to me is that if we do give you the right to increase these per diem rates, we might get some more cars, but what assurance do you have that the carriers, the railroads themselves, will get into the ownership field? I would think, human nature being what it is, that the railroads have already found out that it would be cheaper to rent than it would be to buy, the increased per diem is just

simply going to go to the rental people, and not to the railroads, and I can't see how the railroads are going to build any cars.

What assurance, or do you feel that you have assurance that they will get into the ownership business?

Mr. WEBB. We think that they would respond to the incentive because it would then be less attractive to rent cars than it is today, and those carriers which do have adequate car ownership would be encouraged, I think, to build even more cars.

Mr. PICKLE. Of course, it may develop that way. I have got a feeling it won't. I have got a feeling all it will do is just mean the people in the rental service are just going to get that much more for it, and you are still going to have the same problem with movement, and even availability.

Mr. WEBB. Well, the lessors, those in the rental service, are the railroads, by and large.

Mr. PICKLE. One and the same?

Mr. WEBB. Yes, sir.

Mr. PICKLE. Just set up different entities, different companies?

Mr. WEBB. No; there are some private car lines, but by far the great majority of railroad cars are owned by the railroads. So, they are in the position of both renting freight cars and leasing freight cars to each other.

Mr. PICKLE. Now, I raised the question earlier with Senator Magnuson, with respect to the tank car, primarily, rail tank car carriers of petroleum products. Is there a shortage in this particular field?

Mr. WEBB. I don't believe so, but I would like to have Director Pfahler comment on that, Congressman.

Mr. PFAHLER. I am not aware of any. Railroads generally do not hold themselves out to supply tank cars to shippers, and tank cars for the most part are owned either by private car companies, or by the people who are doing the shipping, like Shell Oil, or somebody like that.

We have had no cases recently come to our attention where people have been upset about lack of tank car supply.

Mr. PICKLE. Is most of this hauled by truck?

Mr. PFAHLER. No; there is considerable rail shipment. Of course, the largest quantities of petroleum products, I presume, would go by pipeline, but for going into areas where there are no pipelines, or to distribute it from pipeline sources, why it goes by both rail and truck.

Also, a large chemical shipment by tank car.

Mr. PICKLE. Of course, if it goes by pipeline, it will go from a distribution point to another distribution point, from which point there has got to be further distribution.

Mr. PFAHLER. That's right.

Mr. PICKLE. That will, of course, cure part of the problem, but not all of it. I am advised that the tank carriers, the cars that were in existence 20 or 30 years ago, which consisted of 8,000-to 10,000-gallon tanks have more or less gone out of existence, they are going into the larger tank, but still the other gallonage capacity had been materially reduced so that there still is a deficiency. I wish you to check on that.

Please see if there is a shortage, because in times of a national emergency, we will have to be able to move petroleum products even more importantly than wood or even grain.

Now is this shortage of cars, is this a seasonal shortage, or is this just a year-round shortage?

Mr. WEBB. The shortage exists sometimes throughout the entire year at various places, and on various types of equipment. The shortages of cars have become more severe in recent years, and in the Far West, they have been persistent, throughout this entire year.

Mr. PICKLE. I believe one of the Congressmen who testified earlier said that each fall, there will be a hue and cry of "where are our boxcars?" And this seemed rather unusual to me, that you would be cutting timber all together in the summer. I am not familiar with the Northwest, but it looked like to me you could cut a tree down in February as well as you could in November.

Mr. WEBB. Well, the most severe shortages, of course, are usually occurring right after harvest time. But the lumber shippers in the West, I know, have been plagued throughout this year by car shortages.

Mr. PICKLE. I was very impressed by one of the gentlemen's statements. He said, if I understood him, that 85 percent of his products were shipped by rail. This was out of the Midwest area, and that means, then, I assume, only 15 percent by truck.

Mr. WEBB. Yes; that is correct. The lumber which is produced in the West moves predominantly to the East and to other sections of the country by rail.

Mr. PICKLE. The gentleman who made this statement, Mr. Chairman, was a grain man from North Dakota, representing an agricultural State, and this is true in that area also?

Mr. WEBB. Yes; I am sure that is correct.

Mr. PICKLE. That's all, Mr. Chairman.

Mr. HARRIS. Mr. Chairman, I am sorry I wasn't here to hear all of that which has been said. I was unavoidably detained in another important meeting.

Let me ask you some questions on the shortage, and a little different way could be figured out here, I suppose, but to get the general picture, you have a table here, don't you?

Mr. WEBB. Yes, sir; there were three tables attached to my statement.

The CHAIRMAN. I think they should go in the record with your statement, and they will be included.

(The tables referred to will be found on pp. 47-50.)

The CHAIRMAN. Now, let me ask you this question, and get it down to the 30-day monthly basis.

In 1964, how many cars were produced, approximately?

Mr. WEBB. About 65,000, Mr. Chairman.

The CHAIRMAN. 65,000 produced, or built in 1964? How many in 1964 were retired?

Mr. WEBB. Retired from service?

The CHAIRMAN. Yes; that is the word I was trying to think of, "retired from service."

Mr. PFAHLER. In the neighborhood of 80,000, 86,000, or something of the sort.

The CHAIRMAN. A little more than 80,000. In other words we had a deficit of approximately 21,000 cars in 1964? Is that right?

Mr. WEBB. Yes, sir.

The CHAIRMAN. Per month, how many cars now are being built?

Mr. PFAHLER. I would say about 72,000, about 6,000 a month.

The CHAIRMAN. About 6,000 a month, and today, how many would you say are being retired per month?

Mr. PFAHLER. I would say close to 6, between 6,000 and 7,000. We can furnish specific data by month.

The CHAIRMAN. You may. You may furnish that information more specifically, but for the purposes of the record, that means that over 25 percent are being retired a month? Is that right?

Mr. PFAHLER. You mean 25 percent more retired than being introduced?

The CHAIRMAN. Right.

Mr. PFAHLER. Yes, sir.

The CHAIRMAN. That obviously can't go on continuously.

Mr. WEBB. No; that's quite true.

The CHAIRMAN. Without drastic results.

Mr. WEBB. Over the past several years, we have been incurring a net loss of about 2,000 boxcars per month.

The CHAIRMAN. 2,000 boxcars per month.

Mr. WEBB. Yes, if the computation is made in terms of boxcars, I think that has been about the rate of loss. However, there has been some improvement shown thus far in 1965. But we will be glad to supply all of those figures for the record, in the number of cars added to the fleet, retired, and also those on order.

(The information referred to follows:)

Freight cars delivered, retired, and ordered, 1964 and 1965

	Cars delivered	Cars retired	Cars ordered	New cars on order ¹
<i>1964</i>				
January.....	5,253	7,285	10,803	37,636
February.....	5,467	11,801	3,821	35,880
March.....	6,580	8,850	7,742	36,919
April.....	6,529	7,671	4,243	34,702
May.....	6,931	6,532	7,185	33,410
June.....	6,759	7,114	4,584	30,621
July.....	5,258	6,572	4,695	28,594
August.....	4,349	5,867	7,344	31,574
September.....	4,314	6,359	4,045	31,254
October.....	5,124	8,085	6,830	30,428
November.....	5,807	6,575	6,444	29,813
December.....	6,500	4,676	9,823	33,067
<i>1965</i>				
January.....	6,130	5,968	9,446	36,365
February.....	6,591	4,527	5,194	34,909
March.....	6,144	7,057	7,831	36,491
April.....	6,164	6,879	4,821	35,138
May.....	5,873	6,208	5,839	35,120
June.....	6,808	8,676	8,538	36,645
July.....	5,781	6,304	6,330	37,187

¹ As of first of succeeding month.

The CHAIRMAN. Now, our established and traditional procedures for the railroad are to produce or by contract, build and own their cars?

Mr. WEBB. Yes, sir.

The CHAIRMAN. You say about one and a half million, or approximately a little over a million and one half total cars today?

Mr. WEBB. That is correct.

The CHAIRMAN. Would you say that 90 percent of those are owned by the railroads?

Mr. WEBB. I think that is about correct, Mr. Chairman. About 98 percent of all box cars are owned by the railroads.

The CHAIRMAN. This 1.5 million are all railroad owned?

Mr. WEBB. Yes; and that constitutes about 98 percent of the total railroad cars in the country.

The CHAIRMAN. I see. When was this per diem in effect today on a sliding scale established.

Mr. WEBB. That sliding scale was established in July of 1964, for the first 6 groups of cars, and then there was a second group added this April.

The CHAIRMAN. Was that established on the basis, I assume, of the value of the car?

Mr. WEBB. Yes, sir; it is on the basis of the value.

The CHAIRMAN. That is by the Commission?

Mr. WEBB. No; this sliding scale was established by the railroads operating under a section 5(a) agreement, but the Commission ultimately will have to pass on the justness and reasonableness of these rates.

The CHAIRMAN. Did the Commission pass on the reasonableness of the rates after they were established by the industry?

Mr. WEBB. No, sir; we have not, but I assume that these rates will be considered in connection with the challenge which has been made against the general level of per diem rates by certain railroads.

The CHAIRMAN. There is a challenge now?

Mr. WEBB. Now pending before the Commission; yes, sir.

The CHAIRMAN. Before the Commission?

Mr. WEBB. Yes, sir.

The CHAIRMAN. Now you say there are two ways to meet this, that it is being undertaken now. One is to increase demurrage charges.

Mr. WEBB. Well, that is helpful insofar as taking care of the time in which cars are in the hands of shippers.

The CHAIRMAN. Prompt loading and return.

Mr. WEBB. And receivers of freight. Yes, sir; but those charges are not applicable to the time when the cars are being handled by other carriers.

The CHAIRMAN. If the cars keep rolling, or if you have prompt loading and unloading, and keep rolling, then it doesn't make any difference what the charge is, you are not going to have any more cars, are you?

Mr. WEBB. Well, we believe that the per diem rate can be set at such a level that carriers will be encouraged to build more freight cars.

The CHAIRMAN. And that is what you hope to do with this legislation?

Mr. WEBB. That is right, Mr. Chairman.

Mr. CHAIRMAN. It will get no more cars, though, right away.

Mr. WEBB. No. It would take approximately 1 year for us to complete our proceeding on the legislation, if it were enacted. Now if it produced any immediate benefit before that time, it would be as a result of the psychological impact of the legislation on the railroads.

The CHAIRMAN. Now the other procedure to alleviate the impact of car shortages is through the issuance of service orders.

Mr. WEBB. Yes; we are doing that now, and would continue to do so in the future, even if this legislation were enacted.

The CHAIRMAN. Is that helping any that you can see?

Mr. WEBB. Yes, we think it does help, but it is simply distributing the overall shortage in the way we think most equitable.

The CHAIRMAN. Now in your statement, you state on page 4:

And an increase in the supply of cars owned by railroads which terminate substantially more traffic than they originate would not necessarily improve the car supply situation, since the ability of such carriers to load their own cars and interchange service is limited.

Would you explain that a little bit?

Mr. WEBB. Yes, Mr. Chairman.

Railroads such as the Boston & Maine and New Haven find themselves in a difficult situation. They are terminal or stub-end lines. They terminate more than twice as much traffic as they originate. Therefore, they always have on hand a large number of the cars owned by other lines, which they must get rid of by returning them in the general direction of the owners.

It may well be that railroads in that situation, even though they are large net per diem debtors, actually have an adequate supply of their own cars, because their ability to use their own cars is somewhat limited.

They are required to use the cars of other lines when those cars are available for use.

The CHAIRMAN. Well, you say it would not necessarily improve the car supply, and then you immediately follow with the statement that it is imperative that ownership of such equipment be increased and maintained at a level capable of meeting the needs of the shipping public.

Mr. WEBB. Yes; we think that the total supply of cars must be increased, but we recognize that there are some carriers which are in a very difficult situation; and that was the concern of the Senate when it added its language to its bill, S. 1098.

The CHAIRMAN. What you are trying to do and what is being attempted is, you call it, encouraging.

Mr. WEBB. Yes.

The CHAIRMAN. But it is merely to try to force these railroads who have deficits of cars to meet their needs to build to meet their needs.

Mr. WEBB. Yes; that is correct, and I would only add, also to encourage those which do not have a deficit to build cars, and also to receive increased rentals. I think it may be encouraging to both groups.

The CHAIRMAN. Well, I think there is something to it, and it ought to be done.

On the other hand, if you have a lot of cars that are constructed, that 9 months out of the year are not in use, then it seems to me a matter of trying to force somebody to build cars when they can't possibly get their return out of them.

Mr. WEBB. I think that would be true, Mr. Chairman, but for the fact that we have had an average daily shortage of cars consistently throughout these years, and throughout most recent years, so that it is not a matter simply of utilizing an adequate supply of freight cars to meet certain seasonal requirements.

We have a fairly persistent shortage throughout the entire year.

The CHAIRMAN. How long has this study been underway that you have reference to?

Mr. WEBB. Our investigation in Ex parte No. 241 was instituted December 1963.

The CHAIRMAN. When are you going to have a report?

Mr. WEBB. We expect to have a report next year. I would hope, around the middle of next year.

The CHAIRMAN. If this additional authority that is given to you should be approved, would it permit you to start a program of at least providing an incentive, or encouragement for these cars to be constructed?

Mr. WEBB. Yes, Mr. Chairman. I assure you that we would begin immediately with our investigation, with hearings, with a view toward finding what level of rates would be best designed to encourage car ownership.

The CHAIRMAN. Well, actually, heretofore, you have permitted the railroad industry to virtually write its own ticket, haven't you?

Mr. WEBB. Yes, I think that is correct. And that has been subject to our judgment only when the rates have been challenged as to whether or not they provide just compensation to owners. But you are quite correct that the railroads in the first instance have initiated these rates.

The CHAIRMAN. And the American Association of Railroads has an organization set up for the purpose of establishing these rates, and so forth? Is that not true?

Mr. WEBB. Yes, that is right.

The CHAIRMAN. And all you have done is to issue service orders and make statements on occasion about the needs, in the hope that something will be done, and this cup will pass, and it hasn't, and then to have this investigation which you have underway, of course, when they are challenged, to have the proceedings before you for consideration, but you really have not come to grips with it heretofore.

Mr. WEBB. Yes, you have indicated about the extent of our authority in this matter.

The CHAIRMAN. You think your authority is limited in view of the *Palmer* case?

Mr. WEBB. Yes, sir; we do. We would be most reluctant to undertake an investigation of the type that would be authorized by this legislation when we are confronted with that decision, and when over the years we have asked the Congress for legislation which the Congress to date has not yet approved.

The CHAIRMAN. Mr. Chairman, thank you very much for your appearance here.

I have held you a little beyond the noon hour, but I wanted to get you off the witness stand, because I know you have other things to do.

We appreciate your appearance here and your testimony on this problem.

Mr. WEBB. Thank you, Mr. Chairman.

The CHAIRMAN. And you may supply the additional information.

The committee will be in recess until 2 o'clock this afternoon. We will come back to hear these other witnesses who are here for today.

(Whereupon, at 12:17 p.m., the hearing was recessed to reconvene at 2 o'clock the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

I think under the circumstances we should proceed because we do have several witnesses scheduled for today that we should hear; at least we can make the record on this matter.

Tomorrow there will be an interruption and probably we will not get started until a little later than 10 o'clock. I had hoped to hear all witnesses today and tomorrow.

In view of the circumstances, I think we should go ahead with the making of this record and the next witness will be Mr. Edmund W. Hilton, Jr.

STATEMENTS OF EDMUND W. HILTON, JR., TRAFFIC MANAGER, AMERICAN PLYWOOD ASSOCIATION, TACOMA, WASH.; AND EMMET J. SMITH, MEMBER, TRAFFIC ADVISORY COMMITTEE, AMERICAN PLYWOOD ASSOCIATION, AND GENERAL TRAFFIC MANAGER, EDWARD HINES LUMBER CO., CHICAGO, ILL.

Mr. HILTON. Yes, sir; my name is Edmund W. Hilton, Jr., and I am traffic manager of the American Plywood Association. I have with me today Mr. Emmet J. Smith, who is general traffic manager of the Edward Hines Lumber Co., of Chicago, Ill., whose firm is a member of the American Plywood Association, and Mr. Smith is also a member of the Traffic Advisory Committee of the American Plywood Association.

Mr. Gus R. Hubbard is general traffic manager of the Simpson Timber Co., Seattle, Wash., and chairman of the American Plywood Association.

Unfortunately, Mr. Harris, Mr. Hubbard is ill and was unable to make the trip. You have been supplied with a copy of Mr. Hubbard's statement, as has Mr. Williamson.

I ask that at this time that Mr. Hubbard's statement be made a part of the record.

The CHAIRMAN. We regret Mr. Hubbard is ill and unable to be with us. We are exceedingly glad to have the benefit of his presentation or statement. His statement will be included in the record together with such other material as he wishes to provide.

Mr. HILTON. Thank you, Mr. Chairman.

Mr. Hubbard's statement, the last paragraph on page 1, most eloquently describes the position not only of Simpson Timber Co. but also the plywood industry, and I would like to quote that.

Our industry depends in large measure on rail transportation to market our products. Consequently, our marketing success rests on the availability of a boxcar supply of a quality and quantity sufficient to serve our needs on a timely basis. Today this condition does not exist.

That will complete the reference to Mr. Hubbard's testimony.

The CHAIRMAN. His entire statement will be included in the record at this point.

(Statement referred to follows:)

STATEMENT BY GUS R. HUBBARD, GENERAL TRAFFIC MANAGER, SIMPSON
TIMBER CO., SEATTLE, WASH.

Mr. Chairman and members of the committee, my name is Gus R. Hubbard. I am chairman of the Traffic Advisory Committee of the American Plywood Association, a member of the Traffic Committee of the California Redwood Association, and general traffic manager of the Simpson Timber Co., headquartered in Seattle, Wash.

I appear here today in these capacities in full support of bill H.R. 7165. The American Plywood Association has submitted a written statement in support of this legislation, to which I fully subscribe.

Our industry is comprised of over 160 plywood plants operating currently in 7 States and employing in excess of 109,000 people, including related veneer and logging operations. Many of our plants are located in small communities which rely almost entirely on the operation of these mills for their economic existence. This applies not only to plywood but to the entire forest products industry. The Simpson Timber Co., for example, operates 21 plants at communities in California, Oregon, and Washington, plus a recent acquisition in South Carolina. Each of these communities depends largely on forest products plants for employment. At least five of our plants have suffered recent curtailment and increased costs as a result of car shortages.

To date our industry depends in large measure on rail transportation to market our products. Consequently, our marketing success rests on the availability of a boxcar supply of a quality and quantity sufficient to serve our needs on a timely basis. Today this condition does not exist.

Annually, since the end of World War II, the number of boxcars in the national pool has declined. As a matter of fact, latest figures indicate a decline of 14,000 serviceable owned boxcars for the 12-month period ending August 31, 1965. As a result, today we not only suffer severe shortages of wide and double-door boxcars so vital to us but are faced with periods when even single-door cars are not available. Our plywood plant at Lyons, Oreg., as an example, has not been able to meet shipping schedules for the last 2 months due entirely to an inadequate supply of rail equipment. These shortages are increasing in frequency, severity, and duration in spite of our increased efficiency of car utilization. Since 1961 our industry has increased the average weight of our carload shipments by 30 percent. These shortages result in curtailment of production and even plant closures with, of course, related loss of employment for our people.

Ironically, we cannot blame the railroads serving our section of the country for these shortages. Conversely, figures indicate we would have no shortages if rail carriers serving us had on their respective lines a supply of boxcars equal to their ownership. For example, at the close of 1946 the Southern Pacific owned 32,200 boxcars and at the end of last year, 50,100. The Northern Pacific owned 19,100 in 1946 and 20,100 in 1964. We were advised by an officer of the Southern Pacific Co. only last week that if they could load their own boxcars, or the equivalent thereof, once every 20 days there would actually be a surplus of this type of equipment on their railroad.

This proposed legislation will result in the only solution—more boxcars in the national pool.

One final comment. Our company is one of seven, including Arcata Redwood Co., Arcata, Calif., Georgia-Pacific Corp., Portland, Oreg., Miller Redwood Co., Crescent City, Calif., Pacific Lumber Co., Scotia, Calif., Union Lumber Co., Fort Bragg, Calif., and Willits Redwood Products Co., Willits, Calif., comprising the California Redwood Association. These companies operate a total of 13 redwood plants employing several thousand people. The economy of the northern coastal area of California is substantially dependent on the redwood industry. This industry is still recovering from losses, totaling millions, from a flood in December of 1964, the most devastating in California's history. This recovery is currently being seriously hampered by car shortages. I have, therefore, been authorized by the California Redwood Association to appear here as a member of their traffic committee to add their support to bill H.R. 7165.

Mr. Chairman, this completes our statement. Thank you very much.

Mr. HILTON. Thank you, sir.

At this time, I will present my own statement in behalf of the American Plywood Association. This is the one labeled "oral statement," sir.

The CHAIRMAN. Very well, you may proceed.

Mr. HILTON. Mr. Chairman and members of the committee, my name is Edmund W. Hilton, Jr. I am traffic manager of the American Plywood Association, whose member mills produce about 90 percent of the Nation's softwood plywood. This year they will produce about 12.7 billion square feet.

I have submitted a detailed report of about 15 pages supporting my industry's reasons for favoring H.R. 7165 and related legislation.

Rather than read that statement now I will confine my remarks to the general transportation situation and try to provide a picture of what it means to my industry.

At this time I would like the 15-page statement to be made a part of the record. Yes, the one you have in your hand. I don't want to read all this but I want it in the record.

The CHAIRMAN. It may be included in the record.

Do you also want to include the membership roster with it?

Mr. HILTON. All of it, sir, all the enclosures.

The CHAIRMAN. You have in connection with it, I notice, certain information that includes—it looks like labels and so forth. I think that would be a little difficult to put in the record.

Mr. HILTON. You are referring to that which is part of the membership record. That is just the way we print it. It doesn't have to be part of the record.

The CHAIRMAN. I think it would be better to just let the membership roster become part of the record and the backside of it I don't think would necessarily add to the record.

Mr. HILTON. No, sir; it would not.

The CHAIRMAN. Now there is an advisory committee list, it will go in the record.

Mr. HILTON. Thank you.

The CHAIRMAN. There is a table on the production of plywood by STATES.

Mr. HILTON. That is rather meaningful.

The CHAIRMAN. That is not only States in the West. I don't see my State of Arkansas.

Mr. HILTON. Yes, sir; in the lower right-hand corner.

The CHAIRMAN. I guess we are not looking at the same thing.

Mr. HILTON. Yes; you are looking at it.

The CHAIRMAN. Oh, southern plywood will be included in that?

Mr. HILTON. Yes, sir.

The CHAIRMAN. It will be included in the record. And you have two maps—we will do the best we can. I think probably both of these can be printed in the record. However, I am not sure that the first one, where there are so many locations by designations, that it will be plain enough to discern what it will be after the record is printed, but we will do the best we can.

(Statement and attachments referred to follow:)

STATEMENT BY EDMUND W. HILTON, JR., TRAFFIC MANAGER OF AMERICAN PLYWOOD ASSOCIATION

Mr. Chairman and members of the committee, my name is Edmund W. Hilton, Jr. I am traffic manager of the American Plywood Association, which has its headquarters in Tacoma, Wash. My background includes 6 years of employment by the Union Pacific, and 13 years with the association.

The American Plywood Association is composed of some 95 firms which operate about 160 plants in the Western and Southern States, and which represent in their total production almost 90 percent of the softwood plywood produced in the United States.

The principal activities of the association, which is the largest, in terms of budget, of all those in the forest products field, are promotion, quality control and research. As our research has developed new uses for plywood, and broadened our markets, it also has made possible the utilization of new stands of raw material. This has made our industry the fastest growing of all those in the country, according to Federal Reserve Board figures, and has made it possible for our industry to broaden both its producing and consuming areas, geographically. Because of the remote location of our production units, both from urban centers and from our markets, we rely heavily on rail transportation for both our raw material and our transport to market.

I am here today to add the support of my industry to House bill H.R. 7165 and related bills, and to explain why the plywood industry feels that passage of these bills is necessary for continued healthy growth of the industry.

This statement is presented as the unanimous view of the association's traffic committee, made up of representatives of companies with factories in the States of Washington, Idaho, California, Oregon, Montana, Texas, and Arkansas. During this year, we expect to represent new mills now being built, as the result of technological advances, in the States of Virginia, North Carolina, South Carolina, Mississippi, Louisiana, Alabama, Georgia, and Florida.

The distinguished members of this committee are well aware of the general situation in regard to car supply. In a nutshell, there simply are not enough cars, in gross terms, to satisfy the demands of shippers.

The shortage is particularly acute when the shipper is located in a relatively remote area, and when his needs are for a special type of car, and a type of car that also has considerable utility to other shippers.

The shortage is particularly acute when the shipper is located in a relatively remote area, and when his needs are for a special type of car, and a type of car that also has considerable utility to other shippers.

In the State of Oregon, for instance, four cars are loaded for every car that is unloaded. Oregon originates four times as much traffic as it receives. So plants in Oregon must be supplied with cars that have to be returned empty, but which are often shunted to shippers in other States long before they complete their westward journey.

The needs of our industry are for wide-door and double-door boxcars. Just any car will not do. This is because of the size of plywood—normally panels 4 by 8 feet or longer—and because of its weight, which requires mechanical loading, usually by forklift truck. Some panel sizes are impossible to squeeze through a 6-foot door, so orders for such products must either be turned down or back ordered, much to the disgust of both the customer and the plant.

In addition to the related problems of a shortage in gross terms and a net shortage of usable cars, we have a third problem for which we are to blame, but for which we hesitate to apologize. Our industry grows at an annual rate of about 14 percent. The boxcar supply, in total, declines at a rate of about 3 percent per year, so we are faced with the problem of trying to put 14 percent more plywood into 3 percent fewer cars, every year.

We have tried to take advantage of every solution we felt was open to us. We have worked closely with the roads that serve our industry, anticipating our needs as best we could, and exchanging information useful to us both. We have even conducted research on shipping in our own laboratories. The roads have responded by building a substantial number of new cars, and remodeling a substantial number of old ones, to fit our needs. We have nothing but compliments for their policies. However, once in service, these cars disappear eastward, where they are hoarded by other lines that can easily afford the unrealistic per diem rates now in effect. Our lines are in the frustrating position of building cars for everyone, and then watching their own customers suffer. Because of our distribution pattern, to all of the 50 States, we are continually approached by all of the country's lines for business. But only our local lines express any concern over our car shortage.

The Association of American Railroads has asked us to be patient while it worked out the problem with service orders and per diem rates of its own. We have been patient, and we have hesitated in the past to ask for direct relief through the Government. But the plain facts are that the AAR has been completely ineffectual. The car supply still dwindles, and cars built for us by our lines are still grabbed off by the same railroads that refuse to endorse a solution by the shipping industry.

We have tried in every possible way to stretch the supply of cars. Average weight per car has increased since 1961 from 82,256 to 84,059 pounds in February

1965. And now the figure is nearly 90,000 pounds per car which is the point of no return. In other words, we simply cannot load any more plywood panels in cars. This has increased the revenue to the railroads, but has not increased the supply of cars.

The Interstate Commerce Commission has been amazingly generous in its preferential efforts on our behalf. We have received car orders and special service orders many times, and these orders have alleviated our problems temporarily. But they eventually expire.

In addition, we feel we cannot any longer ask for this special treatment, even though the cars were built by western roads for western shippers. It is simply impossible to issue effective service orders until more cars are available, or until it becomes uneconomic for a road to use others' cars. The ICC is in the position of stretching a shorter and shorter sheet over a longer and longer bed.

The effect on our industry has been to produce a state of constant crisis. Our car shortages vary in intensity, but they are always with us.

It is not just the producer who is affected. Our whole nationwide distribution chain is involved.

In 1950 the average home required only about 500 square feet of plywood. Today, because of advances in technology in our industry and in homebuilding, the average house uses six times as much plywood—about 2,900 square feet. When we cannot ship, the builder cannot build with plywood. He is forced to wait or switch to other materials. If we must ship in cars that are more expensive to load and unload, the builder, and the person who buys his house, must pay more.

There are four areas in which the chronic shortage of cars affects our industry when the shortage becomes more aggravated than usual.

First, it naturally involves the rate of shipments. When we produce more than we can ship, storage space fills up very rapidly, because of plywood's bulk.

Then we get the second effect, on production. There is no point in my going into all the economics of plywood manufacture, but it is obvious, in any industrial plant, that production must be close to capacity or the per-unit cost becomes unrealistically high. When plants are forced to curtail because of the car shortage, their costs are forced upward. The undependable character of the car supply situation has caused the plans for one plywood plant to be canceled and plans for another to be indefinitely postponed, in the State of Washington alone in the last year.

The third effect is the threat or reality of shutdowns. In the last year, mills in each of the five producing States in the West have been shut down, for varying periods, because of car shortages. When production is simply curtailed, it usually is possible to keep men working. But when shipping must cease entirely, there is nothing left but to close a mill, with the resulting loss in employment.

Since most plywood plants, and the logging operations that sustain them, are located in small communities, any widespread unemployment tends to have a severe effect. In just the States of Washington, Oregon, and California, there are 118 small towns almost totally dependent on plywood payrolls and 209 others supported by logging operations for plywood producers. A map attached as an exhibit to my testimony illustrates this point.

These three problems occur when we cannot get cars of any kind. We have heard the argument that our industry would have plenty of cars if it would simply use the older boxcars with 6-foot doors. Many of them are available, when the shortage affects only wide-door and double-door equipment. Today we can't even get single door boxcars—they are simply unavailable in enough quantity to meet our demands.

We do use them, because we have no choice. But we cannot use many of them.

Results of a study conducted by the association in February 1965, on the pattern experienced by 50 representative mills showed that, on the average, mills are receiving only 50 to 60 percent of the wide- and double-door cars that are ordered. The percentage varies from plants located at points where two or more roads compete for business, where close to 100 percent of wide-door cars are supplied, to plants captive on a branch line of a single railroad. These more isolated plants receive about 25 percent of the type of car they order.

The net result is to either reduce the profit of the manufacturer or eliminate it entirely, or to increase the price to the distributor and, ultimately, to the consumer.

The average cost of loading a thousand square feet of plywood (¾-inch basis) into a car with a door 9 feet wide or wider is 54 cents; loading through an 8-foot single door sends the average cost up 16 cents per thousand; a 6-foot door increases the cost 31 cents per thousand, to 85 cents.

In other words, since the average car contains about 80,000 square feet (¾-inch basis) when it leaves the mill, it costs an additional \$13 to load through an 8-foot

door, and \$25 to load through a 6-foot door. However, the averages don't paint a true picture.

The increase in costs for a 6-foot door vary from \$5 to \$45, depending on the facilities available to the loading crew. Since it is the larger plants that are best equipped, the smaller plants, which also are less attractive as freight customers than the larger producers, are penalized disproportionately.

The buyer of a car of plywood has an even worse problem. The unloading cost penalty, when the shipper must take a car with a 6-foot door, ranges from \$15 per car to \$190.

At the customer end, the unloading costs for single doors are greater than the mill costs of loading because specialized equipment and skills, developed in large-volume shipping departments, enable the mills to reduce their costs. Obviously, this is not possible for the average lumber dealer or other consignee.

Often, these extra costs are levied against the mill, in the form of deductions from his invoice. In other cases, shipments are quoted on the basis of the available car supply. Sheathing, for instance, is quoted at a price generally \$2 per thousand below the normal rate for shipments to be made in cars with 6-foot doors. This amounts to about \$150 per car in lost revenue to the plant.

In an admittedly extreme example, where a plant might face the maximum loading cost (\$45 extra) and the maximum chargeback (\$190), the total extra cost to the shipper would be about 5 percent of the total value of the shipment, or more than twice as much as the profit the producer could expect from the whole transaction. Few plants can make a profit of 2 percent on half their shipments and take a loss of 3 percent on the other half, which is a very real—though theoretical—possibility.

I am using the most extreme example I can, and still make use of the figures that we are dealing with today. However, the figures are correct, and it is not unreasonable to expect that today's fear can become tomorrow's reality.

We feel that we have done all we can. We have waited for the railroads to develop their own solution. We have loaded cars to their absolute capacity. We feel that the ICC has done all it can, and we feel that the Congress has been most understanding in holding back on regulating this problem, in answer to protests against regulation from the railroads. But we feel now that we may have waited too long.

Our industry is currently in the grip of a severe boxcar shortage that has been with us for more than 6 months. There is no relief in sight, and we can see no alternative to action by the Congress. We are working with water shipping lines and with trucking firms to try to come up with alternatives to rail transportation, and we feel that we will enjoy some success. But we presently ship 90 percent of our production by rail, and I am sure that the percentage will remain the same for the foreseeable future.

In the last month, we have had at least two complete shutdowns of mills because of a boxcar shortage, and we have had many production cutbacks. Even so, as an industry, we are producing more plywood than we can ship almost every week.

We need more boxcars.

We strongly feel that House bill H.R. 7165 and related bills, offers the best available solution to providing a permanent and equitable solution to the boxcar shortage. It would provide for a fair rental to owning lines, and would not unduly penalize lines that use cars they have not built.

However, the penalty would be substantial enough to discourage the hoarding of boxcars and, conversely, would encourage the construction of new cars. The net effect would be more cars, for us and for all shippers.

In closing, I wish to express the sincere appreciation of my industry to this committee for having given us the opportunity to be heard, and for past efforts by members of this committee, especially to the chairman, in finding ways for us to obtain cars during the periods of worst shortage.

Thank you, Mr. Chairman.

AMERICAN PLYWOOD ASSOCIATION MEMBERSHIP ROSTER, OCTOBER 1965

Agnew Plywood, Grants Pass, Oreg.; sales manager, Larry St. Onge.

American Forest Products Corp., Amador-Calaveras Division, Martell, Calif.; general manager, John T. Rushton; sales, Tarter, Webster & Johnson, Stockton, Calif.

Anacortes Veneer, Inc., Anacortes, Wash.; general manager, John H. Martinson; sales manager, Thomas Martin.

- Angelina Plywood Co., Keltys, Tex.; president, E. L. Kurth, Jr.; general manager, K. Hoseid.
- Astoria Plywood Corp., Astoria, Oreg.; general manager, Elmer Brown.
- Bate Plywood Co., Inc., Merlin, Oreg.; president, John L. Bate; western sales, R. A. Reyneke.
- Bingen Plywood Co., Bingen, Wash.; manager, W. E. Stevenson; sales manager, Glenn Lee.
- Bohemia Lumber Co., Inc., Culp Creek, Oreg.; president, L. L. Stewart; sales manager, S. E. Pittman.
- Boise Cascade Corp., Boise, Idaho; general sales manager, lumber and plywood, E. A. Stamm; Portland; vice president, Timber & Wood Products Division, S. B. Moser, Yakima, Wash.; vice president, Eastern Timber Division, George V. Hjort, Boise; plants: Valsetz, Elgin, and Independence, Oreg.; Yakima, Wash.; Payette, Idaho.
- Brand-S Plywood Corp., Albany, Oreg.; production manager, Fred Darby.
- Brookings Plywood Corp., Brookings, Oreg.; president, E. R. Olson; vice president, Neil J. Martin; general manager, Donald G. Baxter.
- Buffelen Woodworking Co., Tacoma, Wash.; president, R. C. Fuhrman; general manager, Peter DeFotis.
- Cabax Mills, Plywood Division, Eugene, Oreg.; president, Donald R. Barker; sales manager, Mrs. Mildred Malsen.
- Camac Veneer, Inc., Eugene, Oreg.; president, L. C. Nelson.
- Carlson Hardwoods, Sonoma, Calif.; owner, R. O. Carlson.
- Centralia Plywood, Inc., Centralia, Wash.; general manager, John Waters; sales manager, Ted Kline.
- Cloverdale Plywood Co., Cloverdale, Calif.; general manager, Richard Ranft.
- Coos Head Timber Co., Coos Bay, Oreg.; president, F. Willis Smith; sales manager, H. A. Page.
- Crown Zellerbach Corp., Northwest Lumber and Plywood Division, St. Helens, Oreg.; general manager, W. E. Koch, Jr. (Portland); sales manager, D.H. Pinkerton; plant: St. Helens, Oreg.
- D L Veneer & Plywood Co., McMinnville, Oreg.; president and general manager, Lowell Sexton.
- A. DeWeese Lumber Co., Inc., Philadelphia, Miss.; president, Tom DeWeese; general manager, Richard C. Allen; sales manager, Hugh Thomasson.
- Drain Plywood Co., Drain, Oreg.; general manager, Harold Woolley; plant manager, Alvin Fields.
- Dwyer Lumber & Plywood Co., Division of Publishers' Paper Co., Portland, Oreg.; general manager, Thomas L. Bentley; general sales manager, William McCoy.
- Elma Plywood Corp., Elma, Wash.; president, Lester O. Thompson; general manager and sales manager, Henry Hoffman.
- Evans Products Co., Building Materials Division, Portland, Oreg.; vice president and general manager, G. P. Oldham; director of sales, Clark Johnson; plants: Roseburg, Oreg.; Hoquiam and Aberdeen, Wash.
- Everett Plywood Corp., Everett, Wash.; general manager, Charles A. Merchant; sales manager, Donald Van.
- Farwest Plywood Co., Tacoma, Wash.; president and general manager, George Baum.
- Fir-Ply Co., White City, Oreg.; general manager, A. B. McGuire.
- Forrest Industries, Inc., Dillard, Oreg.; president, W. F. Forrest; vice president and general manager, R. G. DeMoisy.
- Fort Vancouver Plywood Co., Vancouver, Wash.; general manager, V. A. Nyman.
- Georgia-Pacific Corp., Portland, Oreg.; Executive vice president, W. H. Hunt; vice president, F. V. Langfitt, Jr. Plants: Olympia, Wash.; Coos Bay, Coquille, Springfield, and Toledo, Oreg.; Fordyce and Crossett, Ark.
- Giustina Bros. Lumber & Plywood Co.; Eugene, Oreg.; vice president, E. V. Giustina; marketing manager, H. E. Sanderson.
- Glendale Plywood Co., Inc., Glendale, Oreg.; vice president and general manager, T. H. Mehl, Jr.
- Hardel Mutual Plywood Corp., Olympia, Wash.; manager, James Kline.
- Edward Hines Lumber Co., Chicago, Ill.; sales manager, Richard Larsen. Plants: Westfir and Hines, Oreg.; general manager, Paul Ehinger, Westfir, Oreg.
- Hult Lumber & Plywood Co., Junction City, Oreg.; president, N. B. Hult; sale manager, A. E. Wall.
- Idaho Veneer Co.; Post Falls, Idaho; president, L. A. Malloy; general manager, John F. Gregor.

- International Paper Co.; Long-Bell Division, Kansas City, Mo.; Longview, Wash.; general manager, western operations, Eliot H. Jenkins, Longview; general sales manager, C. E. Miller, Kansas City. Plants: Chelatchie Prairie, Wash.; Gardiner and Vaughn, Oreg.; Weed, Calif.
- Jefferson Plywood Co.; Madras, Oreg.; general manager, J. Pershing Andrews; sales manager, O. B. Williams.
- Kirby Lumber Corp., Houston, Tex.; vice president, Thomas M. Orth; sales manager, Watson Frick. Plant: Silsbee, Tex.
- Lacey Plywood Co., Inc., Lacey, Wash.; general and sales manager, T. F. Goodson.
- Lane Plywood, Inc., Eugene, Oreg.; general manager and sales manager, Miles S. Munson.
- Leading Plywood Co.; Corvallis, Oreg.; assistant general manager, Harley G. Willis. Plants: Benton and Corvallis, Oreg.; sales, G. S. Robinson, Corvallis, Oreg.
- Lindroth Timber Products, Plywood Division, Cloverdale, Calif.; general manager, A. T. Nelson, sales manager, Wayne Humphrey.
- Linnton Plywood Association, Portland, Oreg., president and general manager J. G. Thomas.
- Lorenz Lumber Co., Burney, Calif.; general manager, Glenn Lorenz.
- The Martin Bros. Container and Timber Products, Inc., Oakland, Oreg.; president, D. J. Martin, Toledo, Ohio; vice president and general manager, B. L. Martin, Oregon Division; sales manager, L. L. Herm, Toledo, Ohio.
- Medford Corp., Medford, Oreg., president and general manager, R. J. Hogue, sales manager, Ed Nave.
- Medford Veneer & Plywood Corp., White City, Oreg., president, Paul Rail; general manager, Oliver Latvala.
- Menasha Corp., Plywood and Lumber Division, North Bend, Oreg.; general manager, Homer White; sales manager, Frederic Page.
- Milwaukie Plywood Corp., Milwaukie, Oreg.; general manager, Miles Peterson; sales manager, Andrew McAllister.
- Montezuma Plywood Co., Cortez, Colo.; president and general manager, Dwight C. Wood.
- Mount Baker Plywood, Inc., Bellingham, Wash.; president, J. A. Johnson; general manager and sales manager, Lewis F. Dean.
- Multnomah Plywood Corp., Portland, Oreg.; general manager, James O. Green; sales manager, A. J. Boho.
- National Plywood, Inc., Roseburg, Oreg.; president, A. J. Standley.
- Nordic Plywood, Inc., Sutherline, Oreg.; general manager, J. R. Adams; sales manager, Richard Bellis.
- North Pacific Plywood, Inc., Tacoma, Wash.; general manager, E. W. Maw.
- Northern California Plywood, Inc., Crescent City, Calif.; general manager, Frank R. Hendricks.
- Oregon Veneer Co. (Division Russeks, 5th Ave., Inc.), White City, Oreg.; general manager, A. B. McGuire.
- Orleans Veneer & Lumber Co., Arcata, Calif.; president, Abraham Rochlin; vice president and general manager, Larry Rochlin; sales manager, E. W. Strauser.
- The Pacific Lumber Co., San Francisco, Calif.; executive vice president, E. M. Carpenter, Scotia; vice president—sales, Robert Hoover, San Francisco. Plant: Scotia, Calif.
- Peninsula Plywood Corp., Port Angeles, Wash.; executive vice president and general manager, F. M. Thomson; sales manager, Herrick Fox.
- Plum Creek Lumber Co., Columbia Falls, Mont.; president and general manager, Laurence O. Rude.
- Pope & Talbot, Inc., Portland, Oreg.; general manager, Frank McPherson; sales manager, Calvin Cox. Plant: Kalama, Wash.
- Puget Sound Plywood, Inc., Tacoma, Wash.; general manager, Lawrence M. Hale; sales manager, Ray Johnson.
- Rosboro Lumber Co., Springfield, Oreg.; general manager, Paul B. Cole; sales manager, Val Gardner.
- St. Maries Plywood Co., St. Maries, Idaho; general manager, J. M. Richards.
- St. Regis Paper Co., Tacoma, Wash.; vice president, W. R. Haselton; manager of marketing, C. L. Morey; general sales manager, R. P. Neils. Plants: J. Neils Operations—Libby, Mont.; Plywood and Door Operations—Tacoma and Olympia, Wash.
- Santiam Lumber Co., Portland, Oreg.; president, C. H. Wheeler; sales manager, R. H. Davis, Sweet Home, Oreg. Plants: Sweet Home, Oreg.; Lebanon, Oreg.
- Santiam Southern Co., Ruston, La.; president, Samuel E. Wheeler; sales manager, R. H. Davis, Sweet Home, Oreg.

- Scotch Plywood Co., Fulton, Ala.; president, William Harrigan; general manager, John O. Batson.
- Simpson Timber Co., Seattle, Wash.; president, C. H. Bacon, Jr.; sales manager, R. H. Fletcher. Plants: Shelton, McCleary and Olympia, Wash.; Albany and Lyons, Oreg.; Eureka, Calif.
- Southern Oregon Plywood, Inc., Grants Pass, Oreg.; president, W. H. Gonyea; executive vice president and general manager, R. G. Davis.
- Southern Pine Plywood Co., Diboll, Tex.; president, Arthur Temple, Jr.; plant manager, Stacy Cooke.
- Standard Veneer & Timber Co., Crescent City, Calif.; general manager and sales manager, Clifford Kirl.
- Stevenson Co-Ply, Inc., Stevenson, Wash.; president, Lester Johnson; general manager, Clifford Talbot; sales manager, Robert Barnes.
- Tillamook Veneer Co., Tillamook, Oreg.; president, Walter Purcell; general manager, Burtch Nonteith.
- Timber Products Co., Medford, Oreg.; resident manager, R. K. Hood; sales manager, R. G. Dickinson.
- Tri-State Plywood Co., Santa Clara, Calif.; general manager, A. B. Burdick; sales manager, John A. Beckstrom.
- United States Plywood Corp., New York, N. Y.; president, G. C. Brewer; vice president and general manager, Marshall R. Leeper, Eugene. Plants: Seattle, Wash.; Eugene, Lebanon, Mapleton, Reedsport, Roseburg, Gold Beach and Willamina, Oreg.; Redding and Eureka, Calif.; Polson, Mont.
- Vancouver Plywood Co., Inc., Vancouver, Wash.; executive vice president, D. I. Plummer, Jr., vice president, marketing, David Difford. Plants: Oakdale and Florien, La.; general manager, Harold Hall, Florien, La.
- Van-Evan Co., Missoula, Mont.; general manager, Leo K. Cummins.
- West Coast Plywood Co., Aberdeen, Wash.; president and general manager, A. R. Wuest; sales manager, E. D. Egge.
- Western States Plywood, Port Orford, Oreg.; general manager, C. L. Lindquist.
- Weyerhaeuser Co., Tacoma, Wash.; vice president, manager wood products, F. Lowry Wyatt; vice president, wood products sales, J. C. Wallenstrom. Plants: Longview and Snoqualmie Falls, Washington; Springfield, North Bend and Cottage Grove, Oreg.; Arcata, Calif.; Plymouth, N.C.
- White City Plywood Co., White City, Oreg.; vice president and general manager, W. C. Smith, Eugene, Oreg.
- Willamette National Lumber Co., Portland, Oreg.; president, William Swindells; sales manager, Ward Moore, Dallas, Oreg. Plant: Foster, Oreg.
- Willamette Valley Lumber Co., Portland, Oreg.; president, William Swindells; general sales manager, Ward Moore; plywood sales manager, Fred Zito, Dallas, Oreg. Plant: Dallas, Oreg.

AMERICAN PLYWOOD ASSOCIATION TRAFFIC ADVISORY COMMITTEE

- W. L. Bush, director of transportation, Weyerhaeuser Co., Tacoma, Wash.
- V. M. Bushman, director of transportation, United States Plywood Corp., Green Bay, Wis.
- John King, western traffic manager, Georgia-Pacific Corp., Portland, Oreg.
- Geran Dalenius, traffic manager, Anacortes Veneer, Inc., Anacortes, Wash.
- D. J. Hastert, traffic manager, West Coast Plywood Co., Aberdeen, Wash.
- Russell J. Hogue, board member, president and general manager, Medford Corp., Medford, Oreg.
- G. R. Hubbard, chairman, general traffic manager, Simpson Timber Co., Seattle, Wash.
- C. A. Nelson, traffic manager, Lumber & Plywood Division, Boise Cascade Corp., Boise, Idaho.
- H. B. Nyland, assistant traffic manager, St. Regis Paper Co., Tacoma, Wash.
- S. L. Parker, traffic manager, the Pacific Lumber Co., Scotia, Calif.
- Allen K. Penttila, director of traffic and transportation, Evans Products Co., Portland, Oreg.
- G. P. Reilly, traffic manager, western division, International Paper Co., San Jose, Calif.
- Emmet J. Smith, general traffic manager, Edward Hines Lumber Co., Chicago, Ill.
- Vernon W. Smith, traffic superintendent, Kirby Lumber Corp., Silsbee, Tex.
- E. W. Hilton, Jr., secretary-traffic manager, American Plywood Association Tacoma, Wash.

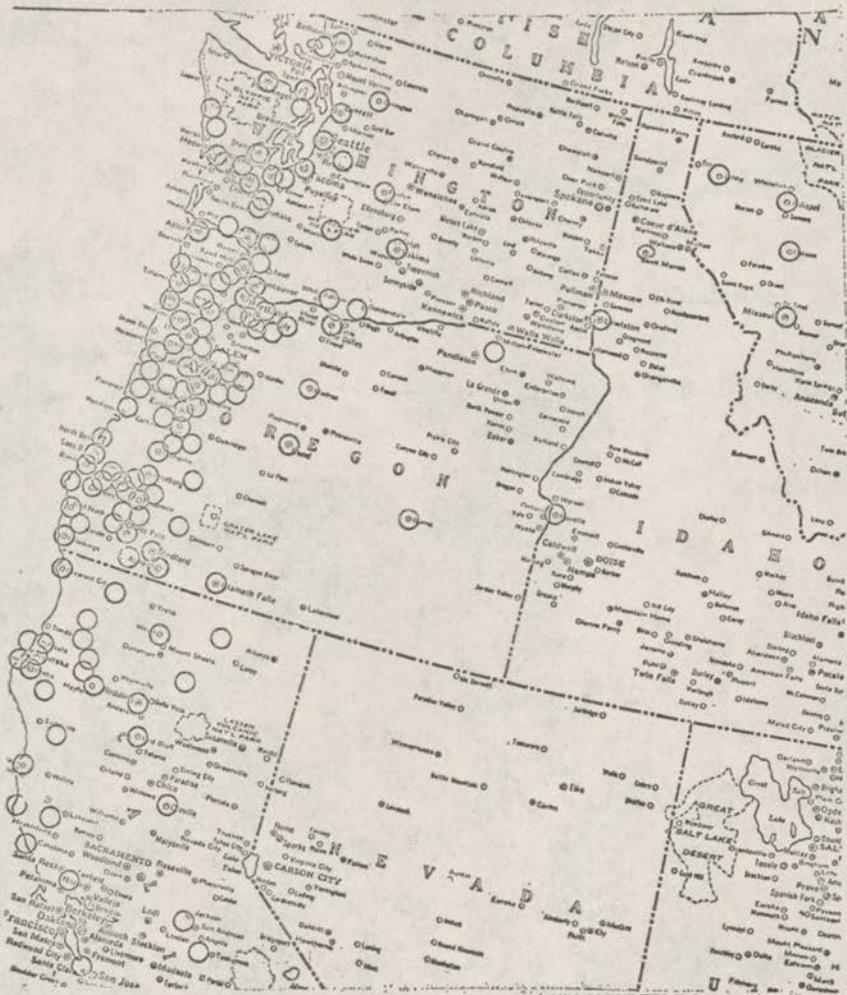
NATIONAL FREIGHT CAR SHORTAGE

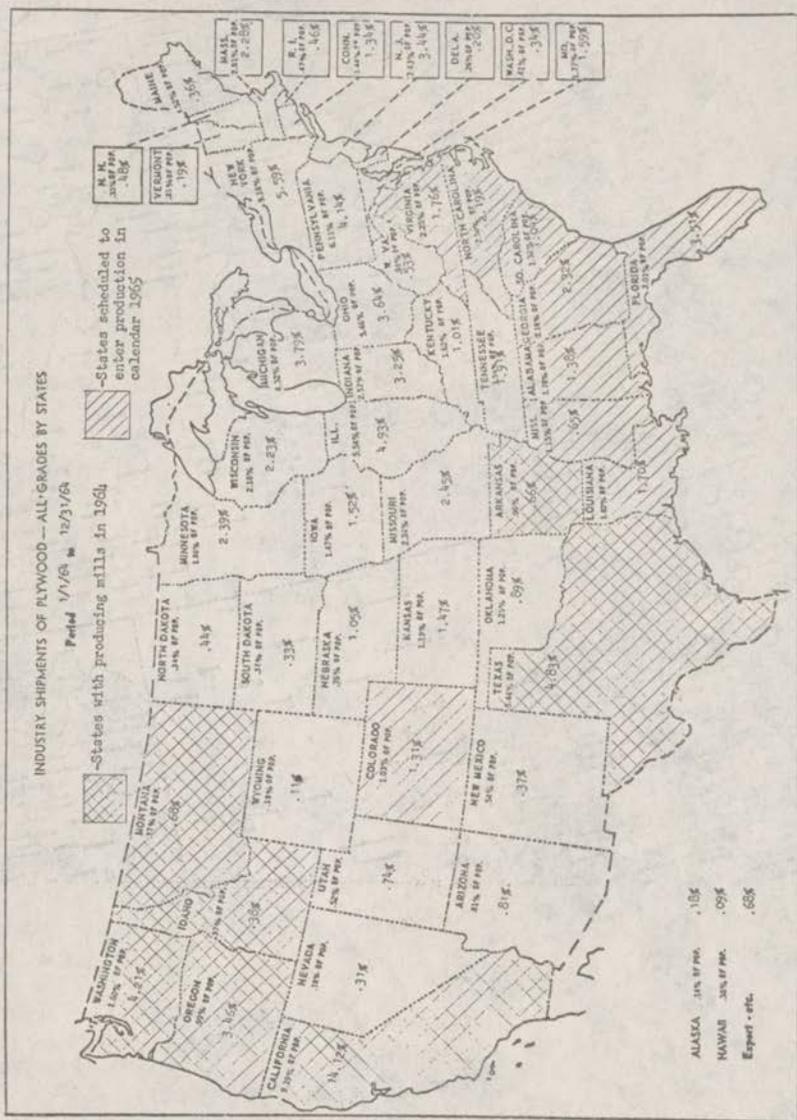
Production of softwood plywood, by States, 1925-64

[Production in thousands of feet (3/4-inch rough basis)]

Year	Total		Oregon		Washington		California		Montana and Idaho		Southern pine	
	Production	Number of plants	Production	Percent of production	Number of plants	Production	Percent of production	Number of plants	Production	Percent of production	Number of plants	Production
1925	153,000	12	---	---	11	---	---	---	---	---	---	---
1930	305,000	17	---	---	16	---	---	---	---	---	---	---
1935	480,000	17	---	---	16	---	---	---	---	---	---	---
1938	650,000	21	---	10.75	19	580,109	80.25	---	---	---	---	---
1939	950,000	23	---	116.665	20	833,335	87.72	---	---	---	---	---
1940	1,200,000	25	---	236.135	20	963,865	80.32	---	---	---	---	---
1941	1,620,000	31	---	497.443	23	1,122,557	69.29	---	---	---	---	---
1942	1,782,000	31	---	552.027	22	1,229,973	69.02	---	---	---	---	---
1943	1,430,000	30	---	478.007	22	951,993	66.57	---	---	---	---	---
1944	1,440,000	30	---	428.041	22	1,011,959	70.27	---	---	---	---	---
1945	1,200,000	31	---	322.466	22	877,534	73.13	---	---	---	---	---
1946	1,385,000	33	---	431.990	22	963,010	69.03	---	---	---	---	---
1947	1,630,000	40	---	547.834	25	1,062,166	65.16	20,000	1.25	---	---	---
1948	1,871,000	45	---	628.872	27	1,181,900	63.17	60,228	3.22	---	---	---
1949	1,890,000	55	---	709.149	30	1,086,001	57.47	103,860	5.47	---	---	---
1950	2,553,652	68	---	1,039,763	33	1,338,684	52.42	175,205	6.86	---	---	---
1951	2,896,952	77	---	1,189,409	37	1,435,698	50.08	241,845	8.43	---	---	---
1952	3,049,740	87	---	1,346,333	36	1,358,680	44.55	344,737	11.30	---	---	---
1953	3,670,434	94	---	1,752,013	36	1,486,039	40.49	432,382	11.78	---	---	---
1954	3,903,781	101	---	2,080,614	36	1,330,973	34.09	492,194	12.61	---	---	---
1955	5,075,189	112	---	2,753,898	38	1,683,055	33.16	638,235	15.68	---	---	---
1956	5,239,811	122	---	3,051,702	35	1,494,445	28.52	679,343	12.97	---	---	---
1957	5,459,874	119	---	3,407,588	32	1,395,864	24.49	702,571	12.87	14,821	0.27	---
1958	6,339,514	128	---	4,210,396	32	1,316,928	20.77	800,435	12.63	12,851	0.20	---
1959	7,827,939	142	---	5,121,259	33	1,566,694	20.01	1,095,456	13.99	17,755	.19	---
1960	7,815,581	152	---	5,159,939	34	1,439,634	18.42	1,138,768	14.57	44,589	.57	---
1961	8,577,252	155	---	6,279,563	34	1,538,003	17.63	1,179,474	13.75	77,240	.90	---
1962	9,512,957	160	---	6,328,853	37	1,738,218	18.27	1,239,558	12.72	180,212	2.10	---
1963	10,216,240	165	---	6,794,660	36	1,815,480	17.78	1,246,665	12.21	236,328	2.48	---
1964	11,678,620	168	---	7,741,853	36	2,056,539	17.61	1,304,915	11.17	495,289	4.24	80,024
										3		0.09

LOCATIONS OF PLYWOOD AND VENEER PLANTS IN WESTERN STATES





The CHAIRMAN. You may proceed.

Mr. HILTON. Yes; my industry produces structural plywood, a basic building material that is an essential element in almost all construction in this country. The more than 1,300,000 homes that will be built this year will require more than 3,000 square feet of plywood each.

For another typical example, the new Verazzano-Narrows Bridge in New York required about a million square feet during construction.

My industry has been deeply concerned about getting plywood from the mill to the construction jobs that need our products. Right now it is usually difficult to do so. Sometimes it is impossible. America's boxcar fleet is dwindling at the rate of about 3 percent yearly—dwindling at a time when the rest of the economy is expanding.

In the last 12 months our industry—and the Nation—lost at least \$10 million because of this transportation bottleneck. It cost about \$4.2 million to use inadequate cars which are more expensive to load and unload.

It cost about \$4.5 million more to use antiquated narrow-door cars. It cost about \$450,000 to store plywood that should have been shipped—and to pay damage on that same plywood. And producers lost about \$150,000 because of mill shutdowns—although that figure is only the loss of return on capital. It would be difficult to estimate lost wages and lost rail revenue.

It might be possible to simply write off those costs as an isolated industry problem, but it doesn't work that way. What happened was this: houses, schools, hospitals, and highways in America in the last year cost at least \$10 million more than they should have because of the boxcar shortage.

The added cost delivered no value whatsoever. The \$10 million simply paid the price this Nation must assume because its boxcar fleet has been allowed to decay.

And it's getting worse steadily. Our industry needs about 750 cars each day to move plywood and veneer. We are short right now about 100 cars a day.

In the long run, the matter looks even more alarming and assumes proportions large enough to represent a major flaw in this Nation's transportation lifelines. In our industry alone the problem becomes enormous when projected only a few years: By 1970 we expect to produce about 18 billion square feet of plywood—50 percent more than we are in this year. But by 1970, assuming the same decline in the boxcar fleet we have experienced since 1945, there will be only 510,000 boxcars in the Nation. There were about 750,000 boxcars in the fleet 20 years ago. If these two countertrends continue we simply will not be able to supply the building industry with our products.

There is no indication whatever that the situation will improve in the future unless there is some definite action now.

President Johnson has predicted—accurately, we think—that this country will have to build a second America in the next 35 years, erecting more buildings in that short time than we have in 345 years since the pilgrims arrived here.

The plywood industry is eager to participate in this great adventure. Our products are essential to the enormous and challenging undertaking the President suggests.

We have mounted a multimillion-dollar research effort to develop building technology needed for this tremendous job. We are ready

in that respect. But the new America we all like to envision simply cannot be built unless the present, increasingly critical, transportation is corrected.

Last Thursday, the day I received notice of this hearing, was a typical day for our industry. One of our members, Oregon Veneer Co., White City, Oreg., informed us Thursday that they were closing the plant—the firm had no cars, and none in sight. Their warehouse facilities were jammed to the doors.

Fir Ply Co., another Oregon firm, also called. That firm, too, had finished plywood stacked up to the loading dock and no boxcars. For Fir Ply it was a matter of closing down for the second time within 6 months.

We also were called by Georgia-Pacific Corp. Their Springfield, Oreg., plant is 80 cars behind, the warehouse was jammed, and they were preparing to shut down.

There were others—but I'm not going to mention them. Members of the other firms that are near closing down are with me today, and they will give you a firsthand impression of what it means for a business to close—not for management reasons, but because their products can't be moved from a loading dock.

They may also be able to tell you what a plant closing means to a community that depends on plywood to buy bread and butter.

We are in favor of H.R. 7165 because it is a step toward a solution to those problems. It is intended to encourage nonowning roads to build new cars. In the short run, it can encourage nonowning roads to return cars to the western roads which serve our industry and which are carrying out a realistic car-building program.

We have heard some arguments against this proposed legislation from roads which can produce statistics to show that we aren't really short of cars in the West at all. Those statistics do not explain the clear fact that we are sending more boxcars to the junk heap than we are building. In 1964, for example, the net loss in the available supply was 1,600 cars each month, and it is running even greater this year.

Finally, those stray statistics—although they may seem to diminish the importance of this national problem and suggest that legislation is not needed—do not answer the highly pertinent question from the producer who has to close his mill because, in fact, the boxcars are not there.

That is the end of my statement, Mr. Chairman. Thank you very much.

The CHAIRMAN. Mr. Smith, would you care to proceed?

Mr. SMITH. I will, with your permission, sir.

The CHAIRMAN. Very well.

Mr. SMITH. I have two statements. The one that has the letterhead cover and three pages I would like to read. There may be some questions or clarification the committee might have.

The other statement, consisting of five pages, has a number of statistics that have been repeated and put into this record by Chairman Magnuson of the Senate Commerce Committee and Chairman Webb of the ICC re the decline in freight car capacity and would just take up additional time but I would like to have this sheet made part of the record.

The CHAIRMAN. Let it be included in the record along with your statement.

(Statement referred to follows:)

STATEMENT OF EMMET J. SMITH, GENERAL TRAFFIC MANAGER, EDWARD HINES LUMBER CO., CHICAGO, ILL.

My name is Emmet J. Smith. I am general traffic manager of the Edward Hines Lumber Co., with offices at 200 South Michigan Avenue, Chicago, Ill. We are manufacturers, wholesalers, and retailers of lumber, plywood and related articles. We have four mills in the State of Oregon, where we produce plywood, hardboard, lumber, and other wood products, mostly from Government-owned timber. We operate 27 retail lumber yards, all in the greater Chicago, Ill., area. We have wholesale warehouses in Illinois, Indiana, Michigan, and Wisconsin. We wholesale wood products produced by mills in all of the major lumber producing areas and market wood products (wholesale) in most consuming areas of the United States of America.

We just have to do the necessary to encourage the building of more freight cars. If, for no other reason, in the interest of our national security. There is something wrong with the present and past rental (per diem) charges per car per day paid to freight car owners by the nonowner railroads while the nonowner is using the car. It is wrong, when the nonowner railroad can use another railroad's freight car to move tonnage at a car rental (per diem) charge of less amount than the cost of owning the car. The freight car owner must be paid for furnishing the cars. Such charge should not be less than the cost of owning and maintaining the cars.

Testimony at public hearing on S. 1098 brought to light that during the past 10 years the freight car capacity has been reduced 4 million tons. The number of freight cars has declined over 200,000 cars. While in years gone by, during car shortage periods, special rules were made and enforced, requiring the railroads to move empty cars to railroads serving areas where the car shortage was most critical; also, requiring the shippers to load the cars to full visible capacity. Such practices did help to alleviate the car shortages. We no longer have the possibility of loading more lumber or lumber products in the car. This is due to the railroads publishing incentive rates on lumber, reduced freight rates with increased minimum weights; also, dual rates, i.e., the first weight block taking one rate such as 65 cents per hundredweight on the first 60,000 pounds and 40 cents on the tonnage exceeding 60,000 pounds. So, the lumber cars are now loaded to capacity and no more lumber can be loaded in the cars. The same is true of many other commodities (reduced rates with increased minimum weights). Therefore, we, today, cannot, during car shortage periods, load more in each car and thus get the tonnage moved using fewer cars than at present required for that tonnage.

We are now having a most critical shortage of railroad freight cars, particularly in the northwest Pacific coast area. Our mill at Westfir, Oreg., a local point on the Southern Pacific Railroad, about 40 miles southwest of Eugene, Oreg. is hit hard each year by the car shortage. This mill is set up for only railroad shipping. During the past 5 weeks (Aug. 30 through Oct. 1, 1965) our inventory of lumber has gone up approximately 600,000 board feet, the equivalent of 16 carloads. Also, we had the largest highway truck shipment period ever at this plant, equivalent to another eight carloads of lumber. During this period we should have further reduced a large inventory left over from the spring car shortage, several hundred thousand more feet. Our shipments at this mill are roughly short 700,000 board feet since August 30. Our plywood inventory is up during this period.

We planned to ship approximately 1,250,000 feet more than we were able to ship due to the shortage of freight cars. If this car shortage continues to exist for another 6 weeks or becomes more critical we certainly will have to curtail some of our operations at this mill, because, we simply won't have room to store the production. In March 1965 we were experiencing a car shortage and this mill had to store outside in the open kiln dried, finished lumber and plywood. Were it not for good dry weather during the week of March 15, we would have had to shut down the production.

There are a number of explanations for the car shortage. One most important fact is the continual decrease in the number of freight cars available (more cars are being scrapped than new cars installed). Serviceable owned boxcars numbered 563,597 on September 1, 1964 and numbered 549,206 on September 1, 1965, a reduction of 14,391 boxcars in this last 12-month period. We know the western railroads are investing millions of dollars in new freight car equipment. We know the Southern Pacific System has done a fine job in purchasing new cars.

We also know they have retired a good number of cars account such cars have served their usefulness. We believe the Southern Pacific and other railroads should take many more worn cars out of service and of course replace them with new cars. Our mill invested heavily in new plant and equipment to have dependable low-cost production to hold the prices down and to lessen the necessity for a large inventory. Our customers have done likewise. However, when we ship on time and the car is set out en route for repairs, account mechanical trouble, our customer blames us more than the railroads. This strains our relations with our customers. No matter how much the shipper improves his plant and equipment to produce the best possible product, and depend on that production to ship the orders. No matter how much the receiver of the freight improves this plant and equipment to hold his overhead to a minimum and to hold his inventory to a minimum. Neither the shipper nor the receiver get the full benefit of this fine plant and equipment if shipping schedules are not maintained, due to car shortages, or if shipments are delayed in transit account car mechanical failures.

It is more important now, than ever before, that we have ample cars at the mill. This comes about because of the increased cost of the standing timber; because of the increased cost of plant and equipment and labor processing the log into lumber, plywood, and related articles. We have invested heavily in new equipment at this mill to produce more efficiently and to hold the costs down. However, the car shortages present our shipping on schedule, thus causing our inventory to rise substantially thus causing a rise in our cost (inventory cost about 1 percent per month). When the warehouse space at the mill is filled to capacity, the expense of filling orders is up sharply due to having to move material around to get at the stock to be shipped at that time. If our carloading tracks do not have sufficient cars to keep our loading crews busy all day, the efficiency of the loading crews goes down. The crews slow down to make the job last, so they will not have to go home early and lose time worked which reduces their paychecks. In other words, during car-shortage periods our mill shipping costs go up considerably.

Under present car service rules and practices, it is cheaper for a railroad to pay the current rental charge (per diem) for using foreign line cars than it is to own the cars. This cannot continue, because it results in less cars each year. On the contrary our car supply should be increased each year to take care of the increased economy and in the interest of national security.

Let's consider an example for comparison purposes. There are a number of companies who lease, nationwide, passenger cars and/or highway freight vehicles. The rentals and/or mileage payments result in about the same cost to the user depending upon services furnished by the lessor. Now, just suppose, through some rule or regulation, the rental and/or mileage charge only produced revenues to cover 50 percent of the cost of furnishing the vehicles. Naturally the lessee would continue to lease the equipment. However, the lessor could not long continue to furnish vehicles at a rental less than cost. The lessor would not replace the vehicles when they were worn out, nor could he pay the cost of maintaining the vehicles in good mechanical condition. The result would be the vehicles would eventually no longer be available. This is what is happening to the railroad freight car fleet.

The same is true of railroad freight cars. The freight car owner must be paid for furnishing the cars, one way or another, either by being paid rent for the cars when the cars are on another railroad or by receiving a division of the revenue produced from moving freight in the car.

We don't know the answer to the problem. We know the railroads are not in agreement among themselves as to how the situation can or should be corrected. The railroads are losing ground. We users of rail transportation have no alternative except to have the Federal Government step in and find a solution to this very important and serious problem. We urge your taking a strong interest in this matter and either by legislation or other means improve the present situation in the immediate future.

The CHAIRMAN. You may proceed, now. We are very glad to have these reports about the actual shortage in the boxcars. The problem is being described and I think it is admitted to be a fact, I don't think there would be anyone to question that, but we do need to make a record on it.

I would also like to have some discussion with you gentlemen of the industry as to how this legislation is going to relieve the problem.

Mr. SMITH. Would you like that now?

The CHAIRMAN. I am going to get this after you make your statement. I thought I would let you make your statement first.

Mr. SMITH. Thank you very much.

As traffic manager for the Edward Hines Lumber Co., I have been concerned during the past few years with the deplorable car service rendered by the railroads to our western mills. We have been particularly hurt at our western Oregon lumber and plywood mills.

The mechanization of the loading of both lumber and plywood requires wide-door boxcars and other modern equipment. As our mills must depend solely on the railroads for the shipment of our products, we are unable to function when freight cars are unavailable.

At the present time this situation is critical. In spite of the unremitting efforts of our mill people, our inventories of both lumber and plywood now exceed our storage facilities.

Before leaving for Washington, I again phoned high officials of the Southern Pacific Railroad and called this deplorable situation to their attention. Judging by past experience, the situation may become worse so that our mill and many companies in western Oregon and other parts of the country may be forced to drastically curtail production.

Of course, no one can deny the inadequacy of the present car supply. During the past few years there has been a net decline of over 200,000 cars. Obsolete and unsafe equipment is being maintained in service.

We have repeatedly reminded our railroads of their legal responsibility to render a reasonable service. We have been told that the western railroads have built more than their share of cars but this equipment is not returned to their main line.

Whatever the reason, our industry, and particularly our company, suffers a loss each year on account of the deplorable service of our common carriers. We are disturbed that the Southern Pacific and other railroads oppose the remedy suggested in H.R. 7165 without offering any specific remedies of their own.

I had been repeatedly warned by my railroad friends that a most serious car shortage would occur this fall. What use is this warning? Are we solely dependent for shipment on rail transportation? How are we going to take care of our customers?

How are we going to continue to produce our products without any means of shipment? We are presently exploring our legal remedies. There seems to be no alternatives. Our losses are easily definable.

The impact upon our economy of an inadequate boxcar supply has been brought to your attention in voluminous testimony before this and other committees of Congress. In past years we have been repeatedly told that the supply of cars will be increased.

In the 12-month period ended September 1, 1965, there was a net reduction of 14,391 boxcars. Of course, such a record can only result in a serious shortage. We concede that the Southern Pacific system and other western carriers have substantially increased their fleet of cars.

However, the overall supply of serviceable cars continues to decrease. We repeatedly expressed our opinion to our railroad friends

that so long as the ownership of cars was unprofitable to the railroad owner, investment funds would not be attracted in sufficient amounts to increase the overall supply.

The adjustment of per diem rates, as provided in this legislation, seems to be a step in the right direction. However, the shock to our economy, particularly in our west coast States, will be so serious that additional remedies should probably be considered.

We respectfully submit that the common carrier's responsibility, defined in our laws, requires our railroads to provide their shippers a reasonable service.

This has been denied a large group of western plywood and lumber manufacturers on innumerable occasions during the past few years.

In conclusion, I ask this committee to consider the consequences if other public utilities furnished the same sporadic, irregular, and uncertain service to the general public solely dependent upon them.

Supposing you could obtain no electricity for your home and the public utility company told you they were out of generating capacity.

Supposing also you knew that in place of their increasing capacity they were allowing it to decline each year. We are being denied an adequate public service.

In turn, our production, service to our customers, and employment are being jeopardized. We respectfully call your attention to these obvious facts and hope that a remedy can be devised at an early date.

Thank you very much.

If there are any questions I will be happy to endeavor to answer them.

The CHAIRMAN. Thank you, Mr. Smith.

I don't think there is any question but what the situation is deteriorating. I don't think anyone could take issue with the fact that you and your industry who are depending on the service should complain.

My great concern, or at least the question I have is whether or not this is just an idea or proffer to the industry.

I must confess I can't see there is much benefit to come from what we have here before us as an attempt to alleviate the situation.

Mr. HILTON. Our industry very strongly feels that H.R. 7165 and related bills offers the best solution to providing a permanent and equitable solution to the boxcar shortage.

It would provide for a fair rental to the owning lines and would not unduly penalize lines that use cars they have not built.

However, the penalty would be substantial enough to discourage the hoarding of boxcars and, conversely, we feel, encourage the construction of new cars.

The net effect, we feel, would be more cars, for us and for all shippers.

The CHAIRMAN. That is what you are for and I don't blame you. We have the report from the Commission, as you heard this morning, and we have had conversations with them and their staff. I have kept up with this matter for the last several years and personally urged that something be done both within the Commission and within the industry, with the AAR and here they come up with this.

Now I don't believe this Congress and I don't believe the Commission can be given enough power and authority to arbitrarily set a per diem on the use of cars that would be unreasonable.

Now the courts have already interpreted certain authority of the Commission with respect to arbitrary action, I assume you would call it, and said just for regulatory sake they could not do it.

Unless we get more boxcars, unless we get more freight cars we are still going to be plagued with the problem. What we want to do is to see if we can't encourage somebody in the business. You know what they came up with.

The eastern group, primarily, came up with, "let the Government do it."

Mr. HILTON. Our industry up until November of last year has always relied on managerial discretion. We think this is a carrier problem, we work with individual carrier managers and the American Association of Railroads and they know the problem.

Some of them in the West have done a marvelous job in providing new boxcars. Others have not. We have a situation in the West where every carrier in the country is out soliciting for business of moving plywood. We feel as long as they want the business they should contribute to moving our product by providing cars.

We have a situation in the West that says you have to have three empties behind every load that goes West to stay even and we haven't got it.

Mr. YOUNGER. Thank you, Mr. Chairman.

In your statement you say your industry is losing \$10 million a year?

Mr. HILTON. Yes; outright loss and there is no excuse for it.

Mr. YOUNGER. According to the figures they gave us this morning that would mean the construction of a thousand cars. They gave the rate this morning at \$10,000 a car.

Mr. HILTON. That figure may be a little light, 700 would be a better figure.

Mr. YOUNGER. All right, say 700 cars. It seems to me 3 years ago in our hearings the packing companies gave no testimony of shortage of cars—they had all their own cars—that there was any car shortage.

It seems to me if you are having that loss every year and continuing to have that loss, I can't see why you don't build your own cars.

You complain about the cars you have because of the difficulty in size, the openings of the door, why don't you build your own cars?

Mr. HILTON. Cars are available for lease or industry could buy cars. For example, Pullman Standard has a leasing subsidiary and American Car & Foundry in St. Louis has a leasing subsidiary; the type of equipment we would like would average about \$250 a month on the lease basis.

The CHAIRMAN. Per car?

Mr. HILTON. Per car. The average cost each month per car on mileage is so great you couldn't make any gain, only loss.

The CHAIRMAN. How much mileage?

Mr. HILTON. About 6 mills to the mile—4½ to 6 mills.

Mr. SMITH. I believe the mileage tariff is 7 series, probably series S. Now, this is published by chairman Hinch for all carriers of the United States and for a common carrier car it is 6 mills per mile loaded or empty. They have other provisions where you have special loading devices where they pay 4 cents per mile loaded or empty.

We have different types of cars which are more expensive, some of the refrigerated cars pay 4½ or 5 cents loaded or empty.

We have on the bigger cars, on the tank cars, where they recently revised the mileage payment, where they were paying loaded or empty on the car per-car-mile-rate of 9 cents they changed it to 18 cents per loaded mile.

The reason they changed it from 9 cents loaded or empty to 18 cents loaded is to encourage the car to be loaded in both directions because that is when the railroad makes their money when they have tonnage in the car they collect freight charges.

Mr. YOUNGER. It seems to me if you are losing \$10 million a year, I don't care how you figure it, you could save \$10 million, if you could supply a lot of cars for the industry and they are good for 27 years.

Mr. HILTON. Mr. Younger, we could buy 700 cars—our average boxcar—if we built 700 cars with the \$10 million we would be lucky to get 10 trips a year.

Mr. YOUNGER. If you could do that, over 3 or 4 or 5 years saving \$10 million a year—this isn't new, not since I have been on this committee. I just use that as an example; Swift & Co., Cudahy, all the packing companies that own their own cars, none have been before the committee saying they have a shortage of cars or that it has been expensive.

Mr. HILTON. The element of value comes into this. Meat is a high-rated, high-value product; forest products are low value, low rated. And our industry, operating on the profit margin it does, it is not feasible; it has been investigated.

One other thing, it is not mandatory on the railroads to accept a leased boxcar for a movement. It could be we would have a leased boxcar and not be able to move it.

Mr. YOUNGER. It would cut down your shortage. By that expenditure you can force the railroads to deliver your boxcars and you wouldn't lose the \$10 million a year.

Mr. HILTON. If we had a hundred percent western ownership we wouldn't have a loss. They operate with 75 percent of their own cars and that is the problem.

If we had all the cars we would be in good shape. We are talking of the railroad cars in the West and if they had 100 percent on the line our problems would be over.

Mr. YOUNGER. That was the major question I had.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS of Texas. I had some questions but they have been asked.

The CHAIRMAN. In other words—what does a boxcar cost?

Mr. HILTON. A nice 50-foot boxcar with wide double doors is a \$15,000 proposition.

The CHAIRMAN. \$15,000?

Mr. HILTON. Right.

The CHAIRMAN. You say that would be 700—\$10 million would be 700 cars?

Mr. HILTON. Approximately, yes, sir.

The CHAIRMAN. Now, let us see, exploring this idea you don't think you would help yourself by putting 700 cars into the national car pool because you wouldn't get your cars back?

Mr. HILTON. It would be a one-shot deal probably because we would probably never see them again.

The CHAIRMAN. If we maintain the same procedure we have traditionally followed, then we have to virtually have a national car pool?

Mr. HILTON. Well, we have in effect a national car pool in operation right now in private enterprise. We have that, but we think it is insufficient. We think this bill is one way of building this up.

The CHAIRMAN. Yes, I know that is what you think. What I was getting at was I was trying to get you to show that industry here and there trying to add to that car pool would not relieve the situation, that is, the shipping industry.

Mr. HILTON. I think if you will refer to page 4 of my main 15-page statement, the next to the last paragraph reads as follows:

We have tried in every possible way to stretch the supplies of cars. Average weight per car has increased since 1961 from 62,256 pounds to 84,059 pounds in February 1965.

And now the figure is nearly 90,000 pounds per car which is the "point of no return." In other words, we simply cannot load any more plywood panels in cars. This has increased the revenue to the railroads but has not increased the supply of cars.

Back to my other point, we have done all we can, we have no cars to load plywood in and there is no place to go.

The CHAIRMAN. I just don't believe I have ever been able to get through to you what we are trying to find out.

Mr. HILTON. I am doing my best to answer your question.

The CHAIRMAN. Maybe so.

I do not disagree with anything you have said with reference to your need and what you are trying to do and your own evidence, but, as I see it, I don't, under traditional procedures, see where the railroad industry is generally supposed to supply this service, including cars. I don't see there is anything you can do about it.

Mr. HILTON. No, sir, we can't; it is their obligation to supply the equipment.

The CHAIRMAN. What I was trying to show a while ago is that if your industry and some other industry like the oil industry—it supplies its tank cars and that worked out pretty well, but those cars go from—well, they can be used only for that purpose.

Mr. YOUNGER. Will the gentleman yield?

The CHAIRMAN. What I was trying to show, if you decided you were going to try to do something about it and your industry put in an order for 700 cars and some other industry for 700, all you would be doing would be supplying the national car pool without relieving your own situation.

Mr. HILTON. That is correct. That is all we would be doing.

The CHAIRMAN. That, as Mr. Younger was indicating a moment ago, unless the national situation caught up with the need, would not relieve your situation?

Mr. HILTON. That is correct.

Mr. YOUNGER. One question on that. You say if you built your own cars they would disappear and wouldn't get them back?

Mr. HILTON. Probably not; yes, sir.

Mr. YOUNGER. What would be the difference if the railroad built the cars and they couldn't get them back? You still wouldn't have the

cars to use. What difference would there be in the railroad trying to get cars back and you trying to get them back?

Mr. HILTON. All we would have done would be build 700 cars that we can have used the first time.

Beyond that—our industry is simply not going to do it; the economics are against it.

Mr. ROGERS of Texas. It is very interesting to me. If your association decided to go in and build 700 cars, do I understand the minute those cars went into traffic you couldn't get them back unless they just happened in the ordinary trend of events to get back.

Can't you make a separate deal with the railroad and have the railroad when they use those cars have the obligation of returning them to you?

Mr. HILTON. Yes, sir; but we have the same problem as when you lease them. The average car moves something like 50 miles a day. A car going from Tacoma moving 50 miles a day to Boston, it takes 3 or 4 weeks to get to Boston and 3 or 4 weeks to get it back.

Mr. ROGERS of Texas. Couldn't you make some deal with the railroad that after a week they would all be hauled straight back to where they were?

Mr. HILTON. You are getting into a legal point. I am not sure I can answer you. We might be getting into discrimination.

Mr. SMITH. For your benefit, I am Emmet Smith, I and my company have been in business for a long time. We know today, over the last 4 or 5 years, particularly, we have had to go to packaging on account of the high labor cost of loading operations.

You know the present cars we have tried to use are universal cars were we, at car door, grade and tally. We have had to package the lumber as it comes off the machine and sell it that way. If you want any of the packaged lumber you have to buy the whole package. That is not all grades but a good portion of the lumber. Not the soft grades, but the firm items—structural boards and planks.

We leased over a year ago 26 new-type freight cars that had an A-frame down the center of the car where you just set the lumber on and chains or cables come over and tie it down and we do unload the car, or our customers do in an hour or hour and a half.

We lease those cars from a company in Duluth and we have to guarantee this car will travel over 4,000 miles per month loaded or empty. This is a rebuilt car. If it was a newly built car with 70-ton trucks which meant they could haul up to 140,000 pounds on it, if it had roller bearings, I am not saying anything about cushioning the underframe, that car would cost about \$20,000 and for them to put in their expense to maintain the car we would have to guarantee at least 8,000 miles a month for them to amortize the car.

We are willing to do that to find out what is the type of car we have to have to market our product but we can't supply all the cars required by our company, we couldn't begin to do it, we don't have the money.

We think the railroads can do it better getting a two-way haul. We get a one-way haul, but if we could find a load going the other way, we would do it. I would say our particular situation in Oregon, the west coast, we have a monopoly against us two ways. First, the railroad has a monopoly on our tonnage. Second, we are cutting 100 percent Government timber, on open bid, and everyone knows what

happens at the appearance of our companies before forestry bodies; the last bid is the lowest bid, but costs go up, up, up.

We built a new plywood plant—it is in operation 7 years—the machinery is outmoded but still has many years of use. It doesn't produce the lowest cost product, labor has gone up.

We have to find new ways of holding costs down and we put in all new machinery. We think if the railroads want to be modern and want to recoup and get more tonnage and revenue per car mile they have to increase their car supply and car capacity.

Mr. ROGERS of Texas. You don't want to go in competition with the railroads?

Mr. SMITH. No; we are specialists in lumber, we have been in it for years and I think we will be for a long time.

The CHAIRMAN. Now still we have not got back to the question I originally asked: How will this bill help?

Mr. SMITH. May I answer the question?

The CHAIRMAN. Yes; if you can show the Commission where it has the authority to adjust the per diem.

Mr. SMITH. I think the adjusting or increasing of the per diem or the car rental over what they have now, when these hearings are concluded under the Ex parte 241 and the extra data the Interstate Commerce Commission would gather in the next 12 months, if you approve this bill, will go a long way toward utilizing the car-building capacity we now have and will cause additional car-building capacity to be put in effect and for this reason: cars come on to your railroad, foreign line cars, and you now have to pay \$2, \$6, whatever it is, for every day that car is on your railroad.

Now if you have to pay twice that much but you can buy cars and balance your payments with receipts and traffic is such that you can go ahead and buy the cars, it is going to be cheaper for your company to do it.

If you don't do it then you are not doing justice to your directors and to your stockholders and naturally they are going to have to obtain more cars.

Now, if you are a railroad and the traffic comes loaded onto your line and very little traffic that you originate goes off your line, you don't want to own a large car supply because the only time you can use it is after you have first loaded all those foreign-line cars in the direction of home.

You couldn't get the rents out of your cars, your cars would be sitting idle most of the year. Maybe they should do it, maybe we should do it in the interest of national security. I don't know the answer, but I know something has to be done.

The CHAIRMAN. That kind of situation sounds good in theory but we have practice involved here.

Mr. SMITH. I think the railroads are the ones that should tell you what is necessary to get more cars. They are in a better position to do it; that is their business.

The CHAIRMAN. Unless the railroads generally throughout the country would agree on some uniform formula where each one would be contributing their share according to the amount of business done, that is the business as originated and the business that is terminated, I don't think this is going to get the job done at all.

That is my personal opinion. It may be a step in the right direction. I am sorry I didn't have more time with the Chairman of the ICC this morning. I wondered if there was some formula that might be devised that would be applicable across the board by which the Commission could require the railroads to provide certain services that they are not now doing.

I know that would be a drastic requirement but you would be getting something done.

Mr. HILTON. I think the Commission has that in mind. With this Ex parte 241 I wouldn't be surprised if it didn't show origin traffic, overhead traffic, and terminating traffic; I think some carriers would undoubtedly do that.

The CHAIRMAN. The question now is the authority to increase the per diem?

Mr. HILTON. We think that would be very important if Ex parte 241, if they didn't want to build them and the price got up high enough they would start building them.

The CHAIRMAN. I think you have got another think coming if you think somebody can charge something that is arbitrary and unreasonable. I don't think Congress could require it.

Mr. HILTON. We think it is a railroad's privilege to supply boxcars to our business and we don't want to go into the boxcar business.

The CHAIRMAN. I am not arguing with that and I think they owe you that service. What I am looking for is some idea of how to accomplish it.

I have never believed and I don't believe now you are going to meet the problem now by saying you have to pay more.

Who has got to pay it? The public, when it is all said and done. It seems to me we ought to be trying to think of some way of getting the job done, a way that would be adequate. And the way I see it some formula whereby each of the roads, taking into consideration its own responsibilities, should contribute to this national responsibility.

Mr. HILTON. We agree with that.

The CHAIRMAN. Unless that is done, you are not going to solve your problem either.

Mr. Nelsen?

Mr. NELSEN. No, sir.

The CHAIRMAN. Mr. Watson?

Mr. WATSON. No, sir.

The CHAIRMAN. Thank you very much, gentlemen.

The fact we have been arguing does not mean anything; we are just trying to see what would be a good formula for this problem. I think everybody recognizes and the railroads can take due notice that they are going to be asked how to meet the problem when it comes. That is one reason we are making this record, and we are going to explore every phase of it.

Thank you very much.

Mr. SMITH. Mr. Chairman, we would be very much indebted to you if you would give every consideration you can and try to find reasons to pass this legislation for at least a start in the right direction and end the argument, that certain carriers put up, that the Commission now has the power and they are opposed to this legislation. If they now have the power proposed in this legislation, then there should be no argument.

The CHAIRMAN. Well, the Senator said there was no opposition.

Mr. SMITH. There is opposition.

The CHAIRMAN. Mr. Martin, I observe you are scheduled for tomorrow and I am aware of the tight schedule that you have. Under the circumstances would you prefer to proceed today or would you prefer to wait until tomorrow as scheduled?

STATEMENT OF ELDON MARTIN, VICE PRESIDENT AND GENERAL COUNSEL, BURLINGTON RAILROAD

Mr. MARTIN. I would prefer to wait until tomorrow because I do not have with me the prepared statement I wanted to file. In fact, I doubt that I should attempt to proceed now unless you wanted to give me a half hour to go get my papers. In that event, I could, but I would prefer to get started tomorrow morning.

The CHAIRMAN. Well, if you would wait until tomorrow, in view of your preference, the committee will adjourn until 10:30 in the morning instead of 10 as originally announced because of other schedules some members have.

Mr. MARTIN. I might add, I certainly intend to tell you why it is this bill will get you the boxcars. I think you will be satisfied when I am finished. I could give you a little now, if you want to listen.

The CHAIRMAN. Well, I would be perfectly glad to have it because I may be a little late because of my schedule.

Mr. MARTIN. Let me take 5 minutes then.

The CHAIRMAN. Take 10, if you like.

Mr. MARTIN. My name is Eldon Martin, and I am vice president and general counsel of the Burlington Railroad and I speak for 23 of the major railroads of the United States which collectively own approximately 40 percent of all the freight cars in the country.

We support this legislation; that is, we support the House bill which your honor and others introduced. We have some apprehension about the Senate amendment but I will get into that tomorrow. The basic philosophy of this bill which we support is based on simple economics.

If you find any item in our economy under our economic system which is in short supply and you want more of it available, you must put some profit in it. This is all there is to it.

You will not get any item, I don't care whether it is an automobile, whether it is an apartment, whether it is a house, whatever, if you discourage its production. You must make that production a profitable investment. That is the fundamental situation that underlies this amendment.

That is my view and the view of my constituents as to why we have created this transportation shortage. The tremendous decline in the boxcar situation is for the reason it has been unprofitable, unattractive from any viewpoint, to own boxcars.

We say when you find you can't get your money out of an item, and particularly when somebody can take it away from you without your consent, it is difficult to persuade people to get into it.

That is why this situation has been getting worse and worse for years.

We say to reverse that trend and get boxcars is to put some profit in boxcar ownership instead of making it an unattractive investment.

We say, if you do, economic law will operate and you will begin to get the cars.

There is an analogy in rent control during the war. You all remember what happened. When you had rent control and the tenant could sit in a \$200 apartment at \$100 a month rent, you know how much housing you got, but when the war was over and rental restrictions were removed, you got more housing.

There is a close analogy in that and the boxcar supply.

For generations you have made it impossible to make any profit in boxcar owning. That is the essence of this bill; it is far better that we should let natural economic law operate, put profit in car ownership and get the cars than it is for the Commissioner to say, "You, Mr. A, buy so many cars."

I oppose that kind of legislation, I don't think the Government should have that kind of power, particularly when it is not needed.

I will go into this philosophy a little more tomorrow but that is why this bill will get your cars, Mr. Chairman, in my opinion.

We have had for generations a situation where certain railroads being fortuitously in certain positions on an inbound road where cars dropped in their lap, they had no incentive to buy cars because cars from other roads were passing their way every day.

At the same time since they had no incentive to buy cars there was a constant pressure to decrease the level of car rentals. There was a group that constantly applied pressure. Why should they buy cars, they had the other man's cars. Naturally if you are using an article, belonging to somebody else, you want to use it as cheaply as you can. And if you have a vote to hold down that situation, you are going to use it.

That is why we have this shortage. They were able to exercise this downward pressure on the amount of the rent and when you do that you won't get that article produced in the volume that you will if you increase the rents and make it profitable to put your money in that type of equipment and rent it.

We don't suggest that cars ought to be built simply to rent to somebody else; that is not the point. Most of the people in the territory where we have this serious problem would much rather have the car than two or three times the rental that might be prescribed.

We want the car, but when it gets away from us we want a little more than the bare bones cost of it.

This bill would create a situation where this would be solved by economic law. It would put some profit in car ownership and encourage more car owners to put more cars in movement.

For example, if you are a road that has a car just unloaded on your line and it belongs to another railroad, right now we will say it costs you only \$4.50 a day for you to keep that car and wait for a load. If you make that charge, say \$6 or \$7 instead of \$4, you are going to get it off your railroad as quickly as possible.

This again is a simple principle of economics. When you are paying for use of a car you get rid of it as soon as you can. That is the second effect of this legislation which we think would be highly beneficial, move the equipment more quickly. The first and most basic part is the first part, if you put some profit in car ownership, economic law and the profit motive will get boxcars.

I will see you tomorrow morning.

The CHAIRMAN. Well, let's don't end there so abruptly.

Mr. MARTIN. I am delighted, I hope you have lots of questions.

The CHAIRMAN. I am impressed by the first point you made. If the Commission knows anything about the situation—the second point I don't think bears nearly as much weight—now from their information, their report, as I understand their position, it is that the roads are continually doing a pretty good job of keeping the cars rolling. I know people disagree with that and it is easy to criticize but when it comes to performing and they, having expertise in the matter in my judgment, would be in a position to have more factual knowledge of the situation than anyone else except you people who are in the business yourself.

I suspect from a personal standpoint, representing the great railroads as you do and owning as many cars as your road and others you represent here today, that you have a feeling that they could do a little better job on returning these cars or keeping them rolling.

Mr. MARTIN. We certainly do.

The CHAIRMAN. That, of course, presents a question of fact that is in controversy. But the simple, plain economics of it seems to appeal to me and I would like to—you say you represent 23 railroads?

Mr. MARTIN. Yes, sir.

The CHAIRMAN. The western railroads?

Mr. MARTIN. No; this is another misconception that has crept around Capitol Hill. Among my 23 railroads are railroads from all over the country.

I represent C. & O., Gulf, Mobile & Ohio, Illinois Central, Great Northern, Northern Pacific—I represent roads from all sections of the country.

I represent roads that have done more than their share, if the committee pleases, to add to the national freight car fleet. We are getting tired of building cars and having them go off line and not getting them back for months and, while our neighbors steal them, getting a mere pittance in rentals. They not only steal the cars but give us a mere pittance for their use.

The CHAIRMAN. Well, you are to be complimented. All the railroads, tremendously, for your efforts in meeting this problem. And I am impressed by it, and you should be encouraged to go on with meeting your responsibilities.

Others should do likewise.

Now you say that the per diem that is presently in effect, what group would these cars be in, that you talk about, primarily?

Mr. MARTIN. Well, I was using an average for a new car. The bracket of \$10,000 to \$15,000 value is \$4.50, today.

The CHAIRMAN. \$4.50?

Mr. MARTIN. Yes.

The CHAIRMAN. Let's see if I can find that group.

Mr. MARTIN. That is \$10,000 to \$15,000 value?

The CHAIRMAN. That would be \$3.58.

Mr. MARTIN. I beg your pardon?

The CHAIRMAN. In the ICC's report, they talked about the \$5,000 to \$10,000 class. I don't know what group that is.

Mr. MARTIN. I don't have my papers, but that \$3.58 could be right.

The CHAIRMAN. The next largest group of cars, 377,000, 385,000 group 3. The 5,000 to 10,000, and they carry a per diem rate of \$3.58.

Mr. MARTIN. That sounds right.

The CHAIRMAN. Now let's see. Let's go to the other, the 10,000 to 15,000.

Mr. MARTIN. That is \$4.50.

The CHAIRMAN. That is \$4.50. Now just for the record, being an experienced individual in this field, representing the industry that is deeply involved, what should that per diem be, to make it an economic—

Mr. MARTIN. Put some incentive into it?

The CHAIRMAN. Yes; from your standpoint.

Mr. MARTIN. Now I am not going to evade your question, Mr. Chairman; I am going to answer it. But I should preface my answer with this comment: This is a very difficult question, and it is one which, if you enact this bill, the Commission will have to decide on the basis of a mass of evidence which will be presented to it. A great many different—

The CHAIRMAN. It would be massive, too.

Mr. MARTIN. A great many different accounting theories and economic theories and philosophical theories will go into that determination, but I can answer your question in this way: The current rate, as you say, for the \$10,000 to \$15,000 car is \$4.50. Now, there is just one item that I want to mention, and I have the exact figures on this, and that is why I can mention it. This \$4—

The CHAIRMAN. That bell is not for you; that's for us.

Mr. MARTIN. I understand.

The \$4.50 does not give any consideration whatever to the fact that the car owner must pay an income tax on the rental which he gets from the car user, which, incidentally, is also a deduction for tax purposes to the user.

Now, we say, and again we are talking simple economics, that the income tax you pay on revenue you get from something you own is certainly a part of the cost of owning that article, and the cost of operating it.

The \$4.50, depressed compromise basis, doesn't give any effect to that factor whatever. If you took the formula just as it is—and there are other soft spots and weaknesses in it, which I could develop if I had the time—but just take that one factor, and include in your formula, if you please, the effect of the income tax which the owner must pay on the rental, that would increase the \$4.50 to \$6.56 per car today.

The CHAIRMAN. Are you taking into consideration what an investment tax credit might come to?

Mr. MARTIN. Yes, sir; the investment tax credit is included in the basic formula—depreciation.

The CHAIRMAN. And are you taking into some consideration the fact that you depreciate it over a period of what, 27 years?

Mr. MARTIN. That varies. The ICC permits you, now, to depreciate equipment over 15 years or more, and different roads have different service lives which they adopt, but this illustrates my point.

I have mentioned only one factor which seems to me to be a perfectly obvious cost factor, income taxes on the rental you receive, which would hike the rental from \$4.50 to \$6.56.

Now, I don't know how much beyond that point it would be hiked, if all the proper factors that we think ought to be considered were placed into the formula, and then after you had covered all your costs, you said, "Well, we have got to provide some incentive for car ownership, so we will add a 5-percent profit," or something like that.

There ought to be some profit over and above your out-of-pocket costs, or you don't stimulate interest in car building and car construction, and this is a point that I do want to get across.

There are some of the opponents of this bill, from whom you will hear tomorrow—unfortunately, I am afraid after I am gone—but they will tell you that what we contemplate here, and what may result if this bill is enacted is something like three or four times the amount of the current charges.

A penalty, if you please, of the type which the court condemned in the *Palmer* case, and I would like to come back to that, because I was much impressed by Mr. Younger's analysis of that case. He is very close to right.

But, this isn't what this bill contemplates, in my view, nor is it what the bill contemplates in the Commission's view.

There is no penalty involved here. All that we are trying to get is full compensation, including an element of profit, and including an element of risk.

There are risks of ownership in boxcars, not having them when you want them, and when you need them most. That's a risk. You ought to have some increment to attract investment. You ought to have a number of factors in there, in this formula, that will make it crystal clear that it is worthwhile to put your money into a boxcar, and it hasn't been so for generations.

I don't want to keep you, but I was reminded of Mr. Younger's questions about the *Palmer* case. Now that is the damndest court decision I have read in a long time. It is long, it doesn't make much sense, it is very confusing and confused, but this I want to make clear: That was a penalty case.

That didn't even involve the section of the statute which is under consideration here. It didn't involve the question as to whether the Commission could prescribe a per diem charge which would provide incentives for car ownership.

It just said that you can't double the charge to force quicker return of cars. Actually, that is what the Commission attempted to do in the *Palmer* case. They attempted to change the charge from \$1.15 to \$2.00 a day, back in the days when the relative figures were similar.

And it involved a different section of the act. It didn't even involve the issue that you have here.

I don't like to contradict Commissioner Webb, but he said that the purpose of that thing was to get more cars. That was not right. The purpose of the thing, as declared by the Commission in its order, was to force the quick return of cars.

It was under 1(15), not 1(14), which is the section we have here, and that case, I think, did not hold what Commissioner Webb seems to think it might be construed to hold, and what some of our friends from the New Haven and maybe the Central will say.

I say, personally, that that case doesn't limit the Commission's power to the extent they think, but I think at the same time that

there are enough people who say it does, that Congress owes the country and the car owner an obligation to say, "Listen, boys, if you think that's what that case said, we are going to straighten this out. We certainly don't intend to limit the Commission in fixing these rentals to a bare-bones-cost philosophy. We do intend to let them know what we want is and adequate supply of freight cars, and if in their judgment it would help to put a little profit into car ownership over and above bare bones cost, they have the authority to do it."

And in effect, that's about all this bill is intended to do, but it is not intended—in my view, at least, and I think in the view of all of those I represent—it is not intended to operate as a penalty and create a doubling or tripling of the charge.

It is intended simply to make sure that the charge is high enough to provide an incentive for the investment, and let economic law operate. And it will operate as we like to think things should operate in this country of ours.

It wouldn't be Government edict. There will be some profit put into car ownership, and then every railroad will have a choice: Do you want to pay this higher rental, or do you want to go out and buy and build some cars of your own?

You will have that choice, under the system which would be created by this legislation. It is the farthest thing from the all-powerful state, the Government-edict philosophy. It creates a supply-and-demand proposition, fixes the rental at a level which makes the investment attractive, and then lets the chips fall where they will.

If the user railroad prefers, he doesn't have to buy any more cars. If he wants to continue to pay the rental, when there is incentive for construction, some roads will build the cars, and you will get them.

I think it will operate on the entire railroad economy. I think once you put some profit into the car ownership, you will find a lot of roads building cars, wanting to build them, and incidentally, I remember some conversation about this leasing business.

It doesn't matter who owns the car, whether it is some car leasing company that might lease it to Mr. Hilton, or Mr. Smith. The leasing boys aren't going to put their dough into this investment if it doesn't have some profit.

You are going to keep depressing the level of car supply in this country forever, until you tell the Commission that they can put some profit in car ownership, and when you tell them that, you will get the cars.

Next question.

The CHAIRMAN. Yes. If the Commission were to be given the authority, and after hearing, which they say this provides—

Mr. MARTIN. Yes, it does.

The CHAIRMAN (continuing). The Commission made a determination on the basis of the various criteria that are outlined in this bill, and they would come up with a record that would justify an increase of the per diem, \$6.56 a day on the basis of what you have just said, so far as your own industry is concerned, would your railroad and the other railroads increase your car production if you found it necessary to meet the charges that exist?

Mr. MARTIN. I firmly believe we would and that they would.

At least, I can say the probability of that action would be infinitely greater than it is today.

The CHAIRMAN. Well, it seems to me there are certain railroads that feel that this—well, all railroads, I guess, feel—that this is a service they should provide, the railroad industry as such.

Mr. MARTIN. Yes, sir. We certainly do. The gentlemen I represent certainly think that is so.

The CHAIRMAN. Now, there apparently are some railroads that feel that they should provide accordingly and are willing to build these cars. Apparently there are other railroads that feel that they would rather not be in the business too heavily, and they are reluctant to do so.

Mr. MARTIN. Right.

The CHAIRMAN. If provisions were arranged here, the economics of it that you have argued were to be made, do you think these railroads who are willing to build cars and provide them then would be given sufficient incentive to increase their production capacity, and increase the cars that they themselves owned and are willing to put into service for the public?

Mr. MARTIN. The same answer as before. I think the answer is clearly yes, but at the very least, the probability that this would occur would be infinitely greater than it is today. To the extent that you put more profit into the rental charge, to that extent, you increase the incentive for construction or acquisition of more cars.

The CHAIRMAN. Well, this value of use that you mentioned a moment ago, is quite a technical and interesting subject matter.

Mr. MARTIN. Yes, my \$6.56 does not include any allowance for value of use.

The CHAIRMAN. You think that that revenue is obtained from the freight itself?

Mr. MARTIN. Sir?

The CHAIRMAN. Do you think that the revenue of the value of use would come from the freight itself?

Mr. MARTIN. That is exactly where the value of use comes from.

The point that perhaps escaped you when you asked the question, and which I would like to elaborate on, is this: the value of use becomes extremely important when the owner is deprived of that use, and his car is retained by a nonowner, who can, under present conditions, get from that value of use, from the use of the other man's car, say, from 3 to 10 times the amount of the per diem charge.

He pays us a wholly inadequate rental, and makes from 3 to 10 times that much by using it for his own business, and this is a terrible inequity which we think exists today.

The CHAIRMAN. Well, how much weight do you think that the ICC should give, in making its determination on this issue of value of use as compared with ownership revenue?

Mr. MARTIN. Well, I don't know. I can't pick a figure out of the air on that, and I say this: that I think you would get a tremendous addition to the national car fleet if you simply provide profit over and above all ownership costs, which the present level doesn't provide.

Now it would be fine if, in addition to some profit, you would add another factor, which you would pick out of the air, representing the value of use, but I don't think you have to have that.

The CHAIRMAN. Thank you very much. We will expect further testimony in the morning.

Mr. MARTIN. 10:30 in the morning?

The CHAIRMAN. Mr. Younger has some questions.

Mr. YOUNGER. I would just like to follow up, and find out if under the penalty clause that is in the bill at the present time—

Mr. MARTIN. I beg your pardon. There isn't any penalty clause.

Mr. YOUNGER. Well, the Commission can impose a fine on roads which do not pay the per diem at the present time. Isn't that right?

Mr. MARTIN. That's not under the bill.

Mr. YOUNGER. Not under this bill. I mean it is in the present law; according to what Mr. Webb said this morning, they could levy a fine of \$500, and so forth.

Mr. MARTIN. That was for violation of the ICC order.

Mr. YOUNGER. That's right.

Mr. MARTIN. There isn't any—

Mr. YOUNGER. Do you know of any road that has been fined?

Mr. MARTIN. Yes, I know of some where fines were assessed. I think they are being contested. In connection with some of the earlier service orders, so-called, which said to certain eastern roads, "You must send back home to the owners of these cars 25 cars a day," or 50 a day, and something like that, and certain roads didn't do it, because they found it more profitable to keep the car and use it in their own business.

The Commission did prosecute them, under this statute, and it is now in litigation.

Mr. YOUNGER. Well, the trouble that I have is that the Commission, knowing this shortage, and knowing this problem, that has been aggravated every year, have really done nothing to test it out, to really develop a case, either through hearings or any other means.

Now they want another year to gather the information through hearings.

Mr. MARTIN. Well, they are gathering it.

Mr. YOUNGER. What?

Mr. MARTIN. They are gathering it right now, and I don't want to be put in the position of defending the Commission—although I would defend them against attack in this area and others.

But here is the difficulty. We, the car-owning group of roads, have been trying for years—we have had a complaint on file with the Commission and suits in the courts—to try to get our dough out of those who won't even pay the present penurious, picayune charge.

We have litigation pending before the ICC in which we allege that these present per diem charges are wholly inadequate, and ought to be increased, and that's one reason you ought to pass this bill, because these cases now pending are going to have to be decided some time soon, some time next year, I hope, and when the Commission comes to decide these pending cases for God's sake, let them decide it on the basis of some sound principle, instead of this fallacious and phony, in my view, interpretation of the *Palmer* case, which suggests to them—they think it suggests to them—that you can't fix charges that do any more than cover bare bones cost.

That is the basic reason why you need this bill. Clarify your intent. When you gave the Commission power over per diem charges, you must have had in mind the importance of an adequate car supply.

Now, the court in the *Palmer* case and some of the folks who find it in their selfish interest to say, "Oh, hold these charges down to a minimum level," have said that in the *Palmer* case, the court said the Commission couldn't do that. I don't believe it, but there is a strong element that says that it did say that, and I say, now, you, the Congress, who are interested in and have the responsibility along with the rest of us for an adequate car supply, you tell the Commission, "Well, when we gave you this power, we meant that you should prescribe these charges on a basis that would get and maintain an adequate car supply, and don't you worry about what that court said in the *Palmer* case. We don't know what they meant, either, but we are letting you know that we didn't intend and we don't intend that you should prescribe these charges on a basis that doesn't provide some profit, and provide some incentive."

Mr. YOUNGER. Thank you.

The CHAIRMAN. Mr. Rogers.

Mr. ROGERS of Texas. I don't want to trigger a long discussion here, but I take it from your voice inflection about the Senate amendment that you don't think it perhaps should be in the bill?

Mr. MARTIN. I think it stinks, and I will tell you why.

Mr. ROGERS of Texas. You have answered my question.

Mr. MARTIN. Do you want me to tell you now or tomorrow?

Mr. ROGERS of Texas. Either way.

Mr. MARTIN. Well, I will just tell part of why, now.

The CHAIRMAN. If you get it in the record now, you won't have to repeat it tomorrow.

Mr. MARTIN. The basic reason why that amendment is bad, and why it would defeat the stated purpose of the bill is this—and there is one clause in the amendment that is particularly vicious—

The CHAIRMAN. What is the amendment?

Let's get it in the record so that anyone who reads this, and I am sure they will, has it. Let's get the amendment. I think it probably starts at line 12, page 12, doesn't it?

Mr. MARTIN. I don't have it in front of me. I don't have anything.

The CHAIRMAN. We have got all kinds of bills here.

Mr. ROGERS of Texas. Starts with "in the consideration of any element."

Mr. MARTIN. That's it.

The CHAIRMAN (reading):

In the consideration of any element included in determinations pursuant to this paragraph as an incentive to car acquisition and maintenance the Commission is empowered to make such element, or any part thereof, inapplicable:

1. To carriers determined by the Commission as owning an adequate number of freight cars to meet their responsibilities to the needs of commerce and the national defense;
2. To carriers which terminate a substantially higher percentage of interline traffic than they originate;
3. To types of freight cars the supply of which the Commission finds to be adequate; and
4. To such other cases or circumstances as the Commission finds to be in the public interest.

That one's a wide one.

Mr. MARTIN. Well—

The CHAIRMAN. What does all that mean?

Mr. MARTIN. The most important thing that it means, as I see it, and the most important reason why it is vicious and self-defeating is

that clause 2, which says that after you have put some profit in car ownership and established a charge that provides incentive for the investment, then the Commission can say: "Oh, no; that doesn't apply to somebody that terminates more traffic than he originates."

Well, those roads which terminate more traffic than they originate are the fundamental cause of this recurrent car shortage. They are the gentlemen who get these cars from other roads that are owned by other roads and who keep them and use them and do business on the other man's investment, who have exerted this constant downward pressure on the level of the car rental, who will fight any efforts to increase it or even any effort to give the Commission any power to increase it, and on top of that, the other vice of that clause is this: It purports to say that, after the Commission after a hearing has decided that \$6.56, if you please, should be the charge for a \$10,000 car, that then it may follow that and say, "Well, that's what the car is worth. That's what ought to be paid in rental, to make the car owner whole, and to provide some incentive for investment, but you, Mr. Road A, don't have to pay that. We will let you pay \$4.40."

Well, now, how silly can you get? If you have a charge that is fixed after hearing as the proper, valid compensation for the use of a car, then everybody that uses it ought to and must pay it. How can you say that a car whose value is \$6.56 per day shall be rented to Mr. A for \$4 and to Mr. B for \$4.15, and to Mr. C for \$3.25, and have 15 or 20 different rent charges, depending not on what the car is worth, not on what the Commission has said is a proper charge, but rather upon the financial, geographical, or other condition of a dozen different users?

Mr. ROGERS of Texas. Do you know where this language came from?

Mr. MARTIN. I think so.

Mr. ROGERS of Texas. Now, Senator Magnuson blamed it on the ICC and, as I understand Chairman Webb, he refused parenthood, but agreed that they did assist in the birth, I believe.

Mr. MARTIN. Well, let's be entirely candid about this. I think it comes from Senators Pastore and Cotton, who represent New England, and ably do so, and the New England roads don't like to pay high rent any more than any other tenant or user likes to pay high rent.

Mr. ROGERS of Texas. Now, this language does nothing more than create restrictive clouds that could be employed under rules of statutory construction to defeat some of the purposes of the bill.

Mr. MARTIN. You have stated it very well, Mr. Rogers.

Mr. ROGERS of Texas. Thank you.

Mr. MARTIN. It is a bad thing. I think it actually might threaten the constitutionality of the bill, and certainly I say as a lawyer that, if the Commission construed it to give them power to require a lesser payment by some user than the amount which they had themselves fixed as a proper charge for the car, that action could be successfully challenged in the courts. It is ridiculous.

Now I have sympathy for some of these roads in the East and the New England roads. I know they have problems. But the way to cure them is not to confiscate the property of the car owner.

There are many other ways. The Commission and the courts have said that there are other ways and, in my prepared statement

which I will give you tomorrow, I cite a case in the U.S. Supreme Court which says just this.

It says you can't solve this poverty problem in the East or in the New England roads by charging them less than a proper car rental charge.

If they are in trouble, take care of them some other way. Give them a bigger cut out of the through rate, if you think they deserve it. Fix some kind of a reclaim arrangement; if their amount of per diem which they pay is too much, let them reclaim their connection, or, conceivably, even take off the top of the through charge for the shipment that might move from Los Angeles to Boston; take a little piece of that off the top, and take it off the backs of the terminating line, and before you start cutting up the pie.

There are dozens of ways that you can give proper consideration to the financial plight and the geographical location of different railroads, terminating roads, so to speak, but I submit that you can't lawfully and should not in equity undertake to solve their problems by creating a different rental charge other than what the Commission has found is proper, in order to put profit in car ownership and get boxcars.

The CHAIRMAN. I assume, with this language, particularly paragraph 2 in it, or item 2, it would mean, should the Commission find a carrier coming within the purview of 2 in the proposed bill, that whatever the Commission decided under the authority of this bill, insofar as that particular carrier is concerned, the existing per diem would prevail.

Mr. MARTIN. It could, certainly. I don't know what we would do except go to court.

The CHAIRMAN. How could it be changed?

Mr. MARTIN. Sir?

The CHAIRMAN. How could it be changed? It says this authority here would not be applicable.

Mr. MARTIN. If the Commission did that, I would take them into court overnight and beat the hell out of them. They can't do that. We have still got a Constitution, I think, in these United States.

The CHAIRMAN. Thank you very much.

We will look forward to hearing your formal statement tomorrow morning.

Mr. MARTIN. 10:30, right?

The CHAIRMAN. 10:30.

Mr. MARTIN. Thank you very much.

The CHAIRMAN. The committee will adjourn until 10:30 tomorrow.

(Whereupon, at 3:50 p.m., the hearing was recessed to reconvene at 10:30 a.m. on Wednesday, October 6, 1965.)

The first of these is the fact that the United States is a young nation, and its history is therefore a history of growth and development. It is a history of a people who have been able to overcome many difficulties and to build a great nation out of a small colony.

The second is the fact that the United States is a nation of immigrants. It is a nation of people who have come from many different parts of the world, and who have brought with them their own customs and traditions. This has made the United States a melting pot of different cultures, and has helped to make it a more tolerant and more democratic nation.

The third is the fact that the United States is a nation of pioneers. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony.

The fourth is the fact that the United States is a nation of freedom. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony.

The fifth is the fact that the United States is a nation of progress. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony. It is a nation of people who have been able to overcome many difficulties and to build a great nation out of a small colony.

NATIONAL FREIGHT CAR SHORTAGE

WEDNESDAY, OCTOBER 6, 1965

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

The committee met at 10:30 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. Oren Harris (chairman) presiding.

The CHAIRMAN. The committee will come to order.

I notice a couple of our colleagues who perhaps would like to have an opportunity for a few brief comments before we get started with the regular list of witnesses this morning.

Is Mr. Foley here?

The Honorable Thomas S. Foley, our colleague from Washington.

Mr. FOLEY. Thank you, Mr. Chairman.

The CHAIRMAN. He has one of the bills, H.R. 9580. We are very glad to welcome our colleague to this hearing and we will be very glad to have your comments.

STATEMENT OF HON. THOMAS S. FOLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

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

I have a brief statement in support of H.R. 9580, which is identical to a bill introduced by you as chairman of the committee, H.R. 7165, and 14 other bills pending before the Committee.

This bill, as I said, is one similar, identical actually to 15 other bills, including the principal bill, H.R. 7165. It authorizes the Interstate Commerce Commission to raise rental rates on boxcars and provides more incentives for increased freight car ownership by railroads.

I ask consent to submit a statement for the record in order not to delay the committee in its considerations of this legislation. I would like to state very briefly that as a Member from the Fifth Congressional District of Washington, which includes the area of northern and north-central Washington, the problem of freight car shortages has been a plaguing problem for many, many years.

We have seen, as each year goes by, increasing shortages of freight cars and increasing, very serious restrictions of transportation available to our agricultural industries, our forest industries and our manufacturing concerns.

I would hope that this committee would very seriously consider the legislation pending before it. I think the legislation is moderate.

It does not by itself require any great action but merely to provide the Interstate Commerce Commission with the authority to set reasonable rentals on freight cars or attempt to turn back the tide of increasing shortage of freight cars resulting in part from the inadequate rentals, from the maldistribution of freight cars in the United States and from the constant dwindling of freight car construction over retirement of rolling cars.

I notice that the concern with this problem is generally throughout the West, and as one member from the Pacific Northwest area of the United States, I want to urge with all the conviction possible the importance of this problem and hope that the committee will give serious attention to the legislation before it.

The CHAIRMAN. Thank you very much.

Your complete statement will be included in the record at this point.
(Statement referred to follows):

STATEMENT BY HON. THOMAS S. FOLEY, MEMBER OF CONGRESS FROM THE STATE OF WASHINGTON

Mr. Chairman, I want to express my appreciation to you and the other members of this distinguished committee for the opportunity to appear before you this morning in support of H.R. 9580. Also, I would like to thank the committee for conducting hearings on this important legislation.

H.R. 9580 is one of more than a dozen similar bills which have been introduced during this session to relieve the critical railroad freight car shortage that has affected shippers throughout the West.

The bill would authorize the Interstate Commerce Commission to raise the rental rates on box cars and provide more incentive for increased freight car ownership by railroads.

The present low rental rates on boxcars permit eastern railroads to use freight cars owned by western railroads and avoid the expenses of purchasing additional freight cars.

The lumber and plywood industries of the Pacific Northwest, which employ thousands of workers, could face severe economic losses unless action is taken to relieve the freight car shortage. The farmers, stockmen, and fruitgrowers also are vitally affected by the freight car situation in the Pacific Northwest. Railroad carloadings and revenue ton-miles have shown slight increases this year but the total number of serviceable railroad cars of all kinds is reported to be down 56,000 from last year. Boxcar shortages have averaged more than 1,300 daily over extended periods this year.

Since 1945, railroads in the United States have retired nearly 300,000 more cars than they have built. One factor that has contributed to the decline in the number of freight cars is that under certain circumstances it is cheaper to rent cars from another railroad than to own them.

It is currently possible for a railroad to pay only \$2 per day for the rental of a boxcar that would cost its owner \$15,000 to build. A system of variable per diem charges was put into effect last year and three additional value brackets were added this year so that the maximum daily rental is \$12.18 per day. Nevertheless, more than 90 percent of all cars under the new variable per diem charges still are rented from the owning railroads for less than \$3 per day.

Mr. Chairman, the major purpose of H.R. 9580 is to insure that there will be an adequate national freight car supply. This would be done by authorizing and directing the Interstate Commerce Commission to establish per diem charges on a basis that will encourage the acquisition and maintenance by the railroads of a freight car supply that will meet the needs of commerce and national defense, while at the same time providing just and reasonable compensation to the owners of freight cars.

I urge favorable consideration for H.R. 9580 and I again thank the committee for giving me the opportunity to testify.

The CHAIRMAN. We are very glad to have your presentation and I notice those who are tremendously concerned and interested in this

problem appreciate the sponsorship of the legislation and your efforts to bring about its passage.

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

The CHAIRMAN. We will hear next from our colleague from Minnesota, the Honorable Odin Langen. Mr. Langen, we welcome you to the committee.

STATEMENT OF HON. ODIN LANGEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. LANGEN. Mr. Chairman and members of the committee, if there is one thing that is worse than a Minnesota snowdrift, it's a Minnesota grain drift. And that is exactly what we have had year after year during the harvest season due to an inadequate supply of boxcars. Mountains of grain are piled on the ground instead of proceeding to market in an orderly fashion.

That is why I am very pleased that you are considering H.R. 7165 and similar bills to amend section 1(14)(a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply. I am indeed grateful for this privilege of submitting testimony in behalf of this proposal, since it incorporates suggestions I have urged in the past.

It was almost 2 years ago when the Interstate Commerce Commission attempted to alleviate boxcar shortages by responding to my suggestions to reduce the free time during which a boxcar may sit at a port. It was a step in the right direction and recognized the need of moving critically needed boxcars at the earliest possible moment. I also noted at that time that reducing the free time only affected part of the problem, that the storage charges imposed were so low that many rail lines were encouraged to hold these cars for additional days. It seemed that charges for using cars owned by other rail lines were so low that the cars were not only being used for storage at ports but some rail lines were actually discouraged from adding to their own fleet of cars. Why buy your own when you can use someone else's cheaper?

I again called this situation to the attention of the Interstate Commerce Commission this year and the Commission was most sympathetic. However, the Commission claims it does not have adequate authority to control this phase of rail operation and asked that the legislation you are considering today be implemented to provide such authority.

As the ICC pointed out, the ownership of plain boxcars by class I railroads in this country has decreased by 128,118 in the last 5 years, and it continues to deteriorate in excess of 2,000 cars per month. The railroads report that for the first 7 months of this year 5,537 plain boxcars were installed, and on August 1 there were on order 5,599. However, during this time period 22,277 plain boxcars were retired. If this trend is allowed to continue, the results are obvious. The perennial problem will get worse.

Legislation to correct the problem must do two things: stimulate construction of more new cars and speed up the return of cars to the lines that own them. I believe this bill will help accomplish both of

these objectives. By giving the ICC power to fix compensation to car owners on a sliding scale based on several factors, including a fair return on their value, it would make it profitable for all roads to build more cars to ease the shortage, it would encourage faster movement of equipment, and it would provide partial reimbursement to owning railroads when they lose business because of car shortages.

Mr. Chairman, it is not just the farmers and grain elevators of America that suffer from the boxcar shortages, although this is a dramatic situation each year when we see pictures of grain piled on the ground. The growing shortage of cars is causing serious financial damage to many industries throughout the country. Over the long term, the shortage threatens to hamstring the Nation's ability to meet the needs of our exploding population. Acute shortages have been noted from time to time in the building materials industry due to delays in rail movements.

The efficient movement of boxcars is a continuing and growing problem that requires an overall solution. I respectfully urge favorable consideration of H.R. 7165 and related bills as a tool with which to accomplish such a solution.

The CHAIRMAN. The next witness will be Eldon Martin.

Mr. Martin, you started yesterday, so we will be glad to have you continue now with your presentation of your views and the statement regarding this legislation.

I think, Mr. Reporter, we will let Mr. Martin's presentation be included in the sequence of his statement of yesterday so it will all be together.

STATEMENT OF ELDON MARTIN, VICE PRESIDENT AND GENERAL COUNSEL, BURLINGTON RAILROAD—Resumed

Mr. MARTIN. Mr. Chairman and Mr. Younger and Mr. Nelson, I have prepared and made available to the committee and the clerk of the committee as well as to you gentlemen, a written statement which goes into considerable detail on this subject. I ask that that statement be incorporated in full in the record at some appropriate place.

The CHAIRMAN. It will be included in the record, Mr. Martin, together with the exhibits which you have attached to it.

Mr. MARTIN. Thank you, sir.

That will permit me to be brief.

(The prepared statement of Mr. Martin and attachments, follow:)

STATEMENT OF ELDON MARTIN, VICE PRESIDENT AND GENERAL COUNSEL, BURLINGTON RAILROAD

My name is Eldon Martin. I am vice president and general counsel of Burlington Lines, with headquarters at Chicago. I am here to speak for the following railroads:

- The Atchison, Topeka & Santa Fe Railway Co.
- The Baltimore & Ohio Railroad Co.
- The Chesapeake & Ohio Railway Co.
- Chicago, Burlington & Quincy Railroad Co.
- The Colorado & Southern Railway Co.
- The Denver & Rio Grande Western Railroad Co.
- Forth Worth & Denver Railway Co.
- Great Northern Railway Co.

Gulf, Colorado & Santa Fe Railway Co.
Gulf, Mobile & Ohio Railroad Co.
Illinois Central Railroad Co.
Louisville & Nashville Railroad Co.
Northern Pacific Railway Co.
Pacific Coast Railroad Co.
Panhandle & Santa Fe Railway Co.
Sacramento Northern Railway.
St. Louis-San Francisco Railway Co.
Southern Railway Co.
Spokane, Portland & Seattle Railway Co.
Tidewater Southern Railway Co.
Walla Walla Valley Railway Co.
Western Maryland Railway Co.
The Western Pacific Railroad Co.

Collectively, these railroads own about 40 percent of all the railroad freight cars in the United States.

We favor and support H.R. 7165 and the 15 other identical bills now before you for consideration.

As you know, H.R. 7165 was introduced April 6, 1965, by Chairman Harris and 15 identical bills have been introduced by others, including Messrs. Rogers (Texas), Springer (Illinois), Nelsen (Minnesota) and Cunningham (Nebraska), who are members of this committee. This bill is the same as H.R. 7937 in the 86th Congress, which was favorably reported by this committee (Rept. No. 2217, 86th Cong., 2d sess.), and the same as a part of S. 1098 which was passed by the Senate, June 30, 1965 (S. Rept. No. 386, 89th Cong., 1st sess.). Because those reports are so persuasive, and because this committee recommended enactment of an identical bill, I will simply bring the record down to date, and demonstrate that the need and justification for this legislation is greater now than ever before.

The purpose of this bill is "to insure the adequacy of the national railroad freight car supply." In substance, it would direct the Interstate Commerce Commission (in the exercise of its long-existing power to fix car rental or "per diem" charges) to consider "the adequacy of the national freight car supply" and prescribe such charges "as in its judgment * * * will encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense." The quoted phrases state the essence of the bill.

At this point, a few general comments will serve as background.

The freight cars of the United States move indiscriminately over all railroads. When a car is used by a nonowner railroad, the owner receives daily rental payments, known as per diem charges, which are intended to (but do not) fully compensate the owner for the use of his property by others. Often this occurs when the owner needs the car most, and could earn for himself (if he could retain control of his cars) far more than the rental payment.

We believe that car rental "per diem" charges are an important factor in car supply and distribution, during car shortages and otherwise. We strongly favor legislation such as H.R. 7165 which, if followed by proper ICC action, will provide a powerful, automatic incentive for increased car ownership.

Let me state, if I can (1) the nature of the problem, (2) the conditions or causes which created it, and (3) the solution, as we see it.

Briefly, the basic problem or objective is to get more freight cars. We don't have enough because we have actually discouraged the acquisition or construction of new cars. The solution lies in substitution of an incentive which will make car ownership more attractive. I want to develop each of these points, but it will be helpful if you will bear in mind this simple statement of the problem, its cause, and its cure.

The problem

Freight car shortages, of varying duration and severity, have plagued this country and its shippers for more than a generation. The shortage late last year was the "worst yet," and we seem to be moving toward another "worst yet" this year.

The national freight car supply has continued to decline, and car shortages—particularly of boxcars—have become increasingly more frequent, more severe, and more damaging to the interests of the railroads, our shippers, and the national economy.

During the twenties, freight car ownership of class I railroads was almost 2.5 million cars. The fleet declined during the depression of the middle and late thirties, and increased during World War II.

The table below shows, for the period January 1, 1945, to September 1, 1965, the total freight car ownership of class I railroads, as well as the ownership, excluding refrigerator cars which are not generally subject to per diem charges.

Freight car ownership—Class I U.S. railroads, 1945-65

Date	Total freight car ownership	Car ownership excluding refrigerators
Jan. 1, 1945	1,764,109	1,744,179
Jan. 1, 1950	1,740,736	1,730,686
Jan. 1, 1955	1,735,553	1,715,804
Jan. 1, 1960	1,677,965	1,657,792
Jan. 1, 1961	1,661,577	1,636,695
Jan. 1, 1962	1,606,696	1,579,065
Jan. 1, 1963	1,552,371	1,523,080
Jan. 1, 1964	1,515,139	1,482,122
Jan. 1, 1965	1,494,703	1,457,074
Sept. 1, 1965	1,489,079	1,447,796
Loss since 1945 and percent	275,030—15.59	296,383—16.99

If the tabulation is limited to boxcars—which are so important to the great mass of shippers interested in general-purpose equipment—this is the picture:

Boxcar ownership—Class I U.S. railroads, 1945-65

Date	Total boxcar ownership	Plain boxcar ownership
Jan. 1, 1945	742,447	1,689,486
Jan. 1, 1950	714,914	663,628
Jan. 1, 1955	717,013	666,283
Jan. 1, 1960	705,738	655,418
Jan. 1, 1961	692,565	639,200
Jan. 1, 1962	693,762	609,487
Jan. 1, 1963	637,775	578,834
Jan. 1, 1964	615,887	543,898
Jan. 1, 1965	596,602	508,713
Sept. 1, 1965	586,238	486,556
Loss since 1945 and percent	156,209—21.04	202,930—29.43

¹ Estimated.

Attached to this statement, as exhibits A and B, are charts which show, graphically, the data contained in the foregoing tables.

Because of some increase in the average capacity of freight cars (58.18 tons on January 1, 1965, compared with 53.85 tons on January 1, 1956), the aggregate carrying capacity of the class I fleet shows a less precipitous decline than car ownership. (Aggregate capacity on January 1, 1965, was 86,957,665 tons, compared with 91,231,612 tons on January 1, 1956.) But this is not much comfort. When a shipper can't get a badly needed boxcar because of a nationwide shortage, it doesn't help much to tell him that the car he can't get is a larger car.

Much more significant are the recent records of installations and retirements. During the 5 years, 1959-64, retirements consistently exceeded new installations by a substantial margin. Total retirements during this period were 384,922 as against installations of 201,660, for a total loss of 183,262 cars of all classes. With respect to boxcars only, retirements were 171,101, compared with installations of 61,965, for a net loss of 109,136 boxcars. During 1964, total retirements were 86,237 and installations 65,801, but, significantly, boxcar retirements were 37,301, against installations of 18,016. Thus, although total freight car installations are improving in relation to retirements, boxcar retirements continue to exceed installations by a large margin. During the month of August 1965 only 1,131 boxcars were installed, whereas 3,895 were retired.

It is thus apparent that our depleted national car supply—particularly of boxcars—is a problem of major importance which poses a serious threat to the

needs of commerce and the national defense. This is a recognized fact, well known to the members of this committee, and unchallenged even by those who oppose the pending bill. I have reviewed the facts, and brought them down to date, so you will understand that the problem is even more serious than it was when you urged enactment of an earlier identical bill. The need for action is greater now than ever before.

I turn now to the conditions and causes which created this important problem.

The cause

The basic reasons for our depleted inventory of freight cars, and the inefficiency and inequity which go with it, are not difficult to state or understand. They rest upon the sound and simple principle that one who must use a particular article in his business will either own it, or rent it from others, in the light of his own selfish interests. Other factors being equal, he will rent, rather than own, if the rented article will serve his purpose and cost him less in the long run. This is particularly true if the article comes into his possession fortuitously, without effort or negotiation, and he is lawfully permitted to use it by payment of a rental which is below its value to him or to the owner. This is true whether the article is an apartment, an automobile, or a freight car. As I shall demonstrate in due course, this obvious principle explains the existence of our depleted inventory of freight cars, as well as the misuse and maldistribution of those now in service.

Per diem charges are too low to reflect the value of such cars, to their owners, especially during car shortages. Present per diem charges do not cover the full current costs and risks of ownership, to say nothing of profit, and, generally, are substantially below the amount which a car owner could earn daily by the use of the car on his own railroad, when a shortage exists.

To us, this seems most unjust, on grounds of common fairness, but from the standpoint of the national interest this theory is fraught with dangers which transcend injustice to a particular railroad. This is so because the policy referred to actually discourages the construction of new freight cars, and places a premium upon inadequate car ownership.

Just so long as it is cheaper to rent a car than it is to buy or build one, underbuilding will be the policy of strategically situated railroads, and construction will be held to minimum requirements.

Under present conditions, we have a form of involuntary leasing and rent control which discourages car ownership, and, conversely, encourages those which can do so to appropriate and use the cars of others instead of making a fair contribution to the national inventory of such equipment.

The situation is not unlike that which prevailed in this country, and in some other countries, when residential rent control was in effect; that is, when a tenant could sit in an apartment which he had rented at a relatively low rental, and could continue its occupancy without regard to the interests of the landlord. You did not then get, and you could never get under such controls, the rental housing which we now have. When rent control was abolished, you thereby provided the incentive for construction of residential housing. You had a surge of homebuilding such as this country had never seen, and it is my opinion that if you tell the Interstate Commerce Commission that you favor some ownership incentive in the per diem charge, you will get an adequate freight car fleet.

The Interstate Commerce Commission has pointed out (Senate report of June 30, 1965, on S. 1098) that the present policy "discourages construction of new freight cars and, in effect, places a premium upon inadequate car ownership and will continue to do so as long as it is cheaper to rent a car than it is to own one."

The so-called Doyle Committee Report of January 3, 1961, on National Transportation Policy, at page 722, said that "a terminating railroad has no incentive to own modern freight cars for interchange service, and will not have unless charges are raised beyond the break-even level."

We endorse the foregoing statements of the "basic and fundamental cause" of our inadequate national supply of freight cars.

The solution

The solution is to encourage the establishment of per diem charges which will make it more attractive to buy and own cars.

That part of a railroad's net income which is retained in the business can be used for many worthwhile purposes, including acquisition of diesel locomotives, construction of modern classification yards, installation of modernized signal systems, reduction of grades and curves, et cetera. Any such project

will yield a far greater return on the investment than acquisition of new freight cars. Under these conditions, little if any incentive exists for further investment in freight cars, which often are not available when they are most needed.

The prospective purchaser of freight cars wants and needs reliable assurance that per diem charges will be fixed sufficiently high for car ownership to be a profitable and desirable form of investment. Conversely, every railroad should be put on notice that it will no longer pay to shrink from the duty of owning and maintaining a fleet of freight cars adequate to carry its proportion of the traffic moving over the Nation's rail network. Unless this is done, the shipping public will continue to suffer from recurrent car shortages.

The statutory powers of the Interstate Commerce Commission, with respect to car service, are extremely broad, if not plenary, in character. In my opinion, as a lawyer, they are broad enough to permit the Commission to consider national freight car requirements, and to put some profit into car ownership. Congress must have intended this result when, in 1920, it gave the Commission full authority to fix the level of car hire charges. But this conclusion has been questioned in some quarters because of a Federal court decision in 1947, *Palmer v. U.S.*, 75 F. Supp. 63.

The question of adequate car rental charges was not even an issue in that case. Instead, it involved a temporary increase in per diem charges of almost 100 percent (\$1.15 to \$2) to be assessed, as an emergency measure, for the stated purpose of obtaining better distribution and quicker return of freight cars to their owners. It involved a penalty, characterized as "prohibitory," as distinguished from a long-range attack upon the inadequacy of the national car supply.

H.R. 7165 adopts a wholly different approach. In effect, it simply tells the Commission that in the exercise of its continuing nonemergency powers over car hire charges, it should give effect to the national car supply and the public interest in rental charges which will provide incentives for car ownership. In short, it involves compensation in a wholly remunerative sense, including factors such as earning power, risks of ownership, increment to attract capital, profit, and other factors which necessarily must be considered if car ownership is to become an attractive investment.

I repeat my opinion that the *Palmer* case, properly construed, is not inconsistent with the objectives of this legislation, but it has been misconstrued by those who do business on the car investments of others. For this reason, and others, Congress should clarify its intent that car rental charges should be fixed on a level which will "encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

I have just quoted the concluding phrase of H.R. 7165. The railroads for which I speak endorse this bill as sound and constructive legislation. In effect, it would simply authorize the Commission, as a part of its continuing regulatory power, to prescribe compensation for the use of freight cars on a basis which will put some profit into car ownership and, by that process, tend to assure an adequate national supply of freight cars.

Per diem charges established in conformity with these principles would (1) provide an incentive to all railroads to procure and maintain an adequate car supply, (2) encourage more expeditious movement of all such equipment, and (3) provide partial reimbursement to car owners for losses suffered when their equipment is appropriated by other railroads.

The first of these objectives has been discussed. It can and should be attained by a method so obvious, simple, and effective that it should have been adopted long ago.

The second objective is more complicated, and more difficult of attainment. It is generally conceded that higher daily rentals would expedite car movements during periods of light or normal business. It can be argued that higher per diem charges during a car shortage will not expedite the movement of freight cars, or hasten their return home, because the user can still make money by using them at a relatively high rental. This argument has some substance, but it is nevertheless clear that a higher per diem charge would, in some degree, operate to expedite the movement of freight cars, because that would be the only way to reduce the incidence of the charge. In fact, the court decision mentioned above recognized the soundness of the principle that "any charge upon a time basis furnishes an incentive for prompt return of the property."

Be this as it may, simple justice suggests that the improvident railroad should not profit from its own wrong, when it takes from the provident car owner not only the car itself but also the profits resulting from its use. This gross in-

equity could be partially corrected by the Commission under the provisions of H.R. 7165. This is the third objective of the bill.

A railroad which owns an adequate supply of cars will not suffer from the imposition of higher per diem charges, because its payments for the use of foreign cars will be offset, substantially, by receipts from the use of its cars by foreign lines. On the other hand, the improvident railroad, which owns few, if any, cars and is doing business on the car investments of others, will have a debit balance in its per diem account, until such time as it acquires more cars. This is as it should be.

It may be argued by the "improvident" lines, which do business on the car investments of others, or by certain railroads which find themselves, fortuitously, in possession of cars unloaded on their lines, that higher per diem charges would place upon them a severe financial burden, in the form of increased car rentals.

In the first place, this burden does not exist during periods of car shortage, which are now practically continuous, because a railroad which finds itself in possession of a freight car, during a car shortage can earn from its use from 3 to 10 times the amount of the car rental charges.

In the second place, even if some slight additional burden were thus placed upon a few railroads, that fact would not justify confiscation of the car owner's property. "Confiscation may result from a taking of the use of property without compensation quite as well as from the taking of the title," *Chicago, M. & St. P. Ry. Co. v. Minnesota*, 134 U.S. 418, 458; *Chicago, R.I. & P. Ry. Co. v. United States*, 284 U.S. 80, 96-97.

Third, machinery is available in the Car Service Division of the Association of American Railroads, and, indeed, in the Interstate Commerce Commission, to correct any true inequity which may result from application of these sound principles. So-called per diem reclaims, which permit readjustment of car-hire charges under special circumstances, are frequently adopted for this purpose.

In connection with the alleged burden upon the so-called debit railroads, which do not own enough cars to take care of their requirements, it is important to bear in mind that payments for the use of cars are deductible as operating expense for Federal income tax purposes, whereas the rentals thus received by a car owner are taxable income. Of course, this compounds the injustice to the car owner.

Still another element of this injustice is the fact that the improvident railroads, which own few, if any, cars, thus avoid the risks inherent in capital investment, as well as payment of interest charges during times of tight business. Even if we indulge the unjustified assumption that current per diem charges cover barebones ownership costs, such charges clearly do not include any "profit" or any "increment to attract capital to the venture" (see *El Paso Natural Gas Company v. Federal Power Commission*, 281 F. 2d 567, 572).

Perhaps a brief word should be said about the contention that during a period of car surplus, a terminating railroad cannot earn per diem on freight cars which it may own because the Car Service Rules contemplate the loading of foreign cars for homeward movement in preference to the loading of a home car for offline movement. This contention has little substance in fact, notwithstanding its theoretical plausibility. In the first place, Car Service Rule 1—the rule thus invoked—is somewhat ambiguous, and subject to interpretation, because the originating carrier is privileged to decide what constitutes a "suitable" car for offline loading. More important, perhaps, is the fact that, according to recognized records, those railroads which invoke this argument somehow find a way to maintain a relatively low percentage of home-owned cars on their lines. This is demonstrated by exhibit C attached, which shows that the principal advocates of this fallacious argument (B. & M. and New Haven) consistently maintain a somewhat lower percentage of "home" boxcars on line than the average percentage for all railroads.

The arguments of those who would perpetuate the present injustice completely overlook the fact that if each railroad in the United States owned the cars which it ought to own to take care of its requirements, no serious national car shortage could occur, and the level of car-hire charges would become a factor of little importance. In other words, per diem debits and per diem credits would tend to offset each other.

We believe that legislation like H.R. 7165—if implemented by proper action of the ICC—would encourage the construction and maintenance of an adequate national car supply; and promote the expeditious distribution, interchange, movement, and return of freight cars to their owners. Accordingly, and without reservation, we recommend its enactment.

Most, if not all, of the limited opposition to this bill is based upon a assumption that if Congress tells the Commission to make carownership attractive, the Commission automatically will take action which would be distasteful to the car user, or car renter, or distinguished from the car owner. Maybe so. Maybe not. The bill itself would not produce that result. If this occurs, it will come about only after a hearing and investigation by the ICC, and a finding that the prescribed charges will tend to further the sound objectives stated in the bill.

Under these conditions, is it not obvious that anyone who opposes a congressional statement of sound objectives, such as appear in H.R. 7165, seeks thus to preserve a selfish advantage, and is afraid his position cannot stand the scrutiny of an impartial tribunal under proper standards and guidelines.

You know and I know that we have had recurrent freight car shortages for generations, and that your constituents have appealed to you, year after year, for help in solving this problem. You know also, I think, that such appeals or complaints are exceedingly rare with respect to semitrailers which, in the trucking industry, are the counterpart of the railroad freight car. Why is this so? The first reason is that although truckers may and do frequently interchange equipment, they are not required by law to do so, whereas the railroads must permit their freight cars to move beyond their lines, on other railroads, regardless of their wishes, their need for the equipment, or the rental which they receive for use of their cars by other railroads.

In times of heavy business a trucker can maintain complete control over all of his equipment, refuse to part with its possession, and thus preserve to himself and his patrons the use of equipment which is far more valuable, under such conditions, than any "reasonable" rental. The railroads cannot do this. We can put a new freight car into service today, and never see it again for months. Meanwhile, it will earn for "user" railroads from 3 to 10 times the amount of rental which they pay to the owner.

A new modern boxcar costs \$12,000 to \$15,000, and, once it leaves the lines of its owner, can be "taken" by other railroads for a rental of only \$4.50 per day. On the other hand, a new "dry van" semitrailer can be bought for about \$6,000, and if the owner chooses to let it go beyond his lines, he receives a rental (generally) of about \$10 per day. In other words, for a trailer worth less than half as much as a boxcar, the owner-trucker receives in daily rental more than twice as much as the owner-railroad, and—if he chooses to do so—can keep his equipment for his own use at all times.

These facts explain why we have an adequate national supply of highway trailers, and a continuing inadequate supply of railroad freight cars. Here, also, is one of the most powerful arguments which can be advanced in support of this legislation, which would authorize the Commission to give effect to such facts in fixing the level of railroad per diem charges.

I want to mention a few further developments which have occurred since your earlier consideration of an identical bill.

Of course, the intervening change of transcendent importance is the continuing downward trend in the number of boxcars available for movement of the Nation's traffic. Each year, each month, and each day produces a "new low" in the boxcar fleet, and the end is not yet. As indicated by figures given earlier in this statement, we have "lost" since January 1, 1945, over 15 percent of the total car fleet; about 17 percent of all cars, excluding refrigerators; over 20 percent of all boxcars; and—of major importance—29.43 percent of the plain boxcar fleet. Despite the cushioning effect of larger cars, this downward trend is a serious threat to the national economy, and particularly to the great majority of shippers who must depend upon the general-purpose, plain boxcar for their transportation requirements.

But other recent developments cry aloud for early enactment of this legislation. Litigation now pending before the Interstate Commerce Commission (dockets 31358 and 33145) involves the level of freight car rentals and, in fixing such charges for the future—as it must—the Commission should have no misconceptions of congressional intent. Congress should tell the Commission clearly that in fixing car rentals it should give consideration to "the adequacy of the national freight car supply" and prescribe such charges as will "encourage the acquisition and maintenance" of an adequate car fleet. This is the essence of H.R. 7165.

In conclusion, I want to give you the current level of per diem charges, and a word about the significance of changes which have occurred since January 1, 1964. The present charges, with other pertinent data, are shown below:

Per diem charges, Apr. 1, 1965

Car value	Per diem charge	Percent of total cars Sept. 1, 1964
\$0 to \$1,000.....	\$2.16	25.0
\$1,000 to \$5,000.....	2.79	43.4
\$5,000 to \$10,000.....	3.58	23.8
\$10,000 to \$15,000.....	4.50	6.0
\$15,000 to \$20,000.....	6.15	1.4
\$20,000 to \$25,000.....	7.11	
\$25,000 to \$30,000.....	9.00	
\$30,000 to \$35,000.....	10.18	.4
Over \$35,000.....	12.18	

The foregoing charges, with minor exceptions, became effective January 1, 1964, prior to which date (and for the preceding 5 years) the charge had been \$2.88 for all cars, regardless of age or value. The multilevel scale, above, was an important step in the right direction because it provides some incentive for acquisition of new cars, and constitutes some recognition of the economic principles expressed in H.R. 7165, but this action simply emphasizes the importance of such legislation.

Notice particularly that more than 90 percent of the fleet, including all cars with a value of \$10,000 or less, still can be "taken" and used, by nonowners, for a weighted average charge of less than \$3 per day.

This is a shocking fact when you consider—

The daily rental of about \$10 which you pay for a \$3,500 automobile, or

The fact that a \$6,000 truck-trailer generally commands a rental of \$10 per day, or

The fact that a \$6,000 farm tractor generally rents for \$3 per hour.

The current charges are based upon accounting theories which give no recognition to income taxes (which are costs to the car owner and deductions to the car user); nor to "profit" in addition to "return on investment"; nor to risks of ownership, such as obsolescence, and the owner's lack of control over his car fleet.

For example, if income taxes were included in the owner's costs, covering cars in the \$10,000 to \$15,000 bracket, the per diem charge would be \$6.56 instead of \$4.50—with no other changes in the formula which produced the current charges.

With respect to ownership risks, a 2-year study by the Burlington, covering 600 new boxcars, showed that we had the use of these cars, on our own lines, only 12 percent of the time, i.e., that they were beyond our control, on the lines of other railroads, 88 percent of the time.

It is obvious, I submit, that the current charges are too low to make new car ownership a truly attractive investment. But a further powerful reason for early enactment of this legislation is the fact that some roads have refused to pay the current charges, others have attacked them before the ICC and, in any event, the Commission must and will prescribe proper charges for the future in the pending litigation now before that tribunal. It should approach this task with a clear understanding of the congressional intent that such charges be fixed upon a basis which will make car ownership attractive.

H.R. 7165 would provide this clarification. The railroads which I represent urge this committee promptly to submit a favorable report on H.R. 7165 and thus make it crystal clear that freight car rentals should be established on a basis which will, in the words of the bill itself, "encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

Just a word in conclusion about the Senate bill, S. 1098, which passed the Senate, June 30 last, and which, except for an unfortunate committee amendment, is exactly the same as H.R. 7165. The effect of the Senate committee amendment is stated in the committee report as follows:

"A committee amendment to S. 1098 adds a new sentence empowering the Commission to apply selectively incentive elements in any increased per diem charge. Under this amendment, the Commission would be authorized to make such incentive element or any part thereof, in applicable (1) to carriers determined by the Commission to own an adequate number of cars to meet their responsibilities, (2) to carriers terminating a substantially higher percentage of interline traffic than they originate, (3) to types of freight cars of which

the supply is adequate, and (4) to such other cases or circumstances as the Commission finds to be in the public interest."

The railroads which I represent are strenuously opposed to this amendment. They are convinced it is unsound as a matter of law, equity, and practicality. They believe it would destroy the effectiveness of the bill to accomplish its intended purpose, and earnestly urge you to report H.R. 7165 as introduced, without such a crippling and emasculating amendment.

The basic vice of the amendment is the fact that, apparently, it would permit the Commission to prescribe dozens of different car-rental charges for the use of the same car, depending upon the financial, geographical, or other conditions, of the different car users. This is a false and vicious concept on its face, and is contrary to the opinion of the Supreme Court in *CRI&P Ry. Co., et al. v. United States*, 284 U.S. 80, 95, 96-97. In that case, the court overturned as arbitrary and unreasonable an I.C.C. order which undertook to relieve certain railroads in whole or in part, from per diem payments (for reasons similar to those advanced by the sponsors of the Senate committee amendment). In effect, the court said that car owners are entitled to a "fixed sum per day for every car used by a foreign line" without regard to the effect of such charges upon any particular car user or group of car users. The Senate committee amendment, or any amendment designed to give special treatment to any group of car users, would threaten the constitutional validity of the bill, and almost certainly defeat its major purpose.

From a practical standpoint, it is obvious that an accounting nightmare would be created if car rental charges for the use of the same car should depend upon the financial or other condition of different users, but the amendment is impractical for other reasons. The theory inherent in clause (2) of the amendment is the fundamental cause of all our difficulty, namely, the unwillingness of certain roads to bear their share of the equipment burden; their insistence upon doing business with cars owned by others; and their constant effort to depress car rental charges to the lowest possible level. If the Congress, even by implication, gives any recognition to this false concept, its efforts to improve the national car supply, by providing incentives for freight-car ownership, may well be fruitless and wholly ineffective. If, as now, certain railroads can continue to appropriate and use freight cars owned by others, by payment of a depressed and inadequate rental, the damage is double barreled. The car user thus fortunately situated has no incentive to acquire more cars; and the car owner, whose cars are thus used, has no incentive to add further units to his fleet. The amendment is thus diametrically opposed to the basic philosophy of the bill, and would tend to perpetuate the evils which it is designed to correct. If we are to rebuild America's freight-car fleet, in consonance with the President's effort to "build a second America," such false concepts must be summarily rejected.

I should add that the foregoing is not intended to suggest indifference to the financial plight of the New England roads, nor is it intended to foreclose due consideration of their interests in appropriate proceedings before the Interstate Commerce Commission. Rather it is based upon the propositions (1) that the bill, H.R. 7165, relates solely to the level of per diem or car-hire charges, as distinguished from the apportionment of such charges among car users, (2) that if and when a proper level of per diem charges is prescribed, car owners will be entitled to receive such charges without regard to the identity of car users, and (3) that if hardship results from observance of these sound principles, relief is obtainable in proceedings before the I.C.C., which do not involve the level of per diem charges, but, instead, the apportionment of such charges among car users. I conclude by quoting from the decision of the Supreme Court in *CRI&P, et al. v. United States, supra*:

"If, as claimed, the earnings of the short lines are insufficient to enable them to make full payment of car-hire costs, the Commission may be able to afford a remedy by increasing the rates, or by a readjustment of the division of joint rates. *New England Divisions Case*, 261 U.S. 184; *Beaumont, S. L. & W. Ry. v. United States*, 282 U.S. 74. It cannot be done by confiscating for their benefit the use of cars of other railroads.

"The case does not present a question of apportionment of car hire costs. The Commission undertook to determine, and did determine, what was a reasonable compensation for the use of cars, and definitely fixed that compensation on a per diem basis. It then, by its order, denied such reasonable compensation in certain cases. This is in no proper sense an apportionment of expense, but a plain giving of the free use of property for which, the Commission had concluded, the owner should be paid. * * *"

EXHIBIT A
 Freight Car Ownership Class I U.S. Railroads 1945 to 1965 Incl.

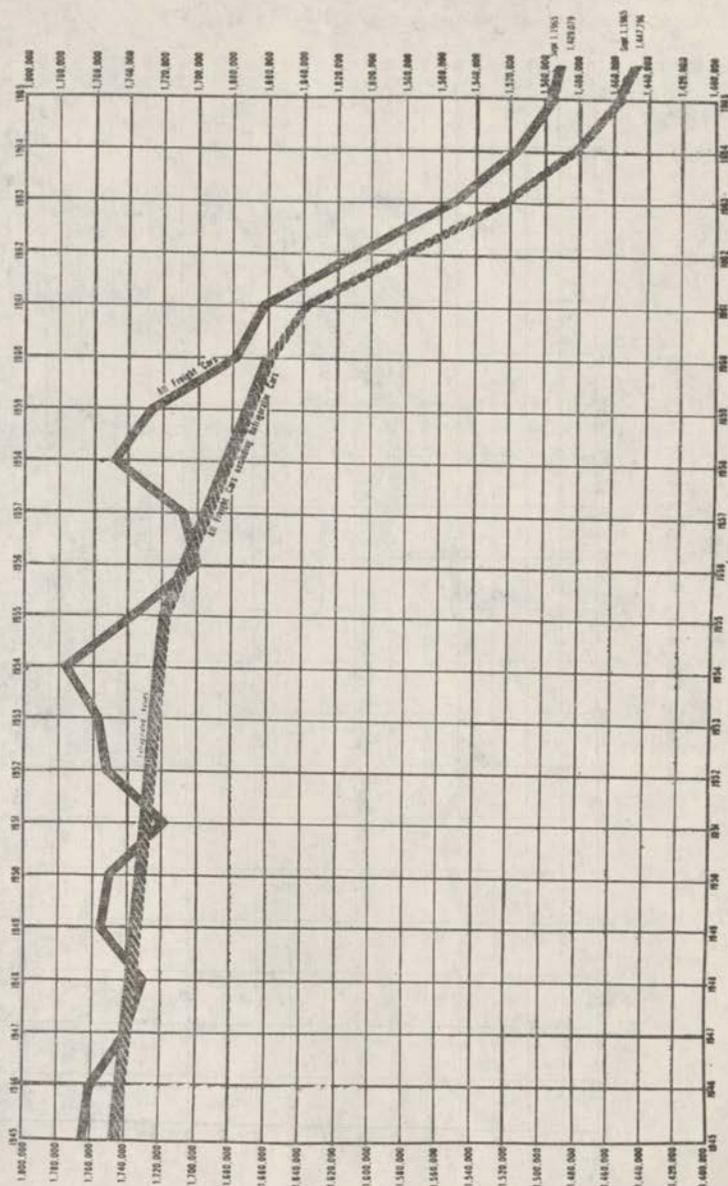


EXHIBIT B
BOX Car Ownership Class I U.S. Railroads 1945 to 1965 Incl.

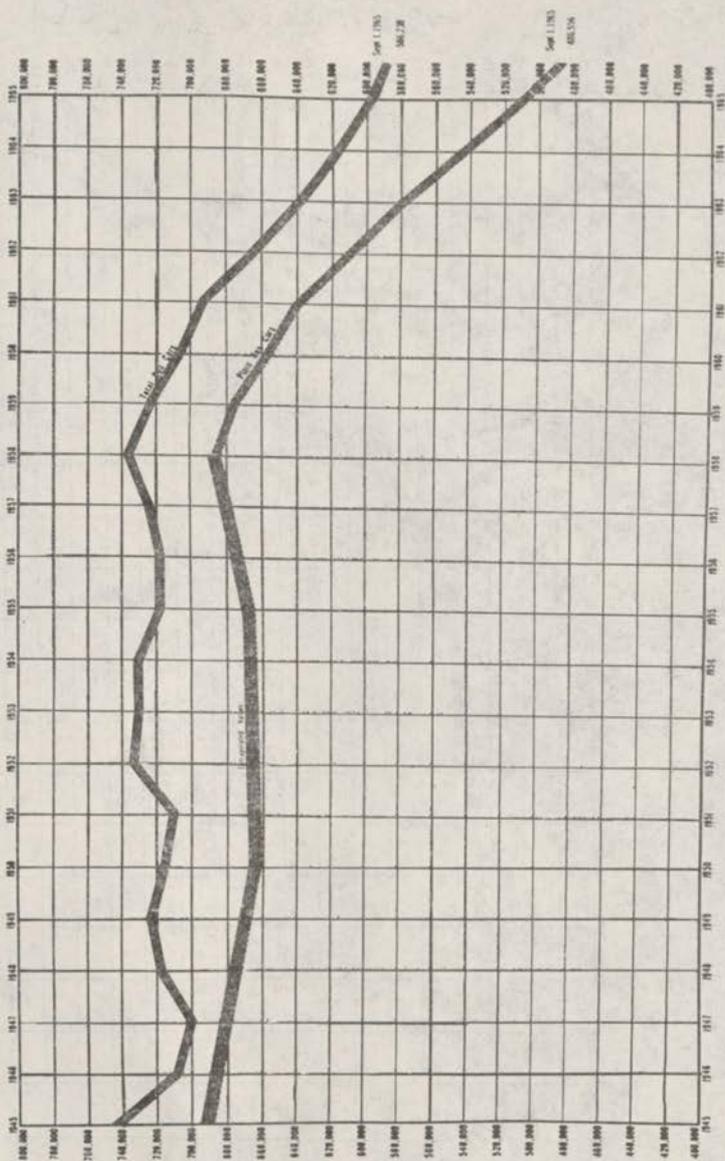


EXHIBIT C

Boxcars owned and percent of "home" boxcars on line

	Owned	Home cars on line	Percent
Boston and Maine:			
January 1965.....	3,189	1,023	32.1
August 1965.....	2,964	886	29.9
New Haven:			
January 1965.....	3,535	1,370	38.8
August 1965.....	3,535	1,345	38.0
P. R. R.:			
January 1965.....	38,702	16,693	43.1
August 1965.....	37,825	15,716	41.5
NYC system:			
January 1965.....	36,410	12,848	35.3
August 1965.....	35,497	13,600	37.8
All class I U.S. roads:			
January 1965.....	596,602	221,230	37.1
August 1965.....	589,002	215,037	36.5

Source: AAR-CS-SA Reports.

Mr. MARTIN. As I said yesterday, I speak in the support of this legislation on behalf of 26 railroads who collectively own about 40 percent of the national freight car fleet. I emphasize the fact that these railroads are not located in any one section of the country. They serve all parts of it. I missed one or two yesterday in my extemporaneous remarks so I will now repeat not all of those that are listed on the written statement, but some of the more important ones.

In the East we have the Chesapeake & Ohio, Baltimore & Ohio, and Western Maryland. In the South we have the Southern Railway, the Louisville & Nashville, the Illinois Central, and the Gulf, Mobile & Ohio. In the West we have Santa Fe, Burlington lines, the Denver & Rio Grande Western, Great Northern, Northern Pacific, "Frisco," and Western Pacific.

Those of you who know even a little about the railroad network will understand from this that among the ardent supporters of this legislation are railroads serving all parts of the United States.

I will not, because of what transpired yesterday and because of what appears in my written statement, devote very much time to the extent and severity of the car shortage in which we now find ourselves.

I do want to emphasize the fact that these recurrent car shortages have ceased to be either seasonal or regional. Time was perhaps 10 years ago or thereabouts, when serious car shortages were concentrated during the fall harvest season, and even then were concentrated to a large extent in the grain producing areas of the country. That has changed and changed radically.

Today these shortages are nationwide and are almost continuous throughout the year. This is an important change in conditions which I hope the committee will keep in mind.

Last year's shortage was characterized as the worst yet and this year there is every indication that the shortage will be even worse than it was last year. The freight car ownership of this country is at a record low, lower than it has ever been during this current century. There is before you on the easel a chart and which you will find appended to my written statement, which I think you have before you,

the same chart and with respect to those charts I want to emphasize only one point.

You will see on the big chart, which is on the easel, some red hatched lines that show a dropoff even more precipitate than the dropoff that appeared on the chart as originally made up. This chart was prepared for the Senate committee hearings in June of this year. The red hatched line which extends down to September 1 of this year, shows that the drop in ownership of plain boxcars has been even more precipitate since June than it was immediately prior to June.

The plain boxcar ownership is at a dangerously low level and something ought to be done about it.

The CHAIRMAN. What do you mean by the drop in boxcar ownership?

Mr. MARTIN. I mean the total car fleet of the country.

The CHAIRMAN. Available?

Mr. MARTIN. You can state it either way. The ownership or the serviceable ownership. There are differences of about 6 or 7 percent. The figures which appear on this chart and which appear in the written statement are ownership figures.

You will have to reduce them by 7 or 8 percent in order to get the actual available ownership, because approximately that percentage of the total fleet is out of service awaiting repairs.

Because those percentages apply all the way across the board and because the ownership figures are more readily available, I have used them.

I emphasize only two points there in connection with the decline in car ownership. This chart and the tables in the written statement cover a period of 20 years from January 1, 1945, to September 1, 1965. During that period, the ownership of all freight cars excluding railroad-owned refrigerator cars which are not subject to per diem charges, there appears to have been a loss of almost 300,000 cars.

The figure, as of September 1, was 296,383 and I believe that if it were brought down to date it would closely approach a loss of 300,000 freight cars since 1945. The plain boxcar ownership as of September 1, 1965—and that is the figure that is exemplified by the chart—is down well over 200,000 since January 1, 1945.

Then just one more statistic. This refers to the installations and retirements of boxcars. During 1964, the calendar year, there were installed 18,061. That is 18,061 new boxcars placed in service. But 37,301 were retired from service. The ratio of retirements to installations for the calendar year was greater than 2 to 1 against the maintenance of the fleet.

To bring it even more closely down to date, in August of this year, the latest month for which the figures are available, 1,131 new boxcars were installed but 3,895 were retired. So the retirement of boxcars is still proceeding right down to this very moment at a rate of better than 2 to 1, retirements versus installations.

The CHAIRMAN. Are those ICC figures?

Mr. MARTIN. Those are AAR figures. I think they are the same.

Mr. SPRINGER. Mr. Chairman, I have a question.

You mean by "retirement" those are out of existence?

Mr. MARTIN. Yes, sir.

Mr. SPRINGER. Permanent, these are not going back in to be retired?

Mr. MARTIN. I mean they are out permanently.

Mr. SPRINGER. They have gone?

Mr. MARTIN. They have gone, yes.

Mr. SPRINGER. At the rate of approximately 3 to 1?

Mr. MARTIN. It was 3 to 1 in August. I wouldn't want to mislead the committee. I wouldn't say the current rate is going to continue at that ratio. It was about 2 to 1 in 1964, and I wouldn't be surprised if we had a full calendar year in 1965 that it would be also 2 to 1. It was 3 to 1 in August of this year.

Mr. ROGERS of Texas. Mr. Chairman, what caused the upsurge in 1958?

Mr. MARTIN. 1958 was a very good year for railroad traffic. I wouldn't want to undertake to answer that question completely. I know that was a good railroad year.

Mr. ROGERS of Texas. If we could find out—

Mr. MARTIN. It was not really too much of a surge. I wouldn't call that a surge.

Mr. ROGERS of Texas. It is to look at it from this direction.

Mr. SPRINGER. Wasn't that the year we passed the Railroad Act of 1958 and that gave you a great deal of encouragement?

Mr. MARTIN. That is right.

Mr. SPRINGER. Substantial parts of assistance in that 1958 act?

Mr. MARTIN. Thank you, Mr. Springer. That is correct. The Transportation Act of 1958 gave us some tax relief in the form of investment credit.

The CHAIRMAN. We also passed a loan guarantee bill in 1958?

Mr. MARTIN. Yes, but that didn't do much.

The CHAIRMAN. It should have done something.

Mr. MARTIN. It was not even used by the industry.

The CHAIRMAN. Of course, the ICC said yesterday that in 1964 there were approximately 36,000 cars in use and about 50,000 retired. Those were the latest figures.

Mr. MARTIN. The committee is busy and so am I and the others around here; so let us not spend any more time on a demonstration of the fact that the freight car fleet of the United States is at its lowest level in this century, that the downward trend of the fleet so far as boxcars are concerned continues at an even accelerated rate and that everybody in this room can see something needs to be done about it.

With that let us try to find out what caused it and what we can do about it.

In my view and the view of these railroads which I represent, there are many contributing causes, but the outstanding, all important fundamental cause of the precarious condition in which we now find ourselves is the fact that for generations the car rental which one railroad gets from another when its car is on the latter's line has been depressed, held down to such a low level that there simply has been no incentive to buy or build freight cars.

You don't put your money into any investment unless you hope to make a little profit out of it. You hope that you will certainly break even without loss. This is particularly true when you put your money into an item over which you cannot maintain constant and complete control.

As I think most of the committee knows, railroad freight cars do and must roam all over the United States. This is as it should be. This produces the most efficient railroad transportation system in the world. But it does mean that the owner of a freight car cannot control his property when it leaves his railroad and goes into the line of another.

That simply aggravates the viciousness of this low rental policy which has prevailed for 25 or 30 or 40 years and which has created the downward trend in car ownership. It has simply been a very bad investment to put your money into freight cars.

Every railroad tried to avoid it so far as they could. This is the simple economics of this situation which I touched upon briefly yesterday.

If you discourage ownership or production of any item or article by making it unprofitable to put your money into it, you are naturally going to exert a downward pressure on the supply of that item or that article. Conversely, if you create a condition under which the investment is profitable, you stimulate production or acquisition of that item and this in essence is the cause and condition in which we find ourselves.

Reverse the trend and instead of discouraging investment in freight cars, encourage investment in freight cars and that is the purpose of the bill.

To illustrate the wisdom and soundness of that basic economic philosophy, I need refer only to the fact that highway trailers are in adequate supply in this country. The trucking industry isn't down here before you, as we are, seeking some help in the way of a method to stimulate production and acquisition of highway trailers. Why do you suppose that is? I think that I can tell you.

A highway trailer costs about \$6,000. It rents, when it is off the owner's line, for around \$10 a day. The modern freight car that is now built costs between \$12,000 and \$15,000 and what is the rental? Four and a half per day. So for a trailer that costs less than half of the current boxcar costs, the trucker-owner gets more than twice as much per day when it gets off the line as does the owner of the boxcar.

There you have simple economics at work again. This is why you have a serious shortage of boxcars and an adequate supply of highway trailers.

This has come about, this long period of wholly inadequate rentals which have discouraged boxcar ownership and created these new, almost continuous shortages, as a result of the fact that until very recently there had been an effort within the railroad industry to establish these rental changes by agreement.

The difficulty with that was that a large group of roads not so large on a car ownership basis, something less than 30 percent, were constitutionally and every other way opposed to any increase in rentals no matter what.

Just like a tenant under rent control didn't see any reason for paying more rent as long as he could live there at the rental established before the control.

They are against high rentals. They are against any increase in rentals, so during all this period when the effort continued to try and

fix these per diem charges by agreement within the industry, this constant downward pressure was exerted by those who opposed this bill; by those who generally terminate a large volume of traffic in relation to their originated traffic. This was anathema to them.

The compromises always were on the down side. That helped produce the condition in which we find ourselves. This is further emphasized by the current sliding scale which went into effect January 1, 1964. There were minor, later amendments, but the bulk of this sliding scale became effective January 1, 1964.

Prior to that time, all cars paid the same rental per day regardless of value or anything else. It was \$2.88 then. The sliding scale created a sliding scale under which the daily charge was related to the value of the equipment. But when you computed a weighted average of the sliding scale you came out to a figure slightly less than \$2.88.

Otherwise, we who favor adequate per diem would never have been able to get it through the AAR committees. This downward pressure exerted by my friends, who don't like this legislation, kept that sliding scale from producing an adequate return and an adequate incentive for car ownership.

So much for the causes of this condition.

I want to hasten along because I would prefer to submit myself to questions and thereby develop more what you are interested in.

The cure is just as obvious as the cause. Put some profit in freight car ownership, authorize the Commission to add a little lagniappe, a little increment after it has determined what our costs of ownership are, put a little "plus" in there, put some profit in car ownership, provide some incentive for the investment in that type of equipment, and if our economic system is what we think it is, and if economic law is still valid, you will get the freight cars. That is the basic philosophy of this bill. I submit to you it is fundamentally sound.

There is this conflict between not the East and West—it used to be that but it is no longer that—but it is essentially a conflict between terminating and originating lines, and lines of those types exist in all parts of the country. This is an almost irreconcilable conflict of interest between these two groups of carriers. It has not been resolved within the industry. I myself, after 10 years of close contact with the problem, am completely convinced it cannot be resolved within the industry, at least not in such a way as to arrest this downward trend and produce some real incentive for car ownership. So what is the perfectly logical way to bring about order in this chaos? It is to leave to the impartial arbiter, the Interstate Commerce Commission which Congress created for such purposes, the responsibility and the authority to prescribe these charges on a basis which will meet the guidelines which you would provide by enactment of this bill. You tell the Commission that you want them to fix these charges on a level that will make car ownership attractive, and then let them resolve this after hearing all the evidence. We will have an order and we will not have to make these compromises which have destroyed the national car supply.

I should add that there are no other concrete suggestions for coping with this problem that I know of except that which is incorporated in the legislation before you. I have not heard a single alternative concrete suggestion for improvement of this national car supply.

My friends, from whom you will hear this afternoon or late this morning, their remedy is just to leave it alone and say, "Don't worry, gentlemen. We will take care of this within the industry." That effort has been made for more than 10 years to my personal knowledge. They will tell you about task forces and the committees. Baloney. The only concrete, practical suggestion for solution of this problem lies in your hands, the enactment of this bill, and subsequent action by an impartial arbiter such as the Interstate Commerce Commission.

I should point out that this bill does not do some things that some people have suggested it would do. It does not have anything to do with the computation of a car ownership formula which would undertake to decide how many cars each railroad should own. It does not at all affect the Commission's power in that area. The Commission can do anything now in that area that it could do after enactment of the bill. It does not change that at all.

It does not affect the Commission's powers over car distribution or the car service rules. These are subjects over which the Commission now has wide power. It will still have it after the bill. It does not change it.

This bill is pointed toward the one method which seems to hold the greatest hope for success, and that is an incentive factor in the per diem charge.

Incidentally, while there is a good deal in this record about ownership formulas, and the number of cars each railroad should own, who is a deficit line and who is not; that really has nothing to do with this bill. I am not sure I understand why it is suggested, either by the Commission or some of the bill's opponents. To determine the number of cars each railroad should own is a difficult question.

The Commission may try to make some calculations in that regard in the case which is now pending before it. I suspect they may. However, this is something on which the parties involved never will agree. Somebody has to decide for them.

The beauty of this bill is that it does not make any difference how many cars theoretically railroad A should own and how many cars theoretically railroad B should own. You can evade that troublesome issue altogether if this bill works as I think it would, because if you create a sufficient incentive for car construction and car acquisition, then you will get the cars and it won't matter whether railroad A or railroad B buys them.

Each will be protecting his own economic interest and you will get the cars. It makes no difference whether it is thought by some ivory tower group or individual that somebody ought to own more than he has or that somebody does not need more. You will get the cars. That is one advantage of this bill. It would tend to make unnecessary all this squabbling about what constitutes a proper ownership formula and what number of cars each railroad should own.

Just a word about the good guys and the bad guys and who are the culprits in this play. I will not name individual names unless someone else does and I am forced to, but I would invite your attention to the statement by Chairman Webb of the Interstate Commerce Commission yesterday.

He had some very interesting statistics on plain boxcar ownership, and I jotted down just a couple of them which I want to give you.

Between January 1, 1959, and January 1, 1965, a 10-year period, eastern district lost 36.9 percent of its boxcars.

During the same period the western district lost only 15.7 percent, another comparison taken from the statement Webb attached to Chairman Webb's testimony.

Computing the total serviceable ownership of plain boxcars at three different dates, 1956, 1960, and 1965, here is the ownership at those times with respect to the eastern district roads and the western roads:

Eastern district, 1965, they owned 16.3 percent of the total serviceable ownership of plain boxcars.

In 1960, it was 15.5; in 1965, it was 13.7; it is down, down, down.

What happened in the West? In 1965, that group owned 46.9 percent of the plain serviceable boxcars. In 1960, it was 48.8 percent; in 1965, it was 53.4 percent; it is up, up, up.

Who are the culprits? Who comes before you with the cleaner hands? You answer the question.

Just one more statistic. I don't have the up-to-date figures on this but I had them for the Senate committee hearings in June, so I give them to you now.

Consistently the so-called terminating lines, the group of railroads which are here expressing their opposition to this sound legislation, consistently, month after month and year after year, have on their respective lines to do business more cars than they own. This is consistent. Likewise the roads that I represent, the roads which favor this legislation as a group, consistently are able to hold on to their railroads less than 100 percent of their ownership, fewer cars than they own.

The actual statistics, which involved a great deal of calculation and I didn't have time to do it for this appearance, but the figures I had were for March 1, 1965, where I took all the opponents of the bill and calculated the percentages of ownership on line and all the supporters of the bill and calculated the percentages of ownership on line, and produced these figures.

The group I represent had 89.9 percent of their ownership on line; the opposing group had 111.2 percent.

This is a very consistent pattern, gentlemen, those who do not like this bill, those who exert a constant downward pressure, those who created this condition, if you please, consistently have on their lines more cars than they own. We, the good guys, consistently have fewer cars than we own. Somehow or other they keep them and hold them.

Just a word or two, because I have to be in Los Angeles late this afternoon and cannot stay here to hear all the kind words that will be said about me and my friends by Mr. Perlman, Mr. Newton, and others, I would like to anticipate what they will say in one or two respects.

They will tell you that they have a terrible time, that they consistently have more cars on their railroad than they know what to do with. It is just terrible. These car service rules make them send cars off line but they just can't do it. It is a practical impossibility.

Now, isn't that too bad? When we have had a continuing serviceable car shortage, isn't it unfortunate that somebody has more cars on

his railroad than he knows what to do with? This argument might be valid sometime, if we ever reach the point, where there is an adequate national car supply, but right now, to have someone say I can't get rid of the freight cars in about as ridiculous a statement as you can make.

Everybody who has a freight car these days can make three or four times as much in freight revenue out of using it than he has to pay to the car owner in the form of per diem rental charges, so this argument is a phony as a \$3 bill on its face as long as there is a freight car shortage, and I repeat to you that we now have an almost continuous freight car shortage nationwide. So that is the first reason why this statement of theirs, that they have trouble getting cars off line, has not validity under present circumstances.

However, more than that it has no validity as a matter of fact. Even though it may have a little as a matter of theory there is none as a matter of fact.

They talk about car service rule No. 1, which states that you are supposed to use a foreign line car and load it home to the owner in preference to the loading of your own car off your line.

The rule does say that, and theoretically it presents a problem to them. Practically, however, it does not—first, for the reason I suggested that during a car shortage it is dandy to have all the cars you can get.

However, more important are statistics maintained by the AAR year after year which show the percentage of your home-owned cars on home line and the ratio or the number of your home cars which are off line, and there is attached to my written statement a little table which shows that the most vigorous opponents of this bill get their home-owned cars off line to just about the same degree as all railroads in the country.

They say they cannot do it but somehow or other they do do it. You should decide these issues on facts and not theories.

I would invite your attention to that table which is appended to my written statement when these gentlemen tell you that they are in this unfortunate position of not being able to get their home-owned cars off line and, therefore, see no reason why they should own any.

Now just a brief word and I am through. I want to speak about the unfortunate plight of some of the New England roads. My good friends, the "Penn Central," used to talk about how unfortunate they were, but they are doing pretty well these days.

This leads me, also, to the Senate committee amendment to this bill to which I paid my respects in rather plain language yesterday. That was put forward as an effort to ameliorate the difficulties of the unfortunate New England roads and perhaps some others.

I told you then why this could not be done, either legally, ethically, or practically through the medium of a reduction in the car rental charge. Once the Commission fixes these charges as it will and must under pleadings pending before it, and I hope it takes that action with the congressional guidance which these bills would give it, once that is fixed then that cannot be altered by deciding that one of the users of this particular car has a little less money than another and cannot afford to pay quite as much, or because railroad "BCD," and so on,

serves a particular part of the country and has a particular traffic mix.

Once the value of the car is fixed by the impartial arbiter, the ICC, then that is it, the amount of money that the owner must get.

We are not yet, I hope, into the Communist or Robin Hood philosophy whereby you are going to reduce the fair rental value of a piece of equipment because somebody is having a little difficulty or because he happens to serve a particular territory. There are other ways of taking care of those things. The Supreme Court has said that. However, you cannot do this by confiscating the property of the car owner, which you do when you force him to permit use of his equipment at a less than fair rental as fixed by the Commission.

There are a few other ways that these problems can be taken care of. I don't mean to pose as a Simon Legree. These gentlemen have some problems which I concede but the way to correct them is not through a depression of the per diem charge which has created and caused our recurring car shortages.

The way to do it is as the Supreme Court has said—give them a bigger cut from the revenue pie from transportation of the shipments. It also can be done by reclaims of one sort or another which might lessen the impact on a terminating railroad, and conceivably spread the excess per diem after a reasonable time back over some of the other participants in the transportation.

There is a considerable amount of free time allowed on some of the terminating roads. I think they are trying to do something about that.

Incidentally, this philosophy which you will hear advanced that all of the burdens of this car ownership problem rest on the terminating line are not true.

They do have problems, particularly those who serve the ports. It is difficult to get the cars released. But don't forget that the originating railroad has the same sort of a problem before the heavy movement of any basic raw material or commodity.

We out in the Grain Belt right now are holding cars for prospective loading which we know is there and is coming within a few days for the same purpose.

We have to pay per diem on that type of stuff in advance of the movement just as the terminating line in some cases has to pay per diem during the unloading period, so it is not all one way.

The ultimate fact is that you cannot lawfully do what the Senate amendment contemplates, and that is to confiscate the property of the car owner to a Robin Hood reduction in car rental charges for the benefit of somebody having a hard time.

You could not do that in any case, but you should not do it because that is exactly what created this condition, this downward pressure in behalf of the terminating line.

I ask you first if you will, please, and if you can find the time to, read the written statement that is in the record.

I ask you then to report favorably the House bill as introduced without the Senate amendment or without any other amendment.

I will be glad to answer any questions which occur to anyone.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS of Texas. Did I understand you to say that the roads you represent had on their own lines only 89 percent of the cars which they own?

Mr. MARTIN. That is right; at that period which I mentioned, which was March 1. All cars on all of these lines which I represented, counting the cars owned by the other railroads as well as the cars that they themselves owned, add those up together and they constituted only 89 percent of the cars which they own.

Mr. ROGERS of Texas. They own about 40 percent of the freight cars?

Mr. MARTIN. That is right.

Mr. SPRINGER. According to your statement you represent 23 railroads. How many standard railroads are there roughly?

Mr. MARTIN. I don't know what you mean by "standard." There are some small ones. I would say there are about 26.

You are asking how many of my clients are class I?

Mr. SPRINGER. How many class I railroads are there?

Mr. STEVENSON. There are about 100.

Mr. SPRINGER. You represent a third or a fourth of all the class I railroads?

Mr. MARTIN. I won't quarrel with that statement. I don't know. It is more or less insignificant.

Mr. SPRINGER. Is your statement correct that one-third of the railroads own 40 percent of the freight cars? Is that correct?

Mr. MARTIN. If your assumption is correct the conclusion is correct.

Mr. SPRINGER. Seventy-five railroads, class I, own 60 percent?

Mr. MARTIN. That is close to being accurate.

Mr. SPRINGER. That is the way I interpret your statement.

Mr. MARTIN. That is nearly right.

Mr. SPRINGER. So, in effect, what you have here is an economic dispute between the so-called haves and the havenots. Is that right?

Mr. MARTIN. To a considerable degree that is correct. However, its effect on the national interest far exceeds the importance of that fact.

Mr. SPRINGER. There is a problem in my area every fall. Every time we have a harvest we carry only corn and soybeans, but it seems their elevators are calling me at home every night and before I get up in the morning and want to know what they will do about boxcars in which to put grain.

This is a serious problem in my area without question. I believe it has been that way every single year I have been in the Congress, and this is the 15th year I have been here.

Mr. MARTIN. That is right, and it is spreading now to other areas of the country.

Mr. SPRINGER. I think you made an excellent statement for your position, Mr. Martin.

Mr. MARTIN. Thank you.

Mr. KORNEGAY. You went into costs and data. You failed to mention the anticipated useful life of the freight cars.

Mr. MARTIN. It is shorter. The service life of the trailer is shorter than the service life of the boxcars, although the service life of the boxcar now is permitted to be 15 years. The service life of the trailers,

those on our truck line, some run 5 and 6 years but not as high as 12 and 15 years.

Mr. KORNEGAY. It would not be more than half, then?

Mr. MARTIN. That is right. The comparison to that extent is invalid, Mr. Kornegay.

Mr. KORNEGAY. I thought the record should show that.

In your opinion, does the ICC have the authority to require the eastern railroads to replenish their depleted supply of boxcars?

Mr. MARTIN. In my opinion it does not have that power and ought not to have it.

Mr. KORNEGAY. I was thinking about subsection 1 of the Interstate Commerce Act, whether or not in your opinion as an expert in this matter the Commission had the authority to require the individual roads to replenish the supply if they fell below a certain percentage.

Mr. MARTIN. I don't think so. I don't believe in that sort of thing, particularly when the same result can be accomplished through voluntary action through incentives.

Mr. KORNEGAY. You were talking about how this whole area was divided up and how it was determined as to the number of cars each road would have.

Who does that? Do they do it voluntarily through a national association?

Mr. MARTIN. There has been some attempt in that direction in the past and there will be, I think, some attempt in that direction by the Interstate Commerce Commission in the pending cases, but I do not think it can be carried into an order directing road A to buy x number of cars.

I think that power does not exist. That is one of the reasons I think this bill is so good, because if you provide the incentives for car ownership you will get the cars and not have to worry about who it is that should buy them as a matter of principle.

They will be bought by someone.

Mr. KORNEGAY. That was the point I did not understand. It would appear to me that unless somebody said that the railroad had to have so many cars, so much of its own equipment, what would prevent somebody from buying locomotives out here on the track and using your cars or anybody else's and going into the railroad business, particularly when he could rent those cars at less than the actual market price?

Mr. MARTIN. You would be surprised. That is happening right now on some short lines which own no equipment. They have a locomotive and use the other fellow's cars. So, for some this is all right. These are small roads and the terminating road with which it connects could afford to provide the equipment for them.

The very thing you refer to exists today in some cases.

Mr. KORNEGAY. In the shorter lines there is some distinction over the primary line. Cooperation does exist from point to point.

Mr. MARTIN. Yes.

Mr. KORNEGAY. Thank you for your statement.

Mr. YOUNGER. Mr. Martin, you spoke about Congress telling the ICC what to do. I find nothing in this bill which tells the ICC to do anything.

Mr. MARTIN. You don't read it the same way I do, Mr. Younger. It says you are directed to fix per diem charges on a level which will—and then go to the end—contribute to car service practice and encourage the acquisition of an adequate national car supply.

Mr. YOUNGER. It says if they do anything they shall do it a certain way but it does not say they shall do anything. They have been passing this up for 10 years.

Mr. MARTIN. They cannot pass it up any longer.

Mr. YOUNGER. Why?

Mr. MARTIN. Because there are formal complaints now pending before them which require decision. We allege that the rental charges are too low and we want you to give them some adequate guidelines for that action.

Mr. YOUNGER. We had that out yesterday. You have more faith that something will be done than I have. Since 1958 you have been coming down with problems every year. The ICC has done nothing.

There is nothing in this bill which says they shall fix the rate at \$10, \$5, or anything.

Mr. MARTIN. No, it just says they shall fix it at a level to encourage car ownership. They have not done anything because nobody asked them to do anything until a couple years ago.

We finally did. Therefore, you must tell them how to proceed in that case and in all future cases, I think.

Mr. YOUNGER. If the bill is passed, we will see who is right.

Mr. MARTIN. Yes, we will. Maybe I am too confident in the judgment of the ICC. But I would like to see them get the chance because this is the only concrete suggestion that anybody has submitted.

Mr. YOUNGER. There is nothing in the law that has prevented them fixing these rates at any time in the last 4 or 5 years, if they wanted to.

Mr. MARTIN. That is my opinion but it is not the opinion of my opponents. They cite the *Palmer* case as putting limits on what the Commission can do.

Mr. YOUNGER. If your opponents have controlled the action through the ICC before they will probably control it the next 4 or 5 years.

Mr. MARTIN. I don't think so but we will wait and see.

Mr. YOUNGER. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Staggers.

Mr. STAGGERS. I have no questions.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. I have no questions, except to refer to the statement that you made yesterday, using the corollary of rent control, where production or building of facilities was naturally diminished because of the rent control, and likewise you now mention the incentive which would come into play.

I might point out that a number of years ago during the war we were short of linseed oil and the production of flax was stimulated by raising the level of support on the production of flax. We immediately had the necessary production that we needed.

It would seem to me that the economics of your statement would move in that same direction. I have every feeling that it would be productive. I thank the gentleman for his statement.

Mr. MARTIN. I thank you for your statement.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. Thank you, Mr. Chairman. Mr. Martin, on page 13 where you set forth the current per diem charges, I had a question just how those charges were assessed. Do they relate to the service life of the boxcar? In other words, are these charges that are made at the present time based upon the depreciated value of the car, or are they based on the original cost of the car?

Mr. MARTIN. They are based on depreciated reproduction value.

Mr. HARVEY. On depreciated reproduction value.

Mr. MARTIN. That is right. When you get to the newer cars, it is the same thing. When you get to the older cars, of course you reflect the depreciation.

Mr. HARVEY. The original cost plays no role whatsoever?

Mr. MARTIN. Not except in connection with cars currently going into production.

Mr. HARVEY. Let me ask you this: The cars that you have the most of the 1,000 to 5,000 category, where there is 43 percent—does that mean that is the type of our car they are producing chiefly?

Mr. MARTIN. No; that means those are the older cars that are still in the fleet.

Mr. HARVEY. That reflects the age group of the average boxcar?

Mr. MARTIN. Yes; to a degree, it does just that. That table on page 13 of the statement has considerable significance; but it means that over 90 percent of the existing fleet still gets an average of less than \$3 a day for use of the cars within that group.

Mr. HARVEY. Who sets these values that determine what the rate is?

Mr. MARTIN. The values that you see on that table were fixed by a committee of the Association of American Railroads. In that committee, these influences to which I have referred exerted the downward pressure that has been so unfortunate from the viewpoint of the national interest.

In order to get any increase, and in order to obtain the adoption of a philosophy underlying the sliding scale; we car owners had to go along with that scale. It is much too low.

Mr. HARVEY. I am not sure that you understand my question, not that I understand your answer. What I am concerned about is, If the per diem charge is based on the value of the boxcar, who sets that value? If you go to a used car dealer and buy a used automobile, you get an appraisal and find out what it is worth.

Does someone in the ICC appraise this and establish a value, or do you do that?

Mr. MARTIN. No; each road has its own accounting figures. He knows when his car was bought; he knows what it cost; he also knows by a lot of formulas and statistics that the AAR and others have produced—I don't know how valid they are—it is an accounting formula that produces these values.

Mr. HARVEY. So the actual condition of the car plays no role whatever in its value. All you do is subtract the depreciation, and that is it.

Mr. MARTIN. That is right. That is one of the innumerable defects in this formula, that it gives no effect to obsolescence, which is becoming a serious factor.

Mr. HARVEY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman. Mr. Martin, I appreciate your position so far as the economic factors involved are concerned. You say there has been no positive suggestion as to a solution to this particular problem. But I seem to sense throughout your testimony—and others—that, perhaps, we might not be in as bad a situation as apparently we are now if we could get the boxcars in the right place at the right time.

Is there any merit in that particular statement?

Mr. MARTIN. Yes, Mr. Watson, there is merit in it. Not as much as you might think.

Mr. WATSON. The reason I ask that is because, even if we can get an additional supply of cars, unless we can work out this proposition of getting the boxcars in the right places at the right time, all we are going to be doing is compounding the problem of the owners, as you and others have said.

Mr. MARTIN. We need both; there is no doubt about that. I believe this bill will give you both. In other words, I think it will get more cars in the national fleet by creating the incentive and profit in car ownership. I think it will encourage the quicker movement and more expeditious movement of all cars because any user, when he is paying rent for an article, is going to release it quicker if he pays more rent.

It will stimulate quicker movement as well as stimulate more production and acquisition of freight cars.

Mr. WATSON. This per diem charge—is that against the railroad that has a freight car on its line, whether in use or out of use?

Mr. MARTIN. Yes, sir.

Mr. WATSON. Is there such a proposition as a descrambling day? One gentleman says he doesn't see his cars in 6 months; and, perhaps, it is remarkable if you find them within 6 months. Have you ever contemplated the matter of having a certain day when all the cars must be returned to the owner so he can take a new look at the situation?

Mr. MARTIN. Theoretically, that would be a very fine idea from the viewpoint of the car owner, such as those roads I represent. As a practical matter, I think it would be utterly wasteful and uneconomical, and impractical. Because, if you had a descrambling date, at least we would get our home-owned cars back home, which we have not had for a long time; and we would like that. But it would really mess up the transportation of the country and I could not advocate it.

Mr. WATSON. Secondly, have you explored the possibility of working out certain periods within which you will require the carriers to send all foreign cars to a particular area, such as Mr. Springer's, where you have a heavy harvest? Have you ever considered that aspect?

It seems as if these might be simple questions that I am asking, but, as a practical matter, they might work. Have you ever discussed that?

Mr. MARTIN. Yes, indeed; to a degree this is done through so-called car-service orders of the Interstate Commerce Commission.

One was released just the other day which directed cars of certain classes to be sent home right now, either under load or empty, because the need is so great and because the roads to which the cars were directed to be sent were trying to do business with maybe three-fourths of their ownership, the rest being off on somebody else's railroad.

We need, desperately, some method whereby we can improve this distribution and some method whereby we can force a railroad which has our cars to get them back more quickly instead of keeping them in business on our investment. We need that badly. I think this bill would help.

But that really is the second step. From the viewpoint of the national interest, the first step is to get an adequate car fleet, which we do not now have. That is the point I wanted to emphasize. You can't correct this by better distribution.

Mr. WATSON. I might agree with you there, but I believe you would have to agree with me that distribution is one of your major problems and not necessarily supply.

Mr. MARTIN. I will agree that distribution is one of the major problems.

Mr. WATSON. We can compound the problem by increasing the supply without working out the practical distribution of these freight cars. You mentioned earlier that there is a regulation which requires a terminating carrier to use a foreign car prior to the loading of his own car, is that not correct?

Mr. MARTIN. The theoretical regulation, yes.

Mr. WATSON. It is theoretical. Have you ever discussed or explored the possibility of placing a penalty upon that terminating carrier which did not, in fact, follow that regulation and load the foreign car rather than loading his own cars? Have you ever discussed that?

Mr. MARTIN. I have discussed it directly. I have called attention to a note in the car service rules which says that when that condition arises there ought to be something more than per diem assessed against the user for keeping the car. This is anathema to my friends down east and they have so far been able to avoid such a rule.

Mr. WATSON. One final question. If these ideas were explored by the carriers and if they were explored by the Commission, these particular things I have brought out, don't you think actually that would contribute more to the solution of your problem rather than just going in and increasing the per diem charges and trying to encourage other carriers to get additional cars?

Mr. MARTIN. No; I don't think it would contribute more. I think what you suggest is vitally necessary. I think a great deal of progress is being made in that direction through the task forces of the association and through the current investigation by the ICC.

But I don't want to agree with you, if you are trying to get me to say that better distribution would solve the problem. It won't. We need better distribution. We need some teeth in some order which will force these cars back home more certainly and more quickly.

We are making progress within the industry with computers and better distribution after we get them on our own lines. There are

steps in that direction which are very helpful. We cannot overlook it. But you have to have more cars or you will never solve your problems.

The CHAIRMAN. If the gentleman will yield, then you disagree with what the Commission has said that under all the circumstances as they view this problem and know the facts that the direction and the program to keep these cars rolling, are just about as effective as they know that can be brought about.

Mr. MARTIN. If that is what they say, I do disagree with them because there is always room for improvement in car distribution by the association, by the Commission and by each and every individual railroad. We on the Burlington are finding ways and means every day to get better utilization out of the cars, the few cars, that we are able to get back from our friends and use on our own property.

The CHAIRMAN. I suppose that not even the Commission with its long years of experience behind it would contend that they are perfect in every way.

Mr. MARTIN. I hope not.

The CHAIRMAN. I am somewhat impressed with their efforts to bring about as efficient utilization of the cars as is possible under the established procedures that we have.

Mr. MARTIN. I don't know how good a job they do. Sometimes I think they do a pretty good job. Sometimes I think it is terrible. I know when we get extremely short on our property, when we find we are down to maybe 75 percent of our ownership on line, and when we see that some of our eastern friends have 110 or 115 percent of their ownership on their line and we say to the ICC, look, why should they sit down there with 10 or 15 percent more cars than they own and we sit here with 10 or 15 percent less cars than we own, why shouldn't you tell them to send us some cars.

Sometimes we get them and sometimes we don't.

The CHAIRMAN. In other words, when you have plenty of cars you think the Commission is doing a pretty good job. When you don't have plenty of cars you think it is a very bad job.

Mr. MARTIN. I wouldn't say it quite that way, Mr. Chairman. I would say when we have on our lines the cars that we own, that we have no complaint. But when somebody else has cars that we own and the aggregate fleet on our property is less than we own, then somebody is wrong, and the wrong ought to be corrected.

Mr. WATSON. Mr. Chairman, if you will yield at that point, I am not particularly impressed with that argument, Mr. Martin, because you just answered me earlier that you didn't really want to try to develop this matter of getting back the cars back to the owners.

Mr. MARTIN. No; I didn't say that. I am all in favor of getting the cars back to their owners.

Mr. WATSON. Wouldn't that be helpful?

Mr. MARTIN. Indeed it would. I hope it will be done. The only difference of opinion between us, Your Honor, is that you want me to say that is the most important factor, and I will not say that. You can't solve the problem unless you get more cars.

At the same time, you ought to be devoting every effort to improving distribution.

Mr. WATSON. I really am not trying to get you to say anything. I have been particularly impressed that you have been giving us very candid and succinct answers, and I was in hopes that I might get one to that particular question. I believe we are together to this extent.

Distribution is as important a proposition in the solution of this particular problem as supply.

Mr. MARTIN. As important? I don't know. I think we are quibbling with words a little, Mr. Congressman. Both are vitally important.

It seems to me, however, that unless you have an adequate supply, the finest system of distribution in the world will not help you as you should be helped.

We are in that position today, virtually. Let us assume that the Commission is doing everything it can do to bring about an equitable distribution of cars, and that the individual railroads are cooperating in that effort. Let us assume perfection in car distribution which, of course, doesn't exist, today you still would be in very serious trouble in almost every part of the country. Because the distribution is an effort to distribute a shortage, not an effort to distribute an adequate car supply.

So, whether it is chicken or egg, we can each decide for ourselves. I say that you must start off with the acquisition and maintenance of an adequate national freight-car fleet and concurrently or thereafter you must get the best possible distribution of that fleet.

Mr. WATSON. I want to add this one final comment. I think this bill is a step in the right direction. I do not feel that these matters we have brought out have really been explored and that the industry itself has tried to work them out. Another point we might try to make here is that I am fearful that unless we look at this basic question of distribution that we are going to be right back in here several years from now and have the same problem facing us again.

Mr. MARTIN. We are not very far apart. I want every effort devoted to better distribution. Now and hereafter. With or without this bill. Distribution is vitally important. I am with you on that point.

Mr. WATSON. Thank you, sir. I might mention this. When I was speaking of a descrambling day, I was not thinking of one day when all cars must be shipped back to the owner. Certainly, this is just off the top of my head and you have been living with this thing for years and you can improve on this idea, but that you would have monthly or other periodic returning home of the cars on four or five lines.

Not all at one time but make it mandatory, even under penalty, for those terminating carriers that do not return the cars to the owner. But you can set it up on a monthly basis requiring that a certain percentage of the cars must be returned to the owner.

Mr. MARTIN. We almost have the means to do that right now because twice a month the association prepares a statement which shows as to each and every railroad, class I railroad, in the country how many of its own cars are on its line on that date and how many cars of other railroads are on its line on that date.

This is the basis for these ownership figures that I mentioned earlier where I said my group as a whole on March 1 had only 89 percent of its cars on line, whereas the opposition group had 111 percent.

Mr. WATSON. Yes, but the figures you gave only locate the cars. It doesn't return them to the owner. That is one of the problems you are trying to get at.

Mr. MARTIN. It is, indeed.

Mr. WATSON. I am fearful we have not really explored the possibilities on that.

Mr. MARTIN. I agree with you.

Mr. WATSON. You are the experts and you should work that out.

Mr. NELSEN. If the gentleman will yield, would there be any merit in graduated basis of car rental. For example, let us suppose that cars belonging to your railroad are routed to another system that has an undersupply and we then charge a graduated rate requiring the rate to go up after a certain date limit has been reached. This, of course, would put a penalty on a railroad that keeps cars too long.

Would there be any merit to that?

Mr. MARTIN. I doubt it, Mr. Nelsen. It is again theoretically sound and it works on the charges that are assessed against shippers for undue detention of cars at different rates—\$5, \$10, \$15 as time goes on.

But it is very difficult for me to see how such a plan could be made effective in the assessment of per diem in the car rental charges, because these shipments move across a lot of different railroads. It is hard to see how it could be worked out.

I really don't think you need much more than I think would flow from enactment of this legislation, to get the per diem charges up on the profitable level so it pays to put the money in the cars. If that is high enough, you will get cars and quicker movement.

I think the problem would solve itself under the operation of economic law. I don't believe you would need the system such as you suggest and I doubt if it would work if you try it.

Mr. WATSON. Mr. Chairman, if I may make one further comment, I agree with the operation of economic law. But one of the basic factors in the operation of economic law is not only to get your price right but to get your organizational structure and your operation right.

That is why I am disturbed about these deficiencies in the present system. You can up the price but yet you will not cure the problem. So the factors of life include something other than adequate price.

Mr. MARTIN. You are right.

Mr. WATSON. You need an adequate operation.

Mr. MARTIN. You are right.

The CHAIRMAN. I think before we get too far from what the record is, it should be kept in mind that, No. 1, the responsibility primarily is with the railroad industry in the utilization of cars. Anytime we take that responsibility from where it ought to be, we are going to create a greater shortage.

I don't care how many cars we have. We might as well face the facts, in my judgment, under our system I just don't believe that through any Government dictation you can adequately or nearly as efficiently provide the service, unless the industry itself is charged with the responsibility of doing so. There is under our system a job or the responsibility for the ICC. I think our colleague from South Carolina probably is not aware of the fact that even on last Friday, the ICC issued a service order, No. 968, which became effective on Octo-

ber 4, and which requires plain boxcars—that is where the shortage apparently is greatest, although there are shortages in other areas—that are at least 50 feet long as well as those cars which are at least 40 feet long with side doors 8 feet or wider be returned promptly to owning roads.

So efforts are being made, and I think by your suggestion of proper organization in the industry itself, the most efficient program is in effect and in force. I suppose what we are trying to do is to keep it there, improve it and make the system work.

Mr. MARTIN. And get more boxcars?

The CHAIRMAN. Yes, I am constrained to believe that more boxcars will be the answer. I am alarmed over the continued deficit of boxcars every year and ever month. Somebody is going to have to do something about it.

Mr. MARTIN. Make it worthwhile to own them and you will get them.

The CHAIRMAN. I hope you are right. In an effort to get something through in this direction, the Senate put an amendment on it.

Mr. MARTIN. Which almost wrecks us.

The CHAIRMAN. It seems to me it certainly creates a great injury, as far as I am concerned. But didn't you agree to it in the Senate?

Mr. MARTIN. I sure did not. Definitely not.

The CHAIRMAN. I am glad to have that cleared up because my information was that you agreed to it. As a matter of fact, it became unanimous over there and that was testified to here yesterday morning by none other than the chairman of the Committee.

Mr. MARTIN. He said it was passed in the Senate on a voice vote without dissent, at least without recorded dissent.

The CHAIRMAN. He said it was unanimous, too.

Mr. MARTIN. Yes, on the vote. But we individuals that are concerned about it and most vitally affected were violently opposed to that amendment the first time we heard of it and still are.

The CHAIRMAN. Now to clear up something in my mind on this whole thing, I assume you are wholeheartedly in accord with section 5a of the Interstate Commerce Act.

Mr. MARTIN. Yes; I think it is a good section.

The CHAIRMAN. I believe the ICC testified yesterday that the present per diem rates were agreed to by the railroad industry in the usual established way, that is, under the authority of section 5a, and filed with the Commission and the Commission approved. Is that your understanding?

Mr. MARTIN. You are right that the existing multilevel scale was established by joint railroad action under the authority of section 5a. I don't believe that it is quite right to say that the Commission has approved them as reasonable and proper.

The CHAIRMAN. I didn't say as "reasonable and proper." I said they approved. As a matter of fact, an agreement subject to section 5a would not have been effectuated if the Commission had not approved, because the law provides that any such agreements must be approved by the Commission; otherwise they are subject to antitrust laws.

Mr. MARTIN. I get your point. In that sense you are right, of course.

I misunderstood. I thought you were implying that they had said in effect these charges were reasonable charges. This is the issue in the pending cases before the Commission.

The CHAIRMAN. I am inclined to think, Mr. Martin, you have a problem here that needs straightening out. Because the Interstate Commerce Act, part 1, section 1(14) (a)——

Mr. MARTIN. 1(14), yes.

The CHAIRMAN. I had that awhile ago. It provides (14) (a) part 1 of the Interstate Commerce Act:

The Commission may after hearing on a complaint or upon its own initiative without complaint establish reasonable rules, regulations, and practices with respect to car service by common carriage by railroad subject to this part, including the compensation to be paid and other terms of any contract, agreement or arrangement, for the use of any locomotive, car, or other vehicle not owned by the carrier using it and whether or not owned by another carrier.

Then there are penalties or other sanctions for nonobservance of such rules, regulations, and practices. You would think that places the burden and the responsibility on the Commission to take such appropriate action as its information and consideration would require.

Mr. MARTIN. I think it is broad language. I think the Commission has a good deal more power than my friends, the opposition, think. That is why we need this bill to clear up that confusion and clarify the congressional intent, which I am sure was back of the enactment of that section as you read it, Mr. Chairman.

The CHAIRMAN. The effective date, I guess, of that provision was in 1941.

Mr. MARTIN. No; I think that goes back to 1920 or thereabouts—1(14).

The CHAIRMAN. Very well, 1920, then. I know 5(a) has been since then.

Mr. MARTIN. That is right.

The CHAIRMAN. Because 5(a) was worked out and passed in Congress during my service here. I have forgotten the date, 1948? It was about 1948. It grants exemption from antitrust laws. Section 5a(2) provides:

Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or changes (including charges between carriers and compensation paid or received for the use of facilities and equipment)——

And so forth.

I read these in the record because I want them in the record to refer to, to see what the situation is here.

Mr. MARTIN. That is right. These charges were established by joint action pursuant to section 5a. But incidentally, you know, the so-called right of independent action must be preserved under those agreements, and because of that right the Boston & Maine and New Haven represented by my friend, Mr. Newton, have said we are not going to pay even those picayune charges which this committee established. We are going to decide what we are going to pay you for the use of your car and no more.

That is why we have some lawsuits. That is one of the vicious aspects.

The CHAIRMAN. I know, as a lawyer, representing an industry, and you represent a great industry in this country, you are going to pick

out these differences of interpretation and application, and so forth, and make lawsuits. That is what lawyers are for.

Mr. MARTIN. That is why we need some clarification from the Congress. That is why we need this bill.

The CHAIRMAN. Basically, if you get down to it, you have a 1920 provision requiring the Commission to do something and the 1948 provision which grants authority to the railroads, and which I supported and helped get through, giving the railroads a certain freedom and placing upon them a responsibility. Under that responsibility they provide a sliding scale of rates.

It goes on and says the Commission shall give approval to these agreements, and so forth. I am somewhat constrained to think that is the reason the Commission, in including the language of the *Palmer* case, takes its position and is reluctant to do what I think you would want them to do; that is, take the bull by the horns and do something about it.

Mr. MARTIN. They have to do something about it, Mr. Chairman, because of the pending complaints before them. They are going to have to fix these charges, no matter. We can't change that, you and I, either one of us. What I want Congress to do is to tell them that you meant what you said in 1920 when you enacted section 1, paragraph 14, and that in the exercise of this power, which has long existed, and in the disposition of the pending cases and any further cases which may arise, they must give you an adequate boxcar supply. They must be clearly authorized to include in the prescription of per diem charges an incentive or profit element.

The CHAIRMAN. I am not sure under present law you are altogether correct, though I would tend to agree with an attorney like you are.

Mr. MARTIN. Where do you think I am wrong?

The CHAIRMAN. We come along in section 5a:

Mr. Railroad, we give you the opportunity and place the responsibility on you to get together and agree on these rates, submit them to the Interstate Commerce Commission and the Interstate Commerce Commission approves them and, therefore, that is what they should be.

Mr. MARTIN. The only difficulty with that is that we have not agreed. We have agreed in theory, and the sliding scale is the result. But it is not right.

The CHAIRMAN. I am not arguing that with you, Mr. Martin. I am arguing what the facts are under the present provision of the ICC, because I wanted to get to another point. I just wanted to make the record on this.

In view of this, suppose under the circumstances the Commission withdraws its approval to this present sliding scale of rates. Then it would have to go back, without a doubt, to section 1(14)(a), would it not?

Mr. MARTIN. I am not sure that I follow you, Mr. Chairman.

The CHAIRMAN. I am sorry I didn't make the point clear. We have been a long time getting to it. Let me remind you again. I read to you section 1(14)(a), that is proposed to be amended as of today. That was 1920, directing the Commission or authorizing the Commission to do certain things. Twenty-five years later, approximately, the Congress said to the railroad industry, you have authority to do cer-

tain things. One of them is to enter into an agreement on the use and compensation of facilities.

Under that authority they did so. But these agreements must be approved by the Commission. Apparently, the Commission approved them because they said they did. In their testimony, approved pursuant to section 5(a), and administered generally by the Association of American Railroads. That is what they said yesterday.

Now if the Commission wanted to really get into this thing, why could not the Commission then withdraw its approval of existing rates and, therefore, the agreement would be out the window. Then, you would go back to what it should do under present law.

Mr. MARTIN. I don't know what you would go back to.

The CHAIRMAN. Section 1(14)(a).

Mr. MARTIN. As a practical matter you would go back to a chaotic situation. You have to have some basis for compensating the railroad for the use of its car when it is on another line.

The CHAIRMAN. That is what 1(14)(a) says.

Mr. MARTIN. That is what was attempted. Maybe it will clarify the thing a little if I tell you that at the same time my company and the others that I represent joined in the establishment of the present sliding scale, we filed a complaint with the Commission attacking the level of the charges fixed by that scale.

The CHAIRMAN. What I am trying to get to is the point that you are at the point now that you and those on your side are evidently in the minority when it comes to these agreements on a national basis in the railroad industry.

Mr. MARTIN. I am not sure that is right. We were in the majority when the multilateral scale was established.

The CHAIRMAN. You approved it?

Mr. MARTIN. Yes. We said at the same time it was wholly inadequate. We agreed to it as a compromise and attacked it in formal complaints before the ICC which are still pending.

The CHAIRMAN. Then one final question on this, and I know you have to catch a plane west. You think that the Congress, then, ought to come in and upset that agreement and declare it null and void and direct the Commission to establish a more adequate rate that would provide an incentive for more boxcars?

Mr. MARTIN. Let me take that statement piece by piece. I don't think you should tell the Commission to upset the present multilevel scale. I think you should tell them that in the disposition of these complaints that are now pending and in any further presentation before the Commission involving the level of per diem charges, that it should fix those charges, as it must under those conditions with due regard to the national interest in an adequate car fleet. You should empower them to do so, not merely tell them.

The CHAIRMAN. And which would be different from what it is today.

Mr. MARTIN. This is again open to argument. I think they could do most of what we think ought to be done under present statutes but my friendly opposition disagrees. So I say Congress should clarify its intent that the Commission as well as the railroads have responsibility to maintain an adequate car fleet. One of the ways to do it is to give the Commission power to establish incentive per diem charges.

The CHAIRMAN. That would be higher than the present rates?

Mr. MARTIN. Presumably—if the Commission so concluded after hearing.

The CHAIRMAN. If you don't get different rates from what they are, then all of this effort here is just wasted time.

Mr. MARTIN. That is right. I agree with that statement.

The CHAIRMAN. Thank you very much. You have been here much longer than you anticipated. We have many witnesses to be heard on the subject. But since you did represent so many of the railroads, as you outlined in your statement, we certainly did not attempt to restrict your presentation.

Mr. MARTIN. I am grateful to you and the committee for your attention.

The CHAIRMAN. The committee will recess until 2 o'clock at which time we will return and attempt to get the other witnesses who are here today.

(Whereupon, at 12:20 p.m., the committee adjourned, to reconvene at 2 p.m., the same day.)

AFTERNOON SESSION

The CHAIRMAN. I apologize for being late. The committee will come to order. Is Mr. Duncan here?

Mr. DUNCAN. Yes, Mr. Chairman.

The CHAIRMAN. We have had a hard time getting together.

Mr. DUNCAN. Yes, sir. Am I due now, sir?

The CHAIRMAN. Yes. We would be glad to hear from Hon. Robert B. Duncan, our colleague from Oregon.

We called for you this morning and you were unavoidably detained but I did give you authority, however, to file a statement at that point.

STATEMENT OF HON. ROBERT B. DUNCAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. DUNCAN. Mr. Chairman, I appreciate that, and members of the committee.

I was a little late this morning, but I enjoyed hearing Mr. Martin. I found it very informative and helpful to me and I hope it was to the committee, because it so happens I can largely endorse Mr. Martin's testimony with one or two minor exceptions.

I am here today, gentlemen, to urge upon you the prompt markup and passage to the House of the bill to amend section 1(14) (a) of the Interstate Commerce Act to give the Interstate Commerce Commission authority to set the level of per diem rates at such a level as will affect favorably the adequacy of the national freight car supply.

With the committee's permission, I will just ask that my written statement be made a part of the record and make a few comments, hoping to shorten my time in front of you.

There were some questions asked this morning that it seems to me point pretty well the direction that this debate in front of the committee ought to take.

In the first place, I am not going to repeat the statistics on the box-car supply because I am sure your record is replete with that already,

but suffice it to say this country is and has been now for some time in a period of a rapidly expanding economy. And the statistics I think are incontrovertible. The boxcar supply, the railroad rolling stock supply has been going down at a remarkable rate. Now, it just does not make any sense in a period of an expanding economy to tolerate a decline in the supply of rolling stock. It does absolutely no good to have the manufacturing facilities to produce the goods if we haven't the facilities to transport them to the market. This is particularly relevant in an area such as I come from where we are primarily concerned with basic production and primary manufacturing. The loss in terms of dollars to our shippers and to our State, indeed to the national economy, is almost incalculable. And it seems to me that it is a situation that the Congress can no longer ignore.

Mr. Watson raised the question this morning as to whether it was not a far more important consideration to get the cars that we now have distributed than it was—Mr. Watson, I just took your name in vain, referring to the questions you asked this morning as to whether or not it wasn't far more important to distribute the cars we have rather than to worry about getting more cars.

Now, I do not think there is any question about it, that there are two aspects to this problem. One, of course, is the proper distribution of the cars so that they are available when they are needed. But when you look at the decline in the number of cars, it is absolutely basic that we have an adequate supply. It is almost uncontroverted that we do not have an adequate supply, and as Mr. Martin testified this morning, all of the activities and all of the energies that we devote to distribution does really little more than distribute the shortages around the country in the most equitable manner possible.

So it seems to me that if there is a basic, if one of these two problems is basic to the other, that the car supply is that factor that we ought to be attacking and to which we ought to be addressing ourselves.

Now, what does this bill do? Mr. Younger this morning suggested to Mr. Martin that the bill was not mandatory, that it was simply permissive, and in that connection I will have to agree with Mr. Younger, because this is amending section 14 of the Interstate Commerce Act, which is in terms of "may." These are things that the Commission may do. And I think that he is right. Technically it is a permissive bill. I think as a practical matter if this bill is passed that we can expect some action from the Interstate Commerce Commission along this line.

The reason I say that is that the Commission tried back in 1947 to attempt to alleviate the car supply, and the utilization, too, by means of increasing the per diem rates. At that time the increase sounds kind of ridiculous compared with today's figures, because, as I recall it, they were only attempting to raise it to about \$2.

Now, the reason they cannot do this today, at least in their view that they cannot, is that they were challenged in court in 1947 on their ability to use per diem rates as a means of regulating the use and the supply of cars. And the district court in which this case was tried, and a very good district judge, by the way, held that they have the authority to regulate car supply and they have the authority to set per diem rates, but they did not have the authority to use per diem rates as a means of regulating the utilization and the supply of cars.

Now, that case probably should have been appealed. In my opinion it should have been. If it had been, we might not have been here today, but it was not and that *Palmer* case continues to cast a cloud over the Interstate Commerce Commission's ability to move in this particular direction to alleviate this particular problem.

It was suggested by Mr. Martin this morning that the bill would help not only with increasing the supply but also in handling the distribution, Mr. Watson. I disagree with him, and I think that this bill ought to be amended so that it does do both things.

The issue in the *Palmer* case was pretty clearly delineated by admission of the Interstate Commerce Commission, and that was whether they had the authority to use the per diem rate for two purposes; to increase the supply and to regulate the use. So that was the issue that was before the court at that time. The court ruled on both of these and held that they did not.

The bill before you simply gives the Commission the authority to use this device as increasing per diem rates to effect the adequacy of car supply.

And I would like to respectfully suggest to the committee that they consider further amending this bill to insert the words "and efficiency of freight car use" on line 9, page 1, of S. 1098 following the word "supply." The words "and efficient use" following the word "maintenance" on page 2, line 5. And the words "and efficient use thereof" following the word "maintenance" on line 15, page 2.

The CHAIRMAN. Let me get that again.

Mr. DUNCAN. I am simply suggesting, Mr. Chairman—

The CHAIRMAN. On S. 1098, line 9, page 1?

Mr. DUNCAN. Yes, sir; the words "and efficiency of freight car use" —

The CHAIRMAN. Where?

Mr. DUNCAN. After the word "supply." On page 2, line 5, after the word "maintenance" insert the words "and efficient use."

And on line 15, page 2, after the word "maintenance" insert the words "and efficient use thereof."

This then would permit the Commission and clearly define its authority to use this device in an attempt to increase the car supply and also in an attempt to regulate the use.

Now, I would want the committee to consider this pretty carefully and certainly seek the advice of others than myself. But it seems to me that the idea definitely has merit. And if what we are trying to do is to plug the gap in the regulatory machinery that was created by the *Palmer* decision, it seems to me that we ought to plug both holes.

The CHAIRMAN. Let me get this again off the record.

(Discussion off the record.)

The CHAIRMAN. Does that conclude your remarks?

Mr. DUNCAN. No, sir. I would like to make a couple more comments, if I might, but that concludes those suggested amendments.

The bill, then, simply is permissive. It simply gives the Interstate Commerce Commission another tool with which to attempt this very difficult and admittedly complex business of creating a car supply and getting it properly distributed. This is often suggested as being in the form of a penalty against those lines that do not own their

own cars and who prefer to use cars of other lines on the basis of a rental charge. And I suppose that any time you talk in terms of dollars and cents and increasing the charge, that if you want you could talk in terms of a penalty. But as I look at this situation, it seems to me that a penalty exists no matter which way we go. That the shippers on those lines that own an adequate car supply of their own and do not have it available for shipments are in effect being penalized right now by not having the cars available. Those lines who have bought their cars are in effect being penalized by not having them available so that they can make a profit on their utilization during periods of maximum demand for the use of those cars in shipment.

You can look at it either way, and I suggest that we are going to have a penalty if this is the way you choose to construe it, whether we act or we fail to act. And the question is whether or not those lines that have invested in their own cars should not be permitted to make a profit or are to be penalized by denying them that right while those cars are being utilized by another line in the east or somewhere else by a line that would prefer perhaps financially, perhaps for other reasons, to use the cars on a rental basis rather than actually buying them for themselves.

The question was asked whether this bill was necessary. Doesn't the Commission have authority under the present code to enter orders affecting the car supply? And I think the answer probably is "Yes." At least it can be so read. It is clear that they do not have the authority to increase per diem rates in order to effect this regulation, but I think section 14 does give them power to regulate "service." But the fact of the matter is that they either have not or have not been able to use this power. This shortage is not a new acute condition. This is a chronic condition that has affected the rails for years and years and years. As I have said, they tried to regulate by using per diems back in 1947, and were found not to have the power. That is some indication that if we give them simply permissive power in this bill, that they will make an effort to do it. But the fact of the matter is, in connection with the utilization of any other powers which they may have to effect the car supply, they have not done it and I submit probably have not been able to do it.

Now, we have amendments put onto this bill in the Senate, amendments with which I disagree, just as Mr. Martin did this morning; amendments which I think, particularly Nos. 2 and 4, strike right at the heart of the problem we are trying to solve. And I think the bill would be vastly improved if those amendments were not on it. And yet I recognize the political considerations that may have affected the Senate in adopting those, and I am prepared to tell you that I will support this bill with or without those amendments in it. I think they ought to be deleted, but I would support it whether they are in it or whether they are not in it.

Now perhaps the Commission is faced with the same sort of political considerations in determining their orders. Certainly they went to the court in 1947, and said that they had been unable to get agreement from the rails on the proper form of regulation to get at this problem of supply and distribution. And the court's comment is kind of interesting. It says:

The railroads are divided in their interests and in their views. It is natural and inevitable that they would be unable to formulate or suggest a plan of regulation. This is the situation in many controversial fields of necessary regulations. But it would indeed be an odd conclusion to hold that regulation in the public interest is impossible, because the companies to be regulated assert that they are unable to suggest or to agree upon an acceptable method of regulation.

Now, the railroads have agreed upon these present per diem charges, I think, as the chairman pointed out this morning, under section 4 of the Interstate Commerce Code. The power of the Commission is drawn not from that section, though I agree they must approve them under section 4, but the power of the Commission to set per diems is drawn from section 14. This bill before you does not purport to amend section 4. It does purport to amend section 14 and give to them an additional tool with which to solve this problem.

It was suggested also this morning that some of the members do not like Government regulation. Well, I do not like it any better than anybody else, and I think any time we can give private enterprise or private individuals the opportunity to solve the problems themselves that everybody is far better off; the Government, the shipper, and the railroads. But I think we have some evidence here that the railroads themselves have been unable to do it. We have had some rather decisive statements made this morning, and I assume that there will later on in the day be testimony completely adverse to that given by Mr. Martin this morning. We know that for years the railroads themselves, even under the authority granted in section 4, have been unable to really agree on what the per diem rates ought to be. I suggest that you might be able to increase them by bringing the value of their use or the amount of profits that could otherwise be derived from the proper utilization of these cars into the formula in determining the per diem rates.

Now, the fact that it has not been done in all this period of time, the fact that we are in an ascending economy, the fact that we have a declining supply of boxcars, the fact that people in my district are losing millions and millions of dollars, and this means jobs that people in my district do not have, seem to me to be very cogent reasons why this committee ought to take the next step not to require really the Interstate Commerce Commission to go ahead and use this tool, but to make it available for them.

Now, the Commission has in the last 2 or 3 days, issued two orders, one of which I am quite familiar with. And this is the order that, under their emergency powers in section 15, has been issued to require what amounts to an immediate turnabout of these cars and return to the point of origin if other cargo is not immediately available for loading into those cars.

Now, someone has suggested this morning that this ought to do the trick, that this power is sufficient. Well, this is available to them only in an emergency. A similar order was issued in 1962. This order was issued to be effective Monday. It will go out of force at midnight on December 31. I think it ought to be of indefinite termination myself, because as I say, this is not an acute situation. This is a chronic situation.

Now, they do have this power on an emergency basis from time to time, and the statute requires them to specify the time during which

this order will be in effect. I suggest that what we need here is some permanent, long-range authority. I think that this bill may not be the best. It is complex. It may not work, but as Mr. Martin said this morning no one has yet come up with a better suggestion, and there is enough hope that it will work in spite of the complexities involved, that certainly this committee and this Congress can do no less in my opinion than to face up to the responsibility.

I think we have facing us on the railroad car supply a situation similar to that that faces us with the merchant marine. And I think the Congress is going to have to face up to both of them. We have an opportunity to do a part of the job now, and it seems to me that the doubts that exist are no reason to fail to do anything.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Duncan. We are very glad to have your statement and presentation on this subject, and you may include your entire statement in the record—

Mr. DUNCAN. If I may. And Mr. Chairman, I have—I beg your pardon?

The CHAIRMAN (continuing). Along with your presentation that you have just given.

Mr. DUNCAN. Thank you. I have 14 or 15 telegrams and letters in support of this legislation which I have given to the clerk. I would appreciate it if the committee would put them either in the record or in their files. I do not want to add to the printing costs of this committee. And I think if the record shows that these telegrams represent not only individual shippers, but associations of shippers, it would be enough.

The CHAIRMAN. Well, we have innumerable communications. I have probably two dozen here myself. We will include them in the files—

Mr. DUNCAN. That would be satisfactory, Mr. Chairman.

The CHAIRMAN (continuing). For the use and benefit of the committee.

Thank you very much.

Mr. DUNCAN. Thank you, sir.

(The statement referred to follows:)

STATEMENT OF HON. ROBERT B. DUNCAN, MEMBER OF CONGRESS FROM THE STATE OF OREGON

Mr. Chairman and members of the committee, first, my thanks to the chairman and the committee for holding these hearings in what we all hope are the last days of this session. It is a recognition of the importance of the issue with which we are confronted. It is not a new issue but the problem from which it has arisen has gotten progressively worse for years. It is not one that will be solved overnight by the passage of this legislation but further delay will only exacerbate the situation and further prolong the time of eventual solution. I cannot even assure the committee that the solution proposed in the bills will solve the problem. But the bills are a logical approach, a promising avenue of solution—and no one has offered a better solution to what all admit is a problem. The bills have drawn unanimous support from the administrative agencies, from all of the shippers in my district with whom I have had contact and by a significant segment of the railroads themselves.

Statistics on the steady decline in both numbers and capacity of cars are already before you and I shall not duplicate the record. The law is clear that the

rails have the obligation to furnish "safe and adequate car service" (49 U.S.C. 1) and to "furnish transportation upon reasonable request" (49 U.S.C. 1(4)). In my district there have been recurring shortages of cars.

On an initial reading of 49 U.S.C. 1(14) it would seem that the ICC has the authority sought to be given to it in this bill. But in 1947 its authority to prescribe per diem charges for regulatory purposes was challenged in the U.S. district court and the court found against the Commission. I think the decision should have been appealed and had it been we might not have been here today. It was not and a cloud now exists on the Commission's authority which effectively prevents any action.

In a time of a rapidly expanding economy, it makes no sense to tolerate a declining supply of railroad cars. Production without transportation to the markets is meaningless. The losses to the Nation are staggering. The problem is not dissimilar to the one we face in ocean transportation with which we must soon come to grips. I would far prefer to have the rails handle this problem by themselves, without Government interference. But the rules of the Association of American Railroads have not worked and the Government must move to protect the public interest which includes that of the railroads themselves, as well as the shippers and the consumers.

While the rails are not public utilities in the strict sense of the word, as it has been applied to gas and electric companies, there are many similarities. In many sections of the country, including my own district, they do not compete with one another—though they do with other forms of transportation. With all of the mergers and consolidations there will be less, not more, competition in the future. The very purpose of the regulatory agencies is to regulate such industries in the public interest. The Congress must give the agency the tools with which to do the job.

I am not satisfied with the efforts of the ICC to date. Eighteen years have expired since the decision in the *Palmer* case and the gap in authority opened by that decision has not been plugged in the face of clear and convincing evidence of the need. This is no criticism of the present Commissioners because there has been a succession of Commissioners over the years and their duties are manifold and onerous.

The purpose of the bill is to make it profitable for the lines deficient in car ownership to acquire and own their own cars rather than rely on the cars of other lines with which to meet the needs of their shippers.

Some suggest that this is punitive legislation directed against eastern lines. Nothing of the sort. People and companies are motivated by dollars and profits. We have almost universal sustained-growth timber management now in marked contrast to the cut-and-get-out policies of yesterday. No doubt there are altruistic motives involved, but basically we have this improvement because it is necessary to the economic survival of the timber industry. It has become profitable to practice good forest management and to get the maximum utilization of the raw material.

So with the rails. If it becomes more profitable to own rather than rent cars, car ownership will increase. And the failure to encourage such a trend will punish the roads and the shippers in my district and others where the rails have made a commendable effort to increase their ownership—and I have in mind Southern Pacific in particular. Continuation of the present pattern of ownership and per diem charges in effect forces car ownership roads and their shippers to subsidize the car deficiency roads and their shippers. The present pattern can't help but prove unprofitable to those roads which are trying to maintain their car ownership with a further decline of cars the inevitable result.

Car supply is not the only factor involved in car shortages. Distribution is another. But the supply is basic. We must have the cars before they can be distributed. Otherwise, all we are doing is distributing the shortage.

I would like to commend the ICC for the two emergency orders which they have put into effect during the past 6 days * * * in an effort to improve the distribution. I think that they should have been issued before this and I think that they should have been of indefinite duration but I'm grateful for what we have and I'm sure that, if they prove useful, they can be renewed.

I'm grateful too, for the personal interest of the President and the Vice President in this problem. Senator Magnuson has furnished leadership in the Senate. With so many anxious for a solution, I don't see how it can elude us much longer.

The problem is very complex. I don't pretend to have any but a superficial knowledge of it. The Commission will require time to work out the orders. New

cars cannot be constructed and put into service overnight. But we must start and further delay only puts off the day of solution.

I have already said that I want no unnecessary regulation. But continued car shortages will raise a clamor for more drastic governmental action. A number of years ago, I am informed, a railroad suggested Government ownership of rolling stock. In my own State today a voice suggests that Oregon buy its own cars. I do not agree that such suggestions are practicable or desirable but as the problem becomes more critical, the solutions will become more drastic.

I hope that the committee will mark up and report a bill immediately. I hope it reports a bill without the Senate amendments and especially without the ones designated 2 and 4 authorizing the exclusion of the new factors to carriers which terminate a substantially higher percentage of traffic than they originate and to all other cases as the Commission finds to be in the public interest. I don't think the amendments are necessary since the entire bill lodges only discretionary rather than mandatory authority with the Commission, since all of the Commission's orders must be in the public interest, and since 2, especially seems to make any order inapplicable to the very situation which, to me, is at the heart of the whole problem.

I am aware of the political problems, however, and I am reassured by Chairman Webb's testimony that all such factors would be considered anyway and, impliedly, that the bill would be workable even with the Senate amendments. Should the committee be disposed to accept the Senate amendments it will have my final support.

The CHAIRMAN. I think we better get along with the other witnesses if the committee members will permit.

We will be glad now to hear from Mr. Alfred Perlman, president of the New York Central Railroad.

Off the record.

(Discussion off the record.)

STATEMENT OF ALFRED E. PERLMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NEW YORK CENTRAL RAILROAD; ACCOMPANIED BY ROBERT D. BROOKS, GENERAL SOLICITOR, NEW YORK CENTRAL RAILROAD; AND E. P. MILLER, CHAIRMAN, CAR SERVICE DIVISION, ASSOCIATION OF AMERICAN RAILROADS

Mr. PERLMAN. My name is Alfred E. Perlman. I am president and chief executive officer of the New York Central, with offices at 230 Park Avenue, New York City.

It might be well, after having listened this morning to the good guys, to explain a little bit that it is rather odd to me that having worked for the Burlington and the Northern Pacific most of my career, that coming east for 11 years makes me a bad guy. That was a rather interesting comment, it seems, and that was not as interesting to me as some of the facts, so-called facts and figures that I heard this morning, because they say something about figures that I would not care to repeat here.

So I am here to register opposition to enactment of H.R. 7165 and similar bills now under consideration by this committee.

Thirty-one of the 42 years of my railroad career have been spent on lines west of Chicago where the grain car shortages bring on almost annually bills of this kind. It is rather interesting that all of those 31 years were spent on the Burlington, Northern Pacific, and Denver & Rio Grande Western.

I do not think such legislation is in any way the solution to this problem. It would only lead to more of the kind of bureaucratic

regulation that is stifling the railroad industry, which President Johnson himself criticized just last week when I was at the White House.

We oppose the enactment of penalty per diem legislation, because such legislation is wrong in principle and would be ineffective in practice.

The CHAIRMAN. Did I misunderstand you? Did I understand you to say that the President criticized this proposal?

Mr. PERLMAN. He criticized the regulation. He thought that there ought to be more competition in transportation. After he signed the bill last week, he had the entire Interstate Commerce Commission, he had the railway labor executives, and he had a number of the railroad executives in the East Room for about an hour talking about this transportation problem.

The CHAIRMAN. I understood that was going to take place, and I thought if he did refer to this proposal specifically, that I was going to raise some other questions.

Mr. PERLMAN. No, sir, it was not to this proposal specifically. He referred to the whole field of transportation regulation.

Worse, enactment of this legislation will have an effect exactly the opposite of that intended.

I make this statement even though the enactment of a penalty per diem bill would actually put additional dollars in the New York Central's treasury. The truth of this is illustrated by the fact that in the first 9 months of 1965 our system car ownership, as shown by official reports in the possession of the Interstate Commerce Commission, was 108,323, while the average number of cars on New York Central tracks each day was 103,237. This shows clearly that the New York Central ownership of freight cars is more than sufficient to protect its customers' loading requirements. And I cannot understand all this talk about the eastern railroads draining off the western railroad's cars.

An even clearer illustration of our commitment to this principle is the car ownership policies of the Pittsburgh & Lake Erie, an important component of the New York Central system. The P. & L.E. owns 24,740 freight cars. There is not sufficient track space on that line to store all of the cars in P. & L.E. ownership at any one time. As a point of interest, the P. & L.E., with only 92 miles of main line trackage, has about the same freight car ownership as the entire Rock Island Railroad, a large western carrier. It owns nearly as many cars as the Soo Line and the Denver & Rio Grande Western Railroads combined. And more than half the number of the whole Burlington system.

The objectives of freight car ownership, as laid down by the Association of American Railroads, are for each railroad to own a sufficient number of freight cars of various types to protect its shippers; that is, to cover the originated loading of freight on its line, taking into account the number of loaded foreign cars received from connections, which may be unloaded and thus made available for reloading to consignees in the direction of the territory of the owning railroad. The P. & L.E., because of that requirement, owns this tremendous fleet and does not find it unprofitable. As a matter of fact, although its operating ratio in some recent years has been above 100 percent; that is, for every dollar it takes in on its operation it spends over a dollar in ex-

penses, it is a most profitable railroad, having earned more than \$16 per share last year, principally out of the revenues for car hire it received. Increases in penalty per diem, or other increases in per diem would not encourage the P. & L.E. to buy more cars than it now has or needs.

I think that certainly ought to refute a statement that I heard this morning that it is unprofitable to own freight cars. And certainly the railroads do not buy cars as a leasing company to make a profit from the car. They buy a car to take care of their customers. They are in the railroad business. That is part of their equipment. All I heard this morning is that if they make more profit they will buy more cars. Well, here is the poor New Haven that is a terminating railroad that hasn't any money to buy cars, and all this would do would be to make them poorer.

On the New York Central system as a whole in the decade from 1956 through 1965, we spent \$531,421,526 on freight equipment. This exceeded our entire net income and depreciation for the period. The difference was made up through sale of real estate and scrap.

In order to determine the number and kind of cars that the New York Central should purchase, we have embarked upon a program of market research upon which we are spending over \$2 million a year. In this program we are attempting to find the type of service, the kind of equipment, and the modern pricing which will best fit the material handling needs of our customers. This is making obsolete much of the equipment which we formerly used in our operations, but is increasing the efficiency of our transportation to the extent that we are able to reduce charges to the customer and yet increase our own profitability.

I might say, about making obsolete, 10 percent of the cars used in the plywood industry are New York Central boxcars, although we do not have a plywood company on our railroad. We send them out West. And the reason we do that, they are obsolete on the New York Central. We have no use for them anymore. We are buying 84-foot boxcars for the automobile industry, and I will tell you why in a minute. And those cars are going out to the plywood industry, not on account of any per diem rates. We just do not need them any more. And every once in a while when the Southern Pacific does not need them they send them back to us and they sit around on our tracks. There are over 8,000 of them out there right now. And this is why we do not need them.

The CHAIRMAN. You mean you have 8,000 boxcars sitting on your tracks that are not being used?

Mr. PERLMAN. No, sir. I mean we have 8,000 of those cars in the plywood industry's use. They like those double-door 50-foot boxcars. Those are what they say they are short of, and I say that we have 10 percent of the fleet that is in that service, New York Central cars, eastern railroad cars, although we do not have plywood plants on our railroad.

The CHAIRMAN. Well, I got that all right, but I also thought I heard you say that you had 8,000 of these type boxcars that you do not need sitting on your tracks now.

Mr. PERLMAN. No, sir. What I tried to say, and maybe did not say it very plainly, was that in the time those railroads do not need

those cars they ship them right back home to us and they sit on our tracks. They need them right now, but many times during the year they are just sitting on our tracks and we cannot get them out of our possession because we have no need for them and certainly we would not buy any more. You could put all the penalty per diem in the world on boxcars, we would not buy another plywood car. We have no use for them.

The CHAIRMAN. Well, for my information, why would you object to any higher per diem, any higher per diem per day for them, then?

Mr. PERLMAN. I do not think this is the answer to the car fleet problem, Mr. Congressman. This is what I am getting to.

Mr. WATSON. Mr. Chairman, may I interrupt so that we might have this in the proper context?

The CHAIRMAN. Go ahead.

Mr. WATSON. On page 3 you make an interesting statement that the P. & L.E., although their operating ratio has been above 100 percent—am I to understand that correctly, that revenues have not approached or at least equalled operating costs?

Mr. PERLMAN. Operating revenues have not approached operating costs. Yes, sir.

Mr. WATSON. That is right. So they have been able to pay more than \$16 per share—

Mr. PERLMAN. No, sir. They earned more than \$16.

Mr. WATSON. Earned more than \$16 per share last year "principally out of the revenues for car hire it receives."

Now, you are referring to revenues from freight cars?

Mr. PERLMAN. Yes, sir; freight car hire.

Mr. WATSON. And the question I would ask you is why do we have a problem today. If it is so profitable to rent these cars at the present per diem, then why doesn't the New York Central and all of the rest of the companies go ahead and buy unlimited cars—if it is profitable, as apparently this statement would indicate?

Mr. PERLMAN. This is profitable to them because they can get loads from their shippers to ship out to other railroads, so those cars are being used. We had another subsidiary, the Indiana Harbor Belt that had 765 grain cars. They were a terminal line in Chicago. The only time we could get them off the Indiana Harbor Belt was about 1 month of the year during the grain season. Then the western railroads would take them. And the rest of the time they sat on our tracks for 11 months. Now, we could not make a profit no matter what reasonable per diem was put on by having cars in use 1 month out of 12.

Mr. WATSON. In other words, you are not indicating from your statement that simply because the P. & L.E. made a profit out of revenues from car hiring that the same would apply to other railroads?

Mr. PERLMAN. All I am saying is, sir, that if a railroad has sufficient customers and takes care of those customers properly, has the car fleet to take care of them, they do not lose any money on owning the number of cars required to take care of their customers. They actually make money on that.

Mr. WATSON. Perhaps I misunderstood your statement. Apparently P. & L.E. did not make money from supplying their customers but from the car rental. You made the statement. I did not.

Mr. PERLMAN. They did—

Mr. WATSON. The only question I want to ask you is whether or not that is a unique situation to the P. & L.E. or whether it would apply generally?

Mr. PERLMAN. Any originating carrier that has enough business to send cars off blind with loads does not lose any money even though they are on another railroad most of the time.

Mr. WATSON. But that would not apply to the railroad carrier in general. It would just be the specific or exceptional carriers?

Mr. PERLMAN. No, sir. The western roads, as you heard this morning, are supposed to be the originating lines and the eastern railroads the terminating lines. And if the western railroads are the originating lines, certainly they can make the same money on per diem that the P. & L.E. makes.

Mr. MOSS. Would the gentleman yield for just a moment?

Mr. WATSON. Yes, sir.

Mr. MOSS. I have to excuse myself in a moment. I would just like to ask one question, if I might.

Are you holding the P. & L.E. up to this committee as a typical originating railroad?

Mr. PERLMAN. Yes, sir.

Mr. MOSS. You are?

Mr. PERLMAN. Yes, sir.

Mr. MOSS. And as you took your seat you made a comment about figures.

Mr. PERLMAN. Yes, sir.

Mr. MOSS. I would concur in your observation.

Mr. PERLMAN. Thank you very much. I am sorry you do not have the time to hear the facts. I think you should.

Mr. MOSS. I can assure you, Mr. Perlman that your very interesting display of facts will be checked with great care by me.

Mr. PERLMAN. Thank you.

Four years ago we were handling five finished automobiles in a 50-foot boxcar. Today, we handle 15 finished automobiles in a trilevel car, and these cars are run in special trains on expedited schedules in both the loaded and empty movements. In order to expedite the return of the multilevel cars, our own forces unload automobiles at the terminals day and night and on weekends. The result has been that this year the New York Central will handle a million finished automobiles by rail and 3 years ago would have gone highway or water, and our profits have increased by improved utilization.

As a byproduct of the mass installation of multilevel auto cars, our fleet of 50-foot boxcars with double doors 12 feet or more wide, was made available for general loading. As of January 1, 1964, the American railroads owned 83,823 of this class of equipment. Of this total, the New York Central System owned 8,427, or more than 10 percent. As your committee knows, the plywood industry has made a great plea for this class of equipment. In the light of the fact that the New York Central is not a large plywood originating railroad, I suggest that we eastern railroads have done considerably more than our fair share in supplying equipment to this industry.

As a further step away from the obsolete 40-foot boxcar, we are running 40-foot Flexi-Van container trains at passenger train schedules

between New York and Chicago, and New York and St. Louis and other points which accumulate 5,200 miles a month, compared to 1,200 miles a month on the 40-foot boxcars. This service has become so popular with the customer that already it is 5 percent of our gross freight revenue, but so efficient because of the car utilization involved that it produces 14 percent of our net income.

And I should like to put in two exhibits covering these Flexi-Van trains into the record. May I do that when I get through or—

The CHAIRMAN. Well, will you present it to us so we can see if it appropriately fits into the record, and we will be glad to receive it if appropriate.

You may proceed.

Mr. PERLMAN. These are to explain why; because there are less boxcars, it does not mean that there is less capacity—freight capacity—as far as we are concerned.

Beginning in 1958, we initiated a program of acquiring Flexi-Van cars and vans and at the end of December 1964, we owned 690 Flexi-Van cars assigned to freight service, and 2,359 40-foot vans, with 2,209 bogies, and are acquiring more.

In the month of October 1964, a study of Flexi-Van service showed that the cars were making 6.1 trips per month and each car on each trip had an average of 1.9 loaded vans. Thus, in the month of October our van and car fleet produced 7,997 40-foot, loaded-van trips.

Using the average for all the 40-foot boxcar equipment of 26.2 days per load, our Flexi-Van car fleet is the equivalent of 9,462 40-foot boxcars. Thus, although our boxcar ownership at the end of 1964 stood at 26,428, our ability to handle loads is the same as though our ownership of 40-foot boxcars was 35,890. But the real point is that in our Flexi car and van fleet we have equipment which our shippers will use consistently whereas the only time the shippers will use our 40-foot boxcar fleet is in times of car shortages.

Another product of market research which increases car productivity is the integral coal train. Four years ago when the coal pipeline was in operation into Cleveland, Ohio, we were faced with the threat of many more coal pipelines all over the country. As a result of the integrated train concept in handling coal, the utilization of hopper cars has been greatly improved. We now haul more coal in fewer cars, and in a number of instances the cost to the shipper for handling his coal has been cut in two. The pipeline that was in operation is mothballed and the other pipelines are no longer on the drawing board.

The best illustration of the role of marketing in modernizing railroad services and pricing so that new equipment technology can be profitably applied is our investment in 1964 of \$7.5 million for 500 100-ton-capacity covered hopper cars for bulk movement of grain and grain products. This investment was based on careful market research. We found that the traditional pattern of grain movement in 40-foot boxcars was obsolete and inefficient both for the grain-consuming public and for the railroads. Our revenue from this business was \$30 million annually, but we were losing \$3 million out of pocket. At the same time unregulated trucks and barges were handling more and more of the business because our rate structure was geared to the high costs we incurred in boxcars with their small capacity, costly maintenance, contamination of lading, leakage in transit, and the traditional storage

and milling in transit. Thus, no matter at what level penalty per diem under H.R. 7165 might be set, we would never invest one more dollar in boxcars for grain movement.

The modern 100-ton covered hopper car is ideally suited to the movement of bulk grain. Yet, we could not justify an investment in this equipment without a drastic change in the entire system of grain transportation. Our basic problem is not car supply, but the seasonal nature of the grain movement, aggravated by the Commodity Credit Corporation policy of moving grain at the same time the harvest is taking place. Yet, this problem is not incapable of solution. It was necessary for our marketing department to develop new concepts in pricing grain transportation which encouraged storage in the producing area and direct shipment to consuming areas, geared to the steady rate of consumption rather than to the seasonality of production. Incidentally, where this new grain-pricing concept is in effect, the price paid the producer has been higher than under the old grain rates, and the cost of the grain to the customer has dropped as much as 9 cents per bushel.

And I should like to put into the record an exhibit of this grain concept.

The CHAIRMAN. The exhibit will be received for the files of the committee and we will make a determination as to whether it should go into the record. For example, some of these exhibits with the pictures and labels and everything make it very difficult for the printing to be accomplished and fitted into the record. It just does not suit or fit the method we have of printing.

Mr. PERLMAN. Well, I thought maybe your staff would like to have it.

The CHAIRMAN. On the Flexi-Van exhibit, that can very well go into the record of the hearing, and we shall be glad for that to be included in the record. These other exhibits I have quickly observed, including this one with all the pictures and a lot of other things, with a large map, it would make it—I do not know—we will talk with the printers about it. I think it would be very difficult to include it in the record. We receive these for the files of the committee, and the committee will have the benefit of them.

Mr. PERLMAN. Thank you.

The CHAIRMAN. Likewise, this exhibit that you have here, part of this can go in the record, such part as it would take to make the continuity of your presentation, and it will be included in the record. We will let the staff and the printers work this out.

(Part of the exhibit on Flexi-Van follows, additional information will be found in the committee files.)

FLEXI-VAN, A SERVICE OF NEW YORK CENTRAL SYSTEM

Why Flexi-Van?

Some of the inherent advantages of Flexi-Van are—

1. Side loading—1 or 100 trailer units can be handled simultaneously.
2. Costly tiedown crews are eliminated—transfers are made in approximately 4 minutes.
3. Requires no special terminal. Any railhead approachable by a tractor-trailer will suffice.
4. Flexi-Van wheels are not "deadheaded," reducing gross weight per car by 9,200 pounds.

5. Center of gravity is lowered 33 $\frac{1}{3}$ percent, eliminating all clearance problems and minimizing the adverse effects of air dynamics.
6. In transit, van bodies literally float in rubber, permitting shifts of 4 inches fore and aft to provide the epitome of damage-free transportation.
7. Roller bearings permit passenger train speeds and practically eliminate hotboxes.
8. Flexi-Vans travel in Super-Van trains, the fastest freight trains in the world.
9. High-cube, square-nosed vans carrying more cargo than most competitive trailers, permitting maximum cargo loading.
10. Since the trailer body spends most of its time as a freight-car component, it is not subject to the Federal automotive excise tax of 10 percent.
11. License plates are attached to bogies serving multiple bodies and reducing registration fees 66 $\frac{2}{3}$ percent.
12. Licensed bogies are assigned to specific terminals, eliminating reciprocity difficulties.
13. Maximum car utilization—cars arrive, are unloaded, reloaded with new cargo, and forwarded on the same day.
14. Use of a Flexi-Van car permits direct interchange, without transfer of trailer bodies.
15. Gross weight of a Mark III car approximates 51,000 pounds over 20,000 pounds lighter than contemporary equipment to permit transportation of 24 percent more payload with comparative motive power.
16. Permits pregrouping, lowering terminal costs.
17. Allows selective unloading.
18. Permits later terminal cutoff time.
19. Eliminates the costly "Corrigans"—trailers heading the wrong way way when arriving in terminals.
20. Compatible with all forms of carrier, land and sea.
21. Increases railroad net.
22. Reduces distribution costs.
23. Eliminates costly export packing in international trade.
24. Reduces pier handling.
25. Eliminates the costly export pilferage problem.
26. Use of Strickainers transforms LCL shipments to carloads.

Mr. NELSEN. Mr. Chairman, may I ask a question at this point?

The CHAIRMAN. Yes.

Mr. NELSEN. I noted the reference to the movement of Commodity Credit grain during harvesttime. Do you have any figures indicating how extensive this movement is? This is a point that I have been very much concerned about. Do you have those figures?

Mr. PERLMAN. I believe Mr. Miller here would have some.

Mr. NELSEN. If you have any figures, I wish you would supply them for the record. I would be very much interested in seeing how extensive this practice is.

Mr. MILLER. Mr. Congressman, we do have figures—

The CHAIRMAN. I think you better identify this gentleman for the record, if he is going to give some information.

Mr. MILLER. My name is E. P. Miller, chairman of the Car Service Division, AAR; and the request has been made for figures as to the number of bushels or carloads of grain ordered out by Commodity Credit. We do have those figures, from the first of the year up to the present time, on a monthly basis.

Mr. NELSEN. I should like to have them for the record.

Thank you.

The CHAIRMAN. In order that we may have an accurate report from the agency or the organization that makes the shipment, I think we shall ask the staff to request the Commodity Credit Corporation to give us that information.

(The information requested follows:)

Monthly summary, CCC grain releases

	Evanston		Kansas City		Total		Carloads grain and grain products	Weekly average grain and grain products
	Bushels	Cars	Bushels	Cars	Bushels	Cars		
<i>1963</i>								
January...	93,390,000	46,695	38,223,353	19,113	131,613,353	65,808	181,208	45,302
February...	45,740,000	22,870	62,152,045	31,076	107,892,045	53,946	² 270,220	54,044
March.....	74,308,000	37,154	¹ 80,920,327	40,452	155,210,327	77,606	215,571	53,893
April.....	¹ 117,540,000	58,770	78,325,234	39,161	¹ 195,865,234	97,931	209,571	52,393
May.....	22,948,000	11,474	45,816,856	22,906	68,764,856	34,380	³ 250,195	50,039
June.....	16,816,000	8,408	33,024,977	16,520	49,840,977	24,928	220,898	55,225
July.....	36,656,000	18,328	² 23,572,461	11,766	60,228,461	30,094	228,036	57,009
August....	11,842,000	5,921	25,649,648	12,852	² 37,491,648	18,773	² 270,371	54,074
September...	11,550,000	5,775	28,546,804	14,318	40,096,804	20,093	200,534	50,134
October...	9,478,000	4,739	47,568,105	23,848	57,046,105	28,887	³ 326,783	55,346
November...	² 3,090,000	1,545	55,605,945	27,861	58,740,945	29,406	234,149	58,537
December..	8,234,000	4,117	71,668,140	36,219	79,902,140	40,336	196,677	49,169
Total...	451,592,000	225,796	591,100,895	296,092	1,042,692,895	521,888	2,804,161	53,926
<i>1964</i>								
January...	20,739,974	10,657	69,823,033	35,249	90,563,007	45,966	226,590	56,648
February...	11,757,748	6,140	37,850,412	19,170	49,608,160	25,310	² 267,462	53,492
March.....	9,110,997	4,556	41,508,031	21,040	50,618,128	25,896	186,055	46,514
April.....	12,573,159	6,286	76,277,757	38,386	88,850,916	44,672	177,304	44,320
May.....	11,307,597	5,652	34,069,467	17,187	45,377,064	22,839	³ 207,894	41,579
June.....	15,317,612	7,657	15,928,831	8,060	² 31,246,443	15,717	205,011	51,253
July.....	¹ 21,523,120	10,763	² 15,645,030	7,896	37,168,150	18,659	197,107	49,277
August....	5,990,787	3,049	30,215,206	15,232	36,205,993	18,281	² 243,056	48,611
September...	² 4,171,374	2,110	¹ 110,179,321	55,410	¹ 114,350,695	57,520	201,139	50,285
October...	10,146,508	5,073	54,227,351	27,301	64,373,859	32,374	² 310,481	62,096
November...	4,727,431	2,365	40,803,771	20,494	45,531,202	22,559	221,177	55,294
December..	6,344,199	3,174	32,801,189	16,544	39,145,388	19,718	180,361	45,960
Total...	133,709,606	67,482	559,329,399	281,969	693,039,005	349,451	2,623,637	50,455
<i>1965</i>								
January...	35,954,097	17,973	36,362,034	18,272	72,316,131	36,245	² 230,549	46,110
February...	47,031,765	23,516	² 23,771,775	12,055	70,803,540	35,571	177,764	44,441
March.....	35,928,256	17,964	¹ 70,146,867	35,447	106,075,123	53,411	192,789	48,197
April.....	¹ 84,111,844	42,086	54,454,950	27,682	¹ 138,566,794	69,768	² 236,336	47,267
May.....	5,517,449	2,757	38,846,185	19,570	² 44,363,634	22,837	180,036	45,009
June.....	2,825,673	1,411	44,055,406	22,259	46,881,079	23,570	211,004	52,751
July.....	9,854,568	4,927	44,618,195	23,138	54,472,763	28,065	² 275,885	55,177
August....	9,713,697	4,858	58,405,944	29,596	68,119,641	34,454	220,749	55,187
September...	² 2,167,855	1,085	50,948,583	25,697	53,116,438	26,782	199,596	49,899
Total...	233,105,204	116,577	421,609,939	213,716	654,715,143	330,293	1,924,708	49,351

¹ High.² Low.³ 5 weeks.

Mr. PERLMAN. I think it would be very helpful, Mr. Chairman, because every fall during the grain and harvest season when they clean out their elevators, that is when they put the peakload on the transportation system. And if that can be leveled out it would be very helpful. It would be one of the greatest reliefs to the grain car shortage in the country, actually.

This new application of a systems approach to grain transportation made it possible for us to justify the investment of \$7.5 million in 100-ton covered hopper cars. In steady, year-round service each one of these cars is equivalent to at least four 40-foot boxcars employed under the old system of peak harvest movement to storage elevators.

Our experience to date indicates that when the application of similar rates becomes widespread, thus encouraging the movement of grain

more evenly throughout the year and permitting the replacement of boxcars with high-capacity covered hopper cars, the "chronic" grain car shortage will disappear.

Southern Railway has made great strides in this work with their Big John car.

We believe that the eastern and southern railroads have made far greater progress in this direction than the western railroads, whose grain transportation system is still geared primarily to the peak harvest movement of grain from country areas to terminal storage elevators, a concept which stems from the horse and buggy days of more than 60 years ago.

On the subject of grain car supply, the committee will be interested in the results of a study made of the interchange of cars between the New York Central and its western connections, who incidentally, are the proponents of H.R. 7165. The study covered the period from October 1, 1964, through February 28, 1965. During those 5 months, the New York Central received from the Santa Fe, C.B. & O., Milwaukee Road, Chicago & North Western, Illinois Central, Rock Island & Soo, 35,928 loaded boxcars, 9,102 empty boxcars, or a total of 45,030 boxcars. In the same period the New York Central delivered to these lines 41,061 loaded boxcars; 21,254 empty boxcars, or a total of 62,315 boxcars.

Thus, we delivered to these western lines 38 percent more boxcars than we received from them. In the same period, from these same lines, we received 6,370 New York Central System, loaded and empty boxcars, but we delivered to these same lines in this same period 8,554 New York Central System boxcars. In the same period from these same lines we received 25,064 loaded and empty foreign boxcars, but we delivered in the same period to these same lines 36,625 loaded and empty foreign boxcars. Thus, in this period of alleged boxcar shortage, the New York Central delivered to its western connections substantially more loaded and empty boxcars, both system and foreign boxcars, than it received from these same western connections.

Now, it is rather interesting—you talk about the order that was received just the other day. This order requires us to deliver 350 boxcars a week, empty boxcars to the Santa Fe Railroad. I have here the total cars that were received from the Santa Fe and delivered to the Santa Fe from October 1 to February 28. This was the last record we had. And it showed that the Santa Fe delivered to us 2,834 cars, but we delivered to them 10,232 cars. And under this car service order now we must short our customers like Frigidaire, who are making refrigerators, and other of the eastern customers of ours to deliver 350 cars a week to the Santa Fe, empty cars—and we are the bad guys.

The CHAIRMAN. Do you have that same figure from the Burlington?

Mr. PERLMAN. Yes, sir; I have from the Burlington. The Burlington delivered to us 6,119 cars. We delivered to them 13,704, more than double.

The CHAIRMAN. That was October 1 to February—

Mr. PERLMAN. February 28, that was the last record that we had by railroads, the last we could get. I cry for the Burlington.

Mr. YOUNGER. Just one question. Would that not comply with the ICC order of 350 a week?

Mr. PERLMAN. Well, now, on top of it, besides the disparity in interchange, we are forced besides that now as of this last order to deliver to them besides this 350 additional empty boxcars a week to the Santa Fe.

The committee may question, as we did, why, during a "car shortage," there should be any significant movement of empty boxcars to the Central from our grain originating connections, who are crying so bitterly for cars. It was possible that the cars were unsuitable for grain loading.

In order to find the answer, we made specific checks of empty boxcars received on sample interchange dates, selected at random. Our sample of these car records showed that the boxcars received were not only suitable, but were in fact loaded with grain on our line within 2 to 5 days. It is perfectly apparent that the western lines were loading their own cars in preference to foreign cars, even at a time when the "car shortage" was supposedly so acute that strict car distribution orders had been issued by the Interstate Commerce Commission.

Central's proposed and proved effective solution to the grain distribution problem is an eloquent example of the economics of competition at work, as distinguished from the dead hand of Government regulation. In the case of the jumbo hopper grain rates, the competitive economic force sprang from the necessity to turn crippling losses in handling grain and grain products into profitable hauls, while reducing costs of transportation and the ultimate cost to the consumer. At the same time it enabled us to recapture traffic lost to other forms of transportation.

Another example is cement, which a few years ago moved almost exclusively by rail in covered hoppers. The great convenience of jobsite delivery by truck, and the difficulty and expense of transfer from rail hopper to storage, thence to truck for jobsite delivery, led to widespread decentralization of the cement industry, despite the fact that centralized cement production offered great production cost advantages. If these production cost savings were to be passed along to the consumer, a new transportation tool had to be found.

The Central met that challenge by the development of the Flexi-Flo car, a covered hopper of 125-ton capacity with a pressure differential device. The car moves from production point to terminal, where it is unloaded, as the cement is needed, into pressure differential-equipped trucks. Differences in pressure within the truck's hopper and the rail car hopper permit loading the truck in a matter of minutes. Flexi-Flo reduces the cost of basic transportation, eliminates the need for storage in transit, and permits the ultimate consumer to share in the benefits of all these cost reductions, including that of centralized production of cement.

And I should like to have this Flexi-Flo—here is the other one—presented for the record.

(The information referred to will be found in the committee files.)

These are but five of many examples where marketing research, focused on a particular problem, has forced a solution of that problem by the carrier itself. In each case, the solution to the problem benefited not only the carrier seeking to protect his traffic but benefited even

more the users of the transportation service. This is competition under the free enterprise system at its best and its most productive.

While each of the foregoing examples dealt with market research in specific commodity groups, expenditures running over \$5 million per year by our railroad in the field of cybernetics has also amazingly increased the productivity of our car fleet. And I wish Mr. Watson were here to hear this. We now have the ability within one twenty-five-thousandths of a second to locate any freight car on our system. This is done by the use of electronic memory systems, a large communications network, and closed circuit television. The magnitude of this achievement will be realized when one takes into account that these records must include any of the 1,800,000 cars in the entire national fleet.

And I would like to put in an exhibit of this transportation computer center that is doing so much to get better car utilization.

(The information referred to will be found in the committee files.)

Certainly if one is seeking increased freight car productivity these positive methods can be much more helpful to the shipper than penalty per diem, which is a negative rather than a positive approach to the problem. If more railroads, including some of the roads who complain the loudest, would spend some time and money on these modern techniques, the benefits in increased car productivity, which is the equivalent of more cars, would accrue to the entire national railroad system.

Freight car utilization improvements can only be brought about by a systems engineering approach to transportation. This was best exemplified by our grain program, by our multilevel program, by our cement and integral train programs. We have many other similar programs in progress at the present time, all designed to accomplish the result of better car utilization, better and more appropriate cars and lower costs to the shipper and at a profit to the railroad. Even though our railroad, as shown by the figures, has a greater ownership of freight cars than the number it uses, we firmly believe that this is not the only answer to the problem. The answer must come from this systems engineering approach to the entire use of the national fleet. This technique, widely used in other industries, must be more widely used in the railroad industry, and again some of the railroads complaining the most are the ones doing the least. Nevertheless, the figures will show that great progress in productivity has, in fact, been made. In the Senate report on the Senate counterpart of this bill, the following figures are cited showing the decline in freight car ownership.

And I must say many people have viewed with emotion and alarm the so-called decline in ownership, but they have not analyzed the increase in capacity and utilization. And they say that—here are their figures: 1926, cars owned or leased, 2,427,000—they use that as an index of a hundred percent.

In 1964, 1,482,000. They use that and show that the index is 61 percent of the car fleet of 1926. But what was not shown in the report are the following figures:

In 1926, when they used a hundred percent for the 2,400,000 cars, the revenue ton miles at that time were 443,700 million. And let's use that as a hundred percent for the revenue ton miles that year.

The revenue ton miles in 1964 were 659,327 million, or an index of 148.6 percent of the ton miles in 1926, and they were handled with a fleet of 61.7 percent of the 1962 fleet, but it is not the same kind of fleet. It is not the same kind of utilization. It is not the same kind of railroading.

So the decline in car ownership considered alone is completely misleading. The fact is that better equipment with greater capacity and with better utilization has permitted the Nation's railroads to achieve the highest level of revenue ton miles in history. It is significant that 1964 revenue ton miles exceeded the average of World War II years for the first time.

The legislation before you would stifle the sort of creative competition which produced jumbo hopper cars for grain, Flexi-Flo, the multi-level car, Flexi-Van, the integral coal train, and many other examples of constructive progress throughout the rail industry. Wide, almost arbitrary, discretion in the imposition of penalty per diem charges would surely take from rail management the ability to channel its working capital into needed and productive new tools of the sort I have described. Instead, that capital would be literally thrown away, wasted in a vain effort to perpetuate obsolete, inefficient, and non-productive means of distribution.

A few months ago, President Johnson forecast the tenor of his awaited 1966 transportation message. He stated that a guiding principle of that message would be greater reliance on competition rather than on regulation. And that is a guiding principle of my plea to you today. We must recognize, we must welcome this transportation revolution, which is once more creating in the railroads a growth industry.

Finally, the intercity ton-miles of the railroad as compared to the intercity ton-miles of the trucks is showing an upturn in the last 2 years.

In my considered judgment, this transportation revolution promises great benefits to every citizen of our country. The bills before you today represent one effort to hold back that revolution, and I urge you not to consider them favorably.

And why I say this, gentlemen, is, this 40-foot boxcar everyone is so concerned about and the 50-foot boxcar are obsolete. When we were talking a couple of years ago about financing a freight car program, some of the insurance companies told us they didn't want our equipment trust equipment under those kinds of boxcars. Now, it is about time some of these other railroads that have come in and wanted the Interstate Commerce Commission to do what they didn't have the intelligence to do—and the Burlington Railroad was one of the strongest railroads in opposition to the car ownership principle that was studied by the Association of American Railroads when we spent a million dollars in having an outside consultant firm trying to set up a car-ownership principle, because that is the important thing, unless you can decide how many cars a railroad should own, it is pretty hard to penalize them because they don't own them. And this is what this kind of a penalty bill would try to do. First you have got to say, this is what our ownership should be, and if it isn't that, we will penalize you.

But if the railroads themselves can't agree—and as I say, the Burlington was one of the greatest objectors to the majority desire to get that kind of a car-ownership bill—I think this bill would be a great detriment to the industry.

And I think again, gentlemen, in spite of the fact that it would add money to the New York Central revenues, and in spite of the fact that our car ownership shows that we own more cars in our fleet than we use.

Now, this is the end of my testimony.

But I should like also to put in the record a statement here—actually I was asked to do this by Mr. Loomis—in testimony before this committee yesterday the following statement was made by the Honorable Floyd V. Hicks, Member of Congress from the Sixth District of the State of Washington, and I am quoting:

There is another aspect which is of at least as deep concern to me as a member of the House Committee on Armed Services, and that is that the boxcar shortage is having an adverse effect on our defense efforts. Ammunition destined for Vietnam has been delayed because of the scarcity of freight cars.

Mr. Chairman, I am afraid that Mr. Hicks has been misinformed. And I beg leave to set the record straight. There is not a single instance of delay in the delivery of any ammunition destined for Vietnam or any other place because of a shortage of freight cars. On the contrary, the performance of the railroads in meeting the requests of the Military Traffic Management and Terminal Service has brought high praise from the Department of the Army, and is a matter of considerable pride to the railroad industry.

I beg your leave to read this paragraph from a letter addressed to the Association of American Railroads from Gen. John J. Lane, commanding officer of the Military Traffic Management and Terminal Service, dated September 15, 1965, on the matter of the railroads' performance in meeting the demands of the Department of Defense.

And I would like to introduce the entire letter into the record.

The CHAIRMAN. Let it be included in the record.

(The letter is as follows:)

DEPARTMENT OF THE ARMY,
MILITARY TRAFFIC MANAGEMENT AND TERMINAL SERVICE,
Washington, D.C., September 15, 1965.

Mr. DANIEL P. LOOMIS,
President, Association of American Railroads,
Transportation Building, Washington, D.C.

DEAR MR. LOOMIS: By way of summary of our discussion during your visit on September 10, I wish to again express my appreciation for the excellent cooperation and support given the Department of Defense by the Association of American Railroads and the U.S. railroads during recent months. On several occasions unusual requirements have called for special attention by your staff and prompt action by the railroads. The response to these unusual situations, in each instance, has been exemplary.

With respect to the impact of increasing requirements, I hope the estimates furnished during your visit are helpful. I anticipate refinements in forecasting for the period January–March 1966. Estimates for these months will be provided your staff as quickly as the pertinent data are available.

I share your concern about effective freight car utilization. We shall continue to concentrate on our traffic control operations to obtain optimum utilization of cars, particularly for export traffic. It is our policy to obtain as fast a turnaround as is feasible. I would appreciate information on any occasions when this policy is being violated. Admiral Sutherland, my Deputy for Operations, is on the west coast this week and will devote special attention to this question.

On some occasions, military exigency may require an uncommon response on the part of the U.S. transportation industry. I assure you, however, that it will be my purpose to confine requests for such a response to occasions where it is necessary in the national interest.

With best personal regards,
Sincerely,

JOHN J. LANE,
Major General, U.S. Army, Commanding.

Mr. PERLMAN. And I should like to quote from this letter from General Lane of the Department of the Army. I will just quote one paragraph:

I wish again to express my appreciation for the excellent cooperation and support given the Department of Defense by the Association of American Railroads and the U.S. railroads during recent months. On several occasions unusual requirements have called for special attention by your staff and prompt action by the railroads. The response to these unusual situations, in each instance, has been exemplary.

So I should like to introduce that letter from General Lane into the record.

The CHAIRMAN. It has been included in the record.

Does that conclude your presentation?

Mr. PERLMAN. That concludes my presentation, sir.

The CHAIRMAN. Mr. Younger, any questions?

Mr. YOUNGER. Just one.

In regard to your statistics on page 14, the revenue ton-miles, there has been a lot of testimony that the product of the country has increased such and such a percentage, and that the railroads' capacity has fallen such and such. Now, your figures here show that from 1926 to 1964 your revenue ton-miles or the hauling capacity has increased 48 percent. I wonder just how that percentage of increase compares with the product increase; that is, some measure of what should be hauled by the railroads. Do you have any figures like that?

Mr. PERLMAN. No. But I could get the figures for you and have them inserted in the record.

Mr. YOUNGER. I think it would be well to get that comparison, because there has been so much made in the testimony before that the railroads haven't kept pace with the productivity of the country.

Mr. PERLMAN. Yes, sir. I would say that they have not, that their competition has gone ahead of them; that is, the amount of transportation and especially truck transportation. But, as I say, in the last 2 years we have shown an upturn in the competitive intercity net ton-miles hauled by the railroads compared to other forms of transportation. And I think that these new methods and techniques that I mention in here are adding immeasurably to it.

Mr. YOUNGER. One thing that is not clear in my mind, if they put in the per diem rate of \$4.50 a day, or whatever the rate is, you say that that would yield money to your road because you have more cars on loan than you have other cars on your own line?

Mr. PERLMAN. That is right.

Mr. YOUNGER. So that you would gain by that. If that were true—and I take it it is—why in particular would you object to that being done?

Mr. PERLMAN. Purely in the interest of the railroad industry, sir. We people in the industry say we should have less regulation. And the moment that a minority of the group can't agree with the majority,

they want to run to the Commission to have the majority's will overthrown. I think that is wrong. I think it is put up or shut up in any kind of a game. If you ask for less regulation, you shouldn't have your tongue in check at any time you think you can get some advantage out of more regulation, ask for more regulation. My interest in this thing is, I think the railroad industry is better off letting the free forces of competition have their full sway rather than have more and more regulation piled on us by the Congress and by the Interstate Commerce Commission. I think there should be enough statesmanship in this industry to solve its own problems. And that is why I am here.

Mr. YOUNGER. Thank you very much, Mr. Pearlman.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Thank you, Mr. Chairman.

I notice in your statement on page 2 you refer to the system of ownership and the cars in possession, 108,323, and on your tracks 103,237, which would indicate that some of your cars would be on somebody else's tracks.

Mr. PERLMAN. Yes, sir.

Mr. NELSEN. Now, the question I would like to ask refers to an excerpt from the examiner's report, the recommended order and finance docket No. 21989 dealing with the Pennsylvania Railroad and the New York Central's merger. In this particular docket they refer to the fact that between 1952 and 1963 equipment rent for the Pennsylvania Railroad rose from \$16 million to \$71 million; on the New York Central, from \$12 million to \$38 million. It goes on to state that the increase in the Pennsylvania equipment rate payable is primarily attributable to a change in policy from purchasing equipment to leasing equipment. For 1952 to 1963 its number of available freight cars declined from 194,000 to 134,000, or a net decrease of 60,000 cars. If this is brought to current date, it would be 83,000 cars. Then it goes on with reference to the New York Central:

We note that during the period of 1952 to 1963 its number of available freight cars declined from 142,000 to 88,000, a net decrease of 54,000 cars. And if this is brought up to a current figure, it would be 63,000 cars.

Now, I realize that when you go to cars of greater capacity it does make these figures really inaccurate as far as a description of the situation that does occur. But this is a 10-year period. Here you refer to 9 months. I wonder if you have any observation relative to this document?

Mr. PERLMAN. Well, No. 1, there are several parts to this.

In the Pennsylvania ownership versus the leasing, in order to reduce their official debt instead of going out and buying new freight cars and putting out equipment trust certificates, or fixed debt, they arranged with insurance companies to buy these cars for them and lease them back to them over a number of years. And the costs—the rental cost, you might say, or the ownership cost were practically the same, just a little more, enough to let the insurance companies make a little interest on them.

Mr. NELSEN. In other words, the rental is not of other railroads' cars, it is of an insurance company or some finance plan, and they

have rented cars in that manner rather than buying them and owning them themselves?

Mr. PERLMAN. That is right. That amounts to almost \$250 million, which isn't shown in their ownership, but it is shown as leased cars. And it isn't shown in their debt for that reason.

Now, Mr. Smucker is here for the Pennsylvania, and he could amplify that actually better than I could. But I know of my own knowledge that that is what happened.

Also in that period, instead of buying boxcars on the Pennsylvania they have gone, not to the Flexi-Van, but to the Trailer Train, which is a piggyback form of containerization different than ours. And they lease from Trailer Train these cars, and they are not in their ownership.

Am I right on that?

Mr. SMUCKER. Yes, sir.

Mr. PERLMAN. So of the figures again, that is why I said that at the beginning, you can use figures any way you want, but you have to know what they mean. And the same way with our ownership.

Now, the Burlington in its system controls the Colorado and Southern Railroad. The Colorado and Southern Railroad and the Burlington, in putting in car ownership, take the consolidated figure. And I would refer again to Mr. Miller of the AAR for my facts, because again I am quoting other railroads' practices and AAR practices.

Now, we own over 70 percent of the Pittsburgh & Lake Erie. So we have consolidated returns also.

So when we talk about the New York Central, in that which you read that was New York Central Railroad alone. We have many, many subsidiaries, wholly owned, 15-percent owned, 51 percent, but the P. & L.E. is over 80-percent owned. And we make consolidated returns for them just like the Burlington which includes the Colorado and Southern figures in theirs. And that is what brings up this figure I gave you of 108,000.

Mr. NELSEN. I understand.

Thank you very much.

The CHAIRMAN. Mr. Harvey.

Mr. HARVEY. You referred to free forces of competition a minute ago. But aren't these per diem charges set by the Interstate Commerce Commission?

Mr. PERLMAN. No, sir; these per diem charges are voted upon by the membership of the Association of American Railroads. And they are set by them. And Interstate Commerce Commission has nothing to do with it.

Mr. HARVEY. I am a newcomer to this. Why are we authorizing the Interstate Commerce Commission to go ahead and raise them?

Isn't that what we are doing, we are giving it the authority to do that?

Mr. YOUNGER. No.

Mr. HARVEY. I thought in reading it that it authorized them to do it, but didn't compel them to do it.

Mr. YOUNGER. No.

Would the gentleman yield?

Mr. HARVEY. I would be glad to.

Mr. YOUNGER. I am not a lawyer, but this merely says that if it actually raises the rate, this is the method they must use in calculating their rates; it doesn't say that they must fix the rates, all it says is that if you do fix the rates, the rates must be fixed in this manner as set forth in the bill.

Isn't that your understanding of it?

Mr. PERLMAN. Yes, sir.

Mr. HARVEY. We certainly aren't talking about the free forces of competition, are we?

Mr. PERLMAN. I would say so.

Mr. HARVEY. In either event, if they are agreed upon by the railroad or the Interstate Commerce Commission says so, there are no free forces of competition, either they are agreed upon by the railroad or the Interstate Commerce Commission sets them. In either case is there any competition?

Mr. PERLMAN. What I meant, sir, was that we have always said that the railroad should be allowed as much freedom from regulation as possible. They should be able to set their own rates. They should be able to set their own hours of service, all those kinds of things, just like any other industry under the free enterprise system in America.

Now, this just gives the Commission one more fiat from the Government in this whole regulatory sphere.

Mr. HARVEY. I could accept your argument, but on the surface of it, \$2.79 to rent the \$5,000 article per day barely covers fees for interest on loan, if you want to borrow \$5,000 for a day that would only take care of the interest, that is all. So on the surface it doesn't sound like a reasonable thing. I fail to understand your argument there.

Mr. PERLMAN. When these rates were set they were calculated on their cost, including interest. You see, some of these cars that you have talked about are depreciated down to a value of a thousand dollars.

Mr. HARVEY. Granted, they are depreciated down, as we discussed this morning, they have taken it into account. But I still gather, looking at the table here, that to rent a vehicle worth up to \$5,000 you pay a charge of \$2.79 a day, or thereabouts. And when you calculate the interest on a \$5,000 loan, you can't go down to the bank and borrow it any cheaper than that. So all you are doing is paying interest on it, that is about it. Either that, or I don't understand this bill at all. That is possible.

Mr. PERLMAN. You have got up to a 30-year life on these cars. And that is why you—

Mr. HARVEY. But that is taken into account in establishing your per diem charge, isn't it?

Mr. PERLMAN. Yes.

Mr. HARVEY. The car is depreciated, and the per diem charge is based upon the depreciated cost, after you have established your depreciation charge, and so forth. I am talking about one that is depreciated down to \$5,000. And it still costs \$2.79 now a day to rent it. But I am saying that you can't go to the bank and get \$5,000 for less than that interest alone.

So it just seems to me on the surface it is a pretty low charge unless you have got some other explanation that I don't know of.

Mr. PERLMAN. Any bank will give you \$5,000 for a thousand dollars a year, or my arithmetic is very bad. And I happen to be a director of a bank. And we would be very happy to make a loan on that basis.

Mr. HARVEY. Maybe my figures are wrong.

My figures must be wrong. Apparently they are. I will concede it. I have no further questions, Mr. Chairman.

Mr. PERLMAN. I am sorry. This has been a source of argument among the railroads for years. And they try to get all the costs thrown in that they can. And of course again, as I mentioned before, the principle of car ownership isn't like a leasing company would worry about the profit, you want to own a number of cars to take care of your customers. And this is all you want to own. It isn't to make a profit in it, but it is to make a profit in serving your customers.

So we don't consider it on the same basis that a leasing company would consider leasing a truck or a piece of equipment.

Mr. HARVEY. I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Perlman, I assume from your very good presentation here, as always, that you are knowledgeable in this field. Now, we have benefited from your presentation before this committee.

I assume that you do not contend that there is actually no shortage of inefficient operation in the freight car field in the United States.

Mr. PERLMAN. No, sir, Mr. Chairman; I am not that naive or that dum. There is a shortage. There is a shortage of about 25,000 of these grain cars in the United States. And I think Mr. Miller is the one who made that statement at the Association of American Railroads board meeting about a year ago.

Mr. MILLER. 25,000 grain cars?

Mr. PERLMAN. 25,000 grain cars. There is a shortage.

The CHAIRMAN. I just wanted to be sure I understood you correctly.

Mr. PERLMAN. Yes, sir, there is.

But all I say is that this bill—

The CHAIRMAN. I know your argument.

Now, let's get back down to the problem and talk about that some.

Mr. PERLMAN. Yes, sir.

The CHAIRMAN. You then admit, whether you are on the same side of the discussion or not, that there is a shortage in this field?

Mr. PERLMAN. Yes, sir.

The CHAIRMAN. No. 1, there is a shortage of cars for grain; is that right?

Mr. PERLMAN. Yes, sir.

The CHAIRMAN. To me that is a most amazing thing, because I, together with a lot of others, have for 3 years or longer been engaged in one of the biggest fights around here trying to relieve the railroad industry of some burdensome and obsolete, outmoded types of regulation. And we centered that effort on the grain business. And the whole railroad industry joined me in an effort to try to do something about it, on the basis that you owned that business, and you wanted to be allowed to compete in that business.

Now, with that long 3-, 4-, or 5-year fight, whichever it was, evidently we haven't accomplished as much as we thought we had.

Mr. PERLMAN. Sir, I would like to comment that you were of great service to the railroad industry—

The CHAIRMAN. I think we won in the long run. I am not accepting that defeat on that issue, even though we didn't get it all the way through.

But what has happened since then, with what has taken place and what is in process, I think on that issue we actually have won.

Mr. PERLMAN. I would like to comment just a little more that what you did specifically for the New York Central in 1958, in the Transportation Act of 1958, allowed us—in the first place, as you know, we borrowed \$40 million which we are now paying back, in order to buy more equipment and to better our railroad. And this year, now that we are in better shape, we are spending \$118 million on new freight equipment, just this one year.

The CHAIRMAN. Now, that is commendable. And I want with as loud a voice as I have to commend your industry, your company, and all those who are doing it.

But we are getting back now to the point that I was emphasizing, that you are asking us to give you more freedom so that you can haul more. And now you come in here and admit, "We do not have the equipment to haul it."

Mr. PERLMAN. We have the equipment to haul all the grain that we are required to haul.

The CHAIRMAN. All right, you are doing a great job with your company. But there has got to be some leadership in the entire industry. And you are one of them, in my judgment, that ought to take a very prominent part in it—and not that I am in a position to tell you what to do, Mr. Perlman, you are too good a man for that—but somebody has to provide the leadership. If there is a shortage—and you have just said that there is a shortage, and everybody admits that there is a shortage—the big problem is, What can we do about it?

Mr. PERLMAN. Well, as I tried to say in my presentation, I think that this whole area of market research must be developed by more railroads so that they understand this problem, because they can actually make a profit in handling grain.

I started working for the Northern Pacific in 1923. And at that time we had at Northtown, Minn., just outside of Minneapolis, a tremendous freight yard where they stored the little freight cars for maybe 10 months of the year so they would have them during the grain movement. Today, they don't have those little cars any more. And the little cars are not economical any more. The trucks can come in and take away that grain and do a job cheaper than the railroads are doing out there.

The CHAIRMAN. It would seem to me that the grain movement ought to be met by these new "Big John," I believe you called them, hopper type of cars. Everybody admits that you are going into that field. But that isn't the point now. The point is that we have been having a shortage of cars in this field for 20 years. And it comes about every year.

Now, I am not going to get into this argument or try to settle it, who is right and who is wrong about the cars leaving there loaded and never being able to get back until the next season—somebody said here

yesterday, 6 or 8 months. And, of course, in the plywood business it is getting worse all the time.

Now the railroad industry has got to meet these demands if it is going to get along without what you are most concerned about, and that is Government regulation. And I think, instead of both sides coming in here, as you are doing now, and as you did—when was it, 3 years ago, or 5?—3 or 4 years ago when we had it—trying to lock horns and put each one of us on the spot, as between the two groups in the freight industry—instead of that the railroad industry in my judgment ought to be trying to do something about it.

Now, so far as I know, if you meet the demand in the grain business and in the lumber and plywood business, I assume there would be no great problem. I don't know. I haven't heard of any others; there may be.

Mr. PERLMAN. Well, the steel business is short at certain times of the year, and we don't blast the western roads because they don't come up with all the hoppers and gondolas we need either.

The automobile business in Detroit has its peaks, and we take care of them very quietly, but we take care of them.

The coal miners go on a holiday the first of July, so every coal mine in the East wants to get all loaded up in June. We don't rush to the West and say, where are all your hopper cars, we are shorting the coal mines in the East of hopper cars. We take care of those peaks with ownership. And it is very difficult for us to hear that it is all the fault of the eastern railroads, that the western railroads don't have the cars to take care of their customers. It is just a little bit hard to swallow.

The CHAIRMAN. Maybe so. But you disagree with the information that was given to us this morning, that the 25 railroads, some eastern and some southern and some western that Mr. Martin represented, that those 25 railroads—which is less than one-third of the total class I railroads of the country—provide 40 percent or more of the freight cars for the Nation.

Mr. PERLMAN. Sir, there is a very good reason for that. The reason—

The CHAIRMAN. Is that true or not?

Mr. PERLMAN. I wouldn't dispute him. But there is a good reason, and it is necessary. There are certain railroads that originate the business, and certain railroads that terminate the business.

Now, the ownership, as testified by the Chairman of the Interstate Commerce Commission, and which I have repeated, the ownership principle is that the railroad originating the business should be responsible for the ownership of the cars necessary to handle that business, even off-line, taking into account any cars that come on to their line from another railroad that they can load back with that load in the other direction. It has nothing to do with every railroad owning the number of freight cars that is on their line every day. Because the trouble with that is, supposing the New Haven owned a number of cars that were all on their line, they don't have any place to load them back, they don't have that kind of business.

The CHAIRMAN. That is still arguing the problem here—

Mr. PERLMAN. No, I am trying to explain this reason, I am just trying to explain the reason that certain railroads—and those rail-

roads would like to make more money out of their car fleet. That is the whole darned thing about it.

But the ownership principle is that each—and I was burnt up about that when I was on the Rio Grande, because we had coal mines in Colorado and Utah, and we hauled that coal about 50 miles on the Union Pacific and the Burlington and the Santa Fe, and they hauled it 700 miles. But we had to have enough cars for those mines to load all the way to Kansas and Missouri and Nebraska and back. This is the ownership formula. This is the principle that it is based on. I don't say it is right. All I say is, this for years and years has been the ownership principle in operating freight cars. And we have tried to explore it, as I say we spent a million dollars on this outfit in Cleveland, this consulting firm, to see——

The CHAIRMAN. This is the problem that bothers me. You have been doing this for years and years and years, and it hasn't worked.

Mr. PERLMAN. It bothers me.

The CHAIRMAN. And you admit now, and everybody else says, that there is a shortage.

Mr. PERLMAN. Sure.

The CHAIRMAN. What I am trying to raise here with you is, if it hasn't worked, why don't we try something else?

Mr. PERLMAN. I am willing to do it; I will try anything.

I know that for many years at this time of the year this problem really has plagued us. I don't know what the answer to it is. You are talking here about more regulations—now, the Interstate Commerce Commission has certain responsibilities under the act itself. Because of the *Palmer* case, according to the Interstate Commerce Commission, the authority that it has now is fuzzy. They don't know. And they are asking for us to clear it up. And all they are asking us to do is to give them the authority to make a study, make an investigation, so that they will know where they are. I suppose if they had gone all the way they would have said, give us the authority to do it, or take what is on the books away from us, either one. That to me would have been the practical thing to do. I think it ought to be one or the other. I think that if a body of men are trying to do a good job they are entitled to this thing being cleared up one way or the other.

Mr. PERLMAN. They are embarked on that study under the law. We are making out all kinds of figures and statistics on it about car use.

The CHAIRMAN. And they ought to have it tomorrow.

Mr. Younger?

Mr. YOUNGER. Mr. Perlman, these per diem figures that are now used would have resulted from an agreement among the railroads themselves?

Mr. PERLMAN. Yes, sir.

Mr. YOUNGER. Rather than change this law and give the Interstate Commerce Commission the authority we have been talking about to increase it, why can't the railroads get together and try to increase the rates to see whether or not that will produce it? Because that is all this bill would do, give the ICC the right to determine different rates. Why can't the railroads, instead of determining the rates which they originally determined put it on a per diem basis, why can't they get together and try it, give it a trial?

Mr. PERLMAN. They did. Just within the last year and a half they have done this by putting in this escalated series of rates, instead of the one rate that they used to have, and now they have got an escalated—it goes up—the highest rate now is \$12.50. It used to be \$8 across the board, but it has gone up to \$12.50, depending on the operation of the car.

Mr. YOUNGER. And that has been in operation how long?

Mr. PERLMAN. A year now.

Mr. YOUNGER. And has it produced any effect, any supply of good cars, modern cars to meet the deficiency?

Mr. PERLMAN. I don't think that it has had that effect. The effect is that business has been good, railroads have had the money to spend, and they are buying more modern cars now because they are more efficient and they can make more money with the modern cars.

It isn't how much you get out of rental that really guides your thinking in these cars. The reason we have spent \$7½ million for grain cars, these Big John hoppers this year, is to turn a profit on hauling grain from a loss that we had with the 40-foot boxcars.

Mr. YOUNGER. In other words, if the Interstate Commerce Commission had this authority and they went ahead for another year making this study—and they have been working on this study since December 1963—and they decided they should raise the rate to \$17.50, \$20, in your opinion it wouldn't change the situation any more than it changed it when you raised the rate from \$2.80 up to as high as \$11?

Mr. PERLMAN. In my honest opinion that effect would be infinitesimal, because, as I said, certain roads may be short of ownership, like the New Haven. Well, they haven't got the money anyway. So this would just penalize them more, and make it more difficult for them to operate. But they wouldn't buy any more cars. And as their commuter cars wear out they are just letting the people stand up in the passenger cars.

The CHAIRMAN. It seems to me it would be well worth trying to make some changes of some kind in the incentive if it is not an economic incentive, it should be an incentive to meet the challenge and provide the service of flatcars, boxcars, and grain cars.

Mr. PERLMAN. I think, sir, that the greatest challenge comes from the shippers themselves. And I must say that—

The CHAIRMAN. Flatcars?

Mr. PERLMAN. On all types of cars, flatcars, all of them.

The CHAIRMAN. Do they buy their own cars?

Mr. PERLMAN. Some of them do if they are special types.

The CHAIRMAN. We were told here yesterday that 98 percent of them are owned by the railroads.

Mr. PERLMAN. Well, some of the utilities are buying special types of coal cars. Many of the chemical companies are buying tank cars. The electrical companies are buying these big transformer cars which are special cars. The freight forwarders are buying equipment, many of the outfits.

But what I meant to say is that I think the greatest challenge to a railroad is to take care of its customers. And I must say that in my opinion if they have customers to take care of, and they have the

proper types of cars and the proper service and pricing, so that it is possible, that they certainly should buy cars.

The CHAIRMAN. Mr. Perlman, to one who is so uninformed about this matter as I am, particularly the technicalities of it, and all, it is just common knowledge. And I know this much, that the heavier population of the United States is east of the Mississippi, except on the west coast itself. And east of the Mississippi is the area where the greatest complaints come from, the areas where the cars get out and get involved in all of this other congestion, use, and need, and it takes them a long time to make their way back. That is to me academic.

Mr. PERLMAN. To me that is just propaganda. If you will read *Trains* magazine you will see that we have the fastest freight schedule, the New York Central, ever known in the history of the world. These western roads can give you all that propaganda. But I worked 31 years of my 42 years on the western railroads. And I am not talking as an easterner. That is pure bunk and propaganda. I will get you *Trains* magazine and show you that the New York Central has the greatest—and this thing about standing around on the eastern railroads—

The CHAIRMAN. I am not talking about them standing around, I am talking about the use of them in a congested way where the demand for them is greater 24 hours a day than it would be in an area not congested where the demand is not so great. We know that you have got to serve more tonnage in a congested area than you have in an area that is not so congested.

Mr. PERLMAN. That is why we are buying Flexi-Vans instead of these 40-foot boxcars you are talking about, because we can't handle them in the congested area. And the 40-foot boxcars are as obsolete as a dodo. We wouldn't buy them if you tripled the per diem.

The CHAIRMAN. All right. To do that, then, why would you object to some trial on the boxcar charges to see if it wouldn't work, since it won't bother you?

Mr. PERLMAN. I don't care; if you want to do it it is all right with me. We will get a bigger profit. But I don't think this will solve the boxcar shortage.

And I really came here in the hope that there would be some understanding of what had to be done about the boxcar shortage. And I think—

The CHAIRMAN. What should be done about it?

Mr. PERLMAN. I think just like you that there should be a little statesmanship in the railroad industry itself. I think there should be some kind of a way of sitting down and not talking about east or west or north or south and trying to set up a formula for ownership, what cars a railroad ought to own.

The CHAIRMAN. That brings me to this point, because of the interest. And I want to say, I started to say a while ago, that I think I can assure you, without any fear of contradiction whatsoever, that these Members of Congress who have testified and who have introduced the bills—and many others who have talked to me about it and expressed their grave concern—have no particular interest in whether or not a particular railroad gets a per diem of \$20 or \$10 or \$2.

Mr. PERLMAN. I know that.

The CHAIRMAN. And I think I can say this out of an abundance of experience that I have had in this field, what my colleagues want is to keep the industry off their backs, and to see that the service is provided.

Now, these people, in all of these months that have passed have been talking to me about this—and I have heard this issue over and over, and I knew what the quarrel was, and I understood it. In view of the most recent demands, I felt that I was constrained to do something some time ago, to show that we were trying to keep up with it, I wrote a letter to the president of your national association, the Association of American Railroads. And I called attention to this problem, and the prior consideration given to it, and what steps the carriers were taking to remedy the situation.

Well, I have a rather lengthy reply. And I certainly am one of those practical enough to understand the position these people with the Association of American Railroads are in. They have got their own industry, people on both sides, concerned with this. And they are probably like this minister of a certain church who, when he was asked by a friend how many members he had, said 50, 25 for him and 25 against him. And I imagine they feel that way sometimes. This is a rather lengthy letter, but I am going to take the privilege of putting it in the record at this time so that everyone can have the benefit of it. This is my letter to Mr. Loomis dated June 8, and his reply dated June 18. I think these should go in the record to show that we have been trying to keep up with this problem. And this is merely an effort to raise the question and maybe emphasize the challenge of the industry.

(The letters referred to follow:)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C., June 8, 1965.

Mr. DAN LOOMIS,
President, Association of American Railroads,
Transportation Building, Washington, D.C.

DEAR MR. LOOMIS: I am certain that you have been aware of the concern which is being expressed generally throughout the country, and specifically in the Far West, as indicated in such articles as appeared in the Wall Street Journal of June 1 concerning the railroad car shortage, specifically that having to do with boxcars.

While I am aware that hearings have been held in the Senate on pending legislation and there are bills before this committee also having to do with proposals which their sponsors urge on the ground that in the long run they may lead to an increase in the freight car fleet, I am wondering whether there is something that you suggest might be done immediately to give relief, or that you might indicate to me the railroads now are doing in an effort to meet some of the complaints of the lumber and plywood industry, the grain industry, and some of the others even those including shippers who require open top equipment.

You will appreciate, I am sure, that in view of the consideration which this committee has given over the past 4 or 5 years to legislative proposals culminating in a bill reported last year, and which would to some degree meet the railroad argument that with less minimum rate regulation, they might be the better enabled to meet competition from other forms of transportation and retain and regain some of the traffic they have lost to these other modes, it is somewhat anomalous to find that the railroads seemingly are not in a position even today to meet the demands for equipment which are placed upon them.

I have thought that perhaps you could outline what steps the carriers are taking and what further remedies you might have to suggest.

Sincerely yours,

OREN HARRIS,
Member of Congress, Chairman.

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., June 18, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN HARRIS: You are entirely correct, as stated in your letter of June 8, that we have been aware of the concern being expressed throughout the country regarding reported rail car shortages.

You also inquire as to what the railroads now are doing in an effort to meet some of the complaints and give immediate relief. In this regard, I assure you that all practicable steps are being taken and will continue to be taken to distribute the available car supply efficiently and equitably and to maximize its utilization. By these efforts many of the pressing day-to-day demands of shippers for more cars are being met with only brief delays. Also, new and rebuilt cars are coming on line as rapidly as the builders can supply them, although there obviously are limited possibilities of augmenting the total supply in this way over a short period. In this connection it is significant to note that the railroads have stepped up their capital expenditures for equipment (cars and locomotives) from \$427 million in 1961 to an alltime record of \$1,140 million in 1964, and it seems certain that this latter figure will be surpassed in 1965.

The present car supply problem is complicated by the fact that the pickup in the general economy and demand for railroad service in recent years followed an extended period of depressed demand for most types of railroad cars and coincided to a significant degree with the expiration of the useful life of a large number of old cars which had been acquired in much earlier periods of high demand. Also, changes in manufacturing and distribution practices along with greater railroad efficiency have called for new types of high-capacity and expensive cars. The effect has been to replace older and smaller cars with larger cars.

In addition to the purchase of more and larger cars, transportation efficiencies have been improved to produce more transportation per car than was previously possible. While 68,043 new railroad-owned cars were installed last year and 90,556 were retired, the number of serviceable cars in the fleet remained almost exactly the same because of an increase in the number of cars repaired and upgraded. There was a significant increase in the number of privately owned cars placed in service.

In the first 5 months of 1965, with only a slight increase in the number of cars available for use, carloadings are running 2.4 percent and revenue ton-miles 4.4 percent ahead of last year. Freight car installations thus far this year have virtually balanced retirements, but the cars installed have an average capacity of 77.82 tons, as compared to those retired which average only 45.44 tons. At the current rate of carbuilding, the production capacity of carbuilders will continue to be fully utilized and this year's installations are expected to amount to 75,000 railroad-owned cars, or approximately 7,000 more than in 1964. Some increase in the number of privately owned freight cars also is indicated.

The lumber and plywood industry is a large user of 50-foot and wide door 40-foot boxcars, as well as flatcars in increasing numbers. Despite the fact that total boxcar loadings have declined approximately 30 percent and the total boxcar ownership has dropped about 17 percent in the past 10 years, the number of 50-foot boxcars has been increased by more than 100,000 cars, and, in addition, we have 10,000 more wide door 40-foot boxcars in service than we had in 1954. Thus the reduction in the total boxcar fleet has been principally in the smaller capacity narrow-door cars.

Many commodities, including grain traffic, formerly handled only in boxcars, are now also moving in covered hopper cars and other classes of equipment. The fleet of railroad-owned covered hopper cars has more than doubled in the last 10 years, growing from 34,505 in 1954 to 85,773 today. In addition, there are nearly 15,000 privately owned covered hoppers in service. As you know, there has been a marked increase in the use of TOFC, and a remarkable growth in the movement of automobiles in multilevel cars. Since 1954, the railroad-owned flatcar fleet involved in these movements, as well as other flatcar uses, has increased from 46,603 to 59,445. There are 25,000 additional privately owned flatcars, installed in recent years and used principally for piggyback and automobile traffic.

Between 1960 and the fall of 1963, the demand for gondolas dropped very sharply. Consequently, the industry had to question whether a part of the fleet, much of which required heavy repairs, would have any further use. Following this, however, with heavier steel production and greater demands from other industries for this type of equipment, there has been maintained a vigorous program to upgrade these cars and to add new cars designed for specific traffic requirements. As a result, today we have approximately the same number of serviceable gondola cars available as we had last year, and there were 3,867 on order as of May 1.

At the same time that the railroad industry has been acquiring cars designed to produce more transportation per unit, thereby reducing costs and making transportation available at lower rates, it has also been improving the utilization of the cars so that the present car fleet actually carries more freight. The large capital spending program providing modern switching facilities, improved signaling, better communications, and advanced data processing systems has enabled the industry to secure better car utilization and more efficient transportation. Advanced operating and maintenance methods, such as better journal lubricating devices and hotbox detection equipment, are reducing the amount of time cars are out of service for repairs.

The new multilevel per diem rates established by the railroad industry, the more realistic regulations governing depreciation for Federal income tax purposes, and the investment tax credit, made effective by the Treasury in 1962, have been important factors in the recent upsurge of railroad capital spending for modern freight cars and other railroad facilities. These long needed reforms have provided significant incentives to the growth of railroad capital expenditures from \$646 million in 1961 to \$1,417 million in 1964, and an estimated \$1,630 million in 1965. It should also be borne in mind that, because of uncertainties regarding national transportation policy and corrective legislation, mounting governmental investment in facilities available to competing forms of transportation, and the very limited earnings and financial resources of many railroads, funds could only be made available for those types of equipment for which definite demands were indicated.

The increased ability of some railroads to purchase and build new equipment and improve their facilities and services has been encouraging. To assure its continuance in order to meet the growing volume of freight traffic, the competitive climate must be improved. As President Johnson and many others have recognized, this calls for equal treatment of all modes of transportation with respect to pricing freedom, taxation, and the levy of adequate user charges on competing transport modes which conduct their business with facilities provided by the Government. Correction of Government policies which long have handicapped the railroads, both competitively and financially, would go far toward removing railroad financial stringency, which is a root cause of recurring freight car shortages. A basic need of the railroad industry generally is sufficient financial reserves to sustain more stable car acquisition programs in the leaner as well as the better years. Car acquisition programs which must await high traffic volumes and more adequate levels of earnings come too late to avert car shortages—as the present situation so well demonstrates.

Another major problem of our industry is the wide seasonal fluctuation in carloadings through the year. Efforts are being made by the industry itself to reduce these fluctuations. Because of the heavy demands for cars for loading the new crops in harvest seasons, there is also an urgent need to handle the relocation of old grain during offpeak periods. As we have pointed out before, this situation can be improved materially if the Government will schedule its relocation orders so as to avoid peak traffic periods as much as possible.

Sincerely,

DANIEL P. LOOMIS.

The CHAIRMAN. I am thinking a little along the line of clearing up the present authority in the act itself and maybe giving the Commission specific authority after certain procedures that they should be required to take, to make a determination as to what should be done

as they have requested. And maybe if they are given this authority the railroad industry will come up and meet the challenge and make it unnecessary for them to have to do it.

I would say to the gentleman from Michigan, I do not think you should labor under any cloudy ideas about this matter. If this bill is passed, what the Commission has said is, they are going to do something about it if the railroad industry doesn't do something about it.

I have talked with them, and as a matter of fact, I would encourage them to do it. Because one thing we are trying to do is to encourage the railroad industry to continue its research and technological studies in all fields of the industry. In the last few years, I would say since 1958, there has been a decided improvement. I am one of those who wanted to give you greater leeway for more improvement. I would like to do that now. But maybe under the circumstances if we would give the Commission a little emphasis here and a little nudge, and clear up the law where they would not labor under a cloud, maybe we can get something settled and not let it go on this way.

Think about it some.

Mr. PERLMAN. I hope you could. I asked them to give us some guidelines when we first started this whole merger effort in the East, and I got nowhere. I get just as frustrated by them as I do by trying to get something through the American Association of Railroads because of their diverse opinions and all. And I realize the shortcomings of the AAR. And I am a member of the board, and I take full responsibility. But you have got 20 people that think differently and live in different parts of the country, and have their own interests. And it is very difficult at times to get a consensus. And I think that when you finally do get a consensus, the gang ought to stay with it, that 30 percent shouldn't try to break off, get sore and go home and say, "We will go to father." That is the way all this regulation gets compounded in this industry. I think we ought to be big enough to say the majority will rule, right or wrong. And probably the majority is wrong part of the time. But when I hear that there are good guys and bad guys, and if you live east of the Mississippi you are a bad guy, and the interests, and all the words I heard this morning, I don't wonder.

The CHAIRMAN. I just want you to know that we are not concerned about that, and we are not particularly interested in it, and we don't particularly care about having to sit here and listen to it.

But I can assure you that we are interested in doing something about what you say and what the other side says exists.

Now, let's do something about it.

Mr. PERLMAN. All right.

Well, I would go along with anything you want, because I must say this, that in my 42 years in the railroad industry there hasn't been a man that has gone along with more constructive legislation for our industry, or tried to be more helpful—now that you are leaving I can say it, because it doesn't make any difference any more—but I think that we owe you a deep debt of gratitude, and I would just as soon

say it publicly as any other way and I would be willing to leave this entirely in your hands. I must say, I only have a little over 2 years, and I want to see this industry do well. I would like to leave it in a good healthy condition. It is all I have cared about all my life. And we are in the wonderful position that we can sit on the sidelines, and if you put in more penalty per diem, it doesn't make a damned bit of difference to us. Maybe it gives us a little more money. It can't penalize us. And I can sit here and tell you quite frankly and objectively what I think is for the best in the industry, because I have no ax to grind. And I know that you work the same way. And I would be perfectly happy to leave it in your hands.

The CHAIRMAN. Well, I thank you for the high compliment. And permit me to take the stage and say that I have enjoyed the many years of association in working with the industry to try to improve it. And I am happy to say that, as you have just indicated, there is a wonderful opportunity. I think the industry has improved greatly in the last few years. I, too, want to see it grow, become strong, and meet its obligations and its responsibilities to the American public. I would like to see something done about this one problem. I hope somebody will come up with an idea that everybody will go along with.

Mr. Watson?

Mr. WATSON. I hate to interrupt on this high note of commendation and proper commendation about our chairman, who is soon retiring. He deserves it all.

But I might make one or two comments and then ask you a question.

As the chairman, and I am sure others, I am somewhat surprised, to say the least, by some of the comments made by our leaders of one of the giant industries of this country. I mean in reference to earlier comments by some of you gentlemen against others in your industry, such as, "good and bad guys, and a lot of bunk, and a lot of hogwash and false figures," and all of that. Really, it quite surprised me to hear such statements made. And I agree with your comment, that what is needed is some statesmanship on the part of the railroad leadership. And the thought occurred to me that if you gentlemen make such statements in public here in reference to one another, I can readily understand that you can get nowhere in private. It would be difficult to imagine what you would say in private. But be that as it may, we have this problem that is thrust in our hands because of the failure on somebody's part to act—and it might have been a failure on everybody's part to act.

Statesmanship includes a matter of service to the State and the public rather than service to yourself. And it is apparent that some have been motivated primarily by selfish interest rather than State interest. And that is a proper part but not the sole motivation of good business. One final question, perhaps you gave these figures earlier, and I apologize for being called away from the committee for a few minutes—how many cars do you have, freight cars, do you have on the New York Central?

Mr. PERLMAN. 108,000.

MR. WATSON. 108,000; how does that compare with 10 years ago?

MR. PERLMAN. It is way below 10 years ago.

MR. WATSON. A lot less than 10 years ago?

MR. PERLMAN. Oh, yes.

MR. WATSON. Help me to understand this. Why the reduction in the number of New York Central owned cars? Is it because of a lack of business, or is it because you could use other freight cars cheaper than you could provide your own?

MR. PERLMAN. That is what I tried to explain in the testimony. And I might repeat a few of the figures, if you don't mind.

In the Senate bill it showed that, compared to 1926, in 1964 the freight car ownership was only 60 percent of what it had been in 1926, the National Freight Car Forwarders. But the net ton miles handled by the railroads was 148 percent of what it was. It was the greatest in the history of railroad industry in 1964, with that number of cars. And that is because we have done systems engineering work on every type—it is just the thing you asked this morning: "Why don't you do this? Why don't you schedule these things?" We have a communications network so that we can reach into every town along our railroad, and in a matter of two hundred and fifty one-thousandths of a second, a man sitting at a television set, a closed television set in New York can tell a shipper that calls up where any freight car on the New York Central in which he is interested is located.

MR. WATSON. Then do you agree with me that the problem is not so much one of supply, as the distribution of this supply?

MR. PERLMAN. Yes, sir. What I pointed out was that with a Flexi-Van, the 40-foot van in place of the 40-foot boxcar, we are getting five times the utilization out of that van, because we run these trains at passenger train speeds, and when they come to these terminals that are congested a motor tractor can pull that right off and take it where it has to go without all this switching around these congested terminals. So out of one Flexi-Van we are getting the equivalent of five boxcars.

In these unit coal trains that let us mothball the only coal pipeline built, we load the cars on the run, they are unloaded on the run, they are never switched out of that one train, you have an integral train, and as a result, with those 100-ton cars instead of the 55-ton cars and the others, we are getting three turnarounds a week with these cars, where we used to be getting maybe two turnarounds a month. And so you just can't compare the number of cars with the capacity and utilization. We are running this Flexi-Van fleet at practically the same schedule as a Twentieth Century Limited, freight cars. This was unheard of 20 years ago.

These are the techniques, the systems engineering studies. In one, a trilevel freight car handles 15 automobiles, whereas the 50-foot boxcar only handled 5. But that only counts as one car, although it handles three times. And we run those on passenger train schedules even empty, back and forth. And we keep people up at night unloading them because we don't want them to sit around an extra day, where they are going, we want the cars right back.

Mr. WATSON. Then your position is that although your number of cars has decreased over the last 10 years, or 20 years, the volume of cars, so far as their freight capacity, has kept pace with the demands of the users of the railroad?

Mr. PERIMAN. It has exceeded the demands of the users.

Mr. WATSON. It has exceeded them?

Mr. PERIMAN. Yes, sir. I testified that we own 108,000 cars in round figures, and that the figures show that for the first 9 months this year, which are the last figures we have—and they are official ICC figures—that we only averaged 103,000 a day on our line. So 5,000 were in use on the other railroads. And this is because, as I explained, that the Flexi-Van and the trilevel automobile car—the trilevel automobile car has released a 50-foot double boxcar which is of no use to us any more, and these boxcars are sent out to carry this plywood out West that the private industry wants carried. And our freight cars that were released because of these new automobile cars are 10 percent now of a fleet handling this plywood. They are not western cars, they are cars that are obsolete as far as we are concerned today. The 40-foot boxcar we wouldn't buy under any condition any more, we don't care whether this bill or any other bill is passed, we are buying these tremendous Big John hopper cars for grain. You don't get the loss and damage and contamination and all of these things. We are trying to be moderate. And we have to run these fleets because of the high cost of these cars just like passenger trains are run. They can't sit around. We can't afford to have them sit around. And while we were losing \$3 million out of pocket on our grain business last year, we have turned it into a profit this year. We are handling a million automobiles this year that 3 years ago were going by highway or by water. We are taking cement away from the highway by these pressure differential cars.

These are the things we are doing. And that is why I say this bill isn't the answer. It is just what you were trying to put your finger on this morning. It is systems engineering and market research. And in our market research we don't have salesmen, we have industrial engineers doing that. We have a man that worked out his life in the chemical industry that knows what the problems are, what equipment best serves them, what service they need, how much they can afford to pay for the transportation before they decentralize their industry, all these things. It isn't what a truck can do it for versus what we can do it for, because we may charge way below the truck rate. But this fellow will still be centralized because of the high cost of transportation and we will lose that business even though we are the cheapest form for that distance.

All these things are the things we are trying to do. We are spending \$10 million a year on technical research and market research and on cybernetics. And we think that if the whole country's cars were handled on a systems basis like that, it would make a tremendous difference in the utilization of the fleet.

Mr. WATSON. Thank you, Mr. Perlman.

We have other witnesses. But I want to say this. I appreciate your testimony. And I want further to commend you for the genius that you have applied, and others, to the development of this great industry, and for it perfecting the more modern means of freight cars and such as that.

It is lamentable that men of your genius cannot reconcile this little problem and you have to turn it over to those who are sitting on this committee. And I hope you will help us, study it more and give us the benefit of your study.

Mr. PERLMAN. If I had your patience I could do better. But the trouble is I don't.

The CHAIRMAN. Mr. Perlman, thank you very much. We appreciate your presence here.

(The following tables were subsequently submitted by Mr. Miller, Association of American Railroads:)

*Revenue freight cars owned or leased by railroads and private car lines,
July 1, 1965*

	Cars owned and leased by class I railroads	Private cars—excludes cars leased by class I railroads	Cars owned by class II roads and S. & T. Cos. ¹	Total all cars
Plain box.....	495,107 ² (14)	1,393	7,144	503,644
Equipped box.....	95,497 (104)	346	72	95,915
Total box.....	590,604 (118)	1,739	7,216	599,559
Gondola.....	220,854 (51)	679	3,458	224,991
Hopper (except LO).....	432,442 (220)	1,251	9,782	443,475
Covered hoppers (LO).....	87,271 (1,898)	15,538	652	103,461
Stock.....	21,537 (725)	237	0	21,774
Flat.....	59,628 (2,408)	25,784	330	85,742
Refrigerator.....	40,027 (3,816)	³ 72,889	102	113,018
Tank.....	5,543 (137)	164,282	122	169,947
Others.....	33,923 (1)	1,105	813	35,841
Total.....	1,491,829 (9,374)	283,504	22,475	1,797,808
Net total ²	1,482,455			

¹ Excludes cars not used in interchange.

² Private cars leased to railroads, operated with private marks, but included in "owned and leased"—per CS-11-1, as of July 1965.

³ This total includes 55,478 refrigerator cars owned by railroad owned and controlled refrigerator car lines.

Source: Class I railroad data from Car Service Division Reports. Other railroad and private car line data from July 1965 Official Railway Equipment Register and special survey.

Equipment data as reported to Car Service Division by class I railroads and railroad owned and controlled private refrigerator-car lines

Revenue freight cars										
Class I railroads	Box	Covered hopper	Gondola	Hopper	Flat	Refrigerator	All others	Total	R.R.O. and C. refrigerator	Total class I and R.R.O. and C. refrigerator cars
New installed:										
December 1964	2,035	457	142	1,877	487	473	182	5,653	190	5,843
December 1963	1,244	393	20	1,720	224	496	0	4,097	0	4,097
12 months ended:										
December 31, 1964	18,016	8,295	2,040	28,764	3,429	4,090	1,167	65,801	2,242	68,043
December 31, 1963	12,542	4,827	2,210	8,646	3,623	3,559	363	33,770	2,695	36,468
Retired:										
December 1964	1,814	144	655	1,970	268	309	27	4,327	349	4,676
December 1963	3,800	38	1,630	1,515	58	68	407	7,576	462	8,038
12 months ended:										
December 31, 1964	37,301	365	15,486	29,046	973	1,522	3,588	86,237	4,319	90,556
December 31, 1963	34,430	110	12,701	17,914	1,432	1,167	4,582	71,002	3,820	74,822
New on order:										
January 1, 1965	11,642	4,520	889	10,621	2,025	3,593	282	33,572	2,657	36,229
January 1, 1964	9,533	4,163	950	15,859	1,060	1,406	309	33,380	2,231	35,611
Ownership:										
January 1, 1965	596,602	81,753	223,681	434,234	58,772	37,629	62,032	1,494,703	55,774	1,550,477
January 1, 1964	615,887	73,823	237,127	434,516	56,316	33,017	64,453	1,515,139	57,851	1,572,990
Awaiting repairs:										
January 1, 1965	36,702	1,965	17,551	26,131	2,664	1,114	2,380	88,507	349	88,856
January 1, 1964	41,637	1,522	26,463	26,227	2,669	1,348	3,137	103,093	2,468	105,471
Serviceable owned:										
January 1, 1965	559,900	79,788	206,130	408,103	56,108	36,515	59,652	1,406,196	55,425	1,461,621
January 1, 1964	574,250	72,301	210,664	408,289	53,647	31,669	61,316	1,412,136	55,383	1,467,519

Revenue freight cars							
Class I railroads	Box	Covered Hopper	Gondola	Hopper	Flat	Refg.	Total
Serviceable privately owned cars on line:							
Jan. 1, 1965	1,643	12,802	383	442	19,200	12,257	109,049
Jan. 1, 1964	1,571	10,516	202	712	16,095	17,501	111,360

1 Negative retirement indicates increase in ownership in excess of new installations, resulting from reclassification or transfer of equipment, purchase or lease of used equipment etc.

* Average carrying capacity 58.18 tons.

* Average carrying capacity 56.94 tons.

In addition to figure for railroads and for railroad controlled refrigerator car lines quoted above, Class I railroads reported privately owned cars of various type on line on Jan. 1, 1965, and Jan. 1, 1964, as follows:

NOTE.—It is estimated that private car lines owned 272,000 revenue freight cars on Jan. 1, 1964, compared with 269,475 on Jan. 1, 1963.

The CHAIRMAN. I understand that there are some here who would like to file a statement.

STATEMENT OF DAVID E. SMUCKER, VICE PRESIDENT, PENNSYLVANIA RAILROAD, ACCOMPANIED BY RICHARD BONGARTZ, COUNSEL

Mr. SMUCKER. Mr. Chairman and gentlemen of the committee, my name is David Smucker. I am vice president in charge of operations of the Pennsylvania Railroad. I have a statement which in the interest of time I would appreciate that this committee receive for the record. It includes the freight-car program carried out on our railroad since the 1956 Transportation Act was passed—with your assistance, sir. It points out that we have from 1956 to 1965 expended better than \$511 million for new and completely rebuilt freight cars, and that in consequence thereof about 49 percent of our freight-car fleet has either been built new or completely rebuilt within that period.

I would like to take the opportunity at this time to endorse Mr. Perlman's remarks against these bills. The Pennsylvania Railroad believes that the solution of the freight-car problem in the United States devolves almost wholly in modernizing the freight-car ownership, building larger cars, and abandonment of the principle of small, inefficient units before the business entirely leaves us.

I would like to answer any questions that members of the committee have in connection with that or any other material in my statement.

The CHAIRMAN. Mr. Smucker, thank you very much. Your full statement will be included in the record. And the committee will give their careful attention to it, and to the information that you convey to us on the subject.

Mr. SMUCKER. Thank you very much, sir.

(The statement is as follows:)

STATEMENT OF DAVID E. SMUCKER, VICE PRESIDENT, PENNSYLVANIA RAILROAD CO.

My name is David E. Smucker. I have been employed by the Pennsylvania Railroad and its subsidiaries for 36 years in various capacities, principally operating, and since October 1, 1963, have held the position of vice president, operations, of that company. My knowledge and familiarity with respect to freight-car requirements, utilization, and distribution have been accumulated over a long period of years as division superintendent of the Pennsylvania, chief operating officer of the Long Island Railroad, president of the Detroit, Toledo & Ironton Railroad, and in my present position.

I am appearing here in opposition to H.R. 7165 and related bills, both on behalf of my company and of the following railroads: Akron, Canton & Youngstown Railroad Co., Ann Arbor Railroad Co., Bangor & Aroostook Railroad Co., Central Railroad Co. of New Jersey, Delaware & Hudson Railroad Corp., Detroit, Toledo & Ironton Railroad Co., Erie-Lackawanna Railroad Co., Florida East Coast Railway Co., Lehigh & Hudson River Railway Co., Lehigh Valley Railroad Co., Long Island Rail Road Co., Maine Central Railroad Co., Monon Railroad, New York, Susquehanna & Western Railroad Co., Norfolk & Western Railway Co., Pennsylvania-Reading Seashore Lines, Pittsburgh & Lake Erie Railroad Co., Reading Co., and Seaboard Air Line Railroad Co. These railroads, together with the New York Central, New Haven, and Boston & Maine Railroads, which are also opposing these bills, own 31 percent of the class I railroad freight-car ownership in the United States.

The railroads on whose behalf I offer this statement, and the New York Central, New Haven, and Boston & Maine, operate generally in what is known as official territory, north of the Ohio and Potomac Rivers and east of the Missis-

issippi. With the exception of the Norfolk & Western, Seaboard Air Line, and Florida East Coast, their lines do not extend beyond these limits.

To the contrary, the roads which have historically favored legislation of the general type and purport of these bills operate generally in the western and southern territory. But, it would be a great mistake to consider that this difference of opinion is a geographical or territorial one. The facts are that the flow of loaded commerce in the United States between the producing districts of the West and South and the fabricating and consuming districts of the North and East accounts for the difference in point of view, which leads two groups of experienced, knowledgeable people to a contrary view respecting freight-car rental.

It is the duty of an originating rail carrier to provide a supply of suitable cars, either of its own ownership or cars made available through car service rules, to accommodate the loading offered by its patrons at stations throughout its line. Yet, not all carloads move north and east—those are simply the directions of imbalance. There are westbounds and southbound loads moving out of official territory. A long and well-understood precept of the railroad business is that economy is served by the most efficient use of cars, which is obtained by loading them in the reverse direction to the maximum extent possible. As a practical device to implement this economic program, the car service rules agreed to by almost all American railroads provide that an origin line must apply a suitable foreign empty, if available, for a load in the direction of the owner of that particular car in preference to applying one of its own cars. Thus it is that railroads whose stations customarily, day in and day out, produce a surplus of empty cars are not only enabled but compelled by economics and the car service rules to utilize foreign empties for reverse loading.

The majority of the railroads for whom I offer this testimony have greater problems of ridding their lines and their stations of surplus empty cars of many kinds than they do of finding suitable empty cars for application to the loading requirements of their patrons. This is particularly true of the more common types in which ordinary, plain boxcars predominate.

It is this simple fact of economics and commerce which allies the roads in official territory, seemingly in opposition not only to the remainder of the Nation's railroads but to the Interstate Commerce Commission as well.

The Long Island Railroad, which I served for several years as chief operating officer, offers a notable example of exactly what I am trying to say. Consignees at Long Island Railroad stations, day in and day out, unload about four to five times as many cars as shippers at these same stations require for loading. The Long Island has virtually no local traffic—that is, business which moves between one Long Island station and another. To the contrary, the cars loaded by its shippers move almost exclusively in interline service, many forwarded thousands of miles beyond the Long Island's points of interchange at New York City. On any day, at almost any Long Island station of any consequence, the agent has his choice of empty cars of a variety of ownerships which can be applied for whatever outbound loading is offered by his shippers. The remainder of the empty cars, comprising at least 75 percent of the total, must be delivered empty to one of the Long Island's connections.

Obviously, no opportunity is presented nor can any opportunity be made available for the use of an empty car of Long Island ownership, except in violation of the car service rules, which were designed to minimize the crosshauling of empty cars. It would be foolish and wasteful for the Long Island to simultaneously dispatch an empty Union Pacific boxcar along with a loaded Long Island boxcar destined to Denver, or a Southern Railway boxcar empty coupled to a Long Island boxcar loaded to Atlanta. Since the Long Island has no opportunity whatever to load cars of its own ownership, except extravagantly, wastefully, and in violation of the car service rules, this road does not own any freight car equipment, and it should not.

Other railroads for whom I speak today serve many districts where the number of cars unloaded far exceeds the number loaded. To that extent and as to such stations and districts, they are in the identical position as the Long Island—that is, they have an oversupply of empty foreign equipment of certain classes which they are obligated to apply for loading in preference to their own cars. In other districts they may have the reverse situation; that is, they require more cars of a particular type for loading than are made empty in that district. To the extent that suitable empty foreign equipment may be available to them

nearby, it is more economical to place it for loading in the direction of the owner's line than to move such cars empty to the owner and at the same time load their own cars in the same direction.

It is apparent that the predominance of unloads over loads in the territory served generally by the lines for whom I am testifying creates a situation which differs from the Long Island Rail Road's position only in degree. These railroads are obligated to accept in interchange carload freight loaded in any suitable car, to move it to destination, place it for unloading and then remove and dispose of the empty car. There is no escape from payment of car rental to the owner, nor should there be. Yet, I want to make one thing very clear—the railroad which pays the per diem became liable for such payments simply through the natural operation of interline freight movement on a through bill without transfer of lading at junction points, which I understand to be required by law.

When the Burlington Railroad places one of its boxcars at one of its stations for loading of a shipment destined to Baltimore, Md., via Chicago and the Pennsylvania Railroad, the Pennsylvania Railroad did not rent the Burlington car. It simply became liable to pay the Burlington for the use of its car on a per diem basis until it either returned the car to the Burlington at Chicago or delivered it loaded or empty to another road. If, when the Burlington car was unloaded at Baltimore, the Pennsylvania Railroad moved it to York, Pa., and placed it for a loading of a shipment destined to Denver, Colo., a local Burlington Railroad point, via St. Louis and the Missouri Pacific Railroad, it might be claimed that the Pennsylvania Railroad rented the Burlington car at Baltimore or at York, or that it appropriated the car or misappropriated it, but this isn't true. The Pennsylvania Railroad simply acted to minimize empty car-miles, which is in accordance with the car service rules. In so acting, it was liable to the Burlington Railroad for one, two, or three additional car days above what might have been required if the car had been dispatched from Baltimore to Chicago empty.

The point is simply that railroads operating predominantly in a delivering capacity are completely unable to control the ownership of cars loaded to stations on their line and must assume responsibility for per diem settlement with the owners of such cars, regardless of how many cars it may own itself and perhaps have stored serviceable on its own line. Secondly, such destination railroads, even with a surplus of serviceable cars stored on their tracks, are obligated to provide reverse loads for foreign cars in the direction of the owners of such cars. Small wonder, therefore, that the railroads for whom I offer this testimony, operating for the most part in a territory where more cars are unloaded than loaded, generally are per diem deficit railroads. Nor should this committee believe that the mere existence of a deficit in per diem indicates that a road or a group of roads is deficit in ownership. The Long Island could own any number of freight cars and be an unavoidable deficit per diem road because it would never have an opportunity to force any of its own cars off line to earn any per diem credits.

There is another feature which has in recent years increased the measure of the car rental burden on terminating roads. The intermodal competition which has been so fierce in the last three decades or so has required railroads generally to be more generous in permitting detention of freight cars by shippers and consignees than would be the case if such intermodal competition did not exist to the degree that it does. The practical effect of this has been to permit shippers and consignees, and particularly the latter, to delay loading or unloading of freight cars without charge commensurate with the value of the investment which they are thus tying up.

As an example, carloads of grain arriving at North Atlantic ports may be held for 3 days for inspection plus 4 more free days for unloading before any storage charge is assessed. General cargo intended for export may be held free of demurrage for 7 days in addition to all intervening Saturdays, Sundays, and holidays.

Some years ago, when industry generally shifted from a 6-day to a 5-day work-week, demurrage rules had to be liberalized by adding Saturday to the days which were not counted in computing demurrage charges assessed against a consignee for detention of a loaded car. The simple reason for this was to meet the pressures of intermodal competition which was becoming stronger every day.

Since a shipper or consignee, free to choose between the various forms of transportation, must add in all his costs and expenses, it was quickly evident that the consignees generally were unwilling to work their unloading crews on Saturday at time and one-half or double time rates to unload inbound cars, or, as an alternative, pay demurrage for the detention of cars not unloaded. Extension of the privilege of detaining cars free by not counting Saturdays, Sundays, and holidays intervening between placement of the car and actual unloading, had several effects:

1. It assisted rail transportation in the competitive battle for patronage. This benefit accrued mutually to all rail carriers participating in that particular movement. To a broader degree, it benefited all the rail carriers in the country, since it prevented additional diversion to other forms of transportation.

2. It increased the detention of cars at terminating stations. Since more cars are terminated in official territory and at the stations of the lines for whom I speak, this detention was added to the time that the individual cars and cars as a group spent at such stations and on these lines.

3. It added accordingly to the per diem bill and net per diem settlements due from the railroads in official territory on behalf of whom I present this testimony.

Note please that all roads have participated in the benefit, but only the terminating lines bear the added per diem burden and the criticism which is heaped upon them by other railroads whose traffic is predominantly originated as distinguished from terminated.

Within recent months many thousands of loaded cars were detained at our seaports because of the protracted strike of longshoremen called by the International Longshoremen's Association. These cars were delayed on the tracks of terminating railroads. Full per diem was payable by these roads to the owners of every single car. Railroads in other territories had already earned their share of the freight revenue and were free of per diem costs once the cars had been delivered to the terminating roads. These latter roads, including many for whom I am authorized to speak, had no recourse whatever except to hold the cars under load until the settlement of this widespread labor dispute restored to duty the forces required to unload the contents of the cars and transfer it to ships. This is but one example of the inescapable burden of car rental which falls heavily and unevenly on railroads operating in the territory where more cars are unloaded than on railroads where the opposite situation is the case.

What I have said so far is true irrespective of whether per diem is 50 cents per day or \$50 per day. The arrangements for settlement between the owner of a freight car and another railroad for the use of such car are no more than a system designed to promote economic and efficient use of cars through equitable distribution between the railroads of the total true cost of ownership. The Interstate Commerce Commission has long been authorized and empowered to fix the rate of freight car rental to the extent of compensating the car owner for the cost of ownership, including a reasonable return on investment. Acting by majority vote, the railroads have adjusted per diem rates from time to time, always subject to review by the Commission.

The records will indicate, but the committee may be interested to observe, that the group of railroads which support these bills collected in 1964, a net total of \$27.8 million from other railroads for the use of their cars. In contrast, the group of railroads opposed to these bills paid \$29 million more for the use of foreign cars during 1964, than they were able to collect from all other railroads for the use of their cars. Had they returned all foreign cars empty to the owners in contravention of the car service rules, they might conceivably have reduced their debit balances somewhat, but fundamentally this debit position reflects a predominant flow of traffic in the United States more than it reflects any other single influence.

Our group is very glad for the support of the Norfolk & Western Railway in opposition to this legislation. The committee may desire to note, however, that this road had a net per diem credit in 1964 of \$12.3 million. Without this offsetting credit, the net debit balance of the remainder of the group is \$41.3 million.

The committee may also be interested in observing that the group of railroads which support these bills enjoyed a composite rate of return on investment in 1964 of 3.86 percent. The railroads opposing these bills, including the Norfolk & Western, had a rate of return on their investment in that year of 2.33 percent. Excluding the N. & W., the return for the group was only

1.35 percent. Ten of the lines opposed to these bills did not earn their fixed charges during 1964.

That is the economic picture—a group of relatively prosperous railroads, which generally would stand to profit from this legislation, opposed by a group of railroads, many of which are presently in financial difficulty and which would be further burdened by its enactment—a burden which they cannot avoid because of the flow of commerce, a burden which they can ill afford, and one that cannot be justified. Enactment of these bills would merely trade dollars within the railroad industry—enrich the rich and further impoverish the poor.

The purported objective of the bills is to encourage the maintenance of car supply adequate to meet the needs of commerce and the national defense. Surely no one can quarrel with that objective, but it is my opinion that the enactment of this legislation would defeat the objective.

The railroads as a group have already taken more effective steps toward achievement of the objective. Effective January 1, 1964, the uniform per diem rate applicable to any railroad-owned car, regardless of age, type, cost or value, was replaced by a system known as multilevel per diem, as follows:

Per diem group	Value of car	Rate
1	\$1,000 and less	\$2.16
2	\$1,001 to \$5,000	2.79
3	\$5,001 to \$10,000	3.58
4	\$10,001 to \$15,000	4.50
5	\$15,001 to \$20,000	6.15
6	Over \$20,000	7.74

While all roads did not favor this change and some still do not, it is a fact that the rates prescribed were calculated to represent the cost of repairs, property taxes, depreciation, interest on investment and miscellaneous expenses incident to ownership. It should be noted that both depreciation and a 60-percent return on investment are computed by using present-day reproduction value and not the lower original cost of the car. Obviously, these cost factors cannot be correctly described as "barebones," as has been claimed in the past by proponents of bills similar to those under consideration today. For per diem purposes, depreciation is calculated on the basis of present-day reproduction of a freight car, not the lower original cost. Similarly, a return on investment at 6 percent of such depreciated reproduction cost is included instead of 6 percent return on the original cost, depreciated. There is nothing "barebones" about these per diem rates. Neither is there any basis whatever for the often repeated statement by proponents of this legislation that it is cheaper to rent a freight car than to own one, for the rent equals the cost of ownership.

In recognition of the fact that modern freight cars are becoming even more costly as they are tailor made for particular loading, equipped with shock control devices, load restraining and load positioning equipment, capable of carrying heavier and heavier loads at higher and higher speeds, the railroads in all sections of the country with widely different traffic patterns have recently established additional per diem groups for application of the multilevel concept. Group 6, which formerly included all cars having a value for classification purposes in excess of \$20,000, has been changed to \$20,001 to \$25,000 at a daily rate of \$7.11. New groups 7, 8, and 9 have been established to accommodate cars with depreciated value of \$25,001 to \$30,000 at a daily rate of \$9; cars \$30,001 to \$35,000, at a rate of \$10.18; and over \$35,000, at a rate of \$12.18. These changes, which became effective April 1, 1965, had one simple purpose—the same purpose as all car rental rates—to recognize the varying costs of car ownership.

As I indicated, neither adoption of multilevel rates as a concept, nor fixing the rates applicable to the first six groups, nor subsequent modification to add three more groups has been with the unanimous consent of all railroads. The validity of the concept and of the computations is currently under review by the Commission in pending litigation.

Computations on which all car rental rates have been based have been limited to the cost of ownership, including maintenance and a fair return. I am informed that the law precludes the Commission from giving consideration to factors other than the cost of ownership. It is my understanding that in 1947, in a

court review reported under the title *Palmer v. United States*, 75 Federal Supplement 63, the court held that the Commission has no power to require payment for the use of a freight car at a rate which exceeds the cost of ownership, including a reasonable return on investment.

These bills would require the Commission to give consideration to matters other than the cost of ownership of freight cars in establishing freight car rental rates to be paid by user railroads. As I read these bills, the Commission would be required in fixing car rental to "give consideration to the level of freight car ownership" and in so doing include a return on value that "will encourage the acquisition and maintenance of an adequate car fleet" or "on the basis of elements reflecting the value of use of freight cars."

In short, these bills propose that some unspecified amount be added to the car-hire rates, not to reflect ownership costs to compensate the owner for the use of his property, but rather to accomplish a regulatory purpose. Thus, the bills would direct the Commission to fix a return on value at such a level—obviously in excess of the present 6 percent—as in the Commission's judgment might encourage the acquisition of additional cars, or, for the same purpose, to compute a car-hire rate on the basis of elements designed to reflect some vague value of use theory—neither of which factors can properly be considered as costs of ownership. Such a regulatory device in the guise of compensation was questioned by the court in the *Palmer* case as being "so completely unrelated to the evil sought to be remedied (a car shortage) * * * that serious question would arise as to its validity as a regulation."

In seeking to accomplish a regulatory purpose, these bills would displace the long accepted standard of computing car rental on ownership costs, including a fair return on investment, by requiring the Commission to use variable, uncertain, and theoretical factors in fixing car rental rates. How would the powers granted, and required to be used, be exercised? At what level would a return on value be fixed so as "to encourage" the acquisition of freight cars? How would the Commission compute compensation on "the basis of elements reflecting the value of use of freight cars?" The bills do not answer these questions.

From a practical point of view, the multilevel per diem rates already guarantee a car owner depreciation and a 6-percent return, not on his original cost but on the reproduction value of his property. Few, if any, railroads earn a 6-percent return on their investment after depreciation, even on the original cost of their investment.

What the proponents of these bills obviously want are car-hire rates based on something more than the costs of ownership. Unless a railroad is more interested in becoming a lessor of property than it is in fulfilling its common carrier responsibility, I submit that the multilevel per diem arrangements, imperfect as they are from the point of view of the user, give railroads adequate incentive for investment in whatever supply of freight cars are needed to satisfy the requirement of that road's shippers. While I express these views on behalf of a long list of railroads, I can say with certainty what the situation is on the Pennsylvania. I recommended the very extensive car acquisition program which we carried out in 1964 and a much more ambitious program for 1965. The cars to be built, rebuilt, or given heavy repairs are designed to meet a specific requirement of shippers at PRR stations. They are modern, of high capacity, and embody the latest in design of construction. All of the new cars will have roller bearings. All of the boxcars will have cushion underframe. Many of them will be equipped with the latest in load positioning and load restraining devices. Irrespective of type, they have one thing in common—they are extremely expensive, and they can pay off their investment only if they are extensively utilized.

Protecting of shipper requirements on our line and the revenue derived therefrom, not per diem, has been the incentive for our car programs. Let me tell you what we have done in 7 years. In July 1960 we completed a new car program, begun in 1959: 22,972 new freight cars were acquired at a cost of \$212 million. Financing was through conditional sale arrangements or leasing—mostly the latter.

It was the largest car program, both with respect to quantity and cost, that has ever been undertaken by any railroad in such a short period of time.

Our subsequent 1960-65 freight car program includes 18,489 new cars, at a cost of \$237.3 million; and 20,763 cars rebuilt or rehabilitated, at a cost of \$62.1 million, also chargeable to capital expenditures. Insofar as the shipping public

is concerned, these latter are the equivalent of new cars. In 1965 alone, we are spending \$102 million for 6,179 new freight cars and, in addition, \$10.2 million to rehabilitate 1,957 freight cars.

As of September 30, 1965, 17,343 of the new cars, and 20,347 of the rebuilt and rehabilitated cars, had been placed in service.

The total 1959-65 freight car program of the Pennsylvania Railroad involves capital expenditures of \$511.4 million, covering 62,224 cars—41,461 new and 20,763 rebuilt or rehabilitated to new condition. More than 60,600 of these are in service, or 49 percent of the PRR fleet. More are coming off the line every day, and all will be in service before the end of the year.

As a result of these programs, while the Pennsylvania Railroad handled 7.55 percent of the total class I railroad revenue ton-miles and originated 7.39 percent of total cars originated, in 1964, on January 1, 1965, we had 109,872 serviceable freight cars, 7.81 percent of the 1,406,196 serviceable railroad-owned freight cars on class I railroads.

The Pennsylvania Railroad doesn't look to the Burlington or to any other road which supports this legislation to assist it in meeting the requirements of its shippers for coal cars, for ore cars, for auto-parts cars, for high-grade, insulated boxcars, or for jumbo covered hoppers, except to the extent that such equipment made empty on our lines may be available for reverse loading to the owner.

I strongly commend to the attention of the railroads who have supported this legislation that they consider adopting a similarly resolute program of constructing cars suited to the needs of the shippers on their lines, relying on the multi-level per diem rates to provide them with funds to liquidate their equipment indebtedness. As for the Pennsylvania, I can forecast that we will continue to do what we have in the past; namely, to buy, build, and restore to service by repairs every freight car suitable for use by our shippers that we can pay for. If we are compelled by Interstate Commerce Commission action required by this legislation to contribute to the construction of grain cars by the Burlington and other western roads, we would simply have fewer dollars to devote to construction of cars required by and suitable for the use of our shippers.

To assess a terminating line a per diem charge in excess of the fair ownership cost of the cars involved would be to penalize it for conditions not only beyond its control, but also which are the result of the origin or intermediate line turning over to it a shipment subject to detention despite the most diligent efforts of the terminating carrier. In such a situation, if the origin line has a shortage while cars are backed up at the port awaiting ships, it is not the terminating line's fleet of cars which is inadequate. It is the origin line which has insufficient cars to take care of the transportation needs of its shippers, and this is true irrespective of whether or not the origin line shows an annual net credit in its per diem account.

The question before your committee is just about that simple—either each individual railroad will be able to do its part in modernizing and, hopefully, in expanding the supply of railroad freight cars to meet a growing requirement for railroad freight transportation, with particular emphasis on the requirements of shippers at its stations, or the freight car supply will indeed become a gigantic pool with no one feeling any sense of responsibility except to make payments into a common fund. In my judgment, this would be a gigantic mistake and might indeed sound the end of railroad transportation carried out by a group of independent, commercially motivated railroad companies.

You are concerned with car shortages. To the extent that they have existed since World War II, they were certainly not the result of an inadequate per diem rate, which has risen from \$1 to as much as \$12.18 per car per day in that period. Although there has been a decline in freight car ownership since 1945 railroad freight traffic has also declined, at about the same rate as railroad freight car ownership. The decline in railroad freight traffic was brought about in large part by the inroads of competitive modes of transportation, most of which are subsidized. During that period the railroads' share of intercity freight traffic in the United States declined from 67 to 43 percent, with the motor carriers, inland waterways, oil pipelines, and air carriers all showing gains.

Also, it should be noted that the average car capacity in 1964 was 58.3 tons, as compared with 51.1 tons in 1945. In fact, a comparison of levels of car ownership, 1945 versus 1964, does not disclose the whole picture. Although the number of cars decreased by 15.4 percent in this period, the total carrying capacity decreased only one-fifth as much, or 3.4 percent, due to the retirement of small

cars and larger capacity of new ones. In the central western region, average tons of wheat per car originated has increased 14.3 percent, from 51.3 tons in 1945 to 58.6 tons in 1963, the latest available figure. This increase in tons of wheat loaded per car may be accounted for by the increased use of jumbo covered hoppers. As noted in the March 1965 issue of Traffic Management, there is a definite trend toward using 100-ton covered hoppers for grain shipments. The article reports that the Burlington lines recently took delivery of 460 and that the Santa Fe is the largest single owner with 3,600 covered hoppers. The railroads have encouraged grain shippers to purchase over 1,000 of these cars by offering them reduced rates if the shipper owns the cars.

There are now approximately 105,000 covered hoppers owned by class I railroads and by the car lines. This is an increase of 61,600, or 143 percent, since September 1, 1955. On order as of September 1, 1965, there were 3,891 covered hoppers, of which over 90 percent are 100-ton capacity. Each of these 100-ton covered hoppers is equal to two 50-ton boxcars and with greater utilization, such as unit train service, it is possible that one of these 100-ton covered hoppers could move as much grain as four 50-ton boxcars moved in 1945.

The railroads are accomplishing faster turnarounds, better car utilization, and expedited repairs to equipment, all of which reduces the equipment required for a given volume of business. The railroad industry plans to spend \$1.3 billion on equipment this year, an all-time high. In 1964 it was \$1.1 billion, then a new high. This is the result of the incentives that I have mentioned, not increased per diem.

A car shortage occurs whenever a railroad serving a station is unable to supply a shipper with the car or all the cars he requires for loading on a particular day. The shortage may occur at only one station and may be alleviated the next day. There may be a shortage of one type of car and a surplus at the same station of some other kind of car.

At times of unusually high demand, shortages may be quite widespread, such as shortages of coal cars when steel companies and utilities are trying to stock up in advance of the 14-day miners' holiday; temporary shortages of grain cars at country elevators during the height of the harvest; shortages of specially equipped gondolas for moving steel when industry is attempting to build up stockpiles against the possibility of a steel strike.

Seldom is there a shortage of all kinds of cars all over the country. The Car Service Division of the Association of American Railroads has means at its command to supplement the car service rules as a means of relocating empty cars. They can and do issue special car orders requiring railroads, which predominantly release more cars than they require for loading, to expedite the return of certain types of cars to certain railroads. Sometimes these orders provide for a return of a particular road's ownership while at other times they require delivery of empty equipment of a certain type irrespective of ownership. These orders are supplementary to the car service rules and to the extent that may be outstanding and in effect they restrict the right and remove the obligation of the road hauling them empty from either using them to protect loading or to refrain from using that road's own car in lieu thereof.

Orders of the car service division to expedite the flow of certain kinds of empty equipment do not carry any penalties. When they are not effective in bringing about the desired result, the Interstate Commerce Commission has, in recent years, issued similar orders over the authority of the Director of the Bureau of Service and Safety. As distinguished from car service division orders, these ICC orders do carry heavy penalties. Roads which have violated such ICC orders have been prosecuted in the courts and fined heavily for such violations. Thus, it is to be understood that means are already available through the car service division of the ICC to supplement the car service division rules as a means to moving empty equipment into loading districts where the supply is short. It should be noted that the fines for violation of the ICC car service division orders are levied against only the roads which violate them by misappropriating empty equipment for use other than as specified.

The application of the proposed increased per diem charges would impose an inequitable burden in instances where car service orders are in effect requiring the return of empty equipment to the owning line. With respect to boxcars moving to western railroads, it is common practice for the eastern lines to receive AAR and ICC orders to send literally trainloads of empty boxcars to the West to meet their grain loading and other requirements. Many of these western cars come to the Pennsylvania Railroad via Potomac yard here in Washington and other eastern junctions, and terminate at nearby eastern seaboard points. Under

the orders referred to the Pennsylvania is, in many cases, not permitted to load the cars but is required to return them empty to Chicago, or some other western gateway, and assume the regular per diem charge while they are on our line. Certainly, that per diem charge should not be increased. Rather, as a matter of equity, in view of the short haul we receive in the loaded movement, we should not only be relieved of per diem, but actually compensated by the owner for moving the car empty in long haul. What "incentive" would result from paying a higher per diem for a car that comes to a road without that road having any control over it, and which, when released, must be returned empty to the owner?

I fully recognize that in the very nature of railroad transportation a free flow of equipment is required, and that cars provided by one railroad for its shippers must perforce move in the direction of normal traffic flows to the lines of other railroads. As an example of this, during 1964 there was an average of 314 plain boxcars of Burlington ownership on the Pennsylvania Railroad in excess of Pennsylvania plain boxcars on the Burlington. During the same period there was an average of 138 gondolas of Pennsylvania Railroad ownership on the Burlington in excess of Burlington gondolas on the Pennsylvania. This is a normal situation and is brought about because the Burlington loads more boxcars to the Pennsylvania than we load to them, and the Pennsylvania loads more gondolas to the Burlington than they do to us. Additional ownership of boxcars by the Pennsylvania or gondolas by the Burlington would not alter or improve the situation.

One very fundamental objection to a per diem rate in excess of the true cost of ownership is that it would add substantially to transportation costs because of increasing empty car mileage. The so-called per diem urge in periods of less than peak demand for cars would cause railroads to send foreign cars home empty in order to save per diem payments, and at the same time load their own cars off-line to earn per diem payment. This practice would, and in the past always has, definitely increased empty car mileage and, in turn, the overall costs of transportation. The most efficient way to obtain maximum use of freight cars is to maximize loaded car mileage and minimize empty car mileage. What is proposed in these bills would, in periods other than peak requirements, lead to directly opposite results and would result in wasteful transportation. The industry urgently needs to improve its percentage of loaded car-miles to a total car-miles which can be accomplished only by a more efficient use of the present car fleet. This in itself would, in my opinion, materially relieve any intermittent car shortage situations. The artificial standard of fixing compensation for car hire, as provided in these bills, would be both inequitable and impracticable. It would result in unjust enrichment of the few carriers that can best afford to buy cars, in a burdensome penalty on the carriers which cannot afford to acquire or have no need for additional equipment, and in excessive empty car mileage to avoid penalty car-hire costs in contravention of sound car service practices which require the fullest use of the freight car fleet.

The CHAIRMAN. Are there any questions by any members of the committee?

If not, thank you very much. We are pleased to have your presentation.

Now, did you identify all of the gentlemen who are with you for the record?

Mr. SMUCKER. Mr. Richard Bongartz, general attorney of the Pennsylvania Railroad, accompanies me.

The CHAIRMAN. Very well.

STATEMENT OF HON. JONEL C. HILL, PUBLIC UTILITY COMMISSIONER, STATE OF OREGON, SALEM, OREG.

Mr. HILL. Mr. Chairman. I am Jonel C. Hill, public utility commissioner of Oregon. I have filed my statement. And I wish only to say in addition that we have been listening to the railroad's argument back and forth, and we think it is all the more imperative that the committee remember that the real point at issue is the needs of the shipper

and the receivers of freight. They seem to be forgotten sometimes in these intermural bouts.

The CHAIRMAN. Thank you very much, Mr. Hill.

I believe you are a member of the Public Utility Commission of the State of Oregon.

Mr. HILL. I am the commissioner. We do not believe in having three-member commissions.

The CHAIRMAN. You are the commissioner, you have one member of the commission?

Mr. HILL. That is correct, sir.

The CHAIRMAN. Thank you.

And your statement, Mr. Hill, will be introduced in the record.

(The statement is as follows:)

STATEMENT OF HON. JONEL C. HILL, PUBLIC UTILITY COMMISSIONER OF OREGON

My name is Jonel C. Hill. I am the public utility commissioner of Oregon. The State of Oregon supports S. 1098 and similar House versions.

In April of this year I appeared before the Senate Commerce Committee in support of S. 1098. Our freight car shortage was acute then, particularly in wide-door cars. Since that time, the wide-door car shortage has continued and, in addition, we have had shortages of common boxcars, flatcars, chip cars, and large capacity cars. The shortage has not only continued but has grown worse and seems constant.

As you well know, the trend of the total freight car fleet level continues down. For example, between January 1, 1950, and January 1, 1965, the fleet declined by a quarter million cars. Another 4,000 have been lost this year as of August 15.

Some carriers have been maintaining their fleets while others have not. Among those that have are the railroads serving Oregon. Nonetheless, Oregon suffers severe shortages and when inquiry into the reason is made, the response is that the cars are off line and not returning home promptly enough. As long as it is more profitable to rent cars belonging to other roads than it is to acquire ownership the national car fleet will continue to deteriorate.

Complicating the situation of a dwindling car fleet and a growing economy are the frequently forgotten needs of national defense. The impact of a large scale temporary movement such as last year's "Operation Desert Strike" which resulted in a severe shortage of flatcars; or the present long term situation of untold numbers of freight cars under load with military supplies for Vietnam reveals strains inimical to the needs of this Nation. So tenuous is the Nation's car supply that movements such as these, relatively small by major war standards, cannot be accommodated without injury to other shippers.

A remedy must be found and it cannot longer be left to the railroads, they have formed their committees in the past, with their efforts either temporary or non-availing. Nor can the shortage longer be left to the issuance of service orders by the Interstate Commerce Commission. The ICC car order of last week is fine and is appreciated, but such action is at best temporary and only partly effective. Also, as the Senate Committee on Commerce has found, schemes to subsidize the construction of new cars for railroads or to build and lease new cars to railroads should not be considered so long as other methods are available.

An incentive is needed to make car ownership desirable by all railroads. S. 1098 provides the incentive. The Interstate Commerce Commission is presently engaged in a car service investigation, *Ex parte 241*, to discover what additional rules they might prescribe to alleviate the chronic shortages. This type of bill, S. 1098, can provide them with a needed tool, beyond their present ability to do by rule or regulation.

I think it important to note that prior objections to S. 1098 have lost their merit in view of the elaborate safeguards against undue injury to any railroad which are present in section I(14) (a) of the Interstate Commerce Act and in the bill itself. Section 1(14) (a) provides for a hearing and, of course, final Commission action is subject to judicial review. The bill has been amended to allow

The ICC to make incentive elements inapplicable to carriers found to own an adequate fleet, or to predominately terminating carriers, or to types of freight cars in adequate supply and to such other cases as the Commission finds to be in the public interest. There is no reason to fear maladministration by the ICC for they daily handle matters of complexity.

The brunt of car shortages has often fallen on Oregon. We are an originating State, loading three to four times as many cars as we terminate. We are located at the end of the car supply "pipeline" and all too often those cars arrive in insufficient volume to meet our needs.

Effects of shortage on a lumber or plywood shipper are often drastic, the sequence of events and impacts usually follows this course. Products that cannot be shipped go into storage and the added handling increases costs. Storage capacity nears the point of exhaustion and production is curtailed, again adding to the unit cost of production. Storage space is filled and the mill shuts down with employees forced out of work while customers look to substitute building materials.

The problem is severe and very very real to the men at the mills. Let me quote from communications I received in the last week. R. J. Hogue of the Medford Corp. says:

"Seems like this is an annual situation with decreasing numbers of boxcars on the railroad system generally. There aren't enough cars to go around, consequently we producers who need railroad cars to ship our products to market don't have cars to provide that service. We lose customers to some of our competitors in other areas who are closer to customers and are able to truck to market, where in most cases we are not. We either shut down our operation and put people out of work or build inventories, if we have space. This year is the worst we have seen. This week we have received approximately 50 percent of the cars we need to ship our products. Today (September 30) we need eight cars to maintain plywood production and have received two, which is only 25 percent. This month we have lost a total of 5 working days, which is approximately one-fourth of our work month in our lumber shipping department, because cars were not available and in those cases we had to send our production people home so they were out of work.

"This car situation not only affects the company's financial position but also affects the employee by forcing us to temporarily discontinue his employment. We feel that S. 1098 could, if operated properly, help to gradually solve the supply problem. In case of international conflict this Nation would be in sad shape as far as rail transportation is concerned."

The Forest Products Sales Co., has two mills in Corvallis and one in Albany. They called to say:

"The boxcar shortage has hampered our shipments for the past few months and has delayed shipments to the extent that in some cases price adjustment on our product had to be made. To ship our product we have trucked to other rail heads in the area where boxcars were sometimes available. When boxcars are available most of them have 6-foot openings; some of our customers in the East will not accept this type equipment. This also, from time to time, depending on market conditions, warrants a dollar or two decrease in market price to get the customer to take a 6-foot door."

Weyerhaeuser Timber Co., describes the situation at their mills in Springfield, Cottage Grove, and North Bend by saying that they:

"Are experiencing continuing car shortage problems; particularly in double-door cars for plywood loading. These three mills had a total of 61 orders past due for shipment on account of lack of cars for the week of September 25."

Here is another example of forced storage due to lack of cars. This comment concerns three mills of U.S. Plywood Corp., located at Roseburg, Mapleton, and Reedsport.

We "have 10 million feet of plywood backed up in our warehouse as a result of inadequate rail car supply. We are running 5 to 7 days behind in our shipments. Boxcars are not the only type of car that is short either—we are also not getting enough flatcars to handle our lumber shipments. We are running out of warehouse space."

The Roseburg and Reedsport mills are indeed faced with imminent shutdown according to their managers.

The description of shortage impact continues with the following comments from Mr. Wm. Forrest, of Forrest Industries at White City:

"I am addressing this to you in regard to car shortage problems in our plant in southwest Oregon. The week of September 27 at our plant at White City the shortage has been really severe. Our present shipping is on a basis of five cars per day. As of September 27, 28, and 29 we had received 10 cars. On September 30 we had received one car. By telephone, pleading, etc., we received three additional cars. However, we were short the 4 days by six cars. This is a specific example of our daily problems.

"In addition, the cars we received were not of the type we require. We do accept and load single and narrow-door cars when our customers request wide-door cars. Expense to us is approximately \$40 per car in loading, and I am sure equally expensive to our customers. In fact, we have been charged as high as \$125 by our customers on unloading.

Innumerable statements of similar dramatic candor could be entered in the record but I believe those quoted show the reality of the burden resting on shippers and their employees. We ask your aid in permanently relieving that burden, by passing out the only significant legislation to stimulate car construction that can be achieved before recess.

Thank you.

The CHAIRMAN. And your support of S. 1098 will be kept in mind.

Mr. HILL. Either S. 1098 or related bills. We would be happy with a pragmatic solution.

The CHAIRMAN. And you are particularly interested in the wide-door car shortage.

Mr. HILL. And flatcars.

The CHAIRMAN. Flatcars?

Mr. HILL. Yes, sir.

The CHAIRMAN. I observed that in your statement.

And we thank you for your appearance here, and the information you have given us on this subject.

Mr. Watson.

Mr. WATSON. Mr. Chairman, may I make one comment? I am certainly sympathetic with your plight. This is an unusual situation where we have shippers or customers who are looking for somebody to handle freight for them, and they can't get anyone to handle it. Facetiously, if you and I can work out some basis upon which we can set up a neglected shippers' railroad, then perhaps we can solve the situation. Let the others argue back and forth, and you and I will take care of the business. But we are sympathetic.

Mr. HILL. Thank you very much.

The CHAIRMAN. Thank you.

**STATEMENT OF OLIVER LEE STEWART, EXECUTIVE SECRETARY
AND TRAFFIC OFFICER, SOUTHWEST OREGON SHIPPERS' TRAFFIC
ASSOCIATION, INC.**

Mr. STEWART. Mr. Chairman and members of the committee, my name is Oliver Lee Stewart. I am executive secretary and traffic manager of Southwest Oregon Shippers' Traffic Association. I represent 32 members' products, plywood and paperboard mills in 19 countries in southwest Oregon.

I passed out my statement to the clerk. I think you have it in there. I would like it to be entered.

The CHAIRMAN. We have a copy of your statement, sir. And it will be included in the record.

(The statement referred to follows:)

STATEMENT OF OLIVER LEE STEWART, EXECUTIVE SECRETARY AND TRAFFIC MANAGER OF SOUTHWEST OREGON SHIPPERS' TRAFFIC ASSOCIATION, INC.

Mr. Chairman and members of the committee, my name is Oliver Lee Stewart. I am executive secretary and traffic manager of Southwest Oregon Shippers' Traffic Association, Inc., which has its office at 415 Pacific Building, Roseburg, Oreg.

Southwest Oregon Shippers' Traffic Association, Inc., is a nonprofit organization owned and operated by forest products manufacturers located and doing business in six counties of the territory known as southwest Oregon, and served by only one railroad, the Southern Pacific Co. The purpose of our association is to promote the installation, development, and improvement of all transportation facilities which are, or can be located within, or are available to southwest Oregon, and to provide a freight traffic counseling service to its members. We are governed by a board of directors chosen yearly from the membership and meeting monthly. Our income is derived from dues assessed by the board of directors.

My transportation background consists of 16 years in the position of industrial traffic manager, including 6 years in present position.

Approximately 90 percent of my working time is devoted to the matter of car supply and car shortages. Our mills produce all varieties of forest products such as plywood, particle board, wood chips, and lumber of all sizes. Approximately 96 percent of our entire production moves via rail freight cars. In the year 1964, our mills shipped 36,847 rail car loads of freight out of the State of Oregon. And if the car supply is available we will ship many more than this in the year 1965.

Historically, Oregon is noted for its continuous rail car shortages, especially the area served by only one railroad. Many reasons are given for these shortages such as (1) Oregon originates more cars of freight than is terminated; (2) Oregon is located so far from the terminating areas, the intermediate areas get first choice of empty cars heading westward; (3) the eastern railroads will not return cars westward to the owners; (4) too many special cars being built that can only be used by one particular commodity shipper. I am sure everyone on this committee has heard all these reasons and many additional ones. But the simple fact is there just are not enough rail freight cars to adequately serve our present and ever-growing national rail shipping industries. I am certain that all the many statistics will be presented showing decline of the national rail car fleet; therefore I will refrain from including them in my testimony.

The national supply of box and flat cars has been greatly aggravated by the many shipping changes forced upon our industry by our buyers and by our competitors. In past years we would load any type of freight car available, whereas we must now have wide-door boxes, long flats, and large cubic regular boxcars in order to meet our buyers demands.

Our mills order the type of car requested by the buyer, and to fit our orders, but in most instances they are forced to accept substitutions, resulting in a price concession or an unloading charge which is pricing us out of certain markets. We just can't remain in business unless something is done to alleviate this situation.

Many areas throughout the United States experience car shortages only during peak grain-shipping periods and heavier than usual military movements, but we in southwest Oregon experience these shortages each and every day our mills operate. We have many days when it is necessary to send our loading crews home because we have no cars to load; and this, in many instances, forces our mills to cut back on production because if we can't ship, we have no place to store the production that is not shipped for lack of cars, and we must ship in order to obtain operating capital.

When we cut back production, it automatically increases our per-thousand-foot cost accordingly. Our products are not worth anything if we cannot ship them to our buyers. This presents another serious problem in that we are usually booked up on a 3- to 4-week shipping schedule. That is, we take orders today for shipment in 3 or 4 weeks from date order is placed. If we do not have sufficient

cars to ship our orders on schedule, we are forced to stop talking additional orders, and many times the buyers cancel the orders not shipped on schedule. In addition to these problems is the ever-present possibility our market prices will drop during the time the order is placed and when it is shipped. If so, the buyers cancel and replace the orders at the lower prices.

We have tried to take advantage of every solution we felt would improve the car supply in our area. We have worked closely with the AAR and the ICC on car service orders; we load every piece of material possible in the care we do get, and this has greatly increased the railroads revenues and lessened their operating costs. We load on Saturday at time-and-one-half wages when cars are available. We route our freight via the lines we feel are doing the best job in building new cars and upgrading the old ones. This should certainly help them build and upgrade more cars.

We have worked with our Congressmen, the Interstate Commerce Commission, the Association of American Railroads, and anyone we felt could help the situation. Many hearings and investigations have been conducted on this matter of car supply, and it has probably been studied more than any other problem in the United States, all resulting in the agreement that we do have a problem, but very little has been done to solve or alleviate this problem.

We supported Senate bill 1098, and I am here in the behalf of our member mills to support H.R. 7165 and any related bills that are aimed at solving this very serious car-supply problem.

In recent years, the car-building statistics will show that the railroads serving the Pacific Northwest have been foremost in building new equipment and upgrading older equipment. According to statistics our office compiles showing ownership cars spotted for loading at our mills, only 9 railroads—the Southern Pacific, Union Pacific, Great Northern, Northern Pacific, Missouri Pacific, Rock Island, Milwaukee, Burlington, and the Cotton Belt—own 74 percent of all the rail cars we load. These so-called western lines continuously claim they would have no shortages if their own equipment were more quickly returned to them. This brings us to the question of how to get the cars back to the owners.

We feel that increased per diem for use of, and penalty per diem for unnecessary holding of cars would certainly help return these cars and interest more lines in building more cars. Everytime this matter has been brought up in the Congress of the United States, or before one of its subcommittees, a large group of the railroads promise to work it out among themselves. They claim they can solve this problem on their own without regulatory interference. They claim their car service orders will help solve the problem. Gentlemen, this has not occurred, nor is it likely to occur. The railroads cannot reach even a 50-percent agreement among themselves as to per diem rates, as will certainly be proven in this hearing. The last per diem agreement among the AAR actually reduced daily rental charges on 68.4 percent of the cars falling under these charges, while per diem on 23.8 percent of these cars was increased only 70 cents per day. I cannot see why any railroad would willingly rent their cars for such low per diem rates, nor would I build cars if I could rent them for such low fees.

When we complain to the ICC and AAR about car shortages on the Southern Pacific, we are invariably informed that the shortage is national and the Southern Pacific has a higher percentage of their company-owned equipment on line than any other western railroad. This doesn't mean a thing to our mills that have no cars in which to ship our orders. Also, it is not a very accurate yardstick, inasmuch as it includes the cars that are waiting to be bridged to other lines, and the loaded cars en route to destination, and those awaiting unload. We still have the shortage.

We sincerely feel that, unless something is done immediately to solve this car supply problem, many of our mills will not be able to operate in their competitive field against those mills that enjoy much better car supply than we in southwest Oregon. We must have help. We need more freight cars.

We realize you gentlemen are interested in actualities and facts, but car shortages are very hard to prove and substantiate by using the present methods available to the regulatory bodies such as the AAR and ICC investigators. Our mills order a certain number of freight cars per day for loading on a future date; as these orders are filled, the car number is supposedly filled in on the order accordingly. If an order is not filled it becomes a back order. When our mills

pile up a certain number of back orders, they simply stop ordering cars, or they eventually cancel those back orders as being unfilled. This makes the car-supply picture look more favorable than it really is. We contend we would ship many more cars of freight if all our orders were filled on time as ordered.

For the past 6 years, our mills have furnished our office with a weekly report showing cars ordered and cars supplied by number and type. This report shows a continuous box and flat car shortage as shown in exhibit A, but does not tell the real story as explained above; so we are now using a different method.

Since our forest products mills now operate on a steady daily basis, we are able to determine the daily car requirements according to past performance. For instance, if a mill is loading 10 cars per day, 5 days a week, he should have ordered and been supplied 50 cars per week. This method is far more accurate and indicates a greater shortage than the older method, as indicated in exhibit B, attached to my statement. I show records from only 10 mills because they were the first to furnish this information which was readily available.

We sincerely feel that H.R. 7165, and related bills offer the fastest and best available solution to better utilization of present rail car fleet, and encourage all railroads to build more freight cars.

In closing, I wish to express our sincere appreciation to the members of this committee for having given us the opportunity to be heard and for your interest in our problems relating to rail car supply.

SOUTHWEST OREGON SHIPPERS' TRAFFIC ASSOCIATION, INC., ROSEBURG, OREG.

MEMBERSHIP

1. Burrill Lumber Co., Post Office Box 227, Medford, Oreg.
2. Caveman Lumber Co., Post Office Box 1049, Grants Pass, Oreg.
3. Cone Lumber Co., Goshen, Oreg.
4. Double Dee Lumber Co., Post Office Box 517, Central Point, Oreg.
5. Douglas Fir Plywood, Post Office Box 415, Coquille, Oreg.
6. Drain Plywood, Post Office Box 98, Drain, Oreg.
7. Evans Products, Post Office Box 1069, Winchester, Oreg.
8. Forrest Industries, Inc., Post Office Box 78, Dillard, Oreg.
9. Forrest Industries, Inc., White City, Oreg.
10. Fir Plywood, Inc., Post Office Box 2398, White City, Oreg.
11. Green Valley Lumber Co., Post Office Box 267, Myrtle Creek, Oreg.
12. Keller Lumber Co., 4418 NE. Keller Road, Roseburg, Oreg.
13. K. & S. Cut Stock Co., Dillard, Oreg.
14. L. & H. Lumber Co., Post Office Box 505, Sutherlin, Oreg.
15. Martin Bros. Container & Timber Products, Oakland, Oreg.
16. Menasha Plywood, Post Office Box 349, North Bend, Oreg.
17. Mt. Baldy Lumber Co., Post Office Box 398, Yoncalla, Oreg.
18. Murphy Creek Lumber Co., 6890 Williams Highway, Grants Pass, Oreg.
19. National Plywood, Inc., Post Office Box 1225, Roseburg, Oreg.
20. Nordic Plywood, Post Office Box 746, Sutherlin, Oreg.
21. Oregon Veneer, Inc., Post Office Box 2398, White City, Oreg.
22. Paul B. Hult Lumber Co., Post Office Box 246, Dillard, Oreg.
23. Roseburg Lumber Co., Post Office Box 1088, Roseburg, Oreg.
24. Round Prairie Lumber Co., Post Office Box 195, Dillard, Oreg.
25. S. H. & W. Lumber Co., Post Office Box 310, Grants Pass, Oreg.
26. Smith River Lumber Co., Post Office Box 42, Drain, Oreg.
27. Spalding & Son, Inc., Post Office Box 438, Grants Pass, Oreg.
28. Sun Studs, Inc., Post Office 789, Roseburg, Oreg.
29. Table Rock Lumber Co., Post Office Box 517, Central Point, Oreg.
30. Vancouver Plywood Corp., Post Office Box 931, Grants Pass, Oreg.
31. White City Plywood, Inc., Post Office Box 2399, White City, Oreg.
32. Winema Lumber Co., Post Office Box 88, Chemult, Oreg.

EXHIBIT A

The following statistics are compiled from reports submitted by the same 17 mills during period 1962-65. These reports are submitted weekly by each mill. They are recorded and compiled weekly, monthly, and yearly:

NATIONAL FREIGHT CAR SHORTAGE

	Boxcars						Flatcars				Totals		
	40 foot SD	50 foot SD	DD	DF	Totals	40 foot	50 foot to 60 foot	Any size	Totals				
1962:													
Ordered.....	3,430	1,862	7,692	None	12,884	638	1,445	380	2,463				
Supplied.....	5,605	2,212	4,553	None	12,370	1,053	1,160	(¹)	2,213				
Plus or minus.....	+2,175	+350	-8,039		-514	+415	-285		-250				
Percent supplied.....	163	118	59		96	165	80		89				
1963:													
Ordered.....	2,189	1,675	7,819	None	11,683	652	1,384	580	2,616				
Supplied.....	3,762	2,366	4,953	None	11,163	1,343	1,151	(¹)	2,494				
Plus or minus.....	+1,573	+691	-2,866		-530	+691	-233		-122				
Percent supplied.....	171	141	63		95	205	83		95				
1964:													
Ordered.....	1,859	1,391	8,843	127	12,083	453	1,746	925	3,124				
Supplied.....	3,645	2,136	5,579	110	11,470	1,299	1,588	(¹)	2,857				
Plus or minus.....	+1,786	+745	-3,264	-17	-623	+846	-188		-267				
Percent supplied.....	196	153	63	86	94	286	89		91				
1965 (January through August—8 months):													
Ordered.....	1,210	1,085	8,869	332	11,496	467	1,598	885	2,950				
Supplied.....	3,361	1,363	4,877	226	9,857	1,238	1,370	(¹)	2,608				
Plus or minus.....	+2,151	+308	-3,992	-106	-1,639	+771	-238		-342				
Percent supplied.....	277	128	54	68	85	265	85		88				

NOTE.—More single-door boxcars are supplied than ordered because the mills are forced to accept substitutions of single doors in lieu of DD or white doors ordered because of railroad's inability to supply.

¹ Some mills order any size flat (40 foot or 50 foot) and accept any size carrier furnishes. Size furnished shows under proper heading.

EXHIBIT B

ACTUAL BOXCAR SHORTAGES AT 10 SOSTA MILLS, WEEK OF SEPTEMBER 7-10, 1965

This was a 4-day week because of Labor Day, and the car supply should have been better than usual because the Southern Pacific had an extra day in which to build up and supply empties.

Name and location of mill	Boxcars ordered and needed	Cars received and shipped	Short
Roseburg Lumber Co., Dillard	120	69	51
Forrest Industries, Inc., Dillard	35	19	16
Forrest Industries, Inc., White City	28	15	13
Menasha Plywood Co., North Bend (This mill shipped via truck and water in lieu of boxcars at an increased freight and sales cost)	20	10	10
Oregon Veneer, Inc., White City	25	13	12
White City Plywood, White city	16	8	8
Burrill Lumber Co., White City	16	9	7
Martin Bros., Oakland, (This mill had 39 back orders)	40	25	15
Nordic Plywood Co., Sutherlin	20	15	5
Vancouver Plywood, Grants Pass	50	27	23
Total	370	210	160
Percentage supplied against needed	56		

¹ Loaded Saturday.

NOTE.—All these mills had greater than usual order files and back orders for boxcars due to the severe car shortage in August. However, these figures are based on the regular loading ability providing cars had been furnished as ordered.

Mr. STEWART. And regardless of what Mr. Perlman or anyone else says about this grain, and so forth, I want you to know that my exhibits show that we do have a shortage out in Oregon. And if Mr. Perlman has 10,000 or 8,000 boxcars that he wants to get rid of, then it appears that somebody is not doing their job, because we need those cars.

The CHAIRMAN. Thank you, Mr. Stewart.

Mr. Younger.

Mr. YOUNGER. May I ask one question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. YOUNGER. Is it true that some shipments are routed to the market, and then you sell it in transit?

Mr. STEWART. I would say that there are some cases. But none of my mills are what you call transit shippers. We sell our product first because we like to know what we are going to get for it. I think if you will check with the ICC it will show that our transit shipping in lumber and plywood is practically nil any more, it is going out more and more every year. There are some instances where a mill has no order when it will ship a few cars hoping that they will be sold en route.

But this goes back many years. What brought this on was the inability of the railroads to supply cars. Because we might have something in June, and we didn't think we would have any cars in July, so we would ship it in June.

Mr. YOUNGER. But that is history?

Mr. STEWART. That is history.

The CHAIRMAN. Thank you very much.

Mr. STEWART. Thank you.

The CHAIRMAN. We have, I think, three other presentations and the hour is getting late. I think under the circumstances the appropriate thing to do would be to come back tomorrow afternoon at 2 o'clock.

(Whereupon, at 4:35 p.m. the committee adjourned, to reconvene at 2 p.m. Thursday, October 7, 1965.)

NATIONAL FREIGHT CAR SHORTAGE

THURSDAY, OCTOBER 7, 1965

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

The committee met at 2 p.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. Oren Harris (chairman) presiding.

The CHAIRMAN. We are going to proceed.

The first witnesses—I suppose you are appearing together—Mr. Lamprecht and Mr. Waterman. I understand they are not here at the present time. Is Mr. Burks here? Mr. Burks is president of the American Short Line Railroad Association.

Glad to see you again. Welcome back to the committee.

STATEMENT OF CARROLL P. BURKS, PRESIDENT, THE AMERICAN SHORT LINE RAILROAD ASSOCIATION

Mr. BURKS. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Carroll P. Burks. I am president of the American Short Line Railroad Association and have been engaged in the railroad transportation industry for 35 years. In a majority of these years, I have been occupied in operating-supervisory positions, or in management of both class I and class II railroads.

The American Short Line Railroad is a voluntary, nonprofit organization comprised of 248 member lines located throughout the United States and consists of class I and class II railroads in both road haul and switching categories.

At our last annual meeting held in Milwaukee, Wis., the membership voted unanimously on September 29, 1965, to oppose any legislation giving the Interstate Commerce Commission power to prescribe penalty per diem rates for use of freight cars. Today I am, therefore, representing our membership in opposition to H.R. 7165 and related bills, and to S. 1098.

Much testimony was given in hearings conducted by the Senate Commerce Committee earlier this year, and before other Congresses in previous years on this legislation. A number of western railroads, along with the grain industry and the plywood industry have supported the bill, while a number of eastern railroads and the short line railroads have opposed it. On the opposition's side, we have endeavored to prove that increased car rental rates will not serve as an incentive to build more cars; that 85 percent of our Nation's class I carriers merely exchange per diem dollars on an approximate even

basis, and that a majority of those roads benefiting by per diem rate increases would be essentially coal and ore hauling railroads. This, of course, does not enhance the boxcar supply wherein the majority of shortages exist.

While we in opposition to this legislation certainly recognize that car shortages do exist, we certainly disagree that low car rental rates are responsible. The decline in car ownership began with the end of World War II when railroad profits were reduced in proportion with the decline in intercity freight traffic transported by rail.

Fortunately, however, during the past 3 years, rail intercity freight traffic has increased and the railroads have placed orders for 60,000 to 70,000 new freight cars in each of these 3 years. These new cars are of much larger capacity, and, coupled with the railroads' "stretch-out" program of rebuilding 40-foot box, hopper, and gondola cars into 50-footers, we are transporting more and more tonnage in fewer cars. Cognizant of the car shortages and resultant losses of profit, the railroads have not yet caught up with the demand, but we are making great strides in that direction.

If I may depart from my written statement for just a moment, what I am saying is that I disagree that the railroads are not doing all that they can do to alleviate the car shortage situation. We have only one thing to sell, and that is transportation service. Unfortunately we went through a period of declining profits and hardship. Along with our depletion of rolling stock we necessarily suffered by deferring maintenance of track and roadways and buildings, in an effort to keep income above expense, and thus survive. So I think that we are doing something about the car shortages.

I think the railroads are working together to alleviate the car shortage. The only disagreement we seem to have is as to whether per diem increases or car rental rates will alleviate the car shortage situation, and I for one and many like me do not believe that it will, and this is our disagreement. We are working together. We have sponsored many technological advances, and these have played a major role in returning freight traffic to the rails; other incentives of overall profit increases have contributed to our expansive car-building program. Benefits derived from the 7-percent tax credit; application of liberalized depreciation allowances; continued freight rate modification and utilization of higher capacity equipment have largely been responsible for improvement in railroad earnings and thusly have contributed to our car-building program. On the other hand, increased per diem rates established on a multilevel basis by the Association of American Railroads beginning January 1, 1965, have increased the costs to many of our short lines and have already placed the very existence of many of them in jeopardy.

Contrary to the statement of Mr. Eldon Martin yesterday wherein I understood him to say that per diem costs were frequently less under the multilevel system, it has been the experience of the short lines that our per diem costs have risen or increased from 200 to 300 percent since the introduction of the multilevel rates.

Our short line railroads quite often represent the only rail service to a town or to a community. Many of them came into existence through the purchase of branch lines about to be abandoned by the

trunkline railroads. While our collective membership owns approximately 80,000 interchangeable freight cars, many depend wholly on their trunkline connections for car supply. The vast majority of trunkline railroads have long accepted the responsibility of supplying these feeder lines with the necessary freight equipment just as they supply cars to the individual industries located on their lines, and I believe Mr. Martin in his statement yesterday also admitted that they had a responsibility to furnish equipment to their short line connections. Such an arrangement was naturally recognized in the establishment of through rate divisions for the short line carrier.

Now we are faced with the possibility of increased car rental charges when in some instances per diem charges already exceed revenues for handling a particular shipment over a short line carrier. This is a matter of increasing alarm to our membership. Of course, there are procedures for reviewing and changing established divisions of rates, but such procedures are lengthy and require expensive legal talent which the short lines quite often cannot afford. Also, any per diem relief offered through procedures before the Interstate Commerce Commission would quite often be too expensive to be advantageous to the short line carriers.

The basic purpose of these bills is to effect from a rail carrier in possession of other rail carriers' cars something over and above adequate compensation and to cause these moneys to be paid to the car owners. People more competent to do so than I call attention to the fact that such bills may be unconstitutional in that they do not establish any standards for application of such penalties, and penalties constitute payment from one citizen to another rather than to the Treasury of the United States.

We feel that the sole interest of this committee and the Congress in consideration of these bills is to assure an adequate car supply. Because, in the opinion of a majority of members of this association, these bills would not tend to increase the Nation's car supply, but rather could have a serious impact upon the very existence of the short-line railroad industry, it is the hope of our member lines that these bills will not be favorably considered. We would, at the very least hope for an amendment that would mandatorily exempt our class II carriers from the provisions of the bills. We cannot emphasize too strongly that our existence as a feeder to our major rail transportation system, and as the backbone of many small towns and communities, is in jeopardy.

Mr. Chairman and members of the committee, I thank you for the opportunity of voicing the short-line railroads' views in opposition to these bills.

That completes my statement, Mr. Chairman.

The CHAIRMAN. Mr. Burks, thank you very much for your statement on behalf of your very fine organization.

Mr. ROGERS, any questions?

Mr. ROGERS of Texas. Mr. Burks, what do you have to be to be a short-line railroad, to qualify for your association?

Mr. BURKS. Mr. Rogers, there is no qualification as far as our association is concerned, other than being a common carrier by rail, and there is no exact definition of a short-line carrier. For the most

part—and the majority of our membership are class II railroads as classified by the Interstate Commerce Commission. In other words, those railroads grossing \$5 million or less per year.

Mr. ROGERS of Texas. What percentage of the freight cars that you require do your members actually own?

Mr. BURKS. Our total membership of 248 members owns 85,000 cars. Now, a goodly portion of our members own no cars whatsoever, but depend strictly upon their trunkline connections for car supply. As I pointed out in my statement, this was done through agreement with the trunkline carriers, and this was taken into consideration in establishing the division of the through-freight rate that the short line would receive for their participation in the carriage.

Mr. ROGERS of Texas. And it is your argument that you provide a service that the trunklines do not want to provide and would not provide under any circumstances.

Mr. BURKS. We quite often provide a service over lines which the trunklines at one time applied for abandonment.

Mr. ROGERS of Texas. I see.

Mr. BURKS. This is not true in all cases of course. But we are more or less an extension of the trunkline service to the small communities and towns which they cannot economically serve.

Mr. ROGERS of Texas. Do you keep any of these cars and shift them around among your own members?

Mr. BURKS. Oh, no. We abide by the Association of American Railroads interchange rules and the car service rules the same as any trunkline railroad does.

Mr. ROGERS of Texas. Thank you, Mr. Chairman.

Mr. BURKS. Yes, sir.

The CHAIRMAN. Mr. Younger.

Mr. YOUNGER. Thank you, Mr. Chairman.

As I understand it, the short-line railroads are comparable to the feeder lines in the air transportation.

Mr. BURKS. That contrast could be made; yes.

Mr. YOUNGER. And of course, in the case of feeder lines, the Government recognizes the necessity for those and gives a subsidy but they do not give a subsidy for the trunklines.

Mr. BURKS. True.

Mr. YOUNGER. In case your lines are entitled to a subsidy of some kind, I am wondering this. As you know, Mr. Perlman advocated this yesterday. He said if every road had enough cars to handle the business originating on its line, then there would be no shortage.

Mr. BURKS. I would agree with that.

Mr. YOUNGER. In case your lines are entitled to a subsidy of some cars to take care of the freight originating on their own lines?

Mr. BURKS. How many trunklines do own enough cars?

Mr. YOUNGER. Yes.

Mr. BURKS. I could not answer that, Mr. Congressman. It is apparent that some trunklines do not own enough or else we would not have the car shortages that we are suffering. I do feel that all of the railroads collectively are cognizant of this fact. We are all in the business of selling transportation service, and for every car that we do not furnish to a shipper when he wants to ship something, this is

dollars lost in our pockets. And for this reason alone, if for no other, we are vitally interested in eventually reaching a status of adequate car supply. I do not think there is any doubt in the world that the railroads are cooperating, through technological advances and through building cars, to alleviate this situation.

Unfortunately, as I pointed out in my statement, we had so many years of suffering, and no profits at all or very little profit, following World War II up to a very few years ago, that we simply did not have the money to put into our fleet. Then with a few incentives like the 7-percent tax credit and more liberalized depreciation allowances, we began to accumulate a bit of money, and we began to invest not only in our rights-of-way and in centralized train controls that enable us to handle the traffic more quickly, but in equipment.

In the last 3 years—in every one of the last 3 years we have had orders for 60,000 to 70,000 cars, and I think this is going to improve.

Mr. YOUNGER. Do you think that the short lines contribute more to the car shortage than do the class I roads?

Mr. BURKS. I quite frankly do not think we contribute to the car shortage in this sense, Mr. Congressman. The short lines—as I pointed out, quite a few of them came into existence by purchasing lines about to be abandoned by the trunklines—we made agreements with those lines, and in setting the divisions of the through-rate freight rate we took a lesser division through the fact that we made an agreement with the trunkline connection that they would furnish us with the necessary equipment. I feel that the trunklines accepted this responsibility, and several of them have said in this hearing and in the Senate hearings that they do accept responsibility of protecting the loadings of their short-line carriers.

I do not feel, with the very small revenues realized by the short-line railroads, that we have an obligation, that is as a whole, to the car supply.

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

Mr. BURKS. Yes.

The CHAIRMAN. Mr. Burks, how could there be established a rate for the use of a car by one railroad and charge a different rate for another railroad for the same car, the same haul?

Mr. BURKS. Well, under our existing practice this is done in some instances through reciprocal switching as far as a terminal carrier is concerned, or through agreement between some of our short-line carriers who have only one connecting railroad.

The only thing that I am saying, Mr. Chairman, is that to increase per diem cost to the short-line carrier can well put the short-line carrier out of business. I would be the first to agree that there are means for us to offset these costs by applying for greater divisions of the rates or applying to the Interstate Commerce Commission for per diem relief as far as that is concerned under this legislation. But unfortunately our small railroads have such a small margin of profit, if any profit at all, that they cannot even afford the legal talent and the time to participate in such proceedings.

I fear that to increase our car rental—

The CHAIRMAN. I have heard this poverty claim in the railroad industry for years and years, and I am just not particularly impressed

by this idea that we cannot do this and we cannot do that because we are not making the money to do it. Now, the railroad industry is a great industry in this country. Yours is too. And I would like to see a different mental attitude. It seems that whenever there is some problem and a recognized problem develops and we try to do something about it, why we are faced with this idea that you are going to be put out of business. Now in my judgment nobody can be put out of business. As I said to Mr. Perlman yesterday, you recognize there is a problem. You say there is a shortage. He says there is a shortage. But you come back and say, "We are trying to do a job; we are doing the best we can; we are doing everything that can be done," but at the same time the shortage is continuing to grow.

Now, 5 years ago or 4 years ago we went into this and we had the same song. We did not do anything about it because we wanted the railroad industry to do it. Now we have arrived at a point where there are great demands that are coming in here outside of the eastern area itself, stating: "We cannot get cars."

I think the time has come to change this attitude and say let us go at it and see if we cannot provide the service, because that is what you are supposed to do.

I do not know what the answer to it is. I wish I did. This attitude of an industry that is so important to the Nation—and we have undertaken to do so much for it, some of us, or what little we could, not only for protection purposes but for opportunities, and it seems that every time we try to do something and we have a chance to do this, we are still faced with this thing, "We cannot make it."

No one has been stronger for the railroad industry as such and under our system than I have. But something is going to have to be done in this field, and we have seen ways how to do it. All we get out of those who are opposed is: "We are doing the best job we can. Do not do this to us. There is a problem. It will go away maybe sometime."

I am getting pretty much to the point after all these years that somebody maybe should have the authority to go into it, after the kind of a hearing they ought to have, developing all the facts, and then having some kind of authority that they can deal with it. I would like very much to hear somebody discuss that kind of a program.

It seems to me we might think about giving authority to the established regulatory agency maybe some date down the line, on the basis of giving the industry additional time to do something about it.

Mr. BURKS. Mr. Harris, I have no argument whatsoever with your comment. Actually our only argument as far as this particular means of solving the car inadequacies situation is that increasing car rental costs, wherein 85 percent of the industry merely trade dollars, provides no incentive or no money for building new cars.

The CHAIRMAN. Of course that is questionable, and you get into the middle of this argument between you. Mr. Perlman agreed yesterday that Mr. Martin was right, that less than 25 percent of the class I roads owned over 40 percent of the total. Now, if that is the case, then what you say just cannot be the fact. You do not have that balance there.

Mr. BURKS. Well, I think that Mr. Newton, who will follow me, has the figures to substantiate that argument.

The CHAIRMAN. We have a lot of figures. We got another big set of figures from the Association of American Railroads today, in view

of what we had yesterday. The ICC gave us a lot of figures, and everybody who has come along gave us a lot of figures. But there are two things about it: No. 1, there is a shortage in this area. You said so, Mr. Perlman said so, and the others said so.

No. 2, nobody seems to be doing anything about it, though you say, "We are doing all we can."

Mr. BURKS. Well, this is where I would disagree, Mr. Chairman. I think that we are doing something about it.

The CHAIRMAN. Well the shortage is getting greater, is it not?

Mr. BURKS. I would not say that. If you compare boxcars available today with boxcars available a few years ago, yes; we have less. But I think our carrying capacity—

The CHAIRMAN. Should there not be some way to get more boxcars?

Mr. BURKS. I think our carrying capacity is increasing. I think we are technically building cars that will handle the shippers' requirements in a better way than the old plain boxcar. I think that the figures that have been given in boxcar shortages do not reflect the number of boxcars that have been released for other loading through Flexi-Vans, as Mr. Perlman mentioned yesterday, and the other truck-trailer vans that are in existence today or the covered hoppers in which we are loading grain, or the Big-John cars.

I do not think anybody has explored how many boxcars have been released through this new type of equipment. All they are comparing is boxcar to boxcar. I think we are making progress. I think that every railroad man in this country is opposed to a car shortage because it is taking dollars out of his pocket, and I think the industry is doing something about it, and that they will do more.

The CHAIRMAN. You said that 4 years ago, but we have got a greater shortage now than we had 4 years ago. Now, you cannot argue anything else, Mr. Burks, except that that is a fact, and you ought to recognize it and get working on something and come up here and tell us there is some way to do something about it.

Mr. BURKS. Well, I agree with that, but at the same time I feel that we are making advancement and we are making progress toward alleviating these car shortages and that in the end that these car loading shortages, except during rare reasonable occasions, will not exist.

The CHAIRMAN. Well, they have been existing for 20 years on down the line. It is gradually getting worse.

Mr. BURKS. But it has been existing, Mr. Chairman, through a declining railroad business. But this has been reversed, thanks to your Transportation Act of 1958 and thanks to the tax credit and depreciation.

The CHAIRMAN. Yes, and the railroads are getting to the point that they believe they can compete again and are willing to go out and do it.

Mr. BURKS. Well, this is partially the answer, but we are beginning to have the money to do something with again, which is a situation that did not exist for many years following World War II.

The CHAIRMAN. Well, I appreciate your problem, and I appreciate your position. We are always glad to have the position of your organization, which is so important to our national welfare. I just wish that we could instill into the minds and action of those of you who recognize that this problem is continuing, to stimulate some kind of

a program to meet it. Unless somebody comes up with something, as far as I am concerned, I am going to be willing to try to work out something with the ICC or somebody that will help you to make up your minds to do something about it.

Mr. BURKS. We will be quite willing to cooperate, Mr. Chairman. I assure you that the short lines do not have a negative attitude. We, I think, are pretty progressive people and have to be to stay in business.

The CHAIRMAN. Well, I grant you you have a problem, because you are not in the same kind of a situation as the class I's with reference to the origins of traffic and such as they are. But I do not see how we can set up a price difference here legally and say that because somebody is in one category that they are going to pay a different rate, and we are going to require somebody in another category to pay for the same service and the same haul. There would be all kinds of problems in connection with that. That is what worries me about the present Senate amendment. I do not see how it can work, very frankly.

Thank you very much. These frank comments of mine are merely for the purpose of trying to see if we cannot arrive at some approach to these problems and have a mental approach to it that would be on the plus side instead of the negative side. That is what I am trying to get at. We will have to do something about it, because I know right now there are people that are pleading for cars, which makes it necessary to do something about it, to move products.

Mr. BURKS. We appreciate your approach, Mr. Chairman, and we certainly are willing to cooperate in any way that we can.

The CHAIRMAN. Thank you very much.

Mr. BURKS. Thank you.

The CHAIRMAN. The next witnesses scheduled are Mr. Orner, vice president of the New York, New Haven & Hartford Railroad Co.; Mr. Carl E. Newton, special counsel, Boston & Maine Corp., and Mr. A. J. Connell, director of systems and research, Boston & Maine. We will be glad to hear from you gentlemen.

STATEMENT OF CARL E. NEWTON, SPECIAL COUNSEL, BOSTON & MAINE CORP., AND THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD

Mr. NEWTON. Mr. Orner was unable to stay over. I represent both the New Haven and the Boston & Maine.

Mr. Orner has requested that his statement be filed and included in the record.

Would that be accepted?

The CHAIRMAN. Yes, indeed. Mr. Orner may have his statement included in the record with our thanks, and we regret that we did not get to hear him present it yesterday.

(The prepared statement of Frederick J. Orner follows:)

STATEMENT OF FREDERICK J. ORNER, VICE PRESIDENT, EXECUTIVE ASSISTANT TO TRUSTEES, OF THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD

I am vice president, executive assistant to trustees, of the New York, New Haven & Hartford Railroad, having been employed by that railroad since 1935, and in my present position since August 1, 1965.

I understand that House Resolution 425 is the same as Senate bill 1098, and that House Resolution 2230 is the same as Senate bill 179. I appeared before the Freight Car Shortage Subcommittee of the Committee on Commerce of the Senate on April 9, 1965, and submitted a statement in regard to Senate bills 179 and 1098. I desire to submit the same statement (copy of which is attached) with respect to House Resolutions 425 and 2230 and the related bills which are to be considered in the hearings held before the House Interstate and Foreign Commerce Committee on October 5 and 6, 1965.

STATEMENT OF FREDERICK J. ORNER, VICE PRESIDENT, PLANNING AND RESEARCH,
NEW HAVEN RAILROAD

I am vice president of planning and research for the New Haven Railroad, having been employed by the railroad since 1935. In 1941 I entered the operations-transportation department subsequently holding positions of merchandise supervisor, chief of the merchandise bureau, superintendent freight transportation, general superintendent transportation, manager of freight car utilization, assistant to general manager, general manager, assistant vice president. For a 2½-year period in 1951-53 I was on leave of absence with the Defense Transport Administration in Washington, D.C. In June 1959 I transferred to the freight traffic department as general manager of freight services, became vice president (in charge of operations) in January 1960, and was elected to my present position in November 1963.

I appear here in behalf of the trustees of the New Haven Railroad in opposition to Senate bills 179 and 1098. With respect to the hire and use of freight cars, the New Haven Railroad has been a debit line since some time prior to 1920. In 1929 when the New Haven owned over 24,000 freight cars it sustained a debit balance of per diem of \$1.3 million at the then rate of \$1 per car day. In 1936 when the New Haven car ownership was 16,000, it sustained a debit balance of \$1.4 million at the same \$1 rate. During this period various expediciencies were attempted in order to permit the New Haven, a predominantly terminating railroad, to obtain use of its large ownership. None of these was successful, and the New Haven finally acceded to the requests of the other railroads that it sharply reduce its car ownership and make greater use of foreign cars made empty on its lines for handling of interline traffic originating in the New Haven territory.

The reason the New Haven is a debit line on per diem and cannot be otherwise is that it is a so-called terminating railroad, unloading on its lines almost four cars of freight received from its connections for every car which it loads on its lines for delivery to its connections. In this situation the New Haven has no way open to it to escape being a debit line with respect to per diem. Even if the New Haven were to completely disregard car service rule No. 1 by increasing its ownership so that it could return every foreign car empty and put all originating interline traffic in New Haven cars, it would still have a debit balance on per diem. The reason for this is that it would have to pay per diem on three to four cars for every car on which it could collect per diem. Moreover, such action on the part of the New Haven would not only be a complete defiance of car service rule No. 1 but it would also be productive of an extremely wasteful use of cars because foreign cars returning empty would be paralleled by New Haven loaded cars; or in other words, two cars would be used where only one would be required. Such a car practice would do nothing to help the car supply because it would merely be using two cars where only one was necessary, and it would add substantially to the freight train costs of the New Haven, and those of its connections as well.

Although New Haven boxcars are used for a small portion of our off-line boxcar loading, our recent experience has been that in 9 out of 10 cases these cars are returned to the New Haven empty, notwithstanding that they are moving in the direction of the predominant flow of traffic. Thus, as previously stated, any attempt by the New Haven to alleviate the per diem balance by increased use of its own cars would not accomplish the desired purpose but would merely result in two cars being used where only one is necessary on more and more outbound traffic and on a major portion of inbound traffic as well.

The level of car ownership is determined by traffic requirements, taking into consideration the various types of equipment needed and also the type and flow of a particular railroad's traffic, i.e., whether it is predominantly an origi-

nating, terminating, or bridge line. From time to time in the past the Association of American Railroads has established quotas for car ownership of individual class I railroads. In general the New Haven has met these quotas both as to numbers and types of cars, and continues to follow that policy despite our serious financial situation with which your committee is familiar.

In June of 1962 when the New Haven's ownership was 7,458 cars, the professional survey group of western railroad officials (headed by President F. B. Whitman of the Western Pacific Railroad Co., and generally referred to as the Whitman committee), assigned by the Secretary of Commerce to investigate the New Haven's operations, stated in its report that the New Haven had surplus freight car equipment in the amount of 2,100 cars and recommended that the surplus be disposed of through sale or retirement. Since then the New Haven has sold several hundred freight cars to be reconditioned and placed in service on railroads where they could be put to better use.

Statements have been made to this committee during hearings in previous years by the supporters of similar bills that per diem debit railroads can get back as much per diem as they are paying out if they buy additional cars. Unfortunately this is an impossibility, as demonstrated above in the case of the New Haven. The result for the New Haven to buy more cars would merely mean congestion and added empty mileage on its lines, no practical use for them, and little or no additional per diem could be earned from them. As stated, even if the New Haven completely disregarded car service rule No. 1, it could ship off line only one of its cars for every three or four cars received.

The per diem debit balance of the New Haven is a very serious matter. Shown below are the per diem debit balances compared with net railway operating income for the period 1958 to 1964, inclusive.

Year	Per diem debit balance	Net railway operating income ¹
1958	\$4,854,939	(\$3,855,547)
1959	5,371,064	(9,215,288)
1960	6,148,272	(16,625,331)
1961	5,773,290	(19,577,295)
1962	5,013,252	(11,514,438)
1963	6,021,305	(10,090,136)
1964	6,886,445	(17,056,262)

¹ Parentheses indicate deficit.

As previously shown, since the New Haven's traffic flow requires that it remain a debit per diem road, any increase in the per diem rate merely increases the per diem debit balance of the New Haven. For example, a 50-cent-per-day increase would increase the per diem debit of the New Haven in excess of \$1 million per year at present traffic levels and the New Haven could do nothing about it.

Such an increase in the per diem rate, based on experience of the year 1963, would benefit primarily four large coal- and ore-carrying railroads. The total per diem credits in that year were \$98,825,078, of which the Norfolk & Western received \$16,580,777 (16.8 percent) of all the benefit received by all credit roads, Pittsburgh & Lake Erie \$16,517,314 (16.7 percent), Chesapeake & Ohio \$12,934,215 (13.1 percent), and the Louisville & Nashville \$4,051,102 (4.1 percent). In other words, these four roads would have received 50.7 percent of the increased net per diem credit from any increase in the per diem rate although they owned at the end of 1963 only 16 percent of the total freight cars and only 7.8 percent of the total plain boxcars of the country. The merger of the N. & W. with several other roads in October 1964 would alter the N. & W. part of the above percentages, but the merged N. & W. ownership is still primarily open top rather than boxcar equipment.

Much stress has been placed on the shortages in equipment for the past several years, with particular reference to boxcars, and it has been implied that the shortages are practically continuous throughout the year. An analysis of the reports of the Association of American Railroads of surpluses and shortages for the 8-year period (1957 through 1964) indicates that for plain boxcars in the 417 weeks of that 8-year period, there were net shortages in only 76 weeks or approximately 18 percent of the time. In other words, if the car supply had been significantly greater during this period, the added cars or their equivalent would have been idle over 80 percent of the time. The surpluses in plain boxcars ran almost to 50,000 cars in the spring of 1958; although they have not approached

that figure in recent years the reported surplus reached 5,778 in late July 1964 and remained above 4,000 throughout August 1964. With respect to gondola cars, there were occasional shortages during the 8-year period, reaching a maximum of less than 1,200, but surpluses ran as high as 33,000 cars. The same general situation is true with respect to open hopper cars. In only a few weeks in scattered periods were there significant shortages in hopper cars, and during the 8-year period the highest such shortage was less than 4,000. Surpluses, however, ran in excess of 40,000 in individual weeks and for extended periods were in excess of 20,000 during the first 6 years of the period; during the last 2 years surpluses frequently exceeded 3,000 and ran over 10,000 cars on occasion.

Reference has been made to roads with deficit ownership of freight cars and there seems to be an impression that if a road is a per diem debit road it has a deficit ownership, whereas if it is a per diem credit road it has a surplus ownership. It appears far more realistic to recognize that any study of ownership requirements must give consideration to the type of traffic, whether it originated or terminated, and to peak requirements.

The necessity of such an analysis is illustrated by a study of the plain boxcar situation in the western district during the grain-loading season. This peak generally produces the maximum car requirements in the western district and particularly on the grain-handling roads. In the year 1960, although for the year as a whole the average number of plain boxcars on western roads was less than ownership, thus resulting in a per diem credit, the situation during July and August of that year was the reverse. On July 15, when the western railroads owned 304,489 plain boxcars they had on line 308,115 cars of this type. This situation continued through September 1, when the number of plain boxcars on line increased to 313,777 compared with ownership by western lines on that date of 304,023 cars. When the peak loading requirements subsided, the western railroads were able to reduce the number of cars on line below ownership, thus earning net per diem credits when their car requirements were reduced. The same situation existed in 1961, when the number of plain boxcars on western lines exceeded ownership during the months of July and August. In 1962, because of the comparatively poor grain season, the western roads did not require as many plain boxcars as in prior years and the maximum number of cars on line did not exceed 99 percent of ownership. In 1963, a pattern similar to that of previous years prevailed, with plain boxcars on line exceeding ownership on September 1 (280,161 versus 277,867). In 1964, plain boxcars on western lines exceeded ownership as early as March 15, and again during August and September.

The situation on an individual grain handling road is illustrated by that of the Santa Fe railroad. In 1960, the Santa Fe had more plain boxcars on its line during June and July than it owned. The maximum occurred on July 15 when there were 42,705 plain boxcars on line compared with ownership of 34,686 cars. In 1961, there was a substantial excess of plain boxcars on line over ownership during June and July, the maximum occurring on June 15 when there were 42,382 plain boxcars on line as compared with an ownership of 34,894. The situation in 1962 was somewhat different. The excess of cars on line over ownership was of relatively short duration because of poorer grain loading and on June 15 the maximum plain boxcars on line occurred, there being 38,596 cars on line compared with ownership of 34,193 cars. During the 1963 grain season cars on line approached but did not exceed ownership, but in 1964 Atchison, Topeka & Santa Fe plain boxcars on line exceeded ownership as early as June 15, and continued through part of July. The bulk of grain loading on the Santa Fe both originates and terminates on its lines.

From the above it will be seen that a mere record of the per diem debits or credits per year does not give an indication of excess or deficiency in ownership.

From time to time it has been implied that the substantial decline in the number of freight cars in service of the railroads of the country in recent years had impaired the ability of the railroads to handle the business offered.

The adequacy of freight car ownership in one period compared with another can only be tested by the relationship between the cars available and the business offered. In 1945, for example, the number of freight cars owned by the class I railroads totaled 1,760,000. It is true that this had decreased by 1964 to 1,495,000, a decline of 15 percent. However, in 1945 the railroads originated 41,918,000 cars of revenue freight compared with only 29,438,000 in 1964, a decrease of 29.8 percent so that in 1964, in relation to the volume of business handled, there were relatively more cars available than in 1945. This situation is more accurately illustrated if the capacity of the freight cars in tons is compared with the ton-miles handled. In 1945 freight cars had an aggregate ca-

capacity of 89,872,000 tons. In 1964, because of an increase of approximately 14 percent in the average capacity of the freight cars in service, this total aggregate capacity had decreased only 2,914,000 tons or 3.2 percent, to 86,958,000 tons. The amount of business handled, however, decreased from 726 billion net ton-miles in 1945 to only 665 billion in 1964, a decrease of 61 billion ton-miles or 8.4 percent. In other words, with a decrease of 8.4 per cent in the volume of business handled, the capacity of the freight car fleet decreased only 3.2 percent.

In summary, the New Haven is a per diem debit line because it is a so-called terminating line and there is nothing it can do to escape from that position. The purchase of additional cars by the New Haven would not help because it would not be able to use them. Under these circumstances if the per diem rate were to be increased under Senate bills 179 and 1098 for the illusory purpose of increasing the car supply, the aim of the bill would not be attained, and the New Haven's already critical problems would be uselessly magnified.

Mr. NEWTON. May I proceed, Mr. Chairman?

The CHAIRMAN. Yes; you may proceed, Mr. Newton.

Mr. NEWTON. Mr. Chairman, I have a statement that I prepared with great care. It is statistical and it is factual. I do not propose to—

Mr. YOUNGER. Mr. Chairman, may I interrupt?

We can hardly hear you. It would be much better if you would sit down in front of the microphone, so we can hear you.

Mr. NEWTON. Thank you, sir.

Mr. Chairman, I appreciate the courtesy of you gentlemen in hearing us today, I know under much pressure. I would request, if I may, that my statement, which I have prepared, with two chart exhibits, be incorporated in the record as if read, and I would like to make some further comment that I think will clear up some questions and try to be helpful in the search that you gentlemen are so conscientiously striving to attain. If I may do that, I will not have to read my statement, if it will be so incorporated in the record, sir, and it will save time.

The CHAIRMAN. Mr. Newton, your statement together with the charts referred to may be included in the record, and you may proceed as you desire.

Mr. NEWTON. Thank you, sir.

(Statement referred to follows:)

STATEMENT OF CARL E. NEWTON, MEMBER OF THE FIRM OF DONOVAN, LEISURE,
NEWTON & IRVINE

My name is Carl E. Newton. I am a lawyer, a member of the firm of Donovan, Leisure, Newton & Irvine, New York and Washington. I have had a broad and active experience in the field of rail transportation for the past 27 years. During World War II, I was Secretary Ickes' Deputy Coal Mines Administrator for the Government; and was also a transportation consultant to the Office of Strategic Services throughout the war, and worked in close cooperation with the Office of Defense Transportation.

I have carefully studied the facts underlying the per diem problem since 1951 when I was retained by the court-appointed trustee of the New York, Susquehanna & Western Railroad in connection with its per diem problems, and for the past 12 years I have served as special counsel in per diem matters to the Boston & Maine and New Haven Railroads. I have been requested by the Boston & Maine and the trustees of the New Haven to appear here.

My opposition to the enactment of H.R. 425, 7165, 2230, and similar bills is based on the fact that in application these bills, at least if not amended (as I shall later suggest) will work to defeat the very objective which it is their purpose to accomplish. They will not solve the problem of increasing the boxcar supply available for the handling of wheat in harvest season; but on the contrary, these bills will actually diminish the country's supply of boxcars. I shall demonstrate this with authoritative facts and figures—not theories.

But first I wish to point out to you distinguished Congressmen this fact: While it is true that the Boston & Maine and New Haven serve primarily the New England area, they have the characteristic in common with other roads of the East—that is, the Pennsylvania, New York Central, and Erie-Lackawanna—and the Great Lakes area—such as the Milwaukee and the Chicago & Northwestern—that they serve dense populations of consumers. These consumers provide the major markets for the agricultural and other bulk products of the West. Because of this fact—the nature of their traffic—these eastern and Great Lakes roads are chronically net per diem debtors. They pay out cash in settlement of their net car rental accounts.

It is the function of the western roads to originate the agricultural and other bulk products of the great West, and it is the function of the eastern and Great Lakes roads to terminate those products at their major markets. Thus in terms of national rail transportation, the western roads and the eastern and Great Lakes roads are mutually interdependent; their economic fate is inextricably tied together. To the extent that eastern roads go under, and a heavier per diem burden can tip the balance for a number of them, the western roads will gravely suffer from a reduction in the rail facilities capable of terminating at their major points of marketing and consumption the products which are now originating on the lines of the western roads. This would mean that the farmers and other producers of bulk freight of the West would be confronted with the necessity of shipping their wheat and other bulk products to many eastern and midwest markets all the way by truck, at substantially higher cost than by all-rail transportation for these bulk commodities.

So, I am speaking in the interests of the producers of the Western States quite as much as in the interests of the consumers in the Eastern, Great Lakes, and Southern States, for it is to the mutual interest of both of these populations that they have low-cost bulk transportation, and that means a healthy and truly national system of transportation by rail.

Basic to an understanding of the effect of an increased per diem rate is the fact that only the net per diem balances change hands from one railroad to another. Let me illustrate this: The Norfolk & Western is the largest net per diem creditor road in the country—the major beneficiary of any increase in the per diem rate. In 1961 it billed to other roads \$24,256,365 in rentals for its cars. In turn it was billed \$8,439,380 by other roads for rental of their cars. Its net per diem balance was the difference, a credit of \$15,816,985 in favor of the Norfolk & Western. Conversely, in the same year the Pennsylvania Railroad, one of the largest owners of boxcars in the country, in 1961 billed to other roads \$51,102,673 as rentals for its cars. But because the Pennsylvania terminates more traffic than its originates, the Pennsylvania was billed for \$63,519,513 in car rentals by other roads. So the Pennsylvania had for that year a net per diem debit balance of \$12,416,840.

These net per diem balance figures are the only figures on which the amount of the per diem rate has any effect whatever; the rest is setoffs. Therefore on those railroads whose traffic is balanced, the level of the per diem rate has only a very minimal impact. That is, for a railroad which terminates approximately the same amount of traffic as it originates, the per diem debits and credits virtually wash each other out leaving a relatively small net debit or credit balance. As to these roads, an increase or a decrease in the per diem rate has very little practical effect—whether the rate is \$2, \$5, \$10, or \$100 makes no particular difference.

Take for illustration the Colorado & Wyoming: In 1961 it was billed for \$688,285 in car rentals but it billed \$636,623 to other roads. It had a net per diem debit balance of \$51,662. Or take a larger western road with approximately balanced traffic—the Union Pacific. In 1961 it billed other roads \$23,435,136 for rentals of its cars. In turn it was billed by other roads \$22,896,210 for rental of their cars. Its net credit balance was only \$538,926—that is the only figure on which the level of the per diem rate has any impact whatever—the rest is simply washed out. Incidentally, the Pennsylvania, a large per diem debit road owned almost twice as many boxcars as the Union Pacific.

Take one more illustration: A western road which has balanced traffic but which is a net per diem debtor—the Western Pacific. In 1961 this road billed other roads \$2,415,963 for car rentals and in turn was billed \$2,812,144 for rental of their cars, leaving the Western Pacific with a net per diem debit balance of \$396,181.

These figures are from compilations made by the AAR from the official reports of the railroads themselves. They highlight the point that I wish to make, which is vital to an understanding of the effect of any increase in the per diem rate. That is: Any increase in the per diem rate affects only that relatively small portion of the total per diem bill of the railroads of the United States which is reflected in net per diem balances. As I shall show later, 86.6 percent of the entire total per diem billed in this country is washed out by the setoffs of debits and credits. The only portion that actually changes hands is 13.4 percent of the total per diem bill. This is the only portion of the total per diem problem on which these bills will have any practical impact or effect. Now, let us see what that impact is and will be on the country's car supply.

I said at the outset that these bills if enacted and put into effect will defeat the purpose for which they are formulated and proposed. A higher per diem rate will diminish the supply of boxcars of this country—not increase it.

I realize that this statement on its face seems incredible, because the concept has been plugged for years by the very effective propagandists of two western roads—particularly by the very persuasive and eloquent Mr. Eldon Martin of the Burlington—that a higher per diem rate is the solution to an adequate car supply. It is a very plausible concept on its face; so plausible, indeed, that I am confident that Mr. Martin has himself come to believe it with sincerity. Yet it is absolutely refuted by factual analysis and by history.

The Commission itself has not understood the facts in the past, and I am sure that you legislators will want to know some basic facts as to effect of increases in the per diem rate, and not pass a bill under the impression that this is going to solve the boxcar supply problem when in fact it will have exactly the opposite effect, in addition to gravely damaging our entire national transportation system by rail.

The first question that I suggest it is vital that you gentlemen ask is: What roads are the principal beneficiaries of any increase in the per diem rate? Contrary to the propaganda and belief of Mr. Martin, it is not primarily the roads which serve the western agricultural States. The fact is that the beneficiaries of almost two-thirds of any increase in the per diem rate are precisely seven roads, not one of them a Western road. Sixty-three percent—almost two-thirds—of the benefit of any increase in the per diem rate goes to the following seven roads:

Norfolk & Western
Pittsburgh & Lake Erie
Chesapeake & Ohio
Louisville & Nashville

Bessemer & Lake Erie
Western Maryland
Clinchfield

This is not theory. This is accurate statistical fact. I have illustrated it in this first chart, which I would like to introduce into this record with copies available for you distinguished Congressmen. It is entitled "The Effect of Any Increase of Per Diem Rate." It is based on 1961 figures showing the net per diem debits and credits of all the class I railroads in the United States for that year, compiled by the Association of American Railroads. The car ownership figures shown in this chart are from the ICC's publication "Transportation Statistics in the United States 1961" part I, section A-1, lines 665 to 677.

This chart shows that 63 percent of the total net per diem credits was received in 1961 by just these seven net per diem creditor roads, all of them heavy originators of coal traffic with some iron ore and steel from the Pittsburgh and lake areas; \$60,626,122 of the total net per diem credit—that is the total per diem that changed hands in the year 1961—went to just these seven geographically favored roads.

An approximately equal amount was paid out by exactly eight net per diem debtor roads: New York Central, Pennsylvania, Baltimore & Ohio, Erie-Lackawanna, New Haven, Chicago & Northwestern, Boston & Maine, Wabash. These are all net debit roads—big payers of per diem rental—because they terminate more traffic than they originate.

Now let us see just exactly what effect any increase in the per diem rate will have on the boxcar supply of this country, because boxcars are the only cars that are suitable for the handling of wheat. Let us examine the car ownerships of these roads.

We find that the seven roads which receive almost two-thirds of any increase in the per diem rate in 1961 owned 278,649 freight cars of all types—17.72 percent of the country's total car supply. But the eight net per diem debtor roads

that would have to pay the amount of this increase in the per diem rate owned a substantially higher percentage of the country's total car supply, 27.16 percent—427,211 freight cars of all types.

But this does not by any means tell the whole story, because these seven largest net per diem creditor roads that receive the benefit of any per diem increase naturally buy the cars which serve the coalmines in their territory. That is, they buy opentops, gondolas, and hoppers. Their boxcar ownership is peanuts compared to the very much larger boxcar ownerships of the roads that are called upon to pay out any increase in the per diem rate. Here are the figures:

These seven beneficiaries of almost two-thirds of any increase in the per diem rate in 1961 owned 57,126 boxcars, exactly 8.59 percent of the country's total boxcars. But the eight big net per diem debtor loads that would be called upon to pay this increase in the per diem rate own 187,700 boxcars, exactly 28.19 percent of the country's total.

That is, these eight sufferers from an increased per diem rate own about $3\frac{1}{2}$ times as many boxcars as the seven principal beneficiaries of any increase in the per diem rate, taken as a group.

So when you talk about increasing the per diem rate as a means of reducing the recurrent car shortages in the West at harvest season, you are talking about a regulatory means which will have precisely the reverse effect of that which it is intended to have. A higher per diem rate will actually deplete the resources of eight roads which own more than 28 percent of the boxcar supply of this country, with almost two-thirds of the increase going to benefit just seven roads which own only 8.59 percent of the country's boxcars.

These facts have never been refuted; and they are not susceptible of being refuted by Mr. Eldon Martin or by anyone else. They are simply glossed over with plausible but factually unsound theoretical arguments.

It seems to me that this is a fundamental and vital question for you gentlemen to ask: How is it going to help the supply of boxcars to increase the per diem rate when the benefit of any such increase goes, to the extent of about two-thirds, to just seven roads whose primary interest is in opentop gondolas and hoppers suitable only for the carrying of coal and iron ore? This is a very different picture from the theoretical one which is painted by Mr. Eldon Martin and the other diligent representatives of the two western roads who have for years promoted plausible theories of a quick easy solution to the car-supply problem which do not stand up in the light of the cold hard facts.

The incentive to purchase freight cars is to meet the needs of shippers who originate traffic for shipment. The railroad on whose lines traffic is originated must have the type of cars that meet its own shippers' needs. It must do so or lose the traffic and the revenue. The Interstate Commerce Commission made this very clear in a finding some years ago. It said:

"Rail carriers commonly acquire and own freight cars of the types or types needed for loading the character of freight originating on their respective lines. Those originating grain and grain products or merchandise need high-class boxcars, those serving coalfields use gondola and hopper cars extensively, those carrying hogs and cattle require livestock cars, et cetera" (*Car Service, Freight Cars*, 268 I.C.C. 687 at p. 689).

The theory put forward by Mr. Martin is that the boxcar shortages which sometimes occur in the West during the harvest season are caused by the eastern roads "appropriating" boxcars owned by the western roads. The theory goes that a higher per diem rate will solve this problem because it will discourage such "appropriation," and it will force the eastern roads to buy more freight cars. But this theory falls down because of another fact that it completely overlooks and that is this:

Because of the predominantly traffic-terminating nature of the eastern roads, the eastern roads are forbidden to send off-line any empty cars of their own, except only under special orders of the Commission. The car service rules require that a railroad must give priority of loading to foreign-line cars available on its line because made empty by unloading there. These rules have been in effect for many years with the approval of the Commission. They are grounded in very sound economics. The Boston & Maine, for example, terminates three cars of traffic for every carload of traffic that it originates for shipment off-line to the West. It must load its traffic for an off-line destination in a foreign-line car made empty—available to it because made empty by termination on its line. By so doing it need ship back only two empties. Whereas if it should load its carload of traffic into one of its own cars, it would have to ship back three foreign-line empties.

Thus it is apparent that the burden of wasteful expense of cross-hauling empties would be enormously increased if the car service rules did not require priority of loading of foreign-line cars that are available. And a predominantly traffic-terminating road such as the New Haven—with four carloads terminated for each carload which it originates for off-line destination—always has on its lines a surplus of empty foreign-line cars. It cannot avoid this situation because of the nature of its traffic, serving as it does dense populations of consumers. It cannot avoid it because it must accept in interchange for termination on its lines every car of freight that is tendered to it in interchange to be thus terminated and made empty, despite the fact that three or four to one of these cars must be sent back empty in home direction of the car-owning road, since the terminating road does not originate enough loads to put into them.

In pointing out that the beneficiaries of almost two-thirds of any increase in the per diem rate are primarily coal-shipping roads with about three-fourths of their car ownership consisting of open-top hoppers and gondolas, I do not mean to imply that Mr. Eldon Matrin and his colleagues of the Santa Fe, in plugging for a higher per diem rate as the solution of the boxcar shortage problem, are intending to perform an eleemosynary service for the benefit of roads other than their own. The two railroads of the West whose profits will be substantially increased by higher per diem rates—for the short term only—are the Burlington and the Santa Fe. There is also one road in the Southwest which stands to profit materially—for the short term only—by an increase in the per diem rate, the Southern Pacific. These roads are predominantly traffic-originating roads and hence are always substantial net per diem creditor roads.

The benefit to these roads from any increases in the per diem charges, however, do not come solely from railroads in the East and Great Lakes region, for there are a number of western roads who likewise are net per diem debtors. I have already mentioned the Western Pacific as one. The Chicago, Rock Island & Pacific is another, with a net per diem debit in 1961 of \$2,074,029. The Fort Worth & Denver with a net per diem debit of \$1,929,652. The Pacific Electric with a net per diem debit of \$2,614,287 and others such as the Spokane, Portland & Seattle system and the Texas-Pacific.

But the Burlington had a net per diem credit balance in 1961 of \$5,003,180. The Southern Pacific had a similar large net credit balance, with the Santa Fe running second with a net credit of \$1,851,949.

The Burlington's return on average net investment in 1961 was 3.93 percent, the Southern Pacific's was 4.17 percent and the Santa Fe's 3.66 percent. These three roads are in the higher profit brackets among railroads. They are bettered only by the biggest net per diem credit roads, the Norfolk & Western with 7.74 percent return on average investment, the Pittsburgh & Lake Erie with 7.20 percent, the Chesapeake & Ohio with 5.76 percent and the Louisville & Nashville with 5.05 percent return on average net investment.

The large net per diem debtor roads are not so fortunate. For the same year the New York Central, with a net per diem debit of \$14,490,569, operated at a deficit, the Pennsylvania with a net per diem debit of \$12,416,840, produced a rate of return on its average net investment of only 0.42 percent. All of the 13 other largest net per diem debtor roads for the year 1961 operated at a deficit. These included the Milwaukee, the Missouri-Kansas-Texas and the Rock Island as well as the leading eastern roads.

But the Burlington and Santa Fe which, by reason of their favorable geographical location, are profitable roads, do not make the contributions to the Nation's boxcar supply that is made by the two largest eastern net per diem debtor roads, the Pennsylvania and the New York Central. Here are the statistics (1961 figures): The Burlington owned 21,667 boxcars, the Santa Fe 40,080; together 61,747 boxcars. For the same year the New York Central owned 47,742 boxcars, the Pennsylvania 54,724 boxcars; together an ownership of 102,466 boxcars. That is, the Burlington and Santa Fe, the two western roads who stand to profit most by an increase in the per diem rate contribute only three-fifths as many boxcars to the national freight car fleet as do the two largest net per diem debtor roads, who are called upon to pay the lion's share of any such increase.

Now this theory that an incentive element in the per diem rate will resolve the boxcar shortages during harvesttime is a very old one. It has been tried time after time for many years. It has never worked. This history was briefly reviewed by the Federal district court here in the District of Columbia in 1947 when the court set aside an earlier attempt by the Commission to

increase the per diem rate to benefit car utilization. This is what the court said:

"Although the shortage of cars in post-harvesttime in the West is a very old problem, and although the per diem charge has been successively increased over the years, there is no finding of fact in this record, and no evidence, so far as we are advised, that the increase has ever caused the slightest improvement in the situation."

The Court then went back 40 years and again 30 years and then observed: "Over this whole period of time the per diem has been increased from time to time. It was originally 20 cents and increased over the years until in 1946 it was \$1.15 and has now gone to \$1.50. And now the difficulty seems to be precisely as it has been these many years." (*Palmer v. U.S.*, USDC, DC 1947, 75 F. Supp. 63 at 70.)

Why hasn't the device of an incentive per diem rate ever worked to increase the boxcar supply? Because all it does is to take money out of the pockets of the least profitable roads—the traffic-terminating roads, to swell the profits of the most profitable roads—the traffic-originating roads. But actually the large net per diem debtor roads together contribute a substantially larger proportion of the boxcars of the country than do the large per diem creditor roads, who will profit by the increased rates. So a higher per diem rate simply reduces the resources of one group of crowning roads, and swells the profits of another group of roads, thereby depleting the ability of the former group to supply and renew boxcars. And that group of sufferers from an increased per diem rate contribute many more boxcars to the national car fleet than do the beneficiaries of the per diem increase.

I will back that statement up with authoritative facts and figures illustrating one of the major devices that has been used in the past to increase the per diem rate. They show you the damaging impact of this so-called incentive per diem increase on the country's boxcar supply.

In 1953 the AAR substituted "estimated reproduction value" for actual cost of the Nation's freight car fleet, as the base for calculating the charges of depreciation on the freight car fleet reflected in the per diem charge. The AAR weren't pikers about it. By this device they added over \$4 billion to that base, increasing it from \$5,416,305,351 to \$9,587,048,000. Since this increase is charged off in 30 annual installments, this device increased the overall per diem by \$130,127,170 per year. Now let us see what the impact of this increase is on the car supply.

First, it must be noted that the car supply has not increased since this heavy "incentive" inflation of the per diem rate in 1953; it has gone down—and gone down very markedly. I introduced a chart in the hearings on S. 1063 which shows this. Of course, the revenue freight car loadings similarly have gone down markedly in that period, as that chart also shows.

In considerable part, of course, this is due to the enormous governmental subsidization of competitive forms of transportation. In the postwar years in the four New England States served by the Boston & Maine alone, more than \$6 billion of taxpayers' money has been spent on highways.

But the major reason why this increase in the per diem rate failed to increase the car supply is that the level of the per diem rate is not the motive for acquisition of cars. Cars are bought to meet the needs of the railroad's shippers. Mr. Perlman, president of the New York Central, made this very clear in his testimony in opposition to S. 1063 in June 1963 at pages 71 to 74 of the record of those hearings. He described the "most glaring" of the "false assumptions" on which S. 1063 was drafted as being the concept that the imposition of a higher per diem charge will induce the construction of more cars. He pointed to the fact that the New York Central, one of the largest per diem debtor roads, "has invested approximately \$200 million in freight equipment" since 1956 (p. 71), and said:

"Let me emphasize that the decision to buy this equipment was entirely unrelated to the level of per diem charges. It was based on the needs of our shippers. If the per diem rate were doubled, the only result—insofar as the New York Central is concerned—would be to increase our per diem deficit and make us less able to buy equipment to meet the transportation needs of our shippers" (p. 72).

After developing this with concrete illustrations, he then said (at p. 73): "From these examples I think it should be clear that the enactment of this bill, no matter how well intentioned, will not serve to increase car ownership among the deficit roads. It will only increase the deficit of the terminating

lines, for reasons which are at least partly beyond their control, and at the same time unjustly enrich the more prosperous railroads—the so-called credit per diem roads.”

And again at page 74, Mr. Perlman said:

“But whether the (per diem) rates are too high or too low is not relevant to the question of car ownership. The New York Central will acquire cars to meet its obligations to its shippers. It will not be forced into meeting the car-owning obligations of another railroad by the imposition of a spurious incentive. It could not economically do so.

“In summary, S. 1063 should not be passed because it won't do the job for which it is allegedly designed. It won't cause deficit roads to build more cars. It will unfairly penalize roads who are already meeting their car ownership obligations, in strict observation of the guiding principle of car ownership.”

Now why is it that an “incentive” increase in the per diem rate works to reduce the car supply—not to increase it? I have here a chart, in two parts, which shows the major answer to that question, and I would like to put it into this record. It is entitled “How Reproduction Cost New in the Per Diem Rate Defeats Its Theoretical Objective and Impedes Replacement of the Car Fleet.” This chart is based on authoritative figures for the year 1960. The sources of the figures are shown in the footnotes at the bottom of the two parts of the chart.

This chart incontrovertibly demonstrates that the heavy so-called incentive increase of the per diem rate in 1953 has worked in reverse; it has simply further depleted the resources of the railroads who contribute principally to the country's boxcar supply, and has made them (in Mr. Perlman's words) “less able to buy equipment to meet the transportation needs of their shippers.”

Part I of this chart shows that of the \$780,677,830 which was the total per diem billed by class I roads in 1960, 86.6 percent was canceled out by offsets of debits against credits to the extent that the traffic of the individual roads was in balance between traffic terminating and traffic originating. So only 13.4 percent of the total per diem billed actually changed hands. Of the \$780,677,830 total per diem billed, only \$104,481,514 actually changed hands. That is the amount which was actually paid out by net per diem creditor roads.

22.4 percent of this per diem bill represented the increase in the rate due to the inflation of the depreciation and interest charges injected by substituting the element of reproduction cost new for original cost as an attempted “incentive.” The net result is that actually only 3 percent of the entire total per diem bill actually changed hands as reflecting this “incentive” increase. This was \$23,43,859. Now where did this increase go and what was the impact of it on the freight car fleet and notably on the boxcar fleet of the country? This is shown in part II of this chart.

Of the 13.4 percent of total 1960 per diem charges that were not canceled out due to balanced traffic, 76.75 percent, more than three-quarters, was paid to the nine largest net per diem creditor roads. As I have indicated before, these nine beneficiaries of the great bulk of this per diem rate increase included the very profitable Burlington and Santa Fe. But six of these nine were the large coal and iron ore producing roads as shown on my first chart—who get about two-thirds of the total benefit, and whose major interest so far as cars is concerned, is not in the type of cars that will do the western farmer any good whatever.

An approximately equal amount, \$80 million, was paid out in net per diem debit balances by the 19 largest net per diem debtor roads. The so-called incentive element amounted to aggregate cash payments of about \$18 million.

This \$18 million went to nine roads who as a group owned 155,934 boxcars, 22.51 percent of the country's total. But the 19 largest per diem debtor roads that paid out this money contributed a very much larger percentage of the country's boxcar fleet; 275,679 boxcars, 39.80 percent of the country's total.

Now I submit to you distinguished gentlemen that it will require more than plausible theoretical arguments by Mr. Eldon Martin or anyone else to show how it can increase or renew the country's boxcar fleet, to take \$18 million a year away from a group of roads that contribute more than 275,000 boxcars to the country's boxcar fleet and make them pay that money over to just nine roads who as a group contribute only 56 percent as many boxcars to the country's boxcar fleet as is contributed by the roads which must deplete their resources to give this profit windfall to the favored nine.

These statistics and these car ownership figures are authoritative and uncontrovertible. They show that any increase in the per diem rate for “incentive”

purposes simply further depletes the resources of the roads least able to pay for new cars, and to swell the profits of the nine roads best able to pay for them. The 1960 rate of return on average net investment of the 19 roads which are on the paying end was 0.68 percent. The nine roads who received this "incentive" money enjoyed a return on average net investment of 3.88 percent. And, incidentally, not a nickle of this windfall profit is earmarked for renewal or acquisition of cars. It is all available to increase the dividends to their stockholders.

But the 19 roads whose resources were thus depleted to the tune of many millions of dollars a year by the "incentive" per diem increase contribute a very much larger percentage of the country's boxcar fleet than the 9 roads for whose financial benefit and profit H.R. 7165, or similar bills, if enacted, will operate.

These facts demonstrate that these bills not only threaten further grave injury to the national system of rail transportation, a considerable number of whose vital components are already facing a desperate struggle for economic survival, but also, if enacted into law and put into effect will hurt the farmer constituents of the members of this committee by further reducing the country's supply of boxcars.

In their present form these bills are particularly vicious because they require blanket applications by the Commission of increased car rental charges upon all railroads alike. These bills require that the medicine which may be an appropriate prescription for these railroads who have failed to meet their car-supply obligations, will be shoved down the throats—to their financial ruin—of those roads who have fully met their obligations to furnish their fair share (or more than their fair share) of cars, but the terminal nature of whose traffic makes them inescapably net car rental payers.

Under these bills, unamended, the Commission is not required to translate these factors into protective action. The Senate recognized that these factors should be considered by the Commission; it incorporated an amendment which added to S. 1098 the 11 concluding lines of that bill as it was finally passed. But that amendment was merely permissive; it did not require protection for those roads which are found to own their fair share of cars but which, because they serve the vast populations of consumers (of wheat, plywood, and other bulk freight) are preponderantly traffic-terminating roads.

The Bureau of Census puts the urban population of this country presently at about 70 percent. Without low-cost transportation of bulk commodities to the markets where they are consumed, the cost of virtually everything the consumer buys—from bread to building materials—will go up inordinately. These bills if passed without amendment will assure that result. To give real protection for the interests of this country's consumers, by protecting the roads which serve them, the Congress should direct the Commission to give effect to these factors.

The predominantly traffic-terminating roads that serve these areas of consumers must not be further penalized financially, simply because some roads of the country are found to be remiss in their contribution to the national car supply.

This legislation, if passed, should at least be amended to require the Commission to consider the factors specified in the last 11 lines of S. 1098, and to require the Commission to be selective in the application of its remedy, and not apply it where the medicine is not needed. To this end, the following amendment should be added:

"In the consideration of any element included in determinations pursuant to this paragraph as an incentive to car acquisition and maintenance the Commission shall make such element inapplicable; (1) to carriers determined by the Commission as owning an adequate number of freight cars to meet their responsibilities to the needs of commerce and the national defense; (2) to carriers which terminate a substantially higher percentage of interline traffic than they originate; (3) to types of freight cars the supply of which the Commission finds to be adequate; and the Commission may make such element inapplicable (4) to such other cases or circumstances as the Commission finds to be in the public interest."

Without such amendment, the end result of the passage of this legislation will be disastrous to the preponderantly traffic-terminating roads which serve the bulk consumers of this country (whose interests are at least of equal national importance to those of the roads who serve the bulk producers), and to the national rail transportation system.

(The charts attached to the prepared statement of Mr. Newton are as follows:)

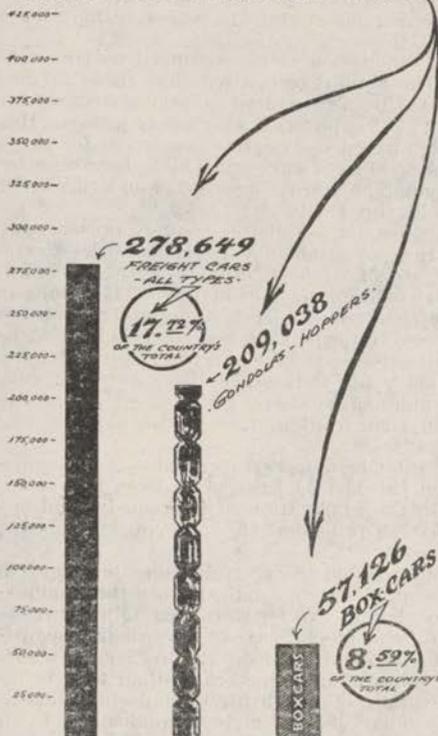
THE EFFECT OF
ANY INCREASE OF PER DIEM RATE
63% GOES TO 7 LARGE COAL-LOADING ROADS

BENEFICIARIESTHEY WILL RECEIVE MORE MONEY

\$60,626,122 (63%)
 OF THE TOTAL NET PER DIEM CREDITS
 WAS RECEIVED IN 1961 BY
7 NET PER DIEM CREDITOR ROADS
 ALL HEAVY ORIGINATORS OF COAL TRAFFIC.

NORFOLK & WESTERN
 PITTSBURGH & LACKAWANNA
 CHESTER & OHIO
 LOUISVILLE & NASHVILLE
 BOSTON & CHESAPEAKE
 WESTERN MARYLAND
 CLINCHFIELD

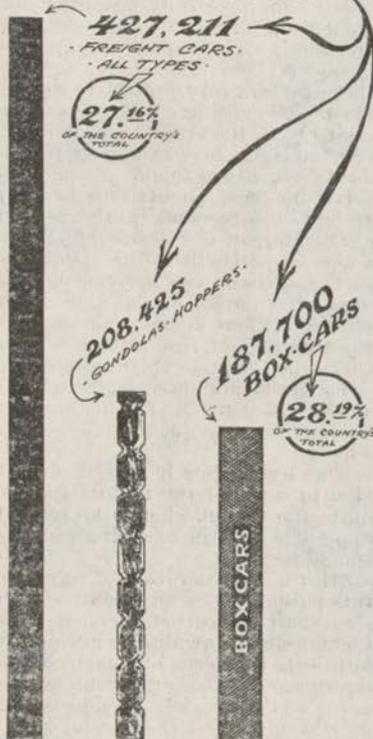
WHOSE CAR-OWNERSHIP WAS:

**SUFFERERS**THEY WILL PAY OUT MORE MONEY

\$60,223,498 IN NET
 PER DIEM DEBITS WAS PAID OUT
 IN 1961 BY
8 NET PER DIEM DEBTOR ROADS:

NEW YORK CENTRAL
 PENNSYLVANIA
 BALTIMORE & OHIO
 ERIE - LACKAWANNA
 NEW YORK, NEW HAVEN & HARTFORD
 CHICAGO & NORTH WESTERN
 BOSTON & MAINE
 INDIANAPOLIS

WHOSE CAR-OWNERSHIP WAS:

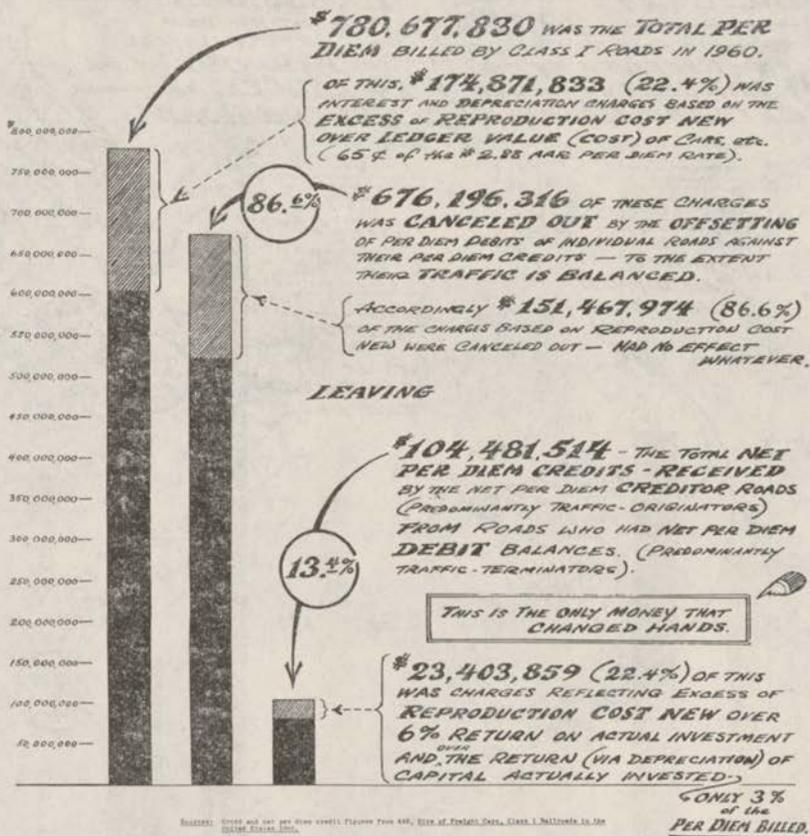


(Source: The New York Central and Great Western Lines & A. B. Size of Freight Cars, Class 1, Shippers in the United States, 1961.
 Car Ownership Figures from I.C.C. Statistical Statistics in the United States, 1961, Part 1, Sec. 4-10, Table 100, 100-101.

PART I (OF 2).

I.C.C. Report No. 1719 A-2188
 Dated: Dec. 28, 1960
 Released: Feb. 10, 1974
 Revised by NCTD 8-2002, pp. 83-84

**HOW
 REPRODUCTION COST NEW
 IN THE PER DIEM RATE
 DEFEATS ITS THEORETICAL OBJECTIVE AND
 IMPEDES REPLACEMENT of the CAR FLEET**



Source: Gross and net per diem credits: Flotrow Form 449, Office of Freight Data, Class I, National In. Sta. Bureau, Chicago, Ill.

Excess of reproduction cost new interest and depreciation charges paid interest and depreciation charges on ledger value (cost) from 1948-1954. Calculations and related data: For \$2.88 per diem rate effective December 1, 1959, and for \$2.75 per diem rate effective January 1, 1960.

- CONTINUED ON FOLLOWING CHART (PART 2) -

PART 2

U.S. ROAD BLD. 1959 & 1960
REPORT TO THE
COMMISSION ON THE

**HOW
REPRODUCTION COST NEW
IN THE PER DIEM RATE DEFEATS ITS THEORETICAL OBJECTIVE AND
IMPEDES REPLACEMENT of the CAR FLEET**

OF THE 13.4% OF TOTAL 1960 PER DIEM CHARGES NOT CANCELED OUT
BY OFFSETTING OF THEIR PER DIEM DEBITS VS. CREDITS BY ROADS DUE TO BALANCED TRAFFIC

\$80,186,194
76.75%
OF THE TOTAL NET PER DIEM CREDITS
WAS RECEIVED BY THE
**9 LARGEST NET PER DIEM
CREDITOR ROADS:**

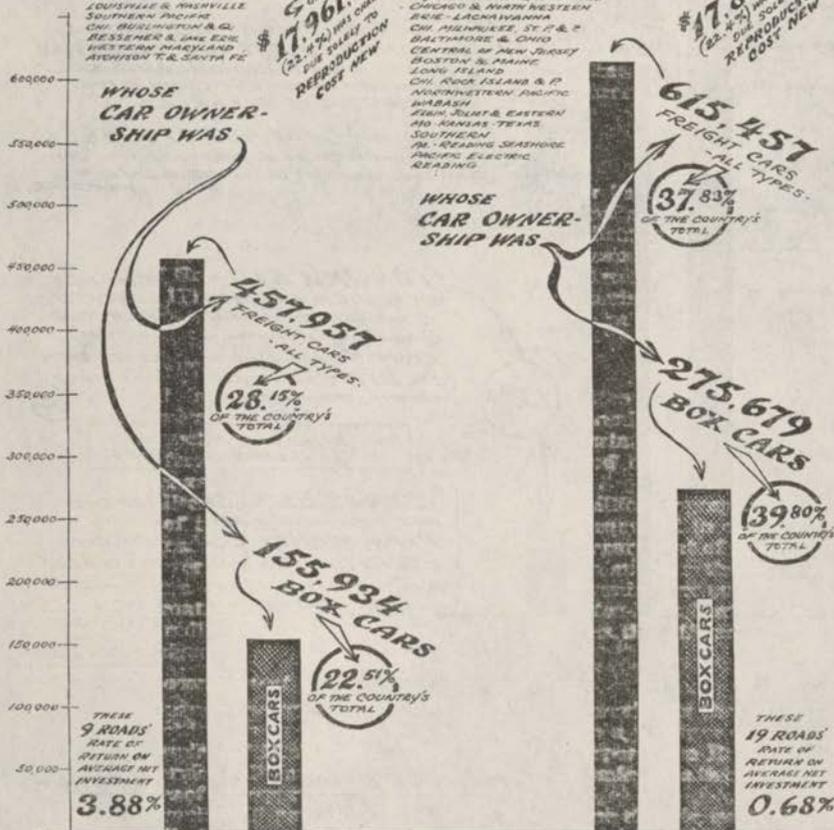
NORFOLK & WESTERN
PITTSBURGH & THE ERIE
CHESAPEAKE & OHIO
LOUISVILLE & NASHVILLE
SOUTHERN PACIFIC
CHI. MILWAUKEE & GL.
BESSMER & SAGE ERIE
WESTERN MARYLAND
ATLANTIC T. & SANTA FE

OF WHICH
\$17,961,707
(22.4% OF NET CREDITS)
WAS PAID TO
REPRODUCTION
COST NEW

\$79,855,665
IN NET PER DIEM
DEBIT BALANCES
WAS PAID OUT BY THE
**19 LARGEST NET PER DIEM
DEBTOR ROADS:**

PENNSYLVANIA
NEW YORK CENTRAL
N.Y. NEW HAVEN & HARTFORD
CHICAGO & NORTH WESTERN
ERIE-LACKAWANNA
CHI. MILWAUKEE ST. P. & P.
BALTHAZORE & CHGO
CENTRAL OF NEW JERSEY
BOSTON & MAINE
LONG ISLAND
CHI. ROCK ISLAND & P.
NORTHWESTERN PACIFIC
AMBUSH
EAST. COAST & EASTERN
MO. KANSAS TEXAS
SOUTHERN
AL. READING SEASHORE
INDIAN ELECTRIC
READING

OF WHICH
\$17,887,666
(24.9% OF NET DEBITS)
WAS CHARGED
TO SOLELY TO
REPRODUCTION
COST NEW



SOURCES: PER DIEM NET CREDITS AND DEBIT FIGURES FROM RAILROAD FREIGHT REPORTS, 1960, BUREAU OF STATISTICS, DEPARTMENT OF COMMERCE, WASHINGTON, D.C., 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 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3099, 3100, 3101, 3102, 3103, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3137, 3138, 3139, 3140, 3141, 3142, 3143, 3144, 3145, 3146, 3147, 3148, 3149, 3150, 3151, 3152, 3153, 3154, 3155, 3156, 3157, 3158, 3159, 3160, 3161, 3162, 3163, 3164, 3165, 3166, 3167, 3168, 3169, 3170, 3171, 3172, 3173, 3174, 3175, 3176, 3177, 3178, 3179, 3180, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188, 3189, 3190, 3191, 3192, 3193, 3194, 3195, 3196, 3197, 3198, 3199, 3200, 3201, 3202, 3203, 3204, 3205, 3206, 3207, 3208, 3209, 3210, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218, 3219, 3220, 3221, 3222, 3223, 3224, 3225, 3226, 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, 3239, 3240, 3241, 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3258, 3259, 3260, 3261, 3262, 3263, 3264, 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3431, 3432, 3433, 3434, 3435, 3436, 3437, 3438, 3439, 3440, 3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449, 3450, 3451, 3452, 3453, 3454, 3455, 3456, 3457, 3458, 3459, 3460, 3461, 3462, 3463, 3464, 3465, 3466, 3467, 3468, 3469, 3470, 3471, 3472, 3473, 3474, 3475, 3476, 3477, 3478, 3479, 3480, 3481, 3482, 3483, 3484, 3485, 3486, 3487, 3488, 3489, 3490, 3491, 3492, 3493, 3494, 3495, 3496, 3497, 3498, 3499, 3500, 3501, 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3509, 3510, 3511, 3512, 3513, 3514, 3515, 3516, 3517, 3518, 3519, 3520, 3521, 3522, 3523, 3524, 3525, 3526, 3527, 3528, 3529, 3530, 3531, 3532, 3533, 3534, 3535, 3536, 3537, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3562, 3563, 3564, 3565, 3566, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3576, 3577, 3578, 3579, 3580, 3581, 3582, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591, 3592, 3593, 3594, 3595, 3596, 3597, 3598, 3599, 3600, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613, 3614, 3615, 3616, 3617, 3618, 3619, 3620, 3621, 3622, 3623, 3624, 3625, 3626, 3627, 3628, 3629, 3630, 3631, 3632, 3633, 3634, 3635, 3636, 3637, 3638, 3639, 3640, 3641, 3642, 3643, 3644, 3645, 3646, 3647, 3648, 3649, 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, 3672, 3673, 3674, 3675, 3676, 3677, 3678, 3679, 3680, 3681, 3682, 3683, 3684, 3685, 3686, 3687, 3688, 3689, 3690, 3691, 3692, 3693, 3694, 3695, 3696, 3697, 3698, 3699, 3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717, 3718, 3719, 3720, 3721, 3722, 3723, 3724, 3725, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3740, 3741, 3742, 3743, 3744, 3745, 3746, 3747, 3748, 3749, 3750, 3751, 3752, 3753, 3754, 3755, 3756, 3757, 3758, 3759, 3760, 3761, 376

MR. NEWTON. Mr. Chairman, I would like to make three points and then offer a solution that I think will work.

Now, the first point that I think you gentlemen should have brought to your attention is—and I know this may seem somewhat shocking—the futility of this legislation in its present form, and I say that for this reason, sir.

In my considered opinion as a lawyer and having studied this whole problem for almost 15 years now, on and off, both as a consultant to the Government and in other governmental capacities as well as in private practice and very close affiliation with the railroad industry, this law, if passed in its present form, without an amendment which I will subsequently suggest, will not be held valid by the courts.

The reason it won't—well, let me come to the reason in a moment. If I am right in what I say, that it will not be held valid by the courts once it is applied by the Commission, then it will simply mean 10 or a dozen more years of litigation, ending up right back where we started without accomplishing anything, and I know you gentlemen do not want that result. But if previous decisions of the Supreme Court of the United States mean anything, then this legislation unamended does not meet the test of valid regulatory action that the Supreme Court has laid down.

That test is simply this: that regulatory action is invalid unless it has—and I am using the words of the Supreme Court—

unless it has a real and substantial relation to the object sought to be attained by the regulatory action.

Now, sir, this brings me to my second point. If I may, I will develop these briefly afterward.

My second point is that this bill in its present form does not meet that test. It will not accomplish the objective that it seeks to attain, but, on the contrary, if put into application, it will actually work to diminish the car supply of the country, particularly the boxcar supply of the country.

Now, I do not expect to give you any glittering generalities in such a proposition, but that brings me to my third point.

Now, one of you gentleman—I am not sure that it was not Mr. Younger—asked yesterday why hasn't the industry already put an incentive into the rate. Why hasn't the industry tried it? And nobody has told you gentlemen that the incentive is in the rate and has been in the rate since 1953 by industry action and by encouragement from the Interstate Commerce Commission, and that incentive has been very material and very substantial, amounting to millions of dollars, and it has failed.

Now, I do not know any better way to predict the future than to see what has happened in the past with an incentive per diem rate. Gentlemen, in 1953, the AAR membership voted a big incentive into the per diem element, into the per diem rate, and it has been in there ever since.

Now, I would like, instead of going through my development of this as I have in my statement, to invite the attention of you gentlemen to the last page—it is a double page—a chart—and ask if you would look at it. You each have a copy. It is the double sheet.

These charts, gentlemen, are based on the basis of official figures.

The sources are given in each case down below. They have been introduced into the proceedings before the Commission. The Burlington has been unable to attack the veracity or validity of one single set of these charts. These charts stand uncontested. Now, here they are.

This chart, if you gentlemen will understand it, I think will show the key to the type of legislation that is needed. I may say, incidentally, that I agree with your suggestions, that the Commission ought to be empowered to do something about it, but not something futile, not something that will not work, not something that will have the reverse effect of what is intended.

Now, if I may invite your attention: First, these figures are actual figures of the per diem billed for the year 1960. Now, the first bar—and it all to scale—shows the total per diem billed, \$780,677,000. That is the total per diem billed. Now, the shaded portion, almost \$175 million, represents the incentive element that was injected into the per diem rate by action of the industry in 1953 and subsequently.

Here is what they did: In 1953, the industry decided that they would inject into the per diem rate depreciation based on what they call reproduction cost new, not actual cost. In other words, if a car cost \$5,000 and it is in service, but if it would cost \$10,000 to build today, they would figure the whole fleet at reproduction value, and then depreciate on that basis. That added \$4 billion—not million—\$4 billion—to the depreciation rate, and in addition to that, in 1956, after decision by the Interstate Commerce Commission, which the court subsequently set aside, the industry added a further incentive by incorporating in the per diem rate interest based on reproduction cost, not actual investment. So that today the property investment of railroads that is most productive of profit, most profitable of any railroad property, is investment in cars, because incorporated in the original basis under the *Palmer* case was all the costs of ownership and maintenance, contrary to Mr. Martin, who said they lost money on it.

That is the law. They must be compensated in full plus 6 percent on their cost. So they add about two-thirds more. They get about 10 percent return on every dollar invested in cars, and the average return on property to the railroad industry is less than 3 percent countrywide, and in the East it is less than 1 percent, in the terminal carriers of the East. So that we start from the fact that in contradistinction to railroads losing money on their cars, it is the most profitable single investment that any carrier can have.

But as Mr. Perlman made clear yesterday, you can't buy cars if you can't use them, and it is the duty of the originating carrier to take care of its customers, that is to say, its shippers. And the terminating carriers serve the consumers.

According to the census, 70 percent of the population of this country is in urban centers, consuming centers. Those are served by the terminal roads that have to receive the cars from the West, that terminate them and that don't have enough loads to send back in them.

Now, I would like to show what has happened to this incentive by this chart, sir. Twenty-two percent, the shaded portion of that first bar, that is the incentive element, \$175 million a year. That is an incentive. Now, what happened to it? The next two charts show what happened to it.

Eighty-six, almost eighty-seven percent, as Mr. Burks mentioned, was simply canceled out. You take a road like the Atlantic Coast Line, for example, that has its rental charges paid out about roughly equivalent to its rental charges coming in. It does not make any difference what they charge \$1, \$2, \$200 a car-day. It makes no difference, it washes out. That is a case where all roads that have balanced traffic neither a predominantly originating or a predominantly terminating. So, 86 or 87 percent, as Mr. Burks said, was washed out by offsets.

Now, that left 13 percent, the little bar there [indicating]; 13 percent was the total net per diem credit received by the net per diem credit of roads. The exact amount is given there. That was the only amount that changed hands.

Now, 22 percent of the per diem rate is an incentive element and has been for the last number of years; 22 percent of \$104 million was \$23 million. So, out of \$780 million per diem billed, \$175 million incentive, actually only \$23 million changed hands. That is all that changed hands. And of that, \$23 million was the incentive element, about 3 percent of the total per diem billed.

Now, let's take the second element of that chart and see who got it and who paid for it and what the car ownerships were. I see over three-quarters of the per diem credits received—I am taking \$80 million—over three-quarters were received by just nine roads, all of them wealthy roads. Down at the bottom on the left, it shows they have a return on average net investment of almost 4 percent, and they received \$80 million, nine roads.

Now, who are they? Let's see what they are and let's see what their boxcar ownerships are. These are cold Interstate Commerce Commission figures. The Norfolk & Western, the Pittsburgh & Lake Erie, one of the New York Central System, the Chesapeake & Ohio, Louisville & Nashville, Southern Pacific, Burlington, Bessemer & Lake Erie, Western Maryland, and Santa Fe.

Now, incidentally, note Mr. Martin's comment yesterday that he represented railroads from all sections of the country. Who did he represent from the East. He said he was speaking for the Norfolk & Western, although Mr. Smucker also speaks for the Norfolk & Western. They have some mixup there. Then, there is the Chesapeake & Ohio, and the Western Maryland, big coal loaders, big coal originators, and the B. & O., which of course is controlled by the C. & O.

Now, let's see how many freight cars they own. Their total ownership, of those nine roads to which goes over three-quarters of the incentive element, owned 28 percent of the total of the country's boxcars. I do not know where Mr. Martin gets his figures. And of the boxcars, 22 percent of the country's total.

Now, who paid out that money, Mr. Chairman and gentlemen?

Who paid out that money? We have taken a figure slightly under that to make it about the same amount. The 19 largest net per diem debtor roads paid out that money, and who are they? The Pennsylvania and New York Central; New Haven—whom I speak for—Erie-Lackawanna; Milwaukee, who is opposed to this bill; Baltimore & Ohio; Central of New Jersey; Boston & Maine—whom I speak for—Long Island; Rock Island; Northwestern Pacific; Wabash; Elgin, Joliet & Eastern; Missouri-Kansas-Texas; Southern; Pennsylvania-Reading Seashore; Pacific Electric; and Reading.

Now, how many cars do they own? They own substantially more cars than do the large recipients of this incentive, and they own very substantially more boxcars than the recipients of the incentive element.

On boxcars, which is your particular interest, there is 40 percent—39.80 percent of the country's total boxcars are contributed by those 19 roads who are on the paying-out end of the incentive, 40 percent. There it is. Those are Interstate Commerce Commission figures. I do not know where Mr. Martin gets his figures. These will stand up, and they will stand up in court, as they have stood in the Commission, and the Commission hearings that we have had, because they are from the Interstate Commerce Commission and the Association of American Railroads official figures.

Now, here are 19 roads, gentlemen, that contribute 40 percent of the boxcars, and they pay out over three-quarters of all incentive element, pay it out; they do not get it, they pay it out.

Now, will you tell me how that is going to improve their capacity to increase the car supply of the country, when they are making an average of less than 1 percent on their money, and they are paying it to roads, to nine roads, that make almost 4 percent on their money?

Let me give you one more factor here to show how the incentive element works in reverse. All you do is deplete the resources of the roads that supply more cars, more boxcars.

If you will look at the first chart, which is a single page just before that, you will see where almost two-thirds of the per diem goes to just six roads. This is on the first chart. These happen to be 1961 figures. It does not matter. All these years are approximately the same, the same result.

In 1961, \$60 million, almost \$61 million, of the total net per diem credits were paid to just seven net creditor per diem roads, just seven. Who are they? Norfolk & Western, Pittsburgh & Lake Erie, a big steel originator. Mr. Perlman yesterday told you about that. That is why the New York Central can afford, because it owns the Pittsburgh & Lake Erie, their per diem credits offset the Central's debits. C. & O., Louisville & Nashville, Bessemer & Lake Erie, Western Maryland, Clinchfield, every one of those seven roads that get the biggest benefit here, gentlemen, are not grain-originating roads or plywood-originating roads. They can't use plywood cars. They can only use coal cars. And their ownerships reflect that fact, the open tops, the little column there, and look at their boxcars—8½ percent of the country's total.

Now, on the other hand, if you take that same amount of money, \$60 million, which was paid out in that year, by the biggest car owners of all, the Central, the Pennsy, and the others named there, they own not 8½ percent but over 28 percent of the country's boxcars, and these are taking money by this incentive rate away, in order to put it in the pockets of the big coal-carrying, coal-originating roads.

Now, gentlemen, those facts illustrate what I am trying to get over, and I want to now summarize my other two points in the light of this. That was my third point. It works in reverse.

The CHAIRMAN. Suppose you are given authority, sir, to deal with this class of cars in which there is a shortage and that the Commission

in making its study and investigation were to determine that the real problem is with a certain type or group of cars, and that the Commission deal with that group of cars? It does not necessarily mean they have to deal with all of these others where the problem is not acute.

Mr. NEWTON. I agree fully with you, sir. But the one thing that is going to save this legislation is—

The CHAIRMAN. Is those on this committee and in the House.

Mr. NEWTON. If it is going to be related to the objective which it seeks. Now, the idea of increasing the per diem rate simply penalizing use to the roads that take the bulk commodity from the West and terminate it at market—

The CHAIRMAN. I think the record should show what the facts are. I do not find anything in these proposed bills, Mr. Newton, that says that the Commission may invoke a penalty per diem rate or increase rates.

Mr. NEWTON. Oh, an increased element, yes, an increased incentive element.

The CHAIRMAN. It does not say it is increasing anything. It says it shall be computed on the basis, and so forth, and it provides a fair return. It does not say that these rates shall be changed, increased, or reduced.

Mr. NEWTON. The only thing it enables the Commission to do that it does not now have the power to do, Mr. Chairman, is to include an element of incentive. But that is an addition.

Now, the incentive element, the trouble with this bill in its present form—and I will come to my proposed amendment—is that it tries to drive a nail with a shotgun instead of a hammer. It shoots everybody.

The CHAIRMAN. I think you are right about that.

Mr. NEWTON. That is the trouble, and that is where the courts, in my humble opinion, are not going to sustain an application as being valid, as being related to the valid regulatory purpose, and that is what Senator Johnston, of Colorado, said recently—May 1, and it is in the record here—before Senator Magnuson's committee. He said this bill is loaded with speculation and guesswork, and it is, because it is not pinpointed to the evils sought to be remedied, to wit, the lack of freight cars.

Now, there is one thing, there is one element, of that amendment that was in the Senate that is vital to make it stand up in court and to orient it and pinpoint it to the legislative objectives sought, which you want and all us want, to increase the boxcar supply. Study it. What cars are deficient?

No, let's call a spade a spade. The Burlington and the Santa Fe are the big grain originators, and they are the ones that are running short of both boxcars and plywood cars. Now, the last thing in the world they want is any study made as to what roads are deficient.

Our railroads in the East will stand up against any determination by the Commission that is based on the record as to whether we supply our adequate share. On the Boston & Maine, recent studies show they need for their local traffic only something like less than 300 cars. The Boston & Maine owns more than 3,000 cars, and they have great diffi-

culty getting them off-line, because you understand—I am not sure the gentleman who asked the question yesterday understands—that if we built 10,000 more cars and then we offer them empty to our connections, they refuse to take them. They do not have to take them. In fact, they are directed not to, because that is a waste to backhaul empties.

You can only buy cars if you can use them. You put the incentive right in here. This does not mean that the Norfolk & Western is going to build more boxcars; they are going to build more open-top hoppers. Look at the Burlington itself. Mr. Martin did not show you the figures on his open-top cars. One hundred and twenty-five percent of his gondola cars and hoppers are on-line. He only told you about his boxcars. One hundred and twenty-five percent of his hoppers are on-line. Why? Well, obviously, because they are not suitable for the loading of grain. They are in the horse-and-buggy age. Mr. Martin did not give you that statistic.

Mr. Smucker showed me that figure yesterday, that official figure. One hundred and twenty-five percent of their hoppers are on-line, because they can't use them and thus get them off-line.

Now, it is not any good to try to drive a nail with a shotgun instead of a hammer. If I may just read what Senator Johnston said, because he is a consultant to the Senate committee. He was for 4 years the chairman of the Senate Committee on Commerce, a man who is now Governor of Colorado, who is very knowledgeable on this subject, and he is their consultant, as I say, to the Senate committee.

In a letter he wrote to Senator Magnuson on May 1, of this year, and I refer you to pages 265 and 266 of the record of the freight hearings before the Senate on freight car shortages, and I will just read a short excerpt from what former Senator Johnston had to say:

It is presumed that a stiff increase in per diem charges would coax someone into building freight cars. However, such an indirect approach is loaded with speculation and guesswork.

And then I will skip a bit.

Fifty percent of American railroads are strenuously opposed to it.

Those, I may interpolate, sir, are the roads which serve the markets of consumers, not the sparsely settled areas where they originate the traffic but where they terminate the traffic and have to send many cars back empty.

And 20 percent indicate no interest one way or the other. Railroads as a whole want less and less ICC regulation rather than more.

Now, that is not very different from what a court said in the *Palmer* case, and I know the *Palmer* case. The court in the *Palmer* case said about regulation. I quote from page 68 of the official report of that case. This is the court's language:

The per diem charge is so completely unrelated to the evils sought to be remedied by the proposed order that serious question would arise as to its validity as a regulation.

There, you will remember, in the *Palmer* case they tried to put an added load onto the per diem charge in order to hasten the quick turnaround. The court studied that and said:

A regulatory measure must have a real and substantial relation to the object sought to be attained—

citing Supreme Court cases to that effect.

This per diem, however, has no relation to avoidable delay or inefficiency. The per diem charge insofar as it penalizes, penalizes use and nonuse, efficient and inefficient use, avoidable and unavoidable delays alike. It would be deemed arbitrary as a regulatory measure under established rules of law.

Now, I have knocked around courts enough in my many years at the bar, gentlemen, to never predict what a court is going to do. But if these court precedents mean anything, this legislation, unless amended, is going to be knocked out.

All it means is getting 10 or a dozen more years of long and protracted and expensive litigation and getting nowhere.

Now, why not orient this measure and make a hammer out of it instead of a shotgun to drive the nail you are trying to drive, which is more boxcars.

First, require the first element that is in the Senate amendment to not apply—in the Senate amendment—to a railroad that is found to be adequate in its ownership of cars, to contribute adequate measure, its fair share of the Nation's car fleet. Naturally, Eldon Martin opposes that bitterly. We are willing to stand by it.

We know that we contribute more than our fair share. So does the New York Central, so does the Pennsylvania, the largest car owners in the country. But the western railroads don't.

They are the ones that run short. They are the ones short, and when they ship them off their line to market, it is no good to originate loads of traffic to eastern markets if the eastern railroads are all going to go broke, like the New Haven, and maybe pull their rails and lose those markets, so that the plywood will be shipped all the way from the West by truck to the southern New England markets. This is no good for the national transportation system.

Now, what I suggest is to amend this bill to accomplish two purposes: First, the purpose you want to attain is to increase boxcars. Well, first, let the Commission find who is contributing their fair share and who is not contributing their fair share, and whatever teeth are put in, make it apply to the nail and not just everybody alike and ruin some more eastern roads like the New Haven, one of the largest elements of its going into bankruptcy being the heavy terminal charges. It has four carloads of traffic for every load it originates for shipment west, because it serves consumers. They have a problem getting cars off their line, and there is no incentive in getting cars off-line other than the fact that they get the cars offline as fast as they can because of the per diem rent. If it was twice as much or three times as much, it would not get them off any faster. They get them off as fast as they can.

The Boston & Maine has an average turnaround time of something like 5.3 days per car. It is not matched by any road in the country. It is substantially below the national average. They get those cars off just as far as they can, and all this talk of the western railroads saying we appropriate their cars is perfect nonsense and will not stand up. It is pure oratory and it is not supported by facts.

Now, I suggest a second amendment. I do not know if you gentlemen realize it or not, but with all this incentive of \$176 million a year that has been in the rates for many years there is not one requirement that 1 penny of it be devoted to the building of cars—not 1 cent of it.

Now, if you are going to have an incentive to build cars, why not require that the incentive element, everything over and above return of cost plus 6 percent on investment, that every penny of incentive element be set aside in a fund and earmarked for the building of new cars.

I think it ought to be required. I do not think that the Commission should be enabled by you gentlemen to make the rich richer and the poor poorer. We are a captive market. We have no option but to be car renters and to pay out money, rather than receive it, into the pockets of the roads that are able to pay dividends.

Why you should enable them to increase their dividends when you are taking the money out of our pockets, the terminal roads' pockets of the East, and not earmarking it for the regulatory purpose it is intended, I do not know. I think, absolutely, there ought to be a requirement, an amendment in there to require, that every penny of the incentive element in the rate shall be set aside earmarked for the building of cars as directed by the Commission.

The CHAIRMAN. Who would own the cars?

Mr. NEWTON. Who would own them? I suppose the people that built them would normally own them, but I would think that the people that paid for them ought to have them rent free, but that is up to the Commission to decide—and the courts. But that is the way to get your cars, if you are going to use this device.

Now, I do not think this is the right device, but I realize the pressures and propaganda have been so thorough from the Western roads that can afford lobbyists who have come down here and have worked on everybody and past commissions—and not Mr. Webb. Mr. Webb, obviously, tries to grapple with this problem. But in the past, the Commission has been blind with it.

In 1947—one of you gentlemen asked why we have not asked the Commission to do something about this. Mr. Burks' organization did. In 1947, we asked them to fix the rate. They didn't do it. We asked them in 1953 to do it. They didn't do it.

The only time they did it was when finally the Commission put its stamp of approval on some rate increases that the AAR had loaded in here that were far beyond the costs of ownership, and the Commission approved it. The court set it aside and, in effect, mandated the Commission to do something about regulating the rate.

Now it is before them again. This time the theory is let's avoid, let's gloss over the fact that the railroads that own cars are already making 10 or 11 percent on their investment as against an average return on investment of less than 3 percent on property. Let's increase the incentive and shotgun it and hope that maybe it will induce somebody to buy some cars.

It won't, as Mr. Pearlman told you yesterday. There is no use in building cars if you can't use them, and under the car service rules, if you can't get them off-line, what is the use of having them rusted out on a siding?

Why, one of the railroad presidents testified in a hearing, he said—this was the little Susquehanna Railroad over in Jersey that just owns

a few cars; it is local traffic, and can't get any of them off-line. He said: "If I built a thousand new shiny cars today, they would rust out on siding."

The only time they could be gotten off-line was an emergency order of the ICC that requires a connecting carrier to take an empty. I do not blame any railroad for wanting to make money for their stockholders. Of course, they do not want to invest a lot of money in obsolete boxcars that they can only use for a month or two out of the year.

They would like to charge the eastern railroads with appropriating their cars so we would buy the cars and keep them on siding for 10 months out of the year that we have no use for them. We can't get them off except under emergency orders of the Commission. That is what is really behind all this pressure.

So I say, gentlemen, in the utmost of sincerity, it makes me sad to see you conscientious gentlemen coping and grappling with a problem here, that if you pass it in this form I am confident it is going to be set aside, because it does not bear a reasonable relation to the regulatory objectives sought. So I am suggesting, to avoid this, to make this useful, if you are going to use this weapon—

The CHAIRMAN. What do you contend is the objective sought?

Mr. NEWTON. The objective sought is to increase the national car supply, not to make the poor car renters poorer and enable the wealthy traffic-originating roads to pay higher dividends and not put a nickel into cars. That does not have anything to do with the accomplishing of the objective.

The CHAIRMAN. I would assume that being such a distinguished gentleman involved with this, and with the knowledge you have, that you have read the bill.

Mr. NEWTON. Yes, sir.

The CHAIRMAN. It certainly winds up by saying the Commission's judgment will prevail. It will provide a just and reasonable compensation to freight car owners, contribute to a sound car service practice, and cause the acquisition and maintenance of the car supply adequate to meet the needs of commerce and the national defense.

Mr. NEWTON. Yes, sir.

The CHAIRMAN. Isn't that the objective sought?

Mr. NEWTON. Well, I would assume that is the objective sought, but the Administrative Procedures Act requires, when the Commission exercises any such power, that the Commission must have the power and there must be a factual showing, not merely the Commission's judgment in vacuo but a factual showing, that the determination of the Commission is based on those factors and that those factors will be accomplished.

Now, this bill, that merely, with a broadax, says everybody has got to pay a higher rate if the Commission says that is an incentive, is not going to stand up, unless it is pinpointed to the legislative objectives sought, Your Honor.

Now, I have to be honest with you, gentlemen. I do not want to see 12 more years of litigation and end up where we started from. That is why I am pleading with you, gentlemen, to pinpoint this legislation and make it oriented and directed to the objective that you, gentlemen, sincerely want to accomplish: Increase the boxcar supply. You can

only do it in two ways. You have to put in the bill, it seems to me, in order to make it stand up and accomplish its objectives, two things: First, you have to make it applicable only to those roads that are deficient in their car ownership, and the Commission will have to make that finding.

Mr. Webb says they can do it or that they would consider it anyway. Require that they do it. And, second, that every penny of incentive element be earmarked and put into a special fund and used for the purchase of freight cars and not to just increase dividends to the rich railroad stockholders.

The CHAIRMAN. Well, Mr. Newton, I suggested yesterday—I think it was—to somebody if perhaps there could not be some thought given to a formula that would meet this problem. I have not gotten much reaction to the suggestion. You are the only one that has come close to it.

Mr. NEWTON. I would be glad to work with any of your legislative assistants.

The CHAIRMAN. It seems to me, under your second proposition, you are for something to go in here that the courts would knock down.

Mr. NEWTON. On the contrary, I think it is one of two things that will validate the legislation. You have got to have it related to the objective sought, and just putting a higher incentive on a use in a captive market is not going to accomplish anything in the way of increasing the car supply.

That chart shows what has happened in the past: nothing, nothing to induce building of boxcars. It will just make the rich roads richer and the poor roads poorer.

The CHAIRMAN. Of course, it seems to me you are asking us to make the railroads set aside X dollars and cents which the Congress could direct the Commission to tell a railroad it has got to put all of it in boxcars or freight cars or something else whether they need them or not.

Mr. NEWTON. No, sir. I am suggesting that this Congress, Mr. Chairman, is not going to determine these things. But if you are going to give the Commission power to put an incentive element, a so-called incentive element, in the rate, what I am suggesting is that the Congress should require the Commission, in order to validate the legislation and relate it to the accomplishment of its legislative objective, to require two things: First, that the penalty, the teeth, be applied only to those that are deficient, and the Commission will find who is deficient. Let them find who is deficient. Second, that when they get that incentive element it will be earmarked for the legislative purpose that the Congress wants it to be used for, to-wit, the building of cars.

Now, let the Commission define and find what type of cars are needed by this, that, or the other railroad. That is their job. They are equipped to do it, and they can do it. Chairman Webb has said he can do it.

Mr. ROGERS of Texas. Will the gentleman yield at this point?

The CHAIRMAN. Let me say this: You are an attorney involved in this. I think you have litigation going now, do you not?

Mr. NEWTON. We are fighting 109 cases.

The CHAIRMAN. Yes; I know that.

Others have suggested classifying, I suppose you would call it, but I do not see how we can under our system require me to pay \$1 for a pound of coffee in a drug store, and Mr. Staggers here having to pay \$1.25 for it.

That is what you are asking be done, and I do not see how you can make one price, because it runs over one railroad, that would be different from what another one would have to pay for running it over his railroad, for the same service and for the same haul. I do not see how you can justify that kind of discrimination.

Mr. NEWTON. I say, Mr. Chairman, in response to that—

The CHAIRMAN. That is what bothers me about the amendment affecting your New England roads.

Mr. NEWTON. And what bothers me about the bill, if there is not any amendment, is that it is trying to drive a nail with a shotgun.

The CHAIRMAN. Well, that is a nice term, but it may well be something else.

Mr. NEWTON. It is not directed toward the attainment of the legislative objective, and it will simply operate in reverse. It will deplete the resources of the biggest suppliers of boxcars of this country in favor of a group of nine roads whose primary interest is in coal cars, open hoppers and gondolas not suitable for carrying of grain or plywood.

Mr. ROGERS of Texas. You used the term "deficiency"; what do you mean by deficiency?

Mr. NEWTON. Deficient in adequacy of car ownership to meet the needs of commerce and national defense. Now, I can amplify that—

Mr. ROGERS of Texas. Yes; that is sort of a general term.

Mr. NEWTON. That is what the Commission has to find, if it is going to do anything.

Mr. ROGERS of Texas. Yes; I know, but you still have a wide latitude here. I mean, you use the word "deficient." How are you going to determine whether a road is deficient or not deficient? I am talking about roads A, B, C, and D.

Mr. NEWTON. Yes.

Mr. ROGERS of Texas. And if we apply your formula, you are going to have to apply that to B and D.

Mr. NEWTON. That is right.

Mr. ROGERS of Texas. Because somebody found they were deficient.

Mr. NEWTON. That is right, and the only person that can find whether they are or are not deficient is not the Congress but the Commission.

Mr. ROGERS of Texas. What is the formula?

Mr. NEWTON. The formula is this, and I do not pretend to speak for the Commission, but they are making studies right now. Mr. Connell, who follows me, is a member of a committee that is aiding the commission of the AAR in making studies to find out just those things today.

Now, Mr. Perlman gave the key yesterday—one of the greatest railroad officials in the country, Mr. Perlman. He pointed out—and the Commission has said this in times past, it is the obligation of the originating carrier to supply enough cars to meet his shippers', his customers' needs.

That is their obligation. They can meet that obligation in one of two ways. Either they have cars belonging to others, foreign-line cars that are there available, or they ought to make up the deficiency themselves.

This is where the Santa Fe and the Burlington are deficient. This is why Mr. Martin will be in the forefront of opposition to any study that seeks to determine what railroads are deficient in ownership, because down deep he knows that his railroad is one of the worst offenders. That is a fact.

I mean, what is the use of mincing words about it. This is all going to come out. It is a fact. We have got studies to show that the Santa Fe, with their 3,000 miles of track, it is a local haul for them. We have 110 miles average pay haul, on the Boston & Maine. My gosh, we unload three cars of traffic every day for every load we ship off. We have to get these empties off all the time in homebound direction. We can't ship our own cars off. We have difficulty doing it. We can at times.

Mr. ROGERS of Texas. Your definition of deficiency would make the Santa Fe deficient and the Boston & Maine not deficient.

Mr. NEWTON. Maybe I am wrong. I am willing to live with that. If it puts the Boston & Maine out of business, if it says, "Go into bankruptcy and pull up your rails, as the New Haven may," we will have to live with that.

I am not just representing the Boston & Maine and New Haven in this proceeding. I have served in the Government too many years in fields close to transportation and in transportation, to not take a broad view. I am not speaking only as an advocate here. I am trying to help you gentlemen, as I see it from a long experience in this problem.

I believe the roads that are most deficient, basically and by and large in boxcars, are the roads, the wealthy traffic-originating roads, and I believe they will be found so on any fair study by any fair body, and I believe the Commission will make such a statement.

Mr. ROGERS of Texas. I was thinking of the statement of Mr. Martin that the roads that he represents had on their tracks only 89 percent of the cars they own.

Mr. NEWTON. Mr. Perlman showed that that is a completely meaningless statistic. He did not give you the figure that 125 percent of their hopper cars are on-line. Mr. Smucker showed me that yesterday. In other words, they have got a lot of cars lying around there that are hoppers that they can't use for grain loading.

It is just like Mr. Martin's figures on the decline in numbers of cars. Mr. Perlman showed that it is not numbers that count; it is capacity. It is ton-miles hauled. And while he naturally is working for the pocket nerve of his railroad, and you can't blame him, he would like to make more than 4 percent on his money, and he would like to increase his dividends, but we haven't seen a dividend in the East for so long, we do not know what a dividend looks like.

I do not blame Mr. Martin. He is most effective, eloquent advocate I ever encountered anywhere. The only thing is, his facts do not stand up whenever they are submitted before a critical tribunal that has got to determine on the facts.

Mr. ROGERS of Texas. Of course, you understand what I am after is a solution to the problem, and I do not care whose toes we step on.

Mr. NEWTON. Yes, sir, I understand that. And if it steps on our toes, we are willing to abide by it. If the Commerce Commission says: "Mr. Boston & Maine, you should buy a thousand more boxcars," we will say, "Yes, sir, please tell us how we are going to get them into use. Please do not penalize us by making us build a thousand boxcars and keep them on-line for 10 months of a year and just ship them out when they can use them.

Mr. ROGERS of Texas. Maybe we should set up a Government pool someplace.

Mr. NEWTON. Now, Mr. Congressman, you are talking about what I think is a real solution, and Governor Johnston suggested it, but this requires loans by the Government. Governor Johnston suggested that a building fund be made available—this was in May of this year—as loans to the railroad at low interest rates to build cars.

Now, if there were a pool, and the Interstate Commerce Commission would decide who should contribute what and how many cars to that pool, and then they were sent all over the country rent free, you would have the solution without Government money. This would be the solution. This would, without doubt, be the solution.

That is what you get in European countries where you have Government ownership, but heaven knows you get a lot of other things that go along with it under Government ownership.

The CHAIRMAN. Mr. Younger has a question.

Mr. YOUNGER. Thank you, Mr. Chairman.

I notice that you list among the 19 railroads that are debtor roads paying out money, the New York Central.

Mr. NEWTON. That is right.

Mr. YOUNGER. Yesterday, Mr. Perlman said it made no difference to their road, that they would make money if the per diem were increased.

Mr. NEWTON. Yes, sir.

Mr. YOUNGER. And he showed why they would receive more in per diem rentals than they would pay out, though you have got them listed the other way.

Mr. NEWTON. That is absolutely right, sir.

Mr. YOUNGER. What?

Mr. NEWTON. We are talking two different things, apples and oranges. Mr. Perlman, when he said they made money, he was talking about the Central System. You will remember he said they have a lot of subsidiaries, and you will remember he said the Pittsburgh & Lake Erie owns so many cars they have not got the trackage to keep them on. They are out all the time.

If you will look over on the other side, among the nine biggest recipients of per diem, you will see the Pittsburgh & Lake Erie is No. 2.

Now, when he talks about making money, he is talking about the New York Central System, not the New York Central Railroad alone.

From his point of view, with the Pittsburgh & Lake Erie one of the biggest creditors that can offset the fact that the New York Central Railroad—not System, the New York Railroad, the New York Central Railroad—is one of the biggest net per diem debtors, something like \$14 million or \$15 million on the payout end per diem every year.

But that is all made up by the System, because, as he says, they make a consolidated statement with the Pittsburgh & Lake Erie, which is on the big receiving end. It is No. 2, next only to the Norfolk & Western. Those are in order. You can see that the Pennsylvania in 1961 was No. 1, and the New York Central Railroad—not System—was No. 2.

That is the answer to that one.

Mr. Perlman is in the happy position which the Boston & Maine, and the Erie, Lackawanna, and the Long Island, and the New Haven, and many other railroads are not in; we do not have subsidiaries.

The CHAIRMAN. Did you testify before the Senate committee?

Mr. NEWTON. Yes, sir. My testimony was very much garbled by the reporter. If you read it, it will not be intelligible. I do not even recognize it myself.

The CHAIRMAN. How in the world did they get this bill out unanimously without any objection and without anybody expressing anything against it?

Mr. NEWTON. Because I think they recognized, sir, that to pass a bill that will deplete the resources of the roads that serve the consumers and will simply increase the money that goes into the already profitable roads is not in the interests of a national transportation system by rail.

The CHAIRMAN. Do you think that is the reason they passed it in the Senate, then, without any objection?

Mr. NEWTON. Well, now, I was not privy to the inside conferences among the Senators. There may have been what you call compromises and so forth. I do not know. I could not answer that question, sir. I do not know. I was not there.

The CHAIRMAN. Any further questions?

Mr. KEITH. Mr. Chairman, I am in such learned company but perhaps I might venture a small question. I did think I heard you say that the incentive element was present in the present price structure.

Mr. NEWTON. That is right. These figures that are shown in this double chart, which are actual figures—

Mr. KEITH. The present rate structure does contain by legislative history, and perhaps by ICC action—it does reflect some factor for incentive, is that correct?

Mr. NEWTON. Now you have got two or three questions in the same one, sir.

Mr. KEITH. The answer is in the affirmative to my first question.

Mr. NEWTON. It is not by legislative history and it is not by ICC action except encouragement. It is by industry action. And the incentive element has been in there since 1953. It has been increased. By 1961 it was \$175 million a year, 22 percent of the total rate. That is not investment, not cost.

Mr. KEITH. And did you not say that this was likely to throw the thing out of court?

Mr. NEWTON. Oh, no; I do not say that.

Mr. KEITH. Did I not hear you say—

Mr. NEWTON. I did not say that.

Mr. KEITH (continuing). That it was not the proper way to do it?

Mr. NEWTON. I did not say that. What I meant to say was that if you put an incentive, if you do what this bill does, which is to

penalize—I use “penalize” and I know the chairman uses it, but it is the practical effect just as Mr. Burks said—if you up our bill, we are captive renters, and we cannot go elsewhere because we are required to take every car that is given us, and you just increase the rate, you will simply increase our debt. We have got to pay more for something that we cannot get any benefit from. And bear in mind the Commission has always resisted anything but original cost so far as tariffs are concerned.

No, we have got to dig into our pockets and pay this additional incentive, and we have no option. We are captives. We are a captive market. That is why these analogies to rent control are no good. We are not a tenant taking advantage. We are a captive tenant. They are taking advantage of us. The western roads are cannibalizing us, the very people that take their products to market.

Now, I say that if you put that kind of broadax sanction here, you are penalizing the user of the car for using the car. That is not penalizing the man that has not made his proper and fair contribution to the national car supply. That is why I say the courts, if they follow precedents, if they follow previous decisions of the Supreme Court, will void any application of this because it does not, it is not directed to the regulatory objectives sought to be attained; to wit, the increasing of the boxcar fleet.

I am suggesting, to avoid this, to avoid years and years of litigation, that you pinpoint this legislation, if you are going to use this device of per diem, that you pinpoint it to accomplish the objective you want to accomplish, and not just make the poor railroads of the East poorer by upping their rental bill. It makes them less able to buy cars obviously, and that is the way it has worked.

And all of these figures Mr. Martin showed you, the numbers of cars, he did not tell you that, that there was \$176 million of incentive in the rate during all those years when the car supply was nose diving. Why? It works in reverse. And who is going to hold that that applies the test that the Supreme Court has laid down, that it has to have a reasonable relationship to the legislative objectives sought?

I say—I am no prophet, but I have studied the cases. I know what the courts have said. I think they are going to say it again. This is no good.

The CHAIRMAN. Sir, we have several others. I hope we might recognize the fact that they should be heard, too, and we are going to have to conclude.

Mr. NEWTON. I thank you, Mr. Chairman and gentlemen, for your courtesy.

The CHAIRMAN. Thank you very much for your statement. Did I understand that Mr. Connell of the Boston & Maine also wants to expound further on this?

Mr. NEWTON. Yes, sir; he has a very short statement about the Boston & Maine's position.

The CHAIRMAN. Were you not representing the Boston & Maine, too?

Mr. NEWTON. He is a railroader, a working railroader. I have been in my day, but I am a lawyer. He can give you some facts which I think are very pertinent to the Boston & Maine situation.

The CHAIRMAN. I hope he will not be repetitious.

STATEMENT OF ALBURN J. CONNELL, DIRECTOR OF SYSTEMS AND RESEARCH OF THE BOSTON & MAINE CORP.

Mr. CONNELL. Mr. Chairman, I have no intention of prolonging this. I believe as last man on the list here about everything has been said that could possibly have been said. I had planned to read my statement yesterday, but I would like to have it filed, if I may, in the record.

The CHAIRMAN. Your statement will be included in the record, Mr. Connell.

Mr. CONNELL. Thank you, sir.

(Mr. Connell's statement in full follows:)

STATEMENT OF A. J. CONNELL, DIRECTOR OF SYSTEMS AND RESEARCH OF THE BOSTON & MAINE CORP.

Mr. Chairman, and members of this committee, my name is Alburn J. Connell. I am director of systems and research of the Boston & Maine Corp., with offices at 150 Causeway Street, Boston, Mass. I have been employed by the Boston & Maine since 1929, except during the years 1948 and 1949, when I served as a special service agent with the Interstate Commerce Commission Bureau of Service.

I have held the position of car accountant and director of methods and research prior to the appointment to my present position in 1961.

I have been a member of the Association of American Railroads Committee on Records, now referred to as the Committee on Mileage and Per Diem. Presently, I serve as chairman of the AAR Committee on Car Ownership Costs.

My appearance here today is to testify in behalf of the Boston & Maine Corp. in opposition to H.R. 7165 and similar bills. Passage of this legislation would grant the Interstate Commerce Commission seemingly unlimited discretionary powers for establishing per diem rates for freight cars far beyond the present established principle of returning to the carowner the full costs of freight car ownership plus a reasonable return on investment. Any charge beyond a reasonable return has always been viewed by the courts to constitute a penalty and therefore judged to be unlawful.

On April 9 this year, I gave testimony before the Senate Freight Car Shortage Subcommittee outlining in detail valid reasons for opposing the passage of S. 1098. I should like to reiterate certain of the points brought out during that hearing.

Based upon the knowledge of basic conditions inherent to the railroad industry, it becomes evident that an "incentive" per diem rate will not and cannot be an effective regulatory instrument to solve the problem of meeting the seasonal shortages of boxcars, which as I understand it is the primary objective of these bills.

Basically the facts are these:

The character of a railroad's traffic governs the type of cars which it needs and which it will purchase to meet the normal demands of the shippers on its line. No incentive per diem rate is needed to accomplish this. The incentive to acquire cars is an economic one—the shippers are the traffic-originating road's customers. Their needs must be supplied. No railroad willingly forgoes revenue offered by shippers originating traffic on its lines.

The great agricultural productive areas are located in the West and are served by railroads which run west and southwest of Chicago. The markets of consumers in this country are located in the more densely populated States running east from the State of Illinois. Thus we have an unbalanced flow of loaded cars moving west to east.

The destinations of the bulk commodities produced in the West thus are substantially to be found in the densely populated areas served by the eastern and central roads. The nature of the traffic of those roads serving densely populated areas of consumers is predominantly traffic-terminating, not traffic-originating. The Boston & Maine, for example, for years has terminated approximately three carloads of freight for each carload of traffic which it originates for shipment off-line.

This means that the predominantly traffic-terminating roads are generally car-rental payers, whereas predominantly traffic-originating roads are rental

receivers. Then there are a group of railroads whose traffic is pretty much in balance. They fortunately terminate approximately the same amount of traffic as they originate, and are thus happily balanced no matter to what heights the per diem rate may soar.

The Interstate Commerce Act requires that a common carrier by rail must accept for transportation all freight cars delivered them in interchange by originating or intermediate carriers for transportation to on-line destinations. Thus, the traffic-terminating lines such as the Boston & Maine, the New York, New Haven & Hartford, and similarly situated railroads are, in effect, a captive market for the cars delivered them.

Since these roads consistently terminate many more cars than they can possibly load (or originate), they have a constant surplus of empty foreign cars which they have every incentive to move off-line empty or loaded just as soon as possible. No Boston & Maine operating officer would remain long on his job if he sanctioned the retention of empty foreign cars on line at daily rates reaching \$12 and over per day.

Boston & Maine's net loss for the year 1964 was \$5 million, of which a debit per diem balance contributed \$3 million. This loss, huge to the Boston & Maine, was accumulated despite a more than adequate car ownership.

Results of the Interstate Commerce Commission's Ex parte 241 study would indicate that Boston & Maine need but own 241 boxcars to protect local shippers' loadings, whereas in reality, Boston & Maine owned 3,197 boxcars during the test month, and is contributing substantially to the national car fleet.

The Association of American Railroads Code of Car Service Rules, grounded on sound transportation economics, does not permit the Boston & Maine to promiscuously load one of its own cars off-line when there is an empty suitable foreign car available. The empty backhauling of a western ownership car along with a loaded B. & M. car would obviously present a wasteful burden to interstate commerce.

What redress then, may a railroad such as the Boston & Maine possibly seek when—

- (a) it owns sufficient cars to protect its shippers' needs;
- (b) it has a constant oversupply of local and foreign cars on line;
- (c) it is fighting a constant battle to reduce foreign car turn-around time in order to reduce car hire expense to a minimum;
- (d) it has, despite all efforts, a \$3 million per diem debit for foreign car hire;
- (e) it is a captive market for foreign cars of the large traffic-originating lines who sponsor this bill;
- (f) it bears the criticism of predominantly traffic-originating western roads who charge "appropriation" of their cars;
- (g) it must operate under the Interstate Commerce Act to the best interest of its shippers and receivers of freight; and
- (h) it is now confronted with legislation which will increase its debts.

The bill under consideration would result in an increase to an already tiresome burden to the point of ruination by car-hire costs and would result only in an increased trade of dollars from the geographically situated "have nots" to the "haves" in order to serve a regulatory purpose.

In order to survive, the "have nots" would in desperation petition the Commission for authority to increase freight rates to its patrons. Shippers and receivers of freight in New England must then contribute to the fortune of the "haves" or seek some other mode of transportation. The western railroad proponents could also lose a share of eastern markets if freight rates became prohibitive.

The one glimmer of hope for survival, as I see it, lies in the direction of suggestion by Senators Cotton and Pastore for an amendment to S. 1098 which empowers the Commission to make certain elements of the bill inapplicable to terminal and short-line carriers as follows:

"In the consideration of any element included in determinations pursuant to this paragraph as an incentive to car acquisition and maintenance the Commission is empowered to make such element, or any part thereof, inapplicable: (1) to carriers determined by the Commission as owning an adequate number of freight cars to meet their responsibilities to the needs of commerce and the national defense; (2) to carriers which terminate a substantially higher percentage of interline traffic than they originate; (3) to types of freight cars the

supply of which the Commission finds to be adequate; and (4) to such other cases or circumstances as the Commission finds to be in the public interest."

The amendment would "allow" the Interstate Commerce Commission to take into consideration the situation of terminal carriers when issuing orders or regulation.

This action by the Senate is indeed a step in the right direction. It is also quite possible that the Commission, which is founded upon reasonableness, would consider exceptions in any event. However, the amendment as written does not insure proper protection to terminal roads and their consumers because Commission selectivity is not made mandatory.

As it is presently written, railroads eligible for relief from new regulation must no doubt go through long and costly petition litigation to prove their case before the Commission.

It seems therefore that in order to insure the effectiveness of the amendment as the Senate intended, that the Commission should be required to apply selectivity to their directives under this bill rather than be "empowered" to do so.

I respectfully call your attention to a discussion of this matter as contained on pages 25-26 of Witness Newton's statement.

Thank you for the opportunity of appearing here today.

Mr. CONNELL. I hope that Mr. Newton has given you gentlemen some constructive ideas. I am sure he was positive in his remarks, and I have nothing more to add in that respect. Instead, I thought I would skip around. Mr. Harris, I believe, several times expressed the doubt if the industry could operate if each railroad had different per diem rates. I might say that for a time they did operate in that manner. Prior to about 1930 the AAR proposed an average per diem plan in which cars and days were averaged over a period of a test year. Each road did have a different per diem rate that was in effect for several years.

The CHAIRMAN. That was by your own action, I believe, and not by Government direction.

Mr. CONNELL. That is true, sir. But they did operate, and I might add that presently the Commission in docket 33158, one of the findings by one of the departments of the Commission was just such a varied rate. One of the group rates, with different per diem rates for each road, was founded upon time. And another one was a combination of time and mileage whereby each railroad had a different rate. That, of course, is still in litigation.

I would also like to add, Mr. Chairman, that the Boston & Maine has no quarrel with the Interstate Commerce Commission. We have always felt that they have been just and reasonable, and in fact we are supporting several of their dockets in the famous per diem case right at present.

I would also like to add, if I may, that the Boston & Maine is not negative to what is trying to be accomplished by this bill, but we just feel negative in the way the bill is set up. We do not feel we can afford it. It was with this in mind, I believe, that Mr. Newton attempted to inject something into it so that it may be constructive.

That is about all I have to say, Mr. Chairman.

The CHAIRMAN. Do you pay as much per diem rate—I know you do, but I want to get this in the record—do you pay as much per diem for the return of an empty car as you do for the return of that car loaded?

Mr. CONNELL. That is correct, sir. The way per diem works, the railroads call it per diem. Per diem means whoever has a foreign railroad car on his line after midnight each day, pays the prescribed per diem rate for that 24 hours until he gets it off of his line, whether

the car is standing still, moving, being unloaded or loaded, and there is only one rare instance where they do not pay per diem, and that is if a car is in a wreck and there is an interim where material is ordered from the owner, if it is special material. But they are very few and far between. So the answer is "Yes."

The CHAIRMAN. Could there be a formula worked out whereby, maybe on a mileage basis of some kind, that the per diem, as you call the rate when a car is actually used for haul, could have one rate and then when it is being returned expeditiously and all without any benefit or use to the road, another rate?

Mr. CONNELL. I think it could be worked out, Mr. Chairman. Administering the task would be quite great, I believe, but a lot of things have been tried—that is, discussed—on this problem. I belonged to a great number of committees over the past years who have tussled with many of these problems, and it was even proposed at one time that the per diem be possibly broken up into quarter days of, say, 6 hours apiece, to see if that might expedite the movement of cars. But that application was deemed impractical.

The CHAIRMAN. I have the impression from what the Commission said—and they had their man who is quite expertise in this field—I am impressed that he knows his business pretty well.

Mr. CONNELL. Is that Chairman Webb, sir?

The CHAIRMAN. Well, his director of this program.

Mr. CONNELL. Yes.

The CHAIRMAN. He seems to be knowledgeable in it; and, living with it day after day, I guess for good reason. They seem to think that the railroad industry is doing a very good job on the returning of cars or sending them at least in the direction of where they should go, if not actually back to their own road.

Now, I have heard nobody complain during these hearings that arbitrarily these cars are being held just inadvertently or otherwise.

Mr. CONNELL. I subscribe—excuse me.

The CHAIRMAN. Several have made the comment that you did about returning. That does not seem to be the problem. No, the problem is that there is admission by everyone so far that there is a shortage in certain types of cars.

Mr. CONNELL. I was speaking, or as you were saying, that car utilization is high. I think it is generally admitted that there is a shortage of cars. One gentleman here yesterday, one of your colleagues, said that possibly distribution could be a contributing factor at least. Maybe that is so. I am not in a position to know.

Possibly there is another problem I have not heard discussed here, but I know it is prevalent, and particularly with the adoption of multi-level per diem. A boxcar, as you might see it from the outside it looks like a boxcar, but we are coming into the age of specially equipped cars. I mean by that it is a specially equipped car because it is fitted out with damage free appliances, cushion underframes, belt rails, loaders, and many of these are assigned to a particular commodity or an industry, upon a certain line. Now, that car is not a free running car as the ordinary common boxcar is. It is an assigned car.

That is getting to be quite prevalent now, and possibly not as many of the so-called common boxcars or the workhorses are being built.

These, of course, are suitable for grain whereas an equipped car would not be found in grain-loading territory.

The CHAIRMAN. I am surprised that there is a shortage in cars for grain the way we have been at it in the last several years, and particularly in the last 3 years or more where we have thought out this idea of trying to give more freedom to the railroad industry so it can get into the greater haul of agricultural products. Here I am fighting for you almost with all my heart and other members of this committee trying to do it. I am wondering now if the effort was worth it. If it will not meet the needs of what you are getting today, I do not know what will happen if you get more.

Mr. CONNELL. I sympathize with your position, Mr. Chairman. I concur with your remarks. I was somewhat stimulated yesterday by Mr. Perlman's suggestion that it needs some statesmanship, and I think that thought was echoed by Mr. Smucker as representing the Pennsylvania Railroad at the Senate hearings. I do know that those roads are putting in a great deal of money and equipment. Of course others are doing it, too. Just what the answer is I am sure I do not know.

The CHAIRMAN. Well, in my judgment it ought to be the responsibility of the industry on a fair and adequate distribution. I think it would be utterly chaotic to have the Government do it. I can remember back when we had wartime controls.

Mr. CONNELL. Yes.

The CHAIRMAN. I know what happens when you have got to come to Washington to get a boxcar sent up to Boston. I would like to see the industry have to assume that responsibility. I for one would be perfectly willing to give some pretty far-reaching authority to the ICC on this thing effective as of a certain date, and during the interim give the industry a chance to really get down and quit cutting each others' throats over disagreeing as to who is responsible and start trying to talk about how we can overcome this.

Mr. CONNELL. That is probably what is needed, sir. I do not believe my company—I know in fact that they haven't any objection to the Commission being given authority to state just what is needed, that is I mean in the way of equipment anyway, what cars are needed, where they are needed, possibly who should buy them. I do not know how you could go about the latter part of it. But I think that might be helpful to find out just what the problem is before you take action on it.

The CHAIRMAN. I am afraid that in view of the 5a amendment that was provided in 1948, granting certain authority to the railroad industry, which by implication would no doubt amend previous provisions of the ICC Act, I am afraid that with that, together with the three-judge decision on the matter, we should not criticize them under our system. As the distinguished gentleman said a while ago, each one of them is trying to do the best it can for its own road. But I am afraid they are using all of this for that very purpose. I may be wrong in my suspicion. I do not know. But regardless of whether it is on the debit or credit side, that seems to be what is happening.

Of course there has not been much discussion of the fact that there is I believe 15 years allowed by the Internal Revenue Service to write

off the cars; this seems to be a pretty good incentive in itself to do something about it if you would. Somebody said that a car has about a 27-year life. No effort is being made by representatives of the industry to provide this. Now we are thinking about an investment incentive, which I think would be pretty good. It seems to me, that there ought to be some way to impress upon the railroad industry that they ought to get together and decide on an approach to this, a unanimous approach to it, because the western roads are affected precisely the same as the eastern roads and the southern roads and all the rest of them all the way across when it comes to the overall transportation needs.

Thank you very much.

Mr. CONNELL. Thank you, gentlemen, for permitting my appearance here.

The CHAIRMAN. We are glad to have you, and we appreciate your contribution to this record.

Mr. CONNELL. Thank you.

The CHAIRMAN. We had earlier called for Mr. Waterman. I believe he has arrived.

Mr. Waterman, are you alone? I notice here you have your vice president listed.

**STATEMENT OF JEREMIAH C. WATERMAN, GENERAL ATTORNEY,
SOUTHERN PACIFIC CO.**

Mr. WATERMAN. Yes, Mr. Chairman. I have been requested by Mr. Lamprecht, the vice president of operations, to present his statement here since he was unable to come on from San Francisco for the hearing.

The CHAIRMAN. Very well. We are glad to have you. We are sorry Mr. Lamprecht cannot be with us.

Mr. WATERMAN. My name is J. C. Waterman, general attorney of Southern Pacific Co., 205 Transportation Building, Washington, D.C.

I will read the statement of William D. Lamprecht.

**STATEMENT OF WILLIAM D. LAMPRECHT, VICE PRESIDENT, SYSTEM OPERATIONS, SOUTHERN PACIFIC CO., PRESENTED BY
JEREMIAH C. WATERMAN**

Mr. WATERMAN. I am presenting this statement in behalf of William D. Lamprecht, vice president, System Operations of Southern Pacific Co., 65 Market Street, San Francisco, Calif.

As one of the largest owners of freight cars in the country, Southern Pacific Co. of course favors the principles that a car owner is entitled to reasonable compensation for the use of its cars, and that an adequate supply of freight cars must be maintained. Unfortunately, neither the bill as passed by the Senate (S. 1098) nor the other so-called incentive per diem bills before your committee will accomplish these objectives, and therefore Southern Pacific Co. opposes them.

The bill passed by the Senate and being considered by your committee has the obvious flaw that it would permit the ICC to make such incentives to car acquisition as may be promulgated by it in-

applicable "to carriers which terminate a substantially higher percentage of interline traffic than they originate." One of the objectives of incentive per diem legislation is to encourage the prompt return of empty freight cars. This is also a problem involving the eastern terminal lines, and therefore such railroads are the very ones which should be discouraged from retaining new, expensive cars for unwarranted periods of time. Authorizing the ICC to exempt such terminal lines, as authorized by exemption (2) of the second paragraph of the bill adopted by the Senate, could completely thwart the congressional purpose. A further objection to the bill adopted by the Senate is that it would permit the Commission to determine whether carriers own an "adequate number of freight cars to meet their responsibilities to the needs of commerce and the national defense" without establishing any guidelines by which the Commission or the railroads can determine what constitutes adequate car ownership.

We also object to the first paragraph of the bill adopted by the Senate, as the additional powers which would be conferred on the Commission are unclear and unnecessary for the following reasons:

(1) The ICC already has the power to establish just and reasonable rates to compensate freight-car owners so as to encourage the acquisition and maintenance of an adequate car supply under section 1(14) (a) of the Interstate Commerce Act. This section gives the Commission broad administrative discretion to establish the factors constituting a fair per diem rate. The bill before you contains a serious ambiguity which could impair its effectiveness, as it refers to "the value of use of freight cars," which has no precise definition. Less regulation, not more, will enable the railroads to solve the problem of car supply.

(2) The railroad industry has already taken great strides in the development of a per diem system which will encourage the acquisition of cars and the prompt return of empty cars to their owners. The multilevel system of per diem rates which went into effect January 1, 1964, was advocated and sponsored by Southern Pacific, and we believe it constitutes an important step in the development by the industry itself of rates which are just and reasonable from the standpoint of both the car owner and car user. These rates were modified recently to give further recognition to the extremely high cost of modern freight-car equipment and they now vary from \$2.16 for cars valued at less than \$1,000 to \$12.18 per day for cars valued at more than \$35,000.

(3) The Association of American Railroads has appropriated \$125,000 for a study of per diem and new legislation should not be enacted until the industry and the Commission have an opportunity to consider reports which will be completed soon. Various problems are being studied in depth; including reexamination of the problem of securing and adequate rapid return of ownership costs in the light of obsolescence and inflation factors, reexamination of the adequacy and practicality of present value brackets in the per diem rate system, the proper method of reflecting utilization of the car fleet, and the development of an equitable system to deal with the problems of terminating lines having a low average haul and high detention time. We be-

lieve that this study will result in new thinking and concepts which may be acceptable to all segments of the industry, public, and the Commission.

(4) We also oppose the legislation because the per diem rates from 1953 until the present time are now before the Commission in three consolidated proceedings. These cases cover not only the single uniform rates of \$2.40, \$2.75, and \$2.88 per day, and the multilevel rates, but also an investigation of per diem rates and the principles governing establishment of these rates which should be in effect in the future in order to accomplish the same objectives which your bills seek. We believe the Commission deserves the opportunity to decide these cases on their merits, and that it has full power to do so without additional legislation. New legislation, if adopted, might disrupt orderly consideration of these cases by the Commission and might affect the validity of any decision by the Commission concerning per diem rates in effect in the past.

We at Southern Pacific have recognized the need for a modern, efficient railroad car fleet to serve shippers in an expanding economy. I am proud of our accomplishments which evidence our intention not to shirk our responsibility or to rely on other railroads to meet our obligations. During the hearings others have called attention to the declining number of freight cars on a national basis, but Southern Pacific has been and will continue in the future to do much more than its share to increase the national car supply. The Southern Pacific fleet now exceeds 84,000 cars, an increase of over 20,000 cars, or approximately 32 percent, since 1946. We and our subsidiaries bought 3,231 cars during 1964 at a cost of \$62.7 million, and we will buy during 1965, 5,595 cars costing \$104.8 million. This is not just an isolated purchase but is part of Southern Pacific's continuing effort to replace and improve its car fleet, notwithstanding tremendous cost increases. Cars being purchased today by Southern Pacific are far better than previous rolling stock. The standard boxcar, which cost \$3,800 in 1946, costs \$15,000 today. Its capacity has been increased from 40 tons to as high as 100 tons, and it has the features demanded by shippers, such as wide doors, roller bearings, and cushioned underframes. Southern Pacific has made these large purchases in order to serve its shippers throughout the West and Southwest.

In addition, we have maintained our car fleet with a bad order ratio which is substantially less than the national average, and as a result our serviceable car fleet is generally 98 percent or more of our total car ownership. We will continue these car purchase and maintenance programs voluntarily without the supposed spur of these per diem bills.

The CHAIRMAN. Does that conclude your statement?

Mr. WATERMAN. That concludes my statement, Mr. Chairman.

The CHAIRMAN. Thank you very much. Certainly under the circumstances I will recognize an old friend of yours, Mr. Younger.

Mr. WATERMAN. Yes, sir.

Mr. YOUNGER. Thank you, Mr. Chairman.

You will recall Mr. Perlman's definition yesterday of the ability of the carrier to service the producers on its line. Do you think the Southern Pacific has a sufficient number of cars to adequately service those which are on your line?

Mr. WATERMAN. Mr. Younger, I communicated with our headquarters, and I have ascertained that as of the present time, the Southern Pacific Co., including its 97-percent owned subsidiary, the St. Louis Southwestern Railway Co., otherwise known as the Cotton Belt, has a total ownership of 83,465 cars. That is exclusive of the Pacific Fruit Express Co. car fleet, which has the largest car fleet in the world and is half owned by Southern Pacific.

With the ownership of 83,465 cars, our latest available information on cars on line, on both Southern Pacific and Cotton Belt, was 78,185. That is the latest data available in September. So that we had somewhat over 5,000 cars in ownership above the number of cars on line.

Mr. YOUNGER. Those are cars used by foreign lines and not returned to you.

Mr. WATERMAN. No. These are the cars that were on our line on that particular day. We had 78,000 cars on line as against an ownership of about 84,000.

Mr. YOUNGER. So that you have about 9,000 then. If you own 84,000 cars on the 2 lines, and you had 75,000—

Mr. WATERMAN. 78,000 were actually on the lines.

Mr. YOUNGER. 78,000?

Mr. WATERMAN. Or foreign-line cars on the line. So that we had substantially in excess in ownership on the cars in use on our line.

Mr. YOUNGER. 6,000 cars.

Mr. WATERMAN. Yes, 6,000, approximately.

Mr. YOUNGER. But did you get any figures as to whether or not you feel that you have enough cars to serve adequately all of the producers?

Mr. WATERMAN. We feel that we do. I do not have any available at this time, any other figures. If there are any figures, the committee desires, we will be glad to supply them.

Mr. YOUNGER. I am interested in this.

Mr. WATERMAN. Yes.

Mr. YOUNGER. Because, as you heard in the testimony, the one complaining witness said they have lost \$10 million a year, those are manufacturers of plywood in Oregon and in northern California, all of them on your line.

Mr. WATERMAN. Yes. I appreciate that, and of course no one denies that there is not, from time to time, a car shortage in certain classes of cars.

Now, as I understand it, there have been newer developments, different types of plywood products being shipped today that perhaps require wide-door cars, doors 12 feet or more wide. In other words, this is a new development. We are building these wide-door cars as fast as we can do it consistently with our other programs of capital improvement. And you just cannot keep up from day to day with all the new demands. In other words, there may be plenty of 6-foot-wide-door boxcars available, and yet the shipper now in line with the new market requirements may need a 12-foot-wide door.

We are making every effort to keep up with these new demands. But as I understand the testimony of the witness from the plywood association, their business is increasing at the rate of about 14 percent per year, and we are doing our best to keep up with that. We want to supply all the needs of our shippers insofar as it is humanly possible.

We feel that in increasing our capital investment in cars this year from \$62 to \$104 million, that is over 50 percent this year, that we are doing our part.

Mr. YOUNGER. And that was not brought about by the per diem rate for cars?

Mr. WATERMAN. None whatever. I would think that of one factor generally, that is just my personal view, that this investment credit tax provision has perhaps been some spur to the ownership of cars. But the big incentive for building more cars is the need of your shipper. We are in business to transport products, and our prime objective is to supply our shippers. We feel we are doing the best we can. We do not think that this bill is the answer to greater incentive. I do not think it would affect the supply of cars appreciably at all, as Mr. Perlman said.

And also we are a credit per diem carrier. As Mr. Newton pointed out, we are one of the roads that is a credit road. And yet we are not in favor of this incentive per diem bill.

Mr. YOUNGER. That is all, Mr. Chairman.

The CHAIRMAN. Is there a shortage in cars right now?

Mr. WATERMAN. At this very moment?

The CHAIRMAN. Yes.

Mr. WATERMAN. I would not be able to answer that definitively, but I believe that there may be some shortage in certain types of cars in the lumber producing area.

The CHAIRMAN. What about grain producing areas?

Mr. WATERMAN. We are not a great grain railroad, and I would not be able to answer that, Mr. Chairman.

The CHAIRMAN. Of course, it is acknowledged by those who are familiar with it that there is a shortage.

Mr. WATERMAN. I do not think anybody who is honest would deny that.

The CHAIRMAN. And I do not think that it can be disputed but what the shortage in certain areas is growing greater all the time. I know from where we sit the shippers are becoming more demanding gradually all the time. This has been the result for the last several years.

Mr. WATERMAN. Well, Mr. Perlman produced some figures to show that the important figure, which is ton-miles carried, has increased about 50 percent since 1946.

The CHAIRMAN. I think that is very true, on the total.

Mr. WATERMAN. Yes.

The CHAIRMAN. But it is not meeting specific demand.

Mr. WATERMAN. Mr. Chairman, we are endeavoring—there is a demand today, greater and greater, for special-type cars. I do not know whether that has been brought out in these hearings.

The CHAIRMAN. Well, apparently the special-type cars to—

Mr. WATERMAN. This is one of the problems in lumber.

The CHAIRMAN (continuing). To meet the need in certain areas of the country—

Mr. WATERMAN. Yes.

The CHAIRMAN (continuing). Has brought about the disuse of certain other type cars—

Mr. WATERMAN. Right.

The CHAIRMAN (continuing). For these specific purposes.

Mr. WATERMAN. I think that may be true.

The CHAIRMAN. There is something wrong somewhere in the industry of not coordinating this thing to supply all of that need. One of the great needs is in the grain and agricultural field. One of the great needs is in the plywood industry.

Mr. WATERMAN. Yes.

The CHAIRMAN. Also, there is a need in the lumber industry. Now I know there are many factors involved, and continue to be. But nevertheless it seems that there is a lack somewhere. Everybody admits there is a problem, and they seem to have no solution to it except, "We are doing all we can." But the problem still gets greater. I cannot, to save my life, see why it would not be advisable to give somebody the authority to bring these two groups that are as far apart as the poles, to bring them together. Perhaps the Interstate Commerce Commission could do that.

Mr. WATERMAN. I think the Association of American Railroads is conducting a study right now, and as a result of that, plus these proceedings pending before the Commission, I think something very constructive is going to come out of these two.

The CHAIRMAN. Well, I think perhaps if we give the Interstate Commerce Commission additional authority, we will get constructive action probably a little more expeditiously. We have been going along with this. We held extensive hearings several years ago. I just have a feeling there is a way to do it. I believe that when you get over all these lawsuits that are in existence and fussing and fighting over who owes who for what and how much, which is probably as much responsible for this situation as it is now as anything else—and I cannot blame them for that, each one fighting for its own company—but, as I said to the broadcasting industry, let us not get so involved with our own personal feuds that we destroy the very thing that permits us to exist, so you can have these feuds.

Mr. WATERMAN. We think that we are going to make progress without more regulation, Mr. Chairman.

The CHAIRMAN. You said that 5 years ago.

Mr. WATERMAN. Yes. Well, we are still working at it. We have spent \$104 million this year.

The CHAIRMAN. I know, but they are still hollering and hollering a lot more. I just had another demand that came through in our part of the country about how much grain is lying there and how many cars were needed to move it, and they cannot get them. The problem is a lot greater now than it has been. We have had it every year. It is a lot greater now than it was last year. We have heard about this in our committee since the early part of this year. I have been holding off thinking the industry would do it because of the groundswell that was coming. All we get here is testimony from you railroads who are doing the best job.

I would like to pick out some of these railroads who are responsible for some of these things and see what they have got to say about it. But that is part of the headache. That is part of the problem we have got, and we will see what we can do about it.

Thank you very much, Mr. Waterman, for your appearance here.

Mr. WATERMAN. Thank you, Mr. Chairman.

The CHAIRMAN. And thank you for your contribution to this record.

Mr. WATERMAN. Thank you, sir.

The CHAIRMAN. I think we have heard everyone that is on my list to be heard. I wonder if there is anyone else to be heard before we conclude? If not, this will conclude the formal hearings on this. Mr. Younger, I am going to see if I cannot have an executive session of the committee in the morning when we can talk about this.

The committee will adjourn.

(The following information was submitted for the record:)

STATEMENT OF WILLIAM L. BUSH, DIRECTOR OF TRANSPORTATION, WEYERHAEUSER CO., TACOMA, WASH.

Weyerhaeuser Co. is a major forest products producer and marketer, with principal manufacturing and shipping facilities in the States of Oregon, Washington, and California. The long haul transportation involved in the movement of products to consuming market areas has made Weyerhaeuser a major user of rail transportation over the years. The railroad car supply situation is one of vital concern and car shortages have reached an increasing degree of intensity in recent years. Figures released by the Association of American Railroads indicate a continuing decrease in the total railroad ownership of boxcars since 1957, as well as a continuing decrease in total car ownership for that same period. Although we have been facing periodic instances of car shortage since 1906, the situation has now approached chronic stages, subject to cases of particular severity when seasonal and regional freight movements occur.

Our basic concern lies in the supply of double door boxcars and flatcars. We find increasing instances of our inability to ship orders on time, causing additional storage and handling costs at our shipping points and a deterioration in long-established customer relationships. Although considerable emphasis has been placed on distribution of cars rather than car shortage, and conscientious efforts have been made through the medium of Interstate Commerce Commission service orders to improve this distribution, these measures do not increase the total boxcar availability and provide only temporary adjustments. The basic objective of the proposed legislation is to have the Interstate Commerce Commission prescribe freight car rental charges paid by the railroads using cars to the railroads owning cars upon a basis which will encourage the acquisition and maintenance by the railroads of an adequate car supply. We must recognize that passage of the proposed legislation will have no immediate effect, but we do feel that it provides a detailed background for study and a mechanism which will produce tangible benefits for the future car situation.

Weyerhaeuser Co. urges favorable consideration of the proposed legislation and the company's position is further embraced in the statements being submitted by the Western Wood Products Association and the American Plywood Association.

STATEMENT OF MARVIN D. HOHENSEE, TRAFFIC MANAGER, EQUITY UNION GRAIN CO., LINCOLN, NEBR.

My name is Marvin D. Hohensee and I am traffic manager of the Equity Union Grain Co., of Lincoln, Nebr. We operate a grain terminal on the Chicago, Burlington & Quincy Railroad.

During recent months we have experienced an acute boxcar shortage, affecting both our receiving and shipping of grain. We have of necessity been forced to acquire and ship grain by truck, not because of better price, but from our inability to secure cars from the railroads.

According to our merchandising department, numerous sales could not be made because cars were unavailable with which to make delivery. Commodity Credit Corporation loading orders could not be met because cars were unavailable. Volume handled by the terminal declined some 1,375,000 bushels compared to the same period 1 year ago.

Between December 1, 1964, and March 31, 1965, we ordered 2,280 cars. We received 968 cars, but 352 were unfit for loading grain (bad order). Net usable cars received during this period were 616 or 27 percent of the number ordered. On March 31, 1965, we were still short 610 cars; 410 needed for CCC shipments; 200 for company grain sales contracts.

During the period under review, our terminal received a total of 2,347,920 bushels of grain, and we shipped out 2,959,712 bushels. With only 616 cars delivered out of orders for 2,280, the question is raised as to how this volume could be handled and have only 610 cars still on order on March 31. Exhibit A attached should provide some explanation.

Grain received came 25 percent by truck, or the equivalent of 301 cars. Eighty-two carloads arrived in company-owned hopper cars. The balance came in 791 railroad-owned cars.

Grain shipped out went 8 percent by truck, or equivalent to 120 cars. There were 1,360 cars shipped, which is 744 more cars than the 616 received, out of the 2,280 ordered. This was accomplished by reloading cars received and using them for outbound shipment.

The number remaining undelivered on March 31 was therefore actually 920, of which 610 remained on order, leaving a difference of 310 cars no longer needed. This discrepancy is the result of ordering more cars than needed, because experience shows there is a ratio of "bad order cars" in cars delivered.

In conclusion, exhibit B demonstrates the worsening of the boxcar storage during this period with respect to wheat receipts at the terminal.

The Equity Union Grain Co. feels very strongly that an increase in per diem on cars would discourage some railroads in holding cars for long periods or until a time when loaded for return shipment to the owning railroad.

We thank you for the opportunity to present our testimony. Any action that can be taken to relieve this boxcar shortage will be greatly appreciated.

EXHIBIT A

CAR ORDERS, RECEIPTS AND SHIPMENTS, RECAPITULATION PERIOD, DEC. 1, 1964, THROUGH MAR. 31, 1965

<i>Cars ordered</i>	
Cars ordered.....	2, 280
Cars received.....	968
Cars unfit.....	352
Net usable (27 percent of order).....	616
Total number deficient.....	1, 664
March 31, 1965:	
Remainder on order.....	610
For CCC orders.....	410
For company sales.....	200
<i>Receipts and shipments</i>	
Received during period:	
25 percent by truck—equivalent to 301 cars.....	601, 344
By EUGX—private hopper cars—82.....	273, 330
By railroad owned cars—791.....	1, 473, 246
Total—Equivalent of 1,174 cars.....	2, 347, 920
Shipped during period:	
8 percent by truck—equivalent to 120 cars.....	241, 834
By railroad cars—1,360.....	2, 717, 878
Total—equivalent of 1,480 cars.....	2, 959, 712
<i>Recapitulation</i>	
Number cars ordered.....	2, 280
Numbered delivered—usable.....	616
Number deficient.....	1, 664
Number received loaded and reloaded to ship.....	744
Number remaining deficient.....	920
Number on order Mar. 31.....	610
Balance remaining deficient.....	310

EXHIBIT B

Wheat received at terminal—CCC and company

December:			
Truck	-----	bushels	111, 854
Rail	-----	bushels	565, 361
Rail receipts	-----	percent	83
January:			
Truck	-----	bushels	157, 167
Rail	-----	bushels	236, 653
Rail receipts	-----	percent	60
February:			
Truck	-----	bushels	145, 798
Rail	-----	bushels	134, 278
Rail receipts	-----	percent	27
March:			
Truck	-----	bushels	182, 962
Rail	-----	bushels	86, 247
Rail receipts	-----	percent	32

STATEMENT BY GOOCH MILLING & ELEVATOR CO., OF LINCOLN, NEBR.

Mr. Chairman, members of the committee, my name is Buddy L. Burke. I am traffic manager of Gooch Milling & Elevator Co., located at 540 South Street, Lincoln, Nebr.

While we have experienced car shortages at various times in years past, the days are now gone when a boxcar shortage occurs only at harvesttime. We are now confronted with a boxcar shortage the year around and each succeeding year becomes more difficult.

While everyone here is well aware of the shortage of boxcars for the last half of 1964, we would like to enumerate very briefly some of the correspondence between ourselves and various agencies and individuals concerned with the boxcar shortage.

On October 5, 1964, we sent a telegram to Mr. Charles W. Taylor, Jr., of the Interstate Commerce Commission, which reads as follows:

"Critical shortage of boxcars on Burlington Railroad affects our operations and causes an inability to properly take care of animal and poultry producers desperately in need of feed. Urgently request that service order 945 be reinstated to assist Burlington Railroad in augmenting their boxcar supply insisting surplus carriers release cars in excess of ownership to western lines and that such releases are in good condition, not merely culls incapable of protecting grain and grain products loadings."

On October 6, we received a telegram back from Mr. Taylor and a letter on October 8, which is shown below.

"I received both your telegram and letter dated October 5, 1964, concerning the critical shortage of boxcars. Your interest in this situation is understood and appreciated and your telegram was promptly answered.

"As I attempted to convey in my telegram, we feel that the Commission's service order No. 947 is a more flexible order and is designed to accomplish everything that an order similar to order 945 would accomplish, and more, without causing the cross hauling of empties and additional expense to the carriers. The aim of service order 947 is to improve railroad operations by limiting the time allotted for placement and movement of equipment, prohibiting the holding of equipment excessively for prospective loading, and generally adjusting inequities in distribution and supply through relocation of cars to home territory.

"The Association of American Railroads has in effect boxcar directives to eastern and southern carriers to assist granger roads by supplying cars in addition to those moving in home route. All special orders of the AAR are covered under our service order No. 947."

However, individual service orders were issued on November 1 after the shortage became so acute, and it was found that service orders presently in effect did not prove to be satisfactory. The orders were to expire on November 15, but were extended to November 25. Because our shortage was so great the orders were further extended to December 8. Thus, it took over a month for the service orders to relieve our boxcar shortage.

The shortage started the first half of September and until the 1st of December, we did not know from one day to the next if we would have enough cars so that we could run our mill the next day.

Normally our operations are required to operate on a 6-day week beginning about the middle of October and lasting through the winter. However, we were forced to curtail our operations because of the car shortage, and some weeks we were lucky if we could run our plant on a 5-day week.

The present boxcar shortage began the last week of February and at the present time there is no indication of any relief in sight. In fact, we have not had enough empties on the east side of our plant for so long that I am afraid the rails will begin to rust from lack of use.

While some of class 1 railroads have a very intensive car-building program, we believe that the special equipment receives priority over the workhorse of the railroads which is the 40-foot plain boxcar as the following figures show:

Association of American Railroads report of class 1 carriers

Month	Year	Box	Covered hopper	Hopper	Flat	Refrigerator
April	1963	632,474	70,102	439,937	54,374	30,499
May	1963	628,783	70,823	438,447	54,443	30,965
June	1963	625,968	70,918	436,017	54,633	31,124
July	1963	624,090	71,267	437,102	54,820	31,388
August	1963	623,746	71,781	438,512	55,175	31,632
September	1963	622,774	71,905	437,695	55,359	31,825
October	1963	621,767	72,395	437,821	55,604	32,170
November	1963	619,721	73,016	434,971	55,873	32,126
December	1963	618,503	73,468	434,511	56,150	32,589
January	1964	615,887	73,823	434,515	56,316	33,017
February	1964	614,359	74,519	436,017	56,528	33,298
March	1964	610,765	74,882	436,326	56,530	33,590
April	1964	608,984	75,204	437,011	56,757	33,947
May	1964	607,100	75,728	437,981	56,929	33,974
June	1964	605,150	76,814	439,013	56,981	34,255
July	1964	603,562	77,840	439,027	57,268	34,554
August	1964	602,337	78,274	438,887	57,460	34,757
September	1964	600,935	78,967	437,851	57,800	35,212
October	1964	599,228	79,939	437,203	57,999	35,901
November	1964	597,720	80,868	435,645	58,187	36,431
December	1964	596,351	81,252	434,327	58,553	36,847
January	1965	596,602	81,753	434,234	58,772	37,029
February	1965	595,314	82,737	434,522	58,891	38,166
March	1965	594,389	83,740	434,708	59,013	39,270

For a 2-year period the covered hopper ownership has increased by 13,638, the flatcar by 4,639, the refrigerator car by 8,771. The hopper car has decreased by 5,229 and the boxcar has decreased by 38,085 cars. In addition, 35,476 boxcars were awaiting repairs for the month of March.

One of the large eastern carriers has just announced a car-building program of an additional 1,550 cars or a total of 5,250 cars to be added to its ownership. A breakdown of the cars is as follows: 3,000 coal-hopper cars, 700 boxcars for hauling auto parts, 450 covered gondolas, and 1,100 cushion underframe 70-ton boxcars.

Of the 1,100 boxcars, 300 will be insulated to protect foodstuffs and other freight subject to damage by weather, and the other cars will have special equipment inside the car. A building program for the 40-foot plain boxcar—none.

Another eastern carrier has announced plans to acquire 111 boxcars for transporting automobile parts, 325 gondola cars, 25 covered hoppers, 80 insulated boxcars, and 100 boxcars of 70-ton capacity. But to purchase a 40-foot plain boxcar—none.

Still another eastern carrier will build 730 boxcars to haul automobile parts, and 70 covered hoppers to haul cement. A building program for the plain 40-foot boxcar—none.

A southern carrier will purchase 52 additional boxcars to haul automobile parts. But to purchase a 40-foot plain boxcar—none.

We believe that we have made our point in that carriers today are building more and more specialized equipment, and not enough plain 40- or 50-foot boxcars that are capable of hauling grain and grain products.

Perhaps some of the blame falls on us—the shipper—in that we need specialized equipment to move certain types of freight. However, the carriers cannot and must not lose sight of the fact that specialized equipment applies to only a relatively few shippers. While one large shipper can use special equipment, there are many thousands of small shippers and receivers who can only use the plain boxcar.

While it is a well-known fact that it is cheaper to rent a car than to build one, we believe that some solution must be reached so that carriers in all parts of the continental United States will provide their share of equipment. It is quite unfair for a midwestern railroad to build a car, then to get only one trip before the car goes off line. In most cases the midwestern carrier does not get this car back until the car is ready to go on the repair track or must be retired.

We believe that such legislation as is proposed under S. 1098, that would allow the Interstate Commerce Commission to set the per diem charges would encourage all carriers to build more cars and help to insure an adequate supply of equipment for all regions of the United States. We support S. 1098 and urge its enactment at the earlier possible date.

REMARKS BY BENJAMIN F. BIAGGINI, PRESIDENT, SOUTHERN PACIFIC CO., BEFORE THE AMERICAN PLYWOOD ASSOCIATION, PORTLAND, OREG., OCTOBER 12, 1965

I welcome this opportunity to speak to you today. We at Southern Pacific are vitally interested in the plywood industry, and we like to think that we have contributed substantially to your growth through our efforts to provide a fast and efficient means of transporting your products to the distant corners of the country at rates that have kept you competitive in the national marketplace.

We have both come a long way in the postwar period, and to illustrate what your industry means to us, to Southern Pacific—let me recall that back in 1947 our total handling of plywood and veneer was fewer than 7,400 carloads. Last year this figure reached 111,500 carloads. By any of our new electronic computers that figures out to be an increase of over 1,400 percent in just 18 years. Plywood and veneer now represent 38 percent of our entire volume of forest products traffic.

By your own figures, plywood production has increased from 1.2 billion square feet in 1945 to an estimated 12.7 billion square feet to be turned out this year.

We are, indeed, in a changing and rapidly growing America. Our railroad, and the railroad industry as a whole, have accepted the challenge of change and are eager to have a dynamic role in shaping the America of the future, just as the railroads were a vital force in the development of our present-day industrial society.

In any rapidly expanding industry, growth has its problems as well as its rewards, and we share with you your urgent desire that the railroad transportation system upon which you so heavily depend will in the next 35 years help you literally to build a second America, as President Johnson has forecast. With your continuing help and understanding, we will do everything possible, in the words of your executive vice president, Jim Turnbull, to "get you where the action is," because our interests are exactly parallel to yours.

Right now the prime concern of your industry is getting enough cars, and I can assure you we are as much concerned with this matter as you are. So let's talk about it. I'm sure you didn't invite me here to talk about anything else.

Let me say first that we appreciate your recognition that Southern Pacific has made and is making a vigorous effort to relieve this problem. We have attempted to attack this problem from a variety of directions, and I am proud of our accomplishments.

I think it is important, however, that you understand in some detail how many sided our efforts have been, because I think a more complete understanding will serve to bring into better focus some of the elements of the overall problem on which there is presently a considerable amount of confusion.

I also want to tell you about the completely new per-car rates which we are now proposing, which we think, with your cooperation, can be a major step toward meeting your car requirements. I will discuss this in more detail a little later.

We have, of course, undertaken a tremendously ambitious new freight car program in recent years, especially of wide-door cars which cut loading and unloading costs for you and your customers.

In the 6 years from 1961 to 1966, Southern Pacific has accepted or will accept delivery of 21,149 new freight cars at a cost of more than \$362 million. Of these, 8,791, over one-third, are boxcars costing over \$152 million, and all of them are of this wide-door design.

To supplement our vigorous new car purchase program and to provide fast, direct help to the plywood industry, we are now more than halfway through a program of rebuilding and putting wide doors that provide openings of 10 feet, 3 inches on 7,500 older boxcars. These provide you with the equivalent of double-door boxcars. This program, costing \$9.3 million, will be completed before the end of next year. It was the first big-scale effort launched by any railroad to widen the doors of older, conventional boxcars, which, because of changes in loading techniques and increased dimensions of products like plywood, no longer meet the convenience of many forest products shippers.

This is an outstanding example of what can be achieved through joint effort of a carrier and its customers. Many of you will recall that this conversion program was the direct result of talks between Southern Pacific and your organization when it was still the Douglas-fir Plywood Association, and with what is now the Western Wood Products Association.

Thanks to our new car purchases and our conversion program, Southern Pacific ownership of wide- and double-door cars has increased by more than 68 percent since 1959—from 19,000 then to more than 32,000. These cars now account for more than two-thirds of our boxcar fleet, and they represent 10.3 percent of the industry's total ownership of wide- and double-door cars.

Our efforts to increase the supply of new boxcars has not been limited to our own fleet, however. In March of 1964, Southern Pacific acquired Bankers Leasing Corp., because we felt there was a definite need to help other roads obtain new cars, where they were not in a position to finance the purchase. Bankers Leasing now has on lease to eastern and southern roads and individual shippers some 2,500 new freight cars costing over \$38 million. We are about to consummate a lease with a midwestern road for a thousand additional cars, these general-purpose cars costing over \$17 million. We have offered the services of Bankers Leasing to all American railroads, as a means of augmenting their car acquisitions.

Expansion of our own fleet and our efforts to help other roads acquire more cars, however, are only part of our efforts to meet your car needs. Another part is the question of getting those cars here where they are needed, and we are moving heaven and earth to accomplish this.

We have long been operating as many as 40 trains per week into Oregon, made up of nothing but empty boxcars and flatcars. Many of these trains come from our gateways 3,000 or 4,000 miles distant—as far away as New Orleans, Houston, and San Antonio. Some of the cars are gathered from St. Louis and Memphis. We were able to open these distant gateways in 1961 as a means of substantially expanding our ability to reach out for our empty cars, although this has also substantially increased our cost.

Up to the end of September this year, we had delivered to the Pacific Northwest 122,488 empty boxcars, more than half of wide- and double-door design, and 38,262 flatcars, for a total of 160,750 cars.

You are all familiar, I am sure, with the yellow stripes we have put on the doors of the older boxcars whose doors have been widened. These stripes are a signal to railroaders to speed the return of these cars to this area.

Another factor in speeding the return of cars is the revolution which has taken place in every detail of our railroad plant. Of the \$20 billion spent by the railroad industry since World War II, for new plant and equipment, Southern Pacific has spent nearly \$2 billion, or about \$1 out of every \$10. The point is that today's modern railroad plant—electronic classification yards, centralized traffic control, microwave, television, computers—has speeded up the whole tempo of our operations. The results are clearly evident in the 28-percent increase since 1959 in daily mileage of freight cars moving over our lines, particularly into loading areas, with corresponding increase in car availability. Boxcars and flatcars on Southern Pacific are now averaging over 85 miles per day, loaded and empty, as compared with the national average of 50 miles per day.

Looking to the future of this problem of getting cars back to where they are needed, Southern Pacific is now implementing first units of a new \$20 million computer system specifically designed to improve freight car utilization. First units of our total operations processing system, or TOPS for short, will be operative in 1967, and the system will be completed in 1970.

We will then have available at all times information on the current location of every freight car on the railroad. This will provide a far more efficient system of car control for minimum lost time than is now possible.

In addition to expanding our wide- and double-door fleet and our efforts to speed the return of empties, we have also been successful in getting more use out of the cars we have by encouraging heavier loading.

The incentive rate system we pioneered has resulted in \$70 million in rate savings in the past 6 years to you and other forest product shippers in the Northwest. Incentive rates have raised the average loading per car on lumber products by over 5 tons—from 33.9 to 39 tons—in the past decade.

But equally important, without these heavier loadings, we would have needed some 200 more cars, available for forest products loading each working day, in order to handle the same amount of traffic. When you realize that 200 cars represents almost 20 percent of our more than 1,000-car-a-day requirements for all kinds of forest products loadings you can appreciate the significant contribution incentive rates have made in better utilization of the available car supply.

Now I want to talk about the new rate proposal we are just now making. This is the new schedule of per car rates which we plan to place in effect from Oregon and northern California points as far distant as Tucson, Ariz., as the ultimate extension of the incentive rate principle. If this initial stage of the program is successful, a study will be made as to its possibilities on transcontinental traffic.

We have two purposes in proposing these new per car rates. One purpose is to encourage you to accept narrow-door boxcars and flatcars by giving you a rate savings to balance your extra handling or packaging costs. The other purpose is to encourage even further the loading to maximum capacity of all types of equipment—wide and double door as well as narrow door and flatcars.

Per car rates call for a set charge, depending on the type of car, with the privilege of loading to the full capacity stenciled on the side of the car furnished. For example, using the Portland group to San Francisco as a destination, a narrow-door, 40-foot boxcar of 3,500 cubic feet or less calls for a rate of \$270, which is \$48.50 less than the alternate incentive rate of 70,000-pound loading and provides still greater savings as more weight is loaded. A 40-foot, narrow-door car with more than 3,500 cubic feet capacity calls for a \$295 rate—a savings of \$23.50 for 70,000-pound loading, or a saving of \$114.50 if the car is loaded, for example, to 90,000 pounds. Per car rates for wide- and double-door cars and larger narrow-door cars also offer savings over the alternate incentive rates, if loaded to capacity. This is also true of per car rates on flatcars, which vary according to the length of the car.

One of the points of confusion in the car supply problem here is that it is frequently referred to as a car shortage. Most often this is not the case, but only a shortage of one kind of car, the wide-door variety. Except in emergencies such as military movements or acts of God such as floods or storms, we would be able to supply a narrow-door boxcar or a flatcar if we knew it would be acceptable.

This I can promise you—that if the new per car rates are as acceptable to you as we expect they will be in encouraging your use of other than wide, and double-door cars for a marginal part of your shipments, we will have overcome the major part of your car supply difficulties.

This, gentlemen, is what we have done and are doing to relieve the car supply problem. I assure you we will continue to do much more than our share in providing adequate cars to meet the expanding needs of your industry and the Nation.

But I would caution that there are no simple solutions—no shortcut to salvation. In fact, I feel there is real danger in attempting to oversimplify either the causes or the solutions, because this tends to obscure the basic issues.

As you may know, we have not supported the current per diem legislation. It has been for this very reason that we think that adjustments in per diem are only a part of the answer.

In the frustrations of attempting to solve the car supply problem, too many have come to regard the bill as a shortcut to salvation. If we felt this proposed legislation would do what its proponents think it would do, believe me we would embrace it heart and soul.

Southern Pacific was the chief proponent of the principle of graduated per diem rates, and certainly we think they are important. But we don't think they are

the whole answer. Beyond this, we don't think anything can be gained by placing control of per diem in the hands of the Interstate Commerce Commission when the railroads themselves are making a study of per diem adjustments to stimulate maximum car acquisitions. Giving the authority to the Interstate Commerce Commission would, in our opinion, merely saddle the roads with additional regulation at a time when the national administration and our customers are joining us in urging less, rather than more, regulatory redtape.

I must call your attention also to the amendments which were made to Senate bill 1098, without hearing, before it was passed by the Senate. One of these amended provisions makes the bill inapplicable to railroads terminating a substantially higher percentage of interline traffic than they originate. In other words, this amendment makes the bill completely self-defeating in exempting those very roads whose car acquisitions it purports to stimulate.

There is also a question of whether the Interstate Commerce Commission needs additional authority affecting car supply. It now has the authority to direct foreign lines to return promptly our wide- and double-door cars, as in the order it issued October 1.

I feel the tendency to oversimplify also runs through much of the promotional material produced by your association in support of Senate bill 1098. For example, we do not share the view that the decline in the total number of standard boxcars in the national fleet since 1946, while it makes an impressive graph, is a reliable indicator of today's car supply situation, nor does it indicate the railroad industry is shirking its responsibilities.

For one thing, it overlooks entirely the fact that many new specialized cars introduced in recent years are now doing the jobs that used to require boxcars. Take the new construction of multilevel flatcars for transporting automobiles from assembly plants to the dealers. Introduction of this new equipment released 3,000 double-door boxcars from auto traffic requirements on the Southern Pacific alone, and we made these available for forest products use. In effect, from your standpoint, this added 3,000 cars to meet your requirements, yet this would not be reflected in a graph dealing in cold and sometimes faceless statistics.

The same could be said for other boxcars made available for forest products and general-purpose use by the shift of grain and other bulk products to covered hopper cars, much general freight to piggyback traffic and even many forest product items to flatcars.

Furthermore, the overall decline in the number of boxcars does not give any recognition to the increasing capacity of modern cars, which has gone hand in hand with the lower rates we have been able to offer you for heavier loadings and greater car utilization.

While, just in the last year, the national car fleet was practically unchanged in absolute numbers, it gained more than 1.3 million tons in capacity. The effect is almost the same as 26,000 additional 50-ton cars. While only some of these are boxcars, here, again, the effect is to release many other boxcars from other assignments.

Nor does the overall decline in the number of boxcars reflect the increased daily mileage per freight car, which I have already mentioned.

I think that sometimes we get caught up in the same predicament as Chicken Little in the fable I remember from my childhood days. One day Chicken Little was in a field picking corn when an acorn fell on her head. She decided to go to the king to tell him that the sky was falling. On her way she met various animals, and they all asked her where she was going. She told them, and they followed. Then they met the fox and told him they were going to tell the king the sky was falling. He said he would show them a shortcut and led them all to his den, where he ate them. The moral, of course, is investigate carefully before you become alarmed. Avoid shortcuts and stay out of the fox's den.

Before we may all be consumed by our own alarm, I think we have to recognize what the basic causes of our plight actually are. The basic cause of today's tight supply of modern wide- and double-door boxcars is simply this—that a very substantial part of the railroad industry, up to very recently, has not been financially able to afford the purchase of new cars in sufficient numbers. From 1961 through 1964, as railroad earnings improved, capital expenditures for equipment almost tripled—from \$427 million to more than \$1.1 billion, and carbuilders are now working to capacity. Others placed today will take 6 to 9 months for first deliveries.

The fortunes of the railroad industry have improved somewhat in very recent years in good part as the result of the roads' own efforts to modernize and cut their costs in the face of spiraling prices of materials and wages and while thwarted by a code of regulation that gives heavy competitive advantage to all other forms of transport.

You note, in your large advertisement which appeared in the Washington Post 3 weeks ago in support of the per diem bill, that President Johnson has said: "In the next 35 years we must literally build a second America."

But President Johnson also said early this year in his economic report that "our national transportation policy should be revised * * * by placing greater emphasis on competition and private initiative in interstate transportation."

The President has repeatedly cited the need for reduced Government regulation of transportation pricing and in his statesmanlike tax message of May 17, called for the establishment of adequate charges for the use of Government-built road, air, and water facilities so that commercial users would pay their fair share of the mounting cost of these facilities—which this year will consume \$16.2 billion in Government outlays. Also, increasingly acknowledged, is the need to relieve railroads of the destructive burden of discriminatory property taxation.

The basic answer to your car supply problem is a financially healthy railroad industry, and this health can only be achieved by less, and not more, regulation. The industry has lifted itself a tremendous distance by its own bootstraps in the past lean years. It has found ways to cut its costs drastically and pass the savings on to you to regain the traffic volume it needs to operate at greater efficiency.

With your help, the future is bright, and your prospects are also bright for an adequate supply of the kind of cars you require.

I must emphasize the "with your help" part of this. We need it every time we attempt to make a major step toward greater efficiency and economy. We need it in the case of our applications for mergers to reduce needless and costly duplication. We need it when we apply for abandonment of passenger services that have outlived their usefulness and no longer serve any public need. We need it in achieving greater freedom to price our competitive services. We need it in support of a principle that adequate user charges should be made for publicly provided transportation facilities. We need it in helping remove the obstacles to transport diversification.

These goals are basic to the long-range job of strengthening the ability of our industry to serve you most effectively, and I ask your continuing support.

Before closing, however, I would also like to suggest some immediate things you can do right now which will assist greatly in the problem of car supply.

You can help us to gain more control of our own cars and speed their turnaround to you, by loading Southern Pacific-owned cars, especially wide- and double-door cars, to destinations on our lines, and utilizing the cars of other ownership for points off our lines. We'll see that our cars get right back to you.

When you have shipments to come from the East or Midwest, you can order them in wide- or double-door cars.

In your contacts with eastern and midwestern railroads which participate in the line haul of your eastbound movements, you can use your own influence to have them return our Southern Pacific equipment promptly and to direct as much of their own wide- and double-door cars to the Northwest as possible.

You can give us the most accurate possible estimates of your requirements, including specific instructions as to whether you can accept a narrow-door car or flatcar when a wide- or double-door car is not available.

In return for your help in both the long and short range, we, in turn, can assure you of our continuing dedication to the principle of providing you with the best equipment and service and the lowest rates it is possible for us to provide.

STATEMENT BY WENDELL B. BARNES, EXECUTIVE VICE PRESIDENT, WESTERN WOOD PRODUCTS ASSOCIATION, PORTLAND, OREG.

Mr. Chairman and members of the committee, my name is Wendell B. Barnes. I am executive vice president of Western Wood Products Association with headquarters in Portland, Oreg.

Western Wood Products Association is a trade group representing lumber manufacturers, wood treaters, molding manufacturers, wood fabricators, and lumber specialty producers in the 12 Western States.

Western Wood Products Association was formed in August of 1964 with the consolidation of the former West Coast Lumbermen's Association and the Western Pine Association.

Our member mills are responsible for the production of more than 8 million board feet annually, or 30 percent of the Nation's softwood lumber supply.

Fundamental to our association's efforts are quality control and product uniformity. The association maintains a thoroughly trained technical staff and continually expands its engineering and research departments to develop lumber's inherent capabilities. The association fosters and encourages the establishment of enlightened forestry practices so that the region's forests will perpetually remain a permanent and reliable source of raw material for the Nation's building needs. The association serves as a clearinghouse for industry statistics and in the interest of the consumer and producer alike makes the guardianship of a competitive freight rate structure a prime responsibility. The overriding consideration of the association's existence remains a dedication to advancement, to the wise and efficient use of a product, to the comfort and security of the Nation's people.

More than a half million carloads of lumber are shipped annually from the western wood region to thousands of major markets, most of them east of the Rocky Mountains. Railroads are the primary source of transportation. It is vital that this important western economic industrial force be assured of an adequate supply of railcars—an even flow of both box and flat cars, if our wood-using industry is to remain competitive in the Nation's marketplaces.

I wish to add the support of my industry to House bill 425, and to explain why the lumber industry feels that passage of this bill is necessary for the continued vigorous forward advance of the industry. This statement is presented as a majority view of the association membership.

Our western lumber industry has lived with severe car shortages especially during our peak production months since the end of World War II. To do our part to obtain maximum utilization for existing equipment the western lumber industry has increased its average loading per car. For example, in the pine region of the western area the 1961 average weight per car was 58,892 pounds. In 1964, this had increased to 69,805. In the Douglas-fir region the average weight in 1961 was 63,201 pounds while in 1964, it had increased to 79,321 pounds. This has not been the full answer.

Despite the increased utilization effort on our industry's part, in recent years the chronic car shortage no longer occurs just during peak production periods. Now it occurs every time that our Nation experiences, for example:

- (a) Major work stoppages such as the recent east and gulf port dock strike.
- (b) Adverse weather conditions such as prevailed this winter.
- (c) State inventory tax periods such as California's first Monday in March.
- (d) Armed Forces movements having equipment priorities.
- (e) Release of Credit Commodity Corporation grain shipments in large concentrations.
- (f) Any other condition disrupting so-called normal rail movement.

Add to all of these adverse factors a constantly decreasing car ownership on the part of the U.S. railroads: For example, in the past 10 years, the ownership has declined approximately 200,000 cars.

Despite continuing efforts on the part of our western carriers to build new equipment designed for forest products hauling, our problems continue to increase due to the fact that western-owned cars are alleged to be used by the eastern carriers because they find it cheaper to rent western-owned cars than to build their own.

I submit that our western lumber industry so dependent on the Nation's railroads to get its products to the market has never advocated additional governmental regulations. We feel that many of the railroads' problems stem from over-regulation in relation to their competitors.

We feel that the chronic car supply situation will continue to deteriorate unless means are found to make it more desirable for carriers to build their own equipment rather than to rent ownership of other lines. Because of this we support House bill 425.

We appreciate this opportunity to make our views known.

APPENDIX I

Cars owned, installed, and retired by class I railroads, by years, 1955 through 1964

Year ending--	Installed	Retired	Gain in ownership	On order	Ownership
Dec. 31, 1955.....	56,484	91,879	-35,395	135,293	1,694,097
Dec. 31, 1956.....	76,643	63,122	13,521	103,535	1,707,683
Dec. 31, 1957.....	95,235	61,298	33,937	57,490	1,746,684
Dec. 31, 1958.....	52,291	73,553	-21,262	30,328	1,725,723
Dec. 31, 1959.....	58,391	106,223	-47,832	43,500	1,677,965
Dec. 31, 1960.....	47,169	63,557	-16,388	19,503	1,661,577
Dec. 31, 1961.....	25,633	80,514	-54,881	13,327	1,606,696
Dec. 31, 1962.....	29,287	83,612	-54,325	13,845	1,532,371
Dec. 31, 1963.....	33,770	71,002	-37,232	33,380	1,515,139
Dec. 31, 1964.....	65,801	86,237	-20,436	33,572	1,494,707

Source: Association of American Railroads, Car Service Division (CS-54A), Feb. 10, 1965.

APPENDIX II

Summary of car-loading survey, for the Douglas-fir and western pine region

	Cars under 42 feet		Cars over 42 feet		Total cars	
	Number cars	Average weight	Number cars	Average weight	Number cars	Average weight
Pine region:						
1961: All cars.....					1,761	58,892
1962: All cars.....	1,201	68,201	197	81,626	1,398	70,093
1964: All cars.....	3,440	68,200	426	82,674	3,866	69,805
Douglas-Fir region:						
1961: All cars.....					1,306	63,201
1962: All cars.....	2,217	74,642	680	85,611	2,897	77,217
1964: All cars.....	1,459	76,061	632	86,848	2,091	79,321

Source: Survey, June 19-23, 1961, survey, Jan. 15-20, Feb. 12-17, Mar. 12-17, 1962, survey, Mar. 16-28, 1964.

STATEMENT OF WESTERN FOREST INDUSTRIES ASSOCIATION, PORTLAND, OREG.

Mr. Chairman and members of the committee, I am Joseph S. Miller of 210 A Street NE., Washington, D.C. I appear here as the representative of the Western Forest Industries Association, a nonprofit trade association with headquarters in Portland, Oreg. Our association represents approximately 125 lumber and plywood operators in Oregon, Washington, California, Idaho, Montana, and Colorado.

Western Forest Industries Association appears here in support of H.R. 7165, and related bills, to amend section 1(14)(a) of the Interstate Commerce Act, to insure the adequacy of the railroad freight car supply. The problem is one that the lumbermen of the West have been living with, year in and year out, since the earliest days of the western lumber industry. I do not pretend, Mr. Chairman, to have any more than the most superficial knowledge of the problem's complexities, but I do know that for many of our association's members, the question of the freight car supply is one of survival or else. These lumber shippers need your help in amending the Interstate Commerce Commission rules in order to make cars available to get their products to market. As Congressman Duncan, of Oregon, has pointed out earlier to you, "the rules of the Association of American Railroads have not worked and the Government must move to protect the public interest which includes that of the railroads themselves, as well as the shippers and the consumers."

I have said this problem was not new, Mr. Chairman. With your indulgence, I would like to quote the last four stanzas of a piece of doggerel that illustrates the problem of the mill operator waiting for freight cars to come. The verse,

if it may be called that, describes at length an old man by a lumber mill staring down railroad tracks through an ancient telescope. It concludes this way:

"He would look 'way off t'ward the sunkist South,
And his face was filled with sorrow,
And the only thing that he would say,
Was 'They promised me some tomorrow.'

"A stranger passing by one day,
Inquired of a native son:
'Who is that man who sits over there,
With the antique vision gun?'

" 'My friend', the native answered,
As he wiped away the tears,
'You shouldn't speak of him that way,
For he's been there 50 years.

" 'Why that man's story to us here,
Is as common as the stars,
He's a western Oregon lumberman,
Looking for S.P. cars.' "

The interesting thing, Mr. Chairman, is that this piece of doggerel was first published in 1915—a half century ago, and, as the next-to-last stanza suggested, the problem had existed for 50 years up to then. So what we are dealing with here is perhaps a century-old situation.

It is a bad situation almost every year, but this year it seems to be a little worse. Hundreds of mills throughout the West have their yards stacked high with lumber, practically all of it sold to customers in the Midwest and East, who are, themselves, marking time on construction projects waiting for the shipments to arrive. Without the cars, the lumber cannot move.

Mr. Chairman, with a still-expanding economy, dependent in part upon a steady supply of lumber, the diminishing supply of railroad cars that plagues the industry does not make sense. Production that cannot be transported to the markets is semiworthless. The resulting losses to the national economy are not small.

Mr. Chairman, the western lumber industry has done everything within its power to help alleviate the car shortage. In 1961 the industry submitted an incentive program to the western roads and then successfully negotiated out the details. The intent of the incentive rate arrived at was for the purpose of increasing average car loading, thus lowering the number of cars needed. The shipper then received a slightly lower rate if he exceeded the minimum poundage required by the railroads.

The program has been successful. Since its inception car loadings have increased by about 20 percent, which means that approximately that fewer number of cars were needed to carry the product to market. I should point out that the lumber industry did not benefit very much from this arrangement. The 7 cents per hundred pound reduction in rate was quickly eaten up by the higher loading and unloading costs. The railroads on the other hand not only benefited from the reduced need to construct and maintain cars, but also gained substantial benefits in increased car revenues—about 30 cents per hundred pounds.

In brief, we believe that the lumber industry has done more than its share to help solve this problem.

None of us, Mr. Chairman, want to see any unnecessary regulations passed. But the evidence is ample and conclusive that the voluntary way is not working. For some decades now the record is clear that the eastern railroads find it cheaper to rent western cars than to build their own. The Association of American Railroads issues all sorts of orders requiring the return of cars. The Interstate Commerce Commission issues orders. The cars do not get properly returned and the eastern roads refuse to build their share of cars.

The prompt passage of H.R. 7165, Mr. Chairman, will be an important step in alleviating this situation and breaking the logjam of freight cars in the East that belong in the West, loading lumber products for market.

Thank you for your courtesy, Mr. Chairman and members of the committee.

STATEMENT OF NATIONAL COUNCIL OF FARMER COOPERATIVES

The National Council of Farmer Cooperatives, whose membership represents approximately 5,700 of the farmer marketing and purchasing cooperative associations in all parts of the country, supports legislation currently before your committee designed to insure the adequacy of the national railroad freight car supply.

Although the council views favorably the bill H.R. 7165, introduced by Chairman Oren Harris, of your committee, on April 6, 1965, we believe the amendment added to the similar Senate bill 1098, passed by the Senate on June 30, 1965, is a strengthening and helpfully clarifying provision and is worthy of your careful consideration. We support the pattern of authority granted by either of these bills to the Interstate Commerce Commission and defer to the judgment of your committee as to the exact language that will most effectively and fairly accomplish the purpose of the legislation.

The council's authority for support of this legislation is contained in a policy resolution adopted by the council delegate body in 1964 reading as follows:

"Rail car utilization: There is a public obligation upon railroads to provide an adequate car supply to meet the needs of agriculture and industry. There is also a mutual responsibility upon railroads and rail shippers and receivers, including Government agencies, to make efficient use of rail equipment. The council will support appropriate action designed to require a discharge of these obligations and responsibilities."

Increased demurrage charges have been imposed to insure prompt loading and unloading in discharge of the obligation of shippers and receivers for an efficient use of railroad equipment. The authority vested in the Interstate Commerce Commission, however, has proven wholly inadequate to encourage or require the railroads to meet their public obligation to provide an adequate freight car supply.

We entertain no delusion that this or any other legislative action will immediately or with certainty by some magic produce an adequate freight car supply. But approval of this legislation will be a first step in the right direction and will supply action where for years there has largely been only discussion and delay in effective action accompanied by a sharp division within the railroad industry itself. The substance of the council's recommendation is that now after the years of discussion and recognition of the fact of annually recurring freight car shortages, your committee and the Congress take action to alleviate these shortages and set in motion regulatory procedures designed to insure at least a more adequate national railroad freight car supply.

Farmer cooperative business organizations of the country are large and important users of rail freight services. The Nation's farmers through their cooperatives pay many millions of dollars annually to the railroads of the country. The marketing and distribution burdens incident to freight car shortages fall heavily upon the agricultural segment of the economy which has to bear a large share of the resulting costs and which cannot pass these costs on to others.

The council, as a general policy, supports reliance on competition rather than regulation as the foundation for national transportation policies. The accumulated experiences and evidence of the years, however, convince us that the area covered by this legislation is one in which there is need for Congress to vest additional authority in the Commission to deal effectively with this problem of national scope which has adversely affected all segments of the economy. The council, therefore, respectfully urges prompt and favorable action by your committee on this legislation.

STATEMENT ON BEHALF OF THE NATIONAL LUMBER & BUILDING MATERIAL
DEALERS ASSOCIATION

Mr. Chairman and members of the committee, my name is Thomas T. Sneddon. I am executive vice president of the National Lumber & Building Material Dealers Association with headquarters at suite 302, Ring Building, Washington, D.C.

Our national association is a federation of 29 regional and State lumber and building supply associations with a membership of over 15,000 independent business firms engaged in distributing building materials to builders, industries, and retail consumers. Ours is the only association speaking for this important branch of the distribution industry. The dollar volume of the building materi-

als distribution industry approximates \$7,022 billion per year according to 1963 census.

This statement is in support of H.R. 7165.

The committee is doubtless familiar from prior testimony with the difficulty this legislation seeks to alleviate; namely, the hoarding of boxcars during substantial periods of the year by railroads other than the owning roads. This legislation would arm the Interstate Commerce Commission with the authority to fix rental rates for such cars so as to discourage such hoarding.

The problem is particularly acute with respect to wide door and double door cars especially adaptable to facilitate the handling of plywood and lumber. The economies of our industry require maximum use of mechanical devices for loading and unloading of such materials. Hand loading and unloading of old style cars results in higher costs which, in turn, must be passed on to the consumer. There is an inadequate supply of wide door cars, which unfortunately for our industry, are also of great utility for shipping other products.

As the recipients of the shipments of lumber products from the mills, we, as distributors, are keenly aware of the need for such legislation as your committee has under consideration, and the ICC regulations we would hope would result therefrom.

Many of our members yards are wholly or substantially dependent on rail shipments, particularly of materials originating on the west coast.

In order for us to buy advantageously, it is important for our industry and, in turn, important to our customers, that transportation bottlenecks be held to a minimum. Otherwise, unnecessary distortions occur both in supply and price. Presumably, we need not elaborate on the consequences of inadequate shipping facilities in peak construction periods or in specific locations in terms of costly construction delays as well as escalation of prices during shortage periods. The principles of time and place economics are clearly operative under such circumstances. It is axiomatic that consumers eventually pay these extra costs.

Aggravating this problem is the net decline in boxcar supply in the order of 3 percent per year. Your committee has without doubt been adequately supplied with figures on this score.

Unless something is done to increase the total supply of properly designed, modern boxcar rolling stock, we can anticipate an even greater and costlier dislocation of our lumber distribution system. Our Nation is now aspiring to transport several tons to the moon, and has the technology within its grasp to do so; it would not seem unreasonable to expect more efficient management methods and facilities to transport plywood and other lumber products from Oregon to Ohio. The first step would appear to be the striking off of outmoded boxcar rental shackles.

As distributors we are keenly aware of lumber production disruptions caused by car shortages engendered by the practices of distant roads hoarding a limited supply of cars. When mills operate at high capacity, with their production moving smoothly over the rails to our distribution yards, and we, in turn, distribute promptly to users, the maximum economies of automated and efficient plants can be passed on to the consumer in both service and price. Conversely, when production must be either curtailed or frequently interrupted due to car shortages, our yards quickly feel the effects—again in service and price.

Our dealers report many instances of mill production reduction or shutdowns resulting from this boxcar situation.

In the case of use of small-door cars, the practice sometimes utilized of charging increased unloading costs back to the mill in one form or the other is an illusionary and temporary solution to a basic economic situation. It takes no mental giant to conclude that over a period of time such costs will find their way into the price of the product—and again, eventually to the consumer.

Our membership normally prefers to avoid the necessity of seeking governmental agency intervention to any greater degree than necessary. In this instance due to the economies of the boxcar and railroad situation, to the manifest inequalities of the car-rental system and to the hoarding practices, we feel that authority should be given the Interstate Commerce Commission to issue corrective regulations. It would be our hope that, if given such a mandate, the Commission would take the necessary steps to correct these inequities which are and have an unnecessary and costly impact on the ultimate consumer of building material products.

STATEMENT BY PHILLIP M. CORBY, TRAFFIC MANAGER, EVANS GRAIN CO.

This statement is presented on behalf of Evans Grain Co., Salina, Kans., to record our interest in and support of Senate bill 1098 and plea for its prompt passage. As traffic manager, for Evans Grain Co., part of my duties is the securing of rail equipment at the some 100 country elevators located throughout the States of Kansas, Nebraska, Iowa, Colorado, and Wyoming. These elevators are engaged in the business of storing, buying, and selling grain.

To successfully carry on this business, it is mandatory that adequate rail transportation be available when and where needed. Each year, during harvest season, it is becoming more and more difficult to carry on this business for lack of rail equipment. To give you a few illustrations of the difficulty of carrying on our business in the country, I would like to use some examples of the situation that existed at various country elevators during the fall harvest of 1964 wherein we were handling the milo and corn harvest as well as loading out and shipping Commodity Credit Corporation grain from these stations:

At Imperial, Nebr., located on the Burlington Railroad, we received a Commodity Credit loading order on the 14th of September. We ordered 49 empty cars on the 14th. These cars were furnished as follows: 1 car in September, 10 cars in October, no cars in November, and 38 cars in December. The elevator has track space for 11 cars and can load 11 cars a day. The most cars we were furnished on any 1 given day was six cars on the 29th of December. So we went from September through December to fill a 49-car order.

At Geneva, Nebr., we ordered 34 cars on September 14. We received 6 empties in September, 4 cars in October, 18 cars in November, and 6 cars in December. This elevator has track space for 12 cars and can load 10 a day; but the most ever received any 1 day was 5 cars.

At Arapahoe, Nebr., on the Burlington, we received a Commodity Credit loading order on the 10th of September, and we ordered the cars on the 10th. We received one car in September. No cars were received in October or November. This order was finished in December.

At New Cambria, Kans., on the Union Pacific, September 24 we ordered 17 cars; we received 9 cars in October, 4 cars in November, and 4 cars in December. They can spot 30 cars at a time in there; and can load 6 a day.

At Wilson, Kans., on the Union Pacific, on September 26, we ordered 32 cars. We were furnished 17 cars in October, 12 cars in November, and 3 cars in December to finish that order.

At Rydal, Kans., on the Rock Island, we ordered 80 cars on September 26. We received 8 cars in October, 15 cars in November, 29 cars in December, 24 cars in January, and 1 car in February to finish the 80-car order.

At Riley, Kans., on the Rock Island, September 23 we ordered 27 cars. We got 4 cars in September, 9 cars in October, and 14 cars in November.

At Arriba, Colo., on the Rock Island, on August 18 we ordered 49 cars. On September 9 we ordered 42 cars. On October 13 we ordered 61 cars. This was a total of 152 cars on order to fill Commodity Credit loading orders. We received 14 cars in August, 27 cars in September, 7 cars in October, 23 cars in November, 46 cars in December, 32 cars in January of 1965. That elevator has track space for 15 cars per day and can load 15 cars per day.

These circumstances cited above were primarily connected with handling Commodity Credit loading orders. These orders cover grain owned by the Government, in storage at these elevators. When they order this grain shipped we must comply as soon as possible.

These loading orders came at the same time as the milo and corn harvest. In other words, we were trying to handle new harvest grain and make shipments of old storage grain at the same time.

From the previous illustrations it is apparent that we were unable to handle the loading orders for Commodity Credit let alone the current harvest grain.

At Arapahoe, Nebr., I gave you our Commodity Credit story. We finished harvest with 15,000 bushels of grain on the ground. That was cash grain. But to stay at only 15,000 bushels on the ground, we trucked over 60,000 bushels away from the elevator. That was grain that could have moved by rail. In order to keep the grain off the ground, it was necessary to sell it by truck.

At Franklin, Nebr., at one time we had over 70,000 bushels of grain on the ground. On November 19, we needed 29 cars at that station. On November 25, the following week, we needed 25. December 3, we still needed 20. And on December 10, we still needed 10. You can see we received a few cars each week

but not enough. This required trucking 45,000 bushels of grain from Franklin to get off the ground.

At Imperial, Nebr., another station I mentioned earlier, we had to do our cash business by truck. We could not get the cars to even handle Commodity Credit Corporation grain.

At Saronville, Nebr., we had 60,000 bushels of grain on the ground.

At Hildreth, Nebr., another Burlington station, we had 55,000 bushels of milo on the ground. We trucked it all.

On October 29, we called the Omaha office of the Burlington Railroad to tell them the position the elevators were in that morning. We needed 286 Burlington cars. That was not for speculative loading. We do not believe in ordering 10 cars if we need 5. We only order exactly what we need then expect performance by the railroad.

On that same day we called the Rock Island Railroad, we needed 318 cars.

On December 11, we made a summarization which was, in part, as follows:

"During the immediate past fall milo harvest we had to truck approximately 360,000 bushels of grain from our country elevators located on the Burlington Railroad. This grain was trucked because the C.B. & O. was unable to furnish boxcars and we could not afford to leave the grain on the ground until the car shortage ended * * *."

This places quite a burden on these individual country elevators in their buying and selling program and of course affects the farmer in marketing his grain.

At one time the Interstate Commerce Commission had service order 945 in effect. This order specifically directed that cars of certain railroads be returned to them.

Here is an exchange of telegrams I had with the ICC concerning service orders:

October 8, 1964.

INTERSTATE COMMERCE COMMISSION,
Chairman, Washington, D.C.:

Situation desperate for rail equipment to load grain at our Kansas and Nebraska elevators.

Please reissue service order 945 or similar new one to cover in particular CBQ CRIP UP and MOP.

EVANS GRAIN Co.,
PHILLIP CORBY.

October 9, 1964.

PHILLIP CORBY,
Evans Grain Co., Salina, Kans.:

Reurtel Sth. Commissions order 947 designed accomplish everything order similar to 945 AD MREXXX and more. Order 947 is being policed diligently by our field organization.

KENNETH H. TUGGLE,
Commissioner, ICC.

October 12, 1964.

KENNETH H. TUGGLE,
Commissioner, ICC,
Washington, D.C.:

Service order 947 may be designed to help but cars getting scarcer and piles getting bigger. We need help at Burlington points in Nebraska.

EVANS GRAIN Co.,
PHILLIP CORBY.

October 14, 1964.

PHILLIP CORBY,
Evans Grain Co., Salina, Kans.:

Retel 12th addressed to Commissioner Tuggle has been referred to me. Heavy releases gulf ports plus strong directive to carriers compliance service order 947 should improve car supply to Burlington.

RUPERT L. MURPHY,
Commissioner, ICC.

November 13, 1964.

INTERSTATE COMMERCE COMMISSION,
Chairman, Washington, D.C.:

Burlington railroad still not able furnish box cars to meet shippers commitments. Unable to make dent in grain piled on ground. We need all help possible.

EVANS GRAIN CO.,
PHILLIP CORBY.

November 16, 1964.

PHILLIP CORBY,
Evans Grain Co., Salina, Kans.:

Reurtel Chairman, Commission distribution orders issued to relieve car situation on Burlington.

C. W. TAYLOR,
DRXX Director, Safety and Service, ICC.

About all that ICC service order 947 amounted to was a restating of the Association of American Railroads as service rules.

From our viewpoint the AAR rules do no good. There is no practical way to enforce them.

Finally, on November 16, as indicated by the last telegram, orders were issued which finally began to help the car situation. It is unfortunate that it took 60 days for the ICC to act.

One of the contributing factors to the car shortage is the nature of the grain movement. Vast quantities of grain are exported via the gulf ports, other movements are into eastern territory and from time to time to the west coast. These movements take the cars beyond the rails of the grain originating lines into the hands of destination carriers. These cars are used by these carriers for their own purposes and are returned to the owning lines very slowly.

We believe passage of S. 1098 would stimulate the movement of these cars back to the owning carriers and make it more attractive for the deficient car owning lines to build or buy equipment of their own.

The 1965 fall harvest is under way at this time. Already a car shortage has developed. We understand the ICC has already issued some service orders requiring cars be sent to certain grain originating carriers. We urge prompt action toward passage of this bill to help remedy this situation.

STATEMENT OF GLENN KOHR, TRAFFIC MANAGER, MORRISON GRAIN CO., INC.,
SALINA, KANS.

I am Glenn Kohr, traffic manager for Morrison Grain Co., Inc., of Salina, Kans. I am here today to have our statement entered into this committee's record on behalf of Morrison Grain Co., Inc., and its affiliated companies.

We operate grain elevators and storage facilities in the States of Kansas and Oklahoma with a combined storage capacity of over 17 million bushels. These grain-handling and storage facilities have all been erected and operated in such a manner in order to make full use of rail transportation. However, there have been many times in the past, and there will probably be many times in the future, when we have been, or will be, forced to use other modes of transportation—namely, trucks—in order to keep operating during periods of car shortages.

Not too many years ago we were faced with car shortages only about twice a year, which was during the wheat and milo harvests. The situation has deteriorated so we are now almost constantly harassed with car shortages. This situation is costly both to us, the shippers, and to the railroads serving us. In many cases, during peak periods of loading out and unloading cars, we are forced to hire additional employees in order to keep abreast of the workload. They, as well as our full-time employees, must be paid regardless of whether or not we have cars to load.

We have lost many thousands of dollars annually in labor costs alone due to the lack of cars. Idle facilities are also costly.

Another facet to this situation is that we lose a substantial amount of storage and handling income due to the railroad's inability to furnish empty boxcars to the country elevators. Because of this inability on the part of the railroads,

they, too, are losing a sizable amount of revenue every year to trucks. When grain leaves a country elevator by truck, the railroads can be certain they will not receive 1 penny's worth of revenue. Nearly all grain trucked direct to Kansas City and other Missouri River markets is forwarded by barge from there.

Two or three months from now we will likely open our morning paper only to be confronted with the very familiar picture of thousands of bushels of grain piled high in the center of the street or near a country elevator in some Kansas or Nebraska communities. Gentlemen, there is one and only one reason that a picture of this kind could ever be made and that reason is car shortages.

In the April 3, 1965, issue of the Traffic World there is an equipment data report on revenue freight cars which was prepared by the Car Service Division of the Association of American Railroads. The report shows that the total ownership of boxcars by class I railroads declined 16,376 cars in the period from March 1, 1964, to March 1, 1965. During this same period there was an overall loss of all types of cars amounting to 12,735. This trend is certainly not conducive toward relieving the car shortage problem.

In the period from October 1, 1964, through December 31, 1964, our terminal elevator at Salina, Kans., received loading orders from Commodity Credit Corporation totaling 877,412.65 bushels. We order cars from the road-haul carriers promptly after receipt of loading orders. Under normal conditions and providing we would be able to obtain cars from the railroads, we would have been able to complete each of the loading orders in 1 or 2 days. However, because of car shortages, it has taken us from 9 to 43 days to complete these loading orders after the date the cars were ordered.

On October 7, 1964, we received a loading order from Commodity Credit Corporation for 50,000 bushels of wheat, which, had we been able to get the cars, we could have completed in 1 day, yet this loading order was not completed until November 20, 1964, 43 days after the cars were ordered. The remaining 11 loading orders we received during this period required an average of approximately 21 days to complete after the cars were ordered for loading.

During the period January 1, 1965, through March 31, 1965, we received loading orders from Commodity Credit Corporation totaling 594,299.60 bushels. Two of these orders amounting to a total of 41,823 bushels were completed prior to the longshoremen strike. The remainder of the cars were actually ordered 2 or 3 days prior to and in anticipation of the settlement of the dock strike. At the present time we are still trying to complete shipment on two of the loading orders.

On the completed loading orders, the average number of days needed to complete them after the cars were ordered was approximately 30 days.

The statistics just mentioned are no longer the exception but rather the rule. The exceptional length of time necessary to complete loading orders is not, in some cases, due to the railroad's inability to set cars for loading, but rather due to the railroad's inability to set usable cars for loading. There have been many times that we have had to "bad order" as high as 50 percent of the cars furnished. This rate of 50 percent is on the high side, but we estimate that the average ratio of bad-order cars to actual cars placed for loading at our Salina terminal elevator to be an alarming 33½ percent.

Another contributing factor, and we believe the most important one, is the fact that the car-deficient eastern railroads prefer to pay per diem charges, which are entirely too low as compared with the present-day cost of owning equipment, rather than to return the cars to their home lines.

On January 1, 1964, the railroads on their own initiative agreed to change the per diem rate from the longstanding \$2.88 per car, to a graduated schedule ranging from \$2.16 to \$7.74 depending upon the original cost per car less depreciation.

At first glance it would appear that the railroads had actually increased the per diem charges. However, this is not the case. They actually reduced the per diem charge, thereby making car ownership less attractive. True, the per diem charge on some cars such as the new hopper cars or damage-free boxcars was increased, but these cars are in the minority. The per diem charges on most of the standard boxcars (the workhorses of the rail transportation fleet) in use today was in reality reduced from \$2.88 to \$2.16 because the majority of the boxcars used today fall in that category of per diem group I.

Recently there has been a bill introduced in the Senate which would give the Interstate Commerce Commission the power to set per diem charges. We are confident that this is a step in the right direction. We of the Morrison Grain Co., Inc., support and endorse Senate bill 1098 and urge passage of this bill.

STATEMENT OF SYLVESTER O. MOBERLY, TRAFFIC MANAGER, C-G-F GRAIN CO., INC., SALINA, KANS., REPRESENTING SALINA BOARD OF TRADE

My name is Sylvester O. Moberly. I am traffic manager of C-G-F Grain Co., Inc., and I am representing the Salina Board of Trade, which is similar to the Kansas Board of Trade, a nonprofit organization of grain interests in Salina.

Several of the members of this board of trade own or operate country elevators and subterminal elevators in Kansas and Nebraska, representing well over 100 million bushels of storage space and representing a considerable volume of merchandising business, all jeopardized by the almost constant shortage of equipment that exists and has existed over the past several years. And it threatens to get worse for the future.

To start, one of the elevators represented here has records showing an existing shortage as of January 24, 1964, of 287 cars. On that date an additional order for 156 cars was placed, and these are due to Government loading orders. In addition, another 150 cars were ordered between the 24th of January and the 18th of February to handle commercial commitments. This made a total of 593 cars ordered during this period.

Had there been no other orders, we would probably have been fairly close to completing this portion of it. But there were other orders, the grain business being such that it cannot be shut down merely because the rail carriers cannot furnish equipment.

It was not until February 18 that a Government order scheduled for completion on February 11 could be finished. And this, remember, is over a year ago. This was in January of 1964.

Then in March, March 20, an order was placed for 55 cars, and not until March 31 were sufficient cars furnished so the backlog could be loaded and this particular order started.

Continuing on that line, there were two events in April, one in May, August, September, and October. These same occurrences happened. Cars were ordered for shipment and delayed anywhere from 5 to 10 to 15 days.

This is the experience of this one elevator.

Then from another member of the board of trade with an elevator in central Kansas: On September 28, 1964, they ordered 28 cars. They need those by the 5th of October. They received them as follows: On the 6th of October, two cars. On the 9th of October, three cars. On the 19th of October, one car. On the 23d of October, one car. On the 27th of October, three cars. On the 24th of November, four cars. On the 30th of November, four cars. December 2, three cars. December 9, one car. December 14, one car. December 16, three cars. December 18, four cars. December 22, one car.

It took 78 days to fill an order for 28 cars.

And then for the same owner with a central Nebraska location. There are three of them represented. I will read one of them.

They ordered 23 cars on January 4, 1964, and they needed them by the 8th. On the 15th, 11 cars were placed, on the 16th 1 car, on the 20th 6 cars, on the 22d 1 car, on the 28th 4 cars. This made 24 days to furnish 23 cars.

Then he has one order for cars that is still open at the present time. This is at location No. 3 where 20 cars were ordered on March 4, 1965, needed by March 16. As of the 13th of April they still needed 10 cars at this location.

In June of 1963, we were on record before the Trans-Missouri-Kansas Shippers Board as follows:

"As to car supply, in November we ran a car check for 10 days covering 141 cars. Thirty-three were bad order cars unfit for grain loading. This is nearly 25 percent bad order. In addition during this period there were several that had to be transloaded en route because of faulty equipment. During the period after the strike ended, the port strike, our percentage of bad order cars ran as high as 50 to 60 percent. On 2 days we received 18 cars 1 day and had to reject 16. On the following day we received 14 and all 14 were bad order, this group switched in error as some had had bad order tags on the doorways.

"During the period following the end of the strike, up until the middle of May, the Salina area was from 400 to 700 cars short every day. North of us the situation was even worse and is just now clearing up. I think you are all aware of the fact that in Nebraska, from about the middle of January up until recently, they were from 5,000 to 7,000 cars short. It seems to us that the challenge to the rail carriers is for service and equipment. Reduced rates are fine but without equipment of suitable loading quality and quantity, reduced rates are not worth the paper which they are written on. In this connection we would like to ask why inspection and grading procedures aren't policed more carefully and why, when the car supply is so short, rip track personnel is cut?"

This is the end of the statement made in front of the T-M-K Shippers Board.

With this kind of service the Salina Board of Trade believes the need for an additional supply of serviceable grain boxes is obvious. The method of getting a larger supply is not so obvious.

We believe the proposed bill, S. 1098, is a partial answer, providing the ICC would put the rates high enough to make it unprofitable to rent cars instead of building them.

There are many more examples of this kind that could be presented here but would unduly burden the record and add nothing to the fact of a tremendous shortage of serviceable boxcars suitable for grain and grain products loading.

And remember that we are coming into a harvest with an existing car shortage. I hate to think of all the wheat and later on the milo that will be piled on the ground because of lack of equipment.

STATEMENT OF GARVEY, INC., WICHITA, KANS., BEFORE A SENATE SUBCOMMITTEE ON FREIGHT CAR SHORTAGES

HEARING: 1. DENVER, COLO., APRIL 21, 1965; 2. OMAHA, NEBB., APRIL 22, 1965; 3. KANSAS CITY, KANS., APRIL 23, 1965

My name is James J. Irlandi and I am vice president, transportation, for Garvey, Inc. 352 North Broadway, Wichita, Kans.

Garvey, Inc. is a Kansas corporation existing under the laws of the State of Kansas. Its business address is 352 North Broadway, Wichita, Kans.

Garvey, Inc. has as its clients the companies located at the cities and in the States as indicated in exhibit No. 1 attached hereto. Said information is provided in order to acquaint the subcommittee of the following:

1. Name of company.
2. Location of grain elevators.
3. Capacity of said elevators.

Our clients are engaged in the storage, merchandising, and handling of grain. In addition, Garvey Grain, Inc., Chicago, Ill., is pelleting animal feed and utilizes the "transit privileges" applicable thereto. Those clients whose facilities are engaged in the storage of grain are termed "transit houses." "Transit houses" are elevators who have applied for and received permission from the railroads to engaged in storage of grain subject to transit privileges.

A transit privilege permits the stopping of grain at a point intermediate between the producer and consumer without incurring any additional cost on the origin to destination rate. It is important that one considers transit privileges in the subject of equipment shortage.

The shipper of grain requests equipment to be supplied by the railroad that originates the grain or the railroad granting "transit privileges" for the out-bound movement. The railroad in question may handle the entire movement from the point of origin to final destination or join in on a through movement with another carrier.

It is at the location where two or more railroads participate in our client's business that additional problems occur because one railroad may have equipment but will not furnish same because the transit billing prohibits utilization of said railroad in the routing.

Another problem occurs when the railroad performing the switching service does not participate in the line haul movement from the transit house.

These problems in many instances have been eliminated by cooperation between

the railroads involved. Such is not the case when two deficit supplying railroads service our client's installations.

The degree that our clients are injured is dependent upon the location of each client and the cooperation of the railroads serving the client.

Our clients' installations are representative of the following and incur the problems applicable thereto when equipment is of short supply:

1. Country elevator:
 - (a) Served by one railroad.
 - (b) Served by two or more railroads.
2. Subterminal elevator:
 - (a) Served by one railroad.
 - (b) Served by two or more railroads.
3. Terminal elevator:
 - (a) Served by one railroad.
 - (b) Served by two or more railroads.

Our clients storage capacities range from a small country elevator to the world's largest elevator which is located in Wichita, Kans.

Please refer to exhibit No. 1.

Garvey, Inc., has been asked to represent our clients at each hearing place. Our clients merchandise grain and store for shipment to the areas at which the hearings are to be conducted.

STATEMENT READ AT THE DENVER HEARING, APRIL 21, 1965

Our clients who are located in Nebraska and western Kansas have been seriously handicapped in merchandising and storing their grain for shipment to the Denver area because of the equipment shortage.

We stipulate equipment because three of the railroads serving our clients installations and the surrounding area pertaining thereto, have recently reduced rates on coarse grain. These rates apply in jumbo hoppers, shipper furnished as well as carrier furnished. Said rates applying for movement in hopper cars are less than the rates applying in boxcars. These rates were protested by our clients to the Interstate Commerce Commission. Our clients alleged that the rates were promulgated for shippers who could furnish their own hopper cars. They indicated to the Interstate Commerce Commission that a severe shortage of equipment existed. They also indicated that the grain was moving by a competitive mode of transportation because of the equipment shortage.

It is my understanding that presently the grain is moving in shipper-owned equipment and in railroad equipment when available.

Our clients in Nebraska have not been able to obtain hopper cars in sufficient quantity to compete with shippers who furnish their own equipment. They have been handicapped because of lack of hopper car equipment and boxcar equipment.

Our client in western Kansas cannot obtain boxcar equipment in time to satisfy its customers on delivery of grain. Because of the lack of boxcar equipment our client's customers are moving said grain via a competitive mode of transportation. Please refer to exhibit No. 2. The intended movements are typical of a country elevator operation and service pertaining thereto.

STATEMENT READ AT THE OMAHA HEARING, APRIL 22, 1965

Our clients who are located in Nebraska, and have additional facilities in Missouri and Kansas may be classified as engaging in the following:

1. Country elevator:
 - (a) Served by one railroad.
2. Subterminal elevator:
 - (a) Served by two or more railroads.
3. Terminal elevator:
 - (a) Served by one railroad.

Please refer to exhibit No. 1.

The major installations of our clients are served by two railroads who are periodically short of equipment. Said clients have been severely handicapped in their operations because of the inability of these railroads to furnish equipment. The subterminal operation is dependent upon transit privileges to move grain in for storage and subsequent movement of grain outbound.

Additional problems occur when railroad A who brings the grain inbound (when cars are available) cannot furnish equipment for the outbound move. Railroad B might be able to furnish equipment when requested but cannot participate in the road haul because of transit privileges. Railroad C may have equipment available to turn over to railroad A who switches our client's elevators. The equipment may never reach our client's elevators because railroad A "spirits" them to some other location notwithstanding the fact that our client may be the only shipper who can route freight via railroad C.

Our clients will be represented at this hearing to testify and produce additional information pertinent to their operations.

STATEMENT READ AT THE KANSAS CITY HEARING, APRIL 23, 1965

Our clients who are located in the States of Illinois, Texas, Kansas, Missouri, and North Dakota may be classified as engaging in the following:

1. Country elevator:
 - (a) Served by one railroad.
 - (b) Served by two or more railroads.
2. Subterminal elevator:
 - (a) Served by one railroad.
 - (b) Served by two or more railroads.
3. Terminal elevator:
 - (a) Served by one railroad.
 - (b) Served by two or more railroads.

Said clients have been affected by the shortage of boxcars and hopper cars as well as their competition who are engaged in similar operations in the above-mentioned States.

Our clients' customers have been injured to the extent that grain could not be loaded because of equipment shortage. An example of how said shortage of equipment has affected one of our clients is as follows:

"Our current requirements are approximately 350 cars. The rate at which the (Y railroad) is furnishing cars is poor.

"From the period March 9 through April 13, we have loaded a total of 344 cars and of this amount 67 were (X railroad) hopper cars which means that 277 cars were furnished by the (Y railroad). This averages out of 26 loading days to a little better than 10 cars per day. We have received more assistance from the (X railroad) than all other connecting lines combined, but unfortunately we have utilized all of the hopper cars possible.

"Requests for cars were placed with the (Z railroad) on March 9 for 83 cars. A supplemental order was placed with the (Z railroad) on March 19 for an additional 65 cars. Total requirements from the (Z railroad) are 148 cars. They have refused to furnish a car to date. We have talked with these people at least once a week since our order was placed with no results. A total of 52 cars have been routed out (Z railroad) since March 9, which means that someone else has been furnishing cars for the (Z railroad) and this, of course, compounds our problem."

Please refer to exhibit No. 3 for additional information concerning statistical data as referred to in the above example.

The above example is indicative of the equipment problem that all of our clients have experienced for several years.

SUMMARY

Our clients are vitally interested in obtaining relief from the shortages of equipment that occurs each year in the producing areas of grain. Said shortages have injured our clients and our clients' customers because they have not been able to load grain per the schedules requested.

We hereby request the subcommittee to take cognizance of the following:

1. The equipment fleets of the railroads have dwindled each year.
2. The service, incident to the line haul movement has been curtailed.
3. The railroads are building a greater number of hopper cars and limiting the number of the all-purpose boxcars.

Respectfully submitted.

JAMES J. IRLANDI.

EXHIBIT No. 1

Clients of Garvey, Inc.

List of companies	City and State	Storage capacity (bushels)
C-G-F Grain Co., Inc.	Atchison, Kans.	23,400,283.1
	Centralia, Kans.	566,960.0
	Salma, Kans.	34,319,720.6
	Topeka, Kans. (managing agent for Bangor Punta Operations, Inc.).	41,584,871.9
Farmer's Grain Co., Inc.	Alamota, Kans.	303,000.0
	Arlington, Colo.	28,000.0
	Brandon, Colo.	172,000.0
	Halford, Kans.	160,000.0
	Haswell, Colo.	172,000.0
	Horace, Kans.	46,000.0
	Marienthal	311,209.0
	Pence	45,969.0
	Russel Springs	84,288.0
	Scott City	150,000.0
	Spica, Kans.	170,000.0
	Winona, Kans.	450,000.0
	G-F Grain Co.	Grand Forks, N. Dak.
Garvey Grain, Inc.	Atlanta, Ill.	171,000.0
	Chicago, Ill.	1,993,690.0
	Kenney, Ill.	425,300.0
	Midland City, Ill.	57,000.0
	Union, Ill.	89,000.0
	Wichita, Kans.	43,513,442.0
	Woodford, Ill.	550,000.0
Garvey Elevators, Inc.	Fort Worth, Tex.	28,538,481.4
	Hastings, Nebr.	7,763,951.2
	Kansas City, Kans.	570,456.0
J-T Elevator Co.	Jamestown, N. Dak.	2,983,655.9
Lincoln Grain, Inc.	Lincoln, Nebr.	22,519,853.8
	Ohiowa	134,482.0
	Tobias	187,749.0
	Western	193,299.0
	Milligan	67,283.0
	Lincoln-KC Grain Co.	Kansas City, Mo.

EXHIBIT No. 2

Railroad	Station	Number of cars ordered	Date ordered	Date received	Number of cars received
UP	Halford	4	Mar. 22, 1965	Mar. 31, 1965	3
	Do	3	Mar. 2, 1965	Apr. 2, 1964	1
Do	Winona	3	Apr. 5, 1965	Apr. 10, 1965	3
				Apr. 7, 1965	1
MP	Marienthal	2	Mar. 19, 1965	Apr. 8, 1965	2
				Mar. 4, 1965	1
				Mar. 25, 1965	1

EXHIBIT No. 3

Date	Number of Y railroad boxes received	Number of Y railroad hoppers received	Number of X railroad hoppers received	Total	Number of cars shipped and received via Y railroad	Number of cars shipped and received via other lines
Mar. 9, 1965	12	12		24	12	12
Mar. 10, 1965	1	10		11	10	1
Mar. 11, 1965	4			4	0	4
Mar. 12, 1965	11			11	11	0
Saturday						
Sunday						
Mar. 15, 1965	11			11	10	1
Mar. 16, 1965	5			5	0	5
Mar. 17, 1965	2			2	2	0
Mar. 18, 1965	8		17	25	0	25
Mar. 19, 1965	0	2	8	10	2	8
Saturday						
Sunday						
Mar. 22, 1965	7			7	0	7
Mar. 23, 1965	9		1	10	2	8
Mar. 24, 1965	10			10	0	10
Mar. 25, 1965	0		10	10	0	10
Mar. 26, 1965	11		7	18	3	15
Saturday						
Sunday						
Mar. 29, 1965	0		6	6	0	6
Mar. 30, 1965	7			7	0	7
Mar. 31, 1965	27			27	7	20
Apr. 1, 1965	21			21	1	20
Apr. 2, 1965	12		12	24	0	24
Saturday						
Sunday						
Apr. 5, 1965	11			11	0	11
Apr. 6, 1965	16		4	20	0	20
Apr. 7, 1965	19			19	0	19
Apr. 8, 1965	5		2	7	0	7
Apr. 9, 1965	0			0	0	0
Saturday						
Sunday						
Apr. 12, 1965	23			23	0	23
Apr. 13, 1965	21			21	6	15
Total	253	24	67	344	66	278

STATEMENT OF LINCOLN GRAIN, INC., LINCOLN, NEBR., AS PRESENTED BY GORDON E. GANKA, DIRECTOR OF TRANSPORTATION, BEFORE A SPECIAL SENATE SUB-COMMITTEE ON FREIGHT CAR SHORTAGES, APRIL 22, 1965

INTRODUCTION

My name is Gordon E. Ganka and I am the director of transportation of Lincoln Grain, Inc., located in Lincoln, Nebr. We own and operate two grain elevators with a capacity of 22 million bushels. I wish to summarize our statement as follows:

The critical lack of boxcars and covered hopper cars in the State of Nebraska, starting with the month of October 1963 through and including March 1965, has been the worst in the history of the State of Nebraska.

We are unable to fully measure the loss of moneys and business to our company during the above-mentioned period, as the function of an interior terminal elevator capable of handling, storing, and merchandising 22 million bushels of grain has many functions in its daily transaction of business that cannot be tabulated due to our company's inability to deliver or receive grain in daily marketing procedures.

In the loss of business I wish to relate that the Commodity Credit's storage of grain is one of our principal operations, and due to the lack of boxcar supply we have been informed verbally that the Commodity Credit Corporation is bypassing the State of Nebraska for the storage of grain, and shipping this grain to other areas and facilities that do not have similar problems as in our State. The loss of storage, by Commodity Credit Corporation, and the loss of sales in our merchandising operation in themselves, if continued, would be ample reason to destroy our industry. We speak as one facility, but know there are many other country elevators and interior grain markets that have and are suffering irreparable damage.

The purpose of this hearing is to determine a proper solution that may well, if continued, have adverse effect upon the economic growth of this State. Therefore, we have prepared the following statement and exhibits attached hereto, showing what has transpired with our company for verification of these problems.

I

In an effort to relate the critical effect of the short boxcar supply of our company, we have attached hereto exhibits 1 and 2, that show the actual carriers' performance starting with October of 1963, through and including March of 1965. Exhibit No. 1 relates the number of empty boxcars we have ordered for each month; the empty boxcars furnished by the carriers; the number of bad-order boxcars that were furnished by the carrier, with the usable empties and the varying percentages of carriers' performance.

II

As an example, in October of 1963 we ordered 638 empty boxcars; the carriers were able to furnish 157 empty boxcars. Of these cars furnished, 43 were classified as bad order or unfit to load grain. Therefore, the carriers furnished only 114 cars which represents 17.8 percent of our need for shipping during the month of October. We have progressed this exhibit through each month to show the percentage relationships of our problem.

III

The carriers have never been able to furnish 100 percent of our needs in any given month during the period related. To relate the average performance of the carriers, we show 37.3 percent of our need for empty boxcars was furnished in 1963, which covers October, November, and December. For the year 1964, covering a 12-month period, the carriers' performance shows 40.6 percent of our need. For 3 months of 1965, January, February, and March, the carriers' performance shows 24.7 percent of our needs were supplied.

IV

We are no better than the railroad that serves our industry. If the Burlington Railroad is not supplied with empty boxcars, their own or other carriers, and cannot furnish our company equipment to move our grain to and from our facility, we are out of business. It was determined during September, October, and November of 1964 that the interest on the grain we had purchased in the State of Nebraska, that could not be delivered to our facility, had cost our company \$300 per day for a period of 60 days, or a total cost of \$18,000.

V

Our business is to buy, sell, and store grains. Without boxcars to bring grain into our elevators, we are helpless to sell grain without guarantee of equipment. We are completely at the mercy of the carriers serving our facilities, and cannot exist under the present destructive practices. One of the principal problems confronting the State of Nebraska, in addition to the fact of the railroads' depleting boxcar fleet, is that Nebraska is not a consuming area for raw materials, bulk or packaged, requiring boxcar delivery. Most shipments moving from the east to the west coast bypass the State of Nebraska, and this equipment cannot be captured by the rail carriers at an unloading point in another State west of Nebraska, and returned empty to Nebraska for a load of grain eastbound. The reason being that the western demand for equipment prevents empty return.

VI

In many instances, the rail carriers have tried to comply with shippers' needs for empty boxcars, but are adverse to moving empty cars great distances to satisfy a deficit area. To move a thousand empty cars from Illinois to Nebraska that could be carrying revenue westbound is unheard of by most carriers, but in this day and age to accumulate a thousand cars for any specific movement is almost a physical impossibility.

VII

Shippers' leased or owned equipment creates preferential treatment to lessee or owner that can destroy competition unable to lease or purchase equipment in the

State of Nebraska. Leased cars are, on an average, too large for the branch-line loading. Branch-line shippers have and are suffering increasing losses of business as the owner or lessee of special equipment (jumbo hopper cars) can be selective in their purchasing area and use origins on the main lines of the carriers. Eventually many branch-line grain elevators will be forced to discontinue doing business due to this pressure of shipper and carrier special equipment. The branch-line elevator operator cannot handle carriers' jumbo hopper car equipment and in many cases are not capable of handling equipment larger than a 40-foot 8-inch boxcar. He is helpless and completely at the mercy of the carriers to satisfy his needs.

VIII

The subcommittee we are appearing before today are seeking solutions to this growing destructive problem of boxcar supply; therefore, the following suggestions have come to my mind and I wish to pass them on to the committee for what they are worth:

1. Of prime importance we suggest the Interstate Commerce Commission have full and immediate authority to act under short notice and to effect distribution orders to prevent buildups of boxcars in any area throughout the United States. This can be accomplished by the creation of an effective agency in Washington, under ICC control, that should keep a continuous surveillance of the transportation picture at all times, and keep the Commission fully advised when to react to prevent tremendous buildups of equipment.

2. In discussing this subject of boxcar supply with a railroad official we come to the conclusion that new boxcars should be constructed capable of versatile use to avoid grain door installations that tend to damage doorposts and bad order cars long before their time creating boxcar shortages. A versatile car that could possibly haul lumber with a wide door and be used for grain on a reverse move. This type of car would eliminate the use of grain doors, should keep this car in better condition for a longer period of time, and serve a dual purpose to the grain and lumber industries.

3. Senate bill S. 1098 (increased per diem charges) that suggest the amendment to section 1(14) (a) of the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply and distribution. This bill is presently being enacted upon in Washington, and has been before the governmental agencies in one form or another for 6 years. To increase the per car usage of the carriers, should create a prompt return of carriers own equipment to their lines.

4. Boxcars are needed in great numbers. A desire should be created for the securities and investment companies to build boxcars for the railroads with a prompt writeoff, say with a period of 5 to 10 years where they could realize a prompt return on their investment.

5. A very important corrective amendment would be to have the Commodity Credit Corporation, controlled by the Secretary of Agriculture, Orville Freeman, regulate shipments of grains in storage to off-peak shipping periods. We understand legislative action cannot be enacted upon to restrict or liberalize the Secretary of Agriculture's duties. Therefore, can suggestions be made to the Secretary to assist the rail carriers to help resolve their car supply shortages?

Harvest periods of grains start in June and terminate in November of each year. Every year Commodity Credit Corporation grains are transferred at the same time as the harvest creating a boxcar shortage, also tremendous buildup of boxcars at the ports. Boxcars stranded at the ports are not available to the shipping public for periods in excess of 30 to 60 days due to the lack of facilities at the ports to unload into storage and load out into vessels.

CONCLUSION

As I have related, my exhibits 1 and 2 show the picture of Lincoln Grain, Inc.'s inadequate boxcar supply. Our company cannot possibly continue business on the basis of less than 50 percent of operation. We must have 100 percent utilization of our facilities to stay in today's competitive marketing. The buying, selling, and storage of grain is the function of our industry. Therefore, to restrict our ability to buy or sell grain due to carriers lack of boxcars is destroying our business at a fast pace and must be stopped immediately.

During the fall of 1964 (September, October, November, and December) we were unable to buy or sell grain for a period of 45 days. Our company is

capable of loading and unloading 126 cars a day. We have yet to reach this maximum loading point at any month in the last 16 months. We have never reached 100 percent capacity of operation.

Gentlemen, I thank you for the opportunity of appearing before this Senate subcommittee. The shippers of Nebraska feel this committee will present our problems before Congress and enact into law a permanent solution to prevent economic destruction of the grain and grain products industry of our State.

EXPLANATION OF EXHIBIT 1

Column A

Our study begun in the harvest period of coarse grains (corn and milo) of 1963. Column A states the year and month of our study.

Column B

We order empty boxcars daily as shown in column B. We have compiled our daily orders for each month to show what our needs were to fulfill our shipping schedules for each month.

Column C

The carriers furnish x number of empty boxcars daily to fill our request, if possible. We have shown the number of empty boxcars received to be compared with the empty boxcars ordered.

Column D

The rail carriers perform unnecessary transportation by furnishing equipment damaged and unfit for grain loading. A special switch must be performed to pull the bad order cars that never should have reached our facilities. Column D reduces rail carriers performance considerably in supplying of empty boxcars.

Column E

Shows the actual cars we are able to load by subtracting bad-order cars in column D from column C.

Column F

The percentage figure shown represents the ratio between cars ordered in column B, versus cars received in good condition shown in column E.

EXHIBIT No. 1

Year and month (A)	Empty cars ordered (B)	Empty cars furnished (C)	Empty cars furnished bad order (D)	Car ordered in good condition (E)	Percent of column E of column B (F)
<i>1963</i>					
October.....	638	157	43	114	17.8
November.....	1,006	315	69	246	24.4
December.....	1,802	1,453	526	927	51.4
<i>1964</i>					
January.....	2,160	1,266	329	937	43.3
February.....	1,640	1,155	154	1,001	61.0
March.....	1,445	1,132	279	853	59.0
April.....	1,165	743	212	531	45.5
May.....	461	364	114	250	54.2
June.....	117	114	21	93	89.4
July.....	196	175	64	111	56.6
August.....	555	444	161	283	50.9
September.....	562	167	42	125	22.2
October.....	1,167	72	4	68	5.8
November.....	1,627	182	60	122	7.4
December.....	1,497	1,003	259	744	59.6
<i>1965</i>					
January.....	1,481	1,361	103	258	53.6
February.....	1,678	1,246	69	177	26.1
March.....	1,735	417	137	280	16.1

¹ Jan. 11, port strike became effective through Feb. 27, 1965. Orders from CCC were held until strike termination.

Recapitulation—Bad order cars

Year	Boxcars furnished before bad order appraisal	Number of boxcars classified as bad order	Percent of cars furnished that are bad order
1963 (October-November and December).....	1,925	638	33.1
1964 (12 months—January through December).....	6,817	1,699	24.9
1965 (January-February and March).....	1,024	309	30.2

Carrier total performance of boxcars

Year	Number of boxcars ordered	Number of boxcars furnished	Percent of boxcars ordered versus furnished
1963 (October, November, and December).....	3,446	1,287	37.3
1964 (12 months, January through December).....	12,592	5,118	40.6
1965 (January, February, and March).....	2,894	715	24.7

SUMMARY

1. The railroads have not been able to supply 50 percent of our company needs for boxcars over the last 3 years.

2. Bad-order boxcars represent a destructive portion of the rail carriers boxcar fleet. Grain requirements must have class A boxcars to prevent infestation, leakage, etc. A facilitated rebuild program, plus purchase of new boxcars, is of primary importance.

3. Lincoln Grain, Inc., offers their wholehearted support for passage of Senate bill 1098. Time is of essence and emergency procedures should be exerted for passage of this bill.

4. The Interstate Commerce Commission must have unrestricted authority to exert immediate distribution orders to prevent boxcar shortages from building up to national importance.

[Telegram]

PORTLAND, OREG., October 6, 1965.

HON. ROBERT B. DUNCAN,
Member of Congress,
Washington, D.C.:

The members of the Western Lumber Marketing Association, headquartered at 214 Alderway Building, Portland, Oreg., strongly urge House passage of Senator Magnuson's Senate bill 1098. Our membership ship in excess of 100,000 carloads of forest products annually from all western producing areas to every State in the Nation.

The new graduated per diem rates adopted by the railroads January 1, 1964, have not brought about any improvement in other than specialized equipment in the high per diem bracket and much of this is used only by one industry and in one-way movements.

Further, railroads were permitted to publish penalty demurrage charges against rail shippers without any full hearing by the Interstate Commerce Commission, effective July 1, 1964, amounting to increases from rates of \$4 per day for the first 4 days to \$5 per day; and from \$8 per day thereafter to new charge of \$10 per day for the first 4 days and \$15 per day thereafter on all cars regardless of vintage. Certainly if penalties are fair to shippers then railroads should also be subjected to penalty per diem set by the Commission for mishandling or misuse of equipment.

The Interstate Commerce Commission can solve this 50-year-old problem by adoption of this legislation which will prod delinquent car-owning railroads during times of serious shortages.

Our experience indicates the shortage problems are further aggravated due to misuse of American Association of Railroad Car Services rules in all areas and by irregular movement, long delays in repair shops, mishandling of way-bills, unrealistic mileage allowances that discourage leasing of equipment by shippers. Boxcar mileage payments are only 6 mills yet railroads pay 18 cents for loaded mileage on tank cars. Elimination of freight stations and reduction in employees is also contributing to poor handling and policing of present rules.

Our membership urges adoption of Senate bill 1098 or similar measure to assist in building a roper car fleet. The car supply problem coupled with the vast distances involved to our markets for west coast forest products along with rate advantages granted other producing areas, restrictive routings, complex loading rules, and inflated accessorial and demurrage charges are causing annual financial chaos to northwest lumber firms.

WESTERN LUMBER MARKETING ASSOCIATION,
JOHN R. BURNS, *President*.

[Telegram]

EUGENE, OREG., *September 30, 1965.*

HON. ROBERT B. DUNCAN,
House Office Building,
Washington, D.C.:

It is hoped that the House committee holding the hearings on the House version Senate bill 1098 gives it favorable consideration. Please convey.

EATON-YOUNG LUMBER CO.,
ROBERT G. GUITTEAU,
Vice President.

[Telegram]

EUGENE, OREG., *September 30, 1965.*

CONGRESSMAN ROBERT B. DUNCAN,
House of Representatives,
Washington, D.C.:

Understand hearing being held on S. 1098 and similar measures to help relieve boxcar shortages. We heartily agree with anything that may assist in relieving the car shortage.

STARR CARTER LUMBER SALES.

[Telegram]

MEDFORD, OREG., *October 1, 1965.*

HON. ROBERT DUNCAN,
House of Representatives,
Washington, D.C.:

We urgently need relief from our chronic boxcar shortage where it used to be seasonal we could get by, but it is with us constantly now and is slowly strangling us. The railroads do not have a solution so we are turning to you for help.

EUGENE F. BURRILL LUMBER CO.

[Telegram]

TACOMA, WASH., *October 1, 1965.*

HON. ROBERT DUNCAN,
House of Representatives,
Washington, D.C.:

As sales representatives for several mills in Oregon, we urgently request your support of bill S. 1098. Unless there is some relief for the chronic rail car shortage on the west coast the resulting plant closures will inflict terrific financial losses. One of our plants in the Medford area has already lost time due to the lack of cars and another shutdown is imminent. Anything you and your colleagues can do to help expedite passage of this bill will be greatly appreciated. Thank you.

H. E. TENZLER,
President, Northwest Door & Plywood Sales Inc.

[Telegram]

MEDFORD, OREG., *October 1, 1965.*

HON. ROBERT DUNCAN,
House Office Building,
Washington, D.C.:

We wish to urge your support of Senate bill 1098 as a measure to alleviate the stringent boxcar shortage which we are now experiencing. This car shortage is consistently costing Oregon lumber industry potential gains and is putting us in a noncompetitive situation in the marketplace. We would appreciate your earnest assistance at the House Interstate and Foreign Commerce Committee meeting next week which is meeting to discuss this problem.

TED BAUER,
Elk Lumber Co.

[Telegram]

DILLARD, OREG., *October 1, 1965.*

Re hearings on S. 1098.

HON. ROBERT B. DUNCAN,
Washington, D.C.

DEAR MR. DUNCAN: The shortage of boxcars is becoming increasingly critical in our area. Cars with 9-foot or wider doors are required to ship a large percentage of our material with some stock being impossible to load in a car that is not 50 feet long with 14-foot or wider doors. In the months of July, August, and September of this year, we have not been able to get 40-foot cars with 6-foot doors. When double door cars are not available. Most of our customers are not able to unload 8-foot or narrower door cars without additional cost due to mechanical unloading. Many times we are forced to load cars with 6-foot doors or shut down our operation completely. Most of the time that we are forced to do this we must reimburse our customers anywhere from \$25 to \$100 per car. At our White City, Oreg. plant we are producing five carloads each day but received one car Monday, three cars Tuesday, four cars Wednesday and one car Thursday. At the present time we have at least 10 cars of material setting on our docks ready to be shipped, but are unable to get boxcars of any size to catch up on our loadings. Today we could have loaded 10 or more cars had the equipment been available, but only 1 car was sent to us. On shipments where possible we have been shipping by truck to keep our plants running.

FOREST INDUSTRIES, INC.,
D. V. MARTIN,
Traffic manager.

[Telegram]

PORTLAND, OREG., *October 1, 1965.*

ROBERT B. DUNCAN,
Member of Congress,
Washington, D.C.:

We are incurring difficulty in securing sufficient number of rail cars to get our products to market due to the declining car supply. Markets are being lost to our eastern competitors who are able to use motor carrier service. Unless this situation is corrected promptly it will have a disastrous effect on our production causing long layoffs and unemployment among our present employees. The Western rail lines are trying their best to relieve this situation by a large building program but many of the other railroads find it more economical to pay the low per diem charges than to build cars. Something must be done immediately. We believe the solution lies in House bill, H.R. 425, with Senate bill 1098, and we urge immediate passage.

R. W. MAYER,
President, Timber Structures, Inc.

[Telegram]

MENASHA, WIS., October 4, 1965.

Representative OREN HARRIS,
Chairman, House Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.:

Menasha Corp. urges legislation empowering the Interstate Commerce Commission to set per diem rates and impose penalty charges against railroads which rely upon other roads to build and furnish freight cars as long as railroads may appropriate others, freight cars at less than they can provide their own, some of them will do this as a matter of policy. Only Government intervention can bring about equity. It is apparently more profitable to build special cars for specific traffic than to build general purpose boxcars which would be added to the national pool and used indiscriminately by all railroads. Even some of the railroads which contribute more than their fair share to the national boxcar pool oppose Government intervention in the chronic boxcar shortage. They do this despite their inability to care for the needs of shippers on their lines. Our plywood plant at North Bend, Oreg., is almost constantly in trouble because of boxcar shortages. Assurances that we are receiving a fair share of available cars is little comfort when you have firm orders and cannot ship the goods we are frequently compelled to sell to other manufacturers who ship by barge from Coos Bay, Oreg., because we cannot obtain boxcars to ship to our own customers throughout the United States. We understand the railroads' point of view but after 17 years of car shortages we are convinced that there is no alternative to a Federal regulatory remedy during the 17 years in which the railroads have tolerated the car shortages conditions have become worse rather than better. We urge the adoption of remedial legislation.

MOWRY SMITH, Jr., *Menasha Corp.*

[Night telegram]

NEBRASKA STATE RAILWAY COMMISSION,
 October 8, 1965.

DANIEL P. LOOMIS,
*President, Association of American Railroads,
 Transportation Building, Washington, D.C.:*

Telegram to you September 21, 1964, can be repeated word for word today. Grain box shortage causing untold millions loss to Nebraska's agricultural economy, producers, grain trade, and railroads. Orderly grain trade business impossible. Loaded cars leaving our area must be replaced with empties. General rule of fair distribution between areas and railroads not being observed. All railroads serving Nebraska are now or soon will be unable to fill urgent orders for boxcars. The plight of shippers on the Burlington is being repeated. No matter how bad situation is on other roads Burlington shippers usually out of business or nearly so until railroads' other areas have surpluses weeks or months later. The historical cause is that the Burlington's car supply diminishes from enough to little more than nothing faster than the car records can be furnished your car department for study.

Today a fairly accurate check of Burlington train movements our area show that of 7 trains serving points with orders for immediate loading of 50, 100, 55, 57, 28, 127, and 20 had respectively empties to fill of 0, 0, 0, 7, 0, 0, 7, 0. In addition 2 terminals with immediate needs of 260 received 7. Repetition of economic murder to Burlington shippers in addition to economic maiming of all grain shippers in Nebraska and the revenue losses to members AAR can only be prevented by equitable relief all railroads our area when needed and particularly for the Burlington now, because of greater mileage in Nebraska their stations are more numerous.

A reply to this message unnecessary. Only boxcars will cure the situation.

NEBRASKA STATE RAILWAY COMMISSION,
 RICHARD H. LARSON, *Commissioner.*

NATIONAL ASSOCIATION OF
RAILROAD & UTILITIES COMMISSIONERS,
Washington, D.C., October 6, 1965.

HON. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce, Rayburn
House Office Building, Washington, D.C.

DEAR CHAIRMAN HARRIS: It is noted that hearings were held on October 4 and 5, 1965, on H.R. 7165 and other related and identical bills to improve and insure the adequacy of the national railroad freight car supply and for other purposes. The National Association of Railroad & Utilities Commissioners has for a number of years supported legislation in this connection. Attached is a copy of a resolution duly adopted by this association at its annual convention held on September 28, 1961, at Atlantic City, N.J. Since that time the executive committee of this association has reaffirmed and position of the association in this matter.

Also enclosed is a copy of the report of this association's subcommittee on railroad car shortages, which was submitted to our annual conference meeting on October 1, 1965. The report of this subcommittee urges enactment of legislation embodying the principles of H.R. 7165 and other similar bills.

It would be appreciated if the association's resolution and the 1965 subcommittee report could be included as part of your committee record of the hearings on H.R. 7165.

Thanking you for your cooperation, I remain,
Sincerely yours,

EVERETTE KREEGER,
Assistant General Counsel.

NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS—RESOLUTION
ADOPTED SEPTEMBER 21, 1961, CONCERNING THE FREIGHT CAR SITUATION

Whereas the national freight car fleet has shrunk to 1,650,000 cars, a dangerously low level; and

Whereas approximately 10 percent of the existing cars are unfit for immediate use; and

Whereas many shippers are compelled to reject cars tendered because of their being unfit for loading; and

Whereas, because of the reduced freight car fleet and the large number of bad-order cars, in event of a national emergency, the railroads would be unable to meet the transportation requirements that would be placed upon them; and

Whereas the foregoing is largely the result of the depressed financial condition of the railroad industry in contrast with the general rise in our national economy since World War II; and

Whereas it is imperative that Federal action be taken to encourage and permit essential augmentation of the Nation's serviceable freight car fleet: Therefore be it

Resolved by the NARUC in convention assembled, That this association reaffirm its position in favor of more realistic depreciation allowances on railroad equipment for income tax purposes, of the establishment of construction reserve accounts for the purpose of acquiring transportation equipment and plant, and of changes in Federal income tax statutes that will prevent the siphoning off tax relief that may be extended by the States; and

Resolved further, That this association urge upon the Congress prompt enactment of the foregoing and other measures that will encourage and permit essential augmentation of the serviceable freight car fleet to a level sufficient to meet the needs of commerce and of the national defense; and be it further

Resolved, That this association hereby records its continuing support, as it has in the past, for the enactment of congressional legislation which embodies the principles of S. 1789 in the 86th Congress and S. 886 in the 87th Congress.

NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS—REPORT
OF THE SUBCOMMITTEE ON RAILROAD CAR SHORTAGES, OCTOBER 1, 1965

In our 1964 report we discussed the problems created by the car shortage found to exist at that time. Developments since then have been most discouraging because the car shortage has become more serious. It is an unfortunate fact that the situation is getting worse instead of better. What was

once a temporary problem in scattered segments of the economy has become a chronic and continuing problem which pervades all segments. Reports from all sections of the country, including those from manufacturers, farmers, forestry interests, governmental agencies, including the Department of Agriculture and the Interstate Commerce Commission, leave no doubt but that the present freight-car fleet is just not adequate to serve the needs of commerce. The situation is serious and remedial action is necessary to avoid serious consequences.

What follows in this report is this committee's review of the situation and its recommendations for action on the part of our group.

It has been reported that shippers are demanding about 7,500 more cars daily than the railroads can provide. This is more than double the deficit of last year. The situation will become more critical with the expected increase in traffic demands during the last quarter of the year. Even the U.S. Army reported that it recently found itself short of cars needed to ship ammunition destined for Vietnam.

It is no surprise that freight cars should be in short supply when it is noted that the total number of cars in the fleet has been steadily declining in the face of an expanding economy with increasing demands for transportation service. The following table shows this unfortunate situation:

Date	Cars owned (excluding refrigerators)	Serviceable cars (excluding refrigerators)	Date	Cars owned (excluding refrigerators)	Serviceable cars (excluding refrigerators)
Jan. 1, 1945.....	1,744,179	1,663,194	Jan. 1, 1962.....	1,579,065	1,437,937
Jan. 1, 1950.....	1,730,686	1,596,226	Jan. 1, 1963.....	1,523,080	1,398,577
Jan. 1, 1955.....	1,716,804	1,600,604	Jan. 1, 1964.....	1,482,122	1,379,119
Jan. 1, 1960.....	1,657,792	1,536,429	Jan. 1, 1965.....	1,457,074	1,369,681
Jan. 1, 1961.....	1,636,695	1,480,848	May 1, 1965.....	1,455,275	1,370,537

It will be noted that since January 1, 1945, the freight car fleet has declined by 289,904 cars.

As the national freight car supply has continued to decline, car shortages—particularly of boxcars—have become increasingly more frequent, more severe, and more damaging to the interests of the railroads, shippers, and the national economy.

During the twenties, freight-car ownership of class I railroads was almost 2.5 million cars. The fleet declined during the depression of the middle and the late thirties, and, although it increased somewhat during World War II, it has declined steadily, almost precipitously, since that time. This trend must be reversed.

The loss in the number of available freight cars has been noticed mostly in the supply of boxcars as shown by the following table:

Date	Boxcars owned	Serviceable boxcars	Date	Boxcars owned	Serviceable boxcars
Jan. 1, 1945.....	742,447	712,637	Jan. 1, 1962.....	663,762	610,048
Jan. 1, 1950.....	714,914	680,666	Jan. 1, 1963.....	637,775	587,960
Jan. 1, 1955.....	717,013	679,432	Jan. 1, 1964.....	615,887	574,250
Jan. 1, 1960.....	705,738	655,665	Jan. 1, 1965.....	596,602	559,900
Jan. 1, 1961.....	692,565	634,561	May 1, 1965.....	592,987	556,739

As noted above, the loss to the fleet since January 1, 1945, amounted to 289,904 cars, of which number 149,460 were boxcars. The trend in recent times has been toward construction of more specialized equipment rather than boxcars, but the latter still comprise the backbone of the car fleet.

Because of some increase in the average capacity of freight cars (58.18 tons on January 1, 1965, compared with 53.85 tons on January 1, 1956), the aggregate carrying capacity of the class I fleet shows a less precipitous decline than car ownership. (Aggregate capacity on January 1, 1965, was 86,957,665 tons compared with 91,231,612 tons on January 1, 1956.) But the fact that the average carrying capacity of present-day cars is larger than formerly is no consolation to the shipper who cannot secure the use of the cars he needs.

Of much more significance are the recent records of installations and retirements. During the 5 years, 1959-64, retirements consistently exceeded new installations by a substantial margin. Total retirements during this period were 384,922 as against installations of 201,660, for a total loss of 183,262 cars of all classes. With respect to boxcars only, retirements were 171,101, compared with installations of 61,965, for a net loss of 109,136 boxcars. During 1964, total retirements were 86,237 and installations 65,801, but, significantly, boxcar retirements were 37,301 against installations of 18,016. Thus, although total freight car installations are improving in relation to retirements, boxcar requirements continue to exceed installations by about 2 to 1.

The foregoing figures amply demonstrate that the national freight car fleet is not adequate to meet the requirements of commerce, that there is a long way to go before the fleet will be built up to a point where it can keep abreast of demands. Increases in population and the expanding economy require that there should be more freight cars in operation and not less.

The result of the steady decline in the freight car fleet in the last 20 years has created a condition where car shortages are now persistent and continuous. With the consistent retirement of a greater number of boxcars than are being constructed, it is not too difficult to understand why the boxcar shortage is becoming progressively worse year after year.

The problem is with us and the question presented is what can we do about it. The problem is one which the railroads have apparently been unable to find a solution as demonstrated by the record for the past 20 years. Apparently, the regulatory bodies must assume a greater responsibility in the cooperative effort to cope with the situation.

As we pointed out in our last report, one of the factors which militates against carriers adding more cars to the fleet is the fact that under certain circumstances it is cheaper to rent cars than to own them.

In our prior report we referred to the system of variable per diem charges related to the value of cars which the majority of car ownership voted to make effective on January 1, 1964. Under this system, daily rentals fell into six brackets ranging from \$2.16 to \$7.74 per day (\$2.16, \$2.79, \$3.58, \$4.50, \$6.15, and \$7.74). This was a step in the right direction, although it did not give full effect to the fact that higher value cars should logically pay higher rental bases. Effective April 1, 1965, three additional value brackets were added to the scale so that the maximum daily rental is now \$12.18 per day (\$9, \$10.18, and \$12.18). The variable system of per diem charges has not been in effect long enough to produce any significant results, but some changes have been noted in the number of cars in the various value groups. We previously referred to the fact that there had been some increases in the higher value brackets and some decreases in the lower ones. That trend has continued. For example, on January 1, 1964, there were 3,587 cars in the pier diem group of over \$20,000. By May 1, 1964, there were 6,059 cars in that class and on September 1, 1964, there were 7,254 cars. On January 1, 1964, there were 12,127 cars in the \$15,000 to \$20,000 group, on May 1, 1964, this number had increased to 19,000 cars. By September 1, 1964, there were 23,621 cars in that group. The number of cars in the lowest value group dropped from 488,000 on January 1, 1964, to 450,000 on May 1, 1964, and to 432,000 on September 1, 1964.

However, this variable basis of per diem charges does not furnish a complete solution to the problem. Standing alone it does not provide the necessary incentive to induce railroads to increase their car fleets. Some railroads refuse to pay these charges and the charges themselves are based upon accounting theories which do not give adequate recognition to the value of the cars to the owners and are still too low to make car ownership an attractive investment.

In our prior report, we referred to the resolution adopted at the 1961 convention of this association urging upon Congress the prompt enactment of measures that will "encourage and permit essential augmentation of the serviceable freight car fleet to a level sufficient to meet the needs of commerce and of the national defense."

Pursuant to such resolution we have supported legislation which would "provide just and reasonable compensation to freight car owners, contribute to sound car practices, and encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

In the 88th Congress, Senate bill No. 1063, augmenting these principles, was introduced and hearings were held on it by a Senate committee. The general solicitor of this association advised the Honorable Warren G. Magnuson, chair-

man, Special Subcommittee on the Freight Car Shortage, of our support of this legislation and filed a copy of the resolution in the committee record. The Committee on Commerce of the U.S. Senate issued a favorable report on this bill and urged its passage "to meet the needs of national defense and to insure a national freight car supply that is adequate for the shipping and consuming public."

The bill was not acted upon by the Congress and in the 89th Congress, an identical bill (S. 1098) was introduced. Hearings were held in April 1965, at which time our general solicitor advised Chairman Magnuson of our support of the bill, accompanied by copies of the association resolution and this committee's report. Chairman Magnuson advised our general solicitor that the association's resolution and the committee report would be incorporated as part of the committee hearings on S. 1098.

This committee urges all members of the association to support this bill because it contains proposed standards or guides which are those taken into account by every American businessman when he is considering new investments in his business. When the rental rates reflect appropriate economic factors, the supply of cars, and especially boxcars will rise. We urge support of the principle that freight car rentals should be established on a basis which will—in the words of the bill itself—"encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense."

In our prior report we referred to the interim decision of the Interstate Commerce Commission in Ex Parte No. 241: Investigation of Adequacy of Railroad Freight Car Ownership, Car Utilization, Distribution, Rules, and Practices. In its report the Commission found that car shortages are no longer local problems. The Commission reported that its investigation disclosed that car shortages occur in the transportation of many commodities, in many types of equipment, in many sections of the country, and at most any time during the year. The Commission said that because of the inadequacy of the freight car fleet, there must be a new approach to the question of car ownership and control. In furtherance of this investigation the Commission has invited all interested parties to file representations with it by November 1, 1965. It is the recommendation of this committee that a copy of this report be filed with the Commission in that proceeding.

In prior reports we have referred to other factors and the possibility of their influence on car supply, such as investment credit on income tax and depreciation allowance. In principle, these factors should have some effect but as a practical matter, their influence is only slightly felt because of the fact that most of the new cars now being built are in the areas of specialized transportation. They have not yet demonstrated their usefulness in providing incentives to increase the supply of general purpose cars, the area in which shortages are felt the most.

As we also noted previously, the use of service orders is not a permanent solution. Where the shortage is local and not too severe, they provide reasonably satisfactory temporary relief. They do not solve the problem of shortages in total car supply.

In view of the developments reviewed in this report there is no question but that the need for action is more urgent now than ever before. Much remains to be done but the railroad efforts up to this point have produced no significant results. Apparently, the regulators must assume a larger responsibility with respect to this problem and we urge that this association continue its efforts and even participate more actively in its cooperation with others attempting to find a solution. We think that among the fruitful places in which we could expend those efforts would be in support of S. 1098 and by active participation in the Interstate Commerce Commission's investigation of car ownership in Ex Parte No. 241.

We urge that this committee be continued in existence and that it be instructed to accelerate its activities in its cooperative effort to find a solution for this most serious problem.

Respectively submitted.

JACK HOLMES, Montana, *Chairman*.
C. L. "ROY" DOHERTY, South Dakota.
PAUL A. RASMUSSEN, Minnesota.
WILLIAM F. O'HARA, Pennsylvania.
RICHARD J. LUMAN, Wyoming.

TREASURY DEPARTMENT,
Salem, Oreg., October 4, 1965.

HON. OREN HARRIS,
Chairman, House Committee on Commerce,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN HARRIS: I would appreciate being recorded at the hearing on S. 1098 in favor of the bill.

Boxcar shortages have stunted Oregon's economy for the past 17 years. Seasonally the forest products industry, which is the State's No. 1 industry, has lost markets to both domestic and foreign competition solely because of the unavailability of boxcars in Oregon.

Even in the markets it has retained, Oregon industry has lost the advantage of favorable prices by being too late in getting its products shipped. Locally, plants have shut down for a time—with resulting loss of income and loss of payroll—because production could not be moved off the line.

In recent years, the condition has worsened. While Oregon's forest industry has increased production by 15 percent annually, its boxcar supply has diminished by 3 percent. The result has been an almost year-around shortage, rather than a seasonal one as in the past.

It is in the national interest that every region be able to compete with every other region and with foreign nations on the basis of product quality and price. Because of the boxcar shortage, Oregon products are not available to consumers on this basis.

S. 1098 is a step in the direction of making the economy truly competitive. By making it economically more attractive to railroad lines to build boxcars than to rent already existing cars, S. 1098 would alleviate the critical shortage.

I strongly urge favorable consideration of S. 1098 by your committee.

Sincerely,

ROBERT W. STRAUB,
State Treasurer.

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., October 1, 1965.

Re per diem car rental, H.R. 7165 and similar bills.

HON. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN HARRIS: At the last annual meeting of the American Farm Bureau Federation the voting delegates of the member State Farm Bureaus reaffirmed the following policy:

"The recurring shortage of railroad cars necessitates action to alleviate the situation. We favor legislation to authorize car rental rates which provide an incentive for car ownership."

The car shortage situation appears to be getting worse rather than better; to be a chronic and continuing problem rather than a temporary situation. Discussions of this subject by informed persons hold no promise of future improvement.

The interest of farmers in this issue need not be labored. Delays in shipment lose sales and increase costs. A steady increase in the costs of producing and marketing farm product is a major factor affecting farm incomes.

We favor the enactment of H.R. 7165 or similar bills, authorizing the Commission to establish railroad car per diem rental rates at levels which, in the language of the bill, will "encourage the acquisition and maintenance of a car supply adequate to meet the needs of commerce and the national defense." We believe such enactment will provide a corrective (although long run) influence on the situation.

It will be appreciated if you will include this letter in the hearing record.

Very sincerely,

MATT TRIGGS,
Assistant Legislative Director.

THE AMERICAN SHORT LINE RAILROAD ASSOCIATION,
 Washington, D.C., October 15, 1965.

HON. OREN HARRIS,
 Chairman, House Interstate and Foreign Commerce Committee,
 U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HARRIS: Due to our deep concern as to the effect of penalty per diem legislation (H.R. 7165, S. 1098 and related bills) on the short line railroads, I feel obligated to comment further in our behalf. Not only do we sincerely feel such legislation will be detrimental to the continued existence of a number of our smaller lines, but we are convinced that it will not produce the slightest incentive for acquiring additional railroad cars, and certainly will not relieve the shortage of the type of cars now needed. I believe you realize this from a recent statement quoted in the Journal of Commerce to the effect that you had a feeling "that you don't get more cars by increasing per diem charges." We feel a careful review of the statements presented at the recent hearings will bear this out.

Ours may have been, in part, a poverty plea, but I cannot emphasize too strongly that the short lines are facing a crisis in this country stemming from increased costs, heavy competition, and in some instances, the effect of mergers. We simply must do all we can to protect our important contribution to the entire transportation network.

I admired your line of questioning indicative of your conscientious desire to develop a solution to the car shortage problem. All I can say at this time is that I conscientiously feel we are making progress and that any legislation on this matter at this time is premature in view of the investigation now in progress at the Interstate Commerce Commission (ex parte 241). Not until we definitely know exactly what the car deficiencies are, where they exist, and who is responsible, can we cope with the problem other than to order cars in keeping with the markets on our individual lines, as we are now doing. The Interstate Commerce Commission now has the authority, the knowledge, and the staff to intelligently establish responsibilities in the car-supply problem. Only when the facts are actually assembled and fully analyzed can the railroad industry, or the Congress, design a workable and worthwhile solution.

At the hearing you questioned one of my colleagues as to why S. 1098 passed the Senate without a dissenting vote. My personal feeling is this was due to the Senate being advised that short lines and terminating carriers would be protected by the amendment made to the bill. As you know, my position on the amendment was that it is not strong enough to protect short lines and their problems related to per diem. Only mandatory language in the bill would accomplish this.

I have enclosed an article from the Wall Street Journal of October 13, 1965, which you will find of interest as to one railroad's current solution to boxcar shortages experienced by the plywood industry. Also enclosed is an article on "Short Lines" from Railway Age of October 4, 1965, and one from Railway Age of October 11, 1965, concerning railroad car purchasing. I believe this latter article will show beyond any doubt that the railroad industry is doing everything to provide adequate cars without any penalty as would be imposed eventually under the pending legislation if passed.

If possible, I would appreciate this letter being made a part of the committee record.

Thank you and the other members of the House Interstate and Foreign Commerce Committee for the opportunity to submit our views, and for your careful consideration of this "per diem" legislation.

Yours very truly,

CARROLL P. BURKS, *President.*

[From the Wall Street Journal, Oct. 13, 1965]

SOUTHERN PACIFIC PLANS A CUT IN FREIGHT RATE TO EASE CAR SHORTAGE—
 NARROW-DOOR BOXCARS, FLATCARS WOULD BE PARED TO SHIFT USE FROM THE
 WIDE-DOOR BOXCARS

PORTLAND, OREG.—Southern Pacific Co. proposed a rate reduction for its narrow-door boxcars and its flatcars. The carrier said the proposal could ease the railroad car-supply problem.

Benjamin F. Biaggini, president, told the American Plywood Association here that "per-car" rates would offset customers' higher loading costs for narrow-door boxcars. He said that only the wide-door boxcars were very scarce, and that increased utilization of narrow-door boxcars and flatcars for lumber shipment would alleviate the problem.

Lumber-products shippers prefer wide-door cars because they can be loaded with forklift trucks, whereas narrow-door boxcars require expensive hand loading and flatcars require packaging to keep the lumber weatherproofed.

"By use of other cars than wide- and double-door cars for a marginal part of your shipments, we will have overcome the major part of your car-supply difficulties," Mr. Biaggini told the plywood association.

Under the "pre-car" concept, a shipper would pay a flat rate depending on the type of car, and could load it to a maximum weight capacity stenciled on the side of each car. The rate for narrow-door boxcars, if completely loaded, would be substantially lower than present load charges based on weight, Mr. Biaggini said. The lower shipping charge would offset increased loading costs, he said.

A railroad spokesman said Southern Pacific would put the new rates into effect if shipper reaction proves favorable, as the road expects.

The proposed rate changes would go into effect for shipments from Oregon and northern California to points on the Southern Pacific line as far as Tucson, Ariz. "If this initial stage of the program is successful, a study will be made as to its possibilities on transcontinental traffic," Mr. Biaggini said.

Two-thirds of Southern Pacific's boxcars are of the wide-door or double-door variety, he said. The company has half completed a program of putting wide doors on its older boxcars.

Examples of the comparative costs of the new and old rates were given by Mr. Biaggini. In shipments from the Portland area to San Francisco, "a narrow-door 40-foot boxcar of 3,500 cubic feet or less calls for a rate of \$270, which is \$48.50 less than the alternative incentive rate for 70,000-pound loading and provides still greater savings as more weight is loaded.

[From Railway Age, Oct. 4, 1965]

WHAT ABOUT THE SHORT LINES?

Some years ago there was a good sized railroad that had a money losing, 30-mile branch line which it was seeking to abandon. A couple of experienced railroaders offered to buy the line (at something like the junk value of the property), but the owning railroad showed no enthusiasm for the proposal.

Whether true or not, the explanation went the rounds that the reluctance of the owning railroad to sell the branch line was derived from the fact that little of its traffic was local. Most of it was interline and long haul (such commodities as coal, lumber, building materials, products moving in tank cars). The management of the owning railroad was said to believe that, if the branch were abandoned, most of its traffic would still move by rail to the nearest railroad station, and the rest of the distance by truck. In short, the owning railroad foresaw little or no loss in traffic from abandoning the branch, while there would be considerable saving in elimination of its operating and maintenance costs and taxes. So the line was abandoned.

Largely left out of calculation was the fact that transfer from car to truck, or vice versa, would involve considerable delay and expense (especially before the day of piggybacking. This expense and delay might often be sufficient to offset the greater economy of line haul by rail, for the longer part of the trip. The shippers and receivers might, rightly or wrongly, calculate that it would be faster or cheaper (or both) for them to move the shipment all the way by truck. At any rate, such seemed to be the effect of the abandonment of this particular branch line.

Is there any solution, except abandonment, for a branch line that does not earn its keep under standard railroad practices? An answer has apparently been found by quite a number of short-line railroads, locally owned. Such lines, in many cases, pay wages at the local (instead of the national) level. They are often not required to overman their train crews. With only a few trains to

handle, dispatching and signal installations are not elaborate. If conditions for operating such short lines were more onerous than they are, many of these little railroads would probably have to cease operation.

MAIN-LINE ROADS HAVE A STAKE

In that case, the main-line railroads might lose much of the not inconsiderable tonnage that these local railroads originate and terminate; and employees of main-line railroads would lose the jobs that this tonnage provides. More than that there are a lot of local industries that could not survive against competitors who are more advantageously located—unless their railroad service is continued. The loss of such railroad service would be ruinous to many communities.

Some of these little railroads have succeeded in augmenting their slender freight revenues by acquiring and operating antique passenger trains as a tourist attraction. At least one major railroad is carrying on this latter activity successfully (e.g., the D. & R.G.W., RA, Sept. 13, p. 17)—but it is not the sort of enterprise that most main-line roads could be expected to undertake on a large scale. Many smaller railroads could engage in such side activities without interference to their regular freight traffic, which usually does not suffer from congestion.

Giving the short lines an opportunity to make their maximum contribution to profitable overall railroad traffic is no alternative to logical mergers, and is no solution to the railroad problem. The future of the railroads lies largely in reducing parallel trackage (concentrating traffic on the more economical route); and in providing fast, frequent, and dependable service in trains of efficient size and equipment at competitively attractive rates. This is the goal to which most of the attention of most railroads will probably, and must, be directed. But a healthy tree does not have only one trunk and a half-dozen roots and branches. It has hundreds, or even thousands, of branches and roots—needed to keep the main trunk healthy. Aren't railroads much the same?

"FEEDER" TRAFFIC

Back in the 'twenties, when Government sought to embark on railroad consolidation on a compulsory basis, one of the main objectives seemed to be to force the main-line railroads to take over some of the shorter lines, and to use part of their main-line earnings to subsidize the less remunerative lines. In due course, however, earnings of the main lines declined to the point where it was no longer possible for them to purchase redink railroads. And they, themselves, had to start pruning.

There are several sources of the economy that railroad service provides—e.g., minimum resistance from friction; ability to haul heavy loads per car and per train, with minimum need for manpower and fuel in relation to lading. All these factors are augmented when traffic on economical main routes is increased. And one of the ways to accomplish this is to increase the traffic provided by feeder lines. Short lines can provide such feeder traffic, if they can operate on a basis of self-sufficiency, and without cost to the main-line railroads.

These roads cannot afford to subsidize any other carriers (including competing highways and waterways)—but self-sufficient short lines, which supplement main lines but do not take traffic away from them, would not be subsidized. What they may get in the way of liberal treatment from local government or easier working rules is a community advantage. Such considerations can be given adequate weight without any diversion from the railroads' major concern—that of increasing railroad traffic by more satisfactory and more economical main-line service.

[From *Railway Age*, Oct. 11, 1965]

**BUDGET PLANNING—BUYING IS MORE THAN PAYING—LONG-TERM PROFITABILITY
MUST BE CONSIDERED CAREFULLY WHEN ACQUIRING NEW FREIGHT CARS**

(By F. N. Houser, associate mechanical editor)

Buy now—pay later. That popular installment loan slogan must always be in the minds of budget planners as they plot their freight-car spending for 1966. But why?

After all, most railroads—through equipment trusts—have been acquiring much of their rolling stock on the installment plan for decades. Interest and amortization, the "pay later" phase of installment purchasing, must always be the concern of railroad financial officers when new equipment is under construction.

Cost of competitiveness

But budget planning for 1966's freight cars transcends the almost simple problem of sufficient cash. In today's rapidly changing transportation market, the railroads' problem of "what to buy" should be considered ahead of "how to pay." Cars, ordered today and written off over the 15-year period sanctioned by the ICC and IRS, will still be in service after 1980.

The prime question becomes: What will it cost later if the freight cars ordered now are not suitable for the transportation job which railroads must do 5, 10, and 15 years hence? Part of the price paid for cars ordered in 1966 could be the cost of early obsolescence and inability to be competitive.

Tomorrow's competition

Even the definition of tomorrow's competition is an elusive thing.

As Jervis Langdon, Jr., chairman of the Rock Island, recently pointed out to a Chicago group, pipelines, trucks, and barges are not the only competition confronting railroads. "A very real competitor," said Langdon, "is the desire of industry to avoid transportation entirely by decentralizing."

Mine-mouth power generation, being investigated by some electric utilities, is one example of traditional transportation being avoided entirely. A few months ago Southern President D. W. Brosnan told the American Mining Congress:

"The Southern doesn't like mine-mouth plans. They use coal but they don't use railroads. That means railroads have to make prices so low that major electric utilities aren't likely to move in this direction.

"We want utilities' arithmetic to give them answers that favor rail transportation between mines and generating plants. Southern has done well in its territory in beating the cost aspects of extra-high-voltage transmission lines from mine-mouth plants," said Brosnan. "I am confident that we can stay ahead of that threat and that most—if not all—other railroads will be able to do as well."

Brosnan has since summarized the deficiencies of traditional coal cars in today's low-profit-margin utility fuel market by calling the conventional low-capacity hopper car in unit-train service "wasteful." Major shortcomings of standard 50- and 70-ton hoppers, says Brosnan, included too low payload-to-empty ratio; too little capacity for true volume movements; and inability to be loaded and unloaded rapidly.

In its quest for new and more efficient coal-handling equipment, the Southern has introduced 110-ton aluminum gondolas (Railway Age, Apr. 4, 1960, p. 12); 100-ton steel hoppers (Railway Age, July 13, 1964, p. 22); and recently an experimental four-unit, 260-ton aluminum hopper (Railway Age, Aug. 9-16, p. 34). The 260-ton car, says Brosnan, "seems truly to hold great promise for reducing transportation costs."

The car's the thing

Crucial in the ICC's recent decision sanctioning the Southern's volume grain rates was another of the railroad's equipment innovations—the "Big John" covered hopper car.

"Big John," said the Commission's report, is an advance in car technology "which makes it particularly suitable for the transportation of bulk commodities such as grain." Emphasizing the importance of "Big John's" size and mechanical features was the ICC's refusal to permit the same low rates if Southern used boxcars or if competing railroads used conventional covered hoppers for the same grain hauls—in both cases claiming that standard cars would make the tariffs noncompensatory.

The idea that special equipment must always be introduced in obtaining ICC clearance for rate reductions was somewhat tempered by Commissioner J. W. Bush's observation that he would have approved the competitive rates for shipments in conventional equipment—had Southern's competitors made "a better presentation of cost factors." Bush thought that such a case could have been

made, pointing out that other roads sought approval of their lower rates only if Southern's adjustments were approved.

Trend to giantism

There seems to be no interruption in the trend to giantism in freight cars. Two weeks ago General American announced its 60,000-gallon tank car (Railway Age, Oct. 4, p. 24), noting that it has seven times the capacity of the typical tank car in service at the end of World War II. The big GATX car will be operated for some months to appraise the operating characteristics of its running-gear arrangement with a span bolsters and two 70-ton trucks at each end. Loaded with liquefied petroleum gas, the big car will put 218 tons on the rails under it. This car follows the pattern of a 50,000-gallon tanker with the same type of running gear which was put in service by Union Tank Car 3 years ago (Railway Age, Apr. 22, 1962, p. 12).

The Pennsylvania has designed two 150-ton, 38,000-gallon tank cars and a 150-ton, 6,500-cubic-feet covered hopper car, all with six-wheel trucks. These trucks, say Pennsy officials, will permit the car to operate at fast-freight speeds wherever standard four-wheel-truck, 100-ton cars can run. The three cars are scheduled for early completion by the railroad's shop and are aimed at placing on the rails bulk traffic which is now moving by water.

Reduced inventories

The PRR expects to demonstrate that the capacity and speed of movement with these new cars will permit bulk materials to be moved by rail cheaper than by any other form of transportation. The storage facilities and inventories associated with water transportation can be eliminated.

The big cars, say Pennsy officers, are expected to serve as models for future car-building plans of chemical companies that own their own cars or lease them; it is not the start of a program to get the PRR into the tank-car business.

The significance

What do these developments mean for equipment planners? There seems to be a steady push to higher and higher capacities, with particular emphasis now being given to bulk materials movements.

The early years of this decade also saw railroad attention centered on bulk shipments. Two or three years ago interest switched to manufactured goods as the railroads turned their attention to high-capacity boxcars. The resulting fleet for auto parts service—including the 86½-foot, 10,000-cubic-foot models costing approximately \$35,000 each—have not been altogether an unmitigated blessing.

Intraindustry controversy over the initial expenditure and the return on investment which could be realized with the rates established for these big cars culminated last week in an approximate 10-percent increase in auto parts rates by eastern railroads. The possibility of utilizing these big cars in other services is also under study.

Marketing and mechanical people must work closely in planning equipment which is immediately profitable and will remain competitive in the years to come. One of the important considerations is the building of basic car structures which are designed so that they may be readily converted from one service to another.

A typical product of this type of planning is the 60-foot cushioned flatcar which trailer train has been acquiring for services other than piggybacking. The flatcar's basic underframe may be fitted out as a general service car, may be equipped with bulkheads, or may be specially rigged for the transportation of automobile frames or farm equipment. While no conversions have so far been made, or are planned, certain mechanical features of the original design would make speedy and inexpensive changeovers possible.

No more "make do"

In planning for future equipment, the recent actions of the AAR Mechanical Division as involving car components must be considered. Consensus of the railway industry, as evidenced by the AAR group's actions, is that the cheap compromise will no longer be sufficient for tomorrow's operating and traffic demands. Some of the traditional "make do" mechanical arrangements on cars which produce frequent failures or require continuing attention are on their way out.

Effective next year all new freight cars in interchange service will have to be equipped with automatic slack adjusters if they have conventional brake rigging. This will serve to produce more uniform braking action from all the cars in a train—and the ability to stop is fully as important as the ability to get today's freights to the high and uniform speeds which competition now requires.

Similar action is being taken to require that center plates and truck bolsters of new cars be of improved quality to insure that trucks will swivel more uniformly, simplifying the problem of humping cars in classification yards (RA, June 28, p. 40).

Roller bearings, cartridge bearings, or stabilized and sealed plain bearings will have to be part of the planning for all new, rebuilt, and heavy repair cars, effective next August. Again the aim is to improve operations by reducing the incidence of hotboxes.

AAR Mechanical Division actions such as the preceding are usually preliminary to a general requirement for all cars in interchange service. Some of the recent dates established for these mandatory applications include:

In 1968: Use of only AAR-certified draft gears with requirement that heavy cars have high-capacity gears.

In 1975: Use of high-capacity brake beams and high-strength boxcar floor construction.

In 1980: Mandatory installation of brake-cylinder release valve and requirement that there be a minimum of 2¼-inch clearance between the top of the rail and the lowest part of the car.

PASSENGER PROSPECTS?

While new cars designs and component refinements have been introduced regularly to assure growing usage and improved operation of future freight trains, there has been a virtual stagnation of medium-distance passenger train technology for almost a decade. With President Johnson's recent signing of the High-Speed Ground Transportation Research and Development Act of 1965 (RA, Oct. 4, p. 17), prospect of Federal participation promises to bring changes. Ultimately there could be "fallout" which might be applicable to freight equipment.

Spectacular breakthrough

The potential in the northeast corridor demonstration projects has been seen by Pennsylvania Chairman S. T. Saunders as possibly leading to "the same kind of spectacular breakthroughs in rail transportation technology that have resulted from Government-sponsored research and development of airframes and other aspects of aviation."

Already the President has asked for an initial \$20 million appropriation for the remainder of this fiscal year; \$35 million will be requested in each of the 2 following years. Carbuilders have submitted to the Department of Commerce, charged with overseeing the demonstration projects, plans for the proposed high-speed trains. The Department and the Pennsylvania are putting final touches on a contract for implementing the Washington-New York projects. Saunders has predicted that trains will be running in less than 18 months after the contract is signed.

No continuing commitment

"The Government's encouragement of rail passenger service in the northeast corridor does not in any way constitute a commitment to a program of continuous support," explained R. A. Nelson, Commerce's Transportation Research Director. "The service will have to prove itself on an economic basis in comparison with other modes of transportation."

The Pennsylvania will put into operation 40 to 50 new electric multiple-unit cars between Washington and New York to provide hourly service in each direction. The New Haven will operate three to five self-propelled (possibly gas turbine) rail cars between Boston and Providence. The services will operate at speeds up to 125 miles per hour, possibly higher. The cars, as described by Nelson, will be "new, modern, and comfortable, providing amenities such as food service."

The Commerce Department anticipates that orders for the cars will be placed within the next 2 months with every encouragement given for completion of the first cars within a year. In the case of the PRR, the Federal funds will

amount to \$9.6 million, with the equipment becoming the property of the railroad at the end of the demonstration projects. Thorough market analysis will be part of the Government's appraisal of the northeast corridor experiments. While railroads, on their own, must be plotting their role in freight transport over the next 15 years, Government will have a big role in their passenger-transport future.

Car orders: How high?

	1963	1964	1965
January.....	4,098	10,803	9,446
February.....	5,976	3,821	5,194
March.....	5,808	7,742	7,581
April.....	2,573	4,313	4,821
May.....	6,074	7,185	5,839
June.....	2,349	4,584	8,238
July.....	4,356	4,095	6,330
August.....	3,021	5,344	8,801
Subtotal.....	34,255	48,487	56,800
September.....	2,319	4,045	-----
October.....	8,533	6,830	-----
November.....	8,331	6,444	-----
December.....	10,197	9,823	-----
Total.....	63,635	75,629	-----

LITTLE ROCK, ARK., July 1, 1965.

HON. OREN HARRIS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: Just wanted you to know that there is a lot of support favoring passage of H.R. 7167 relative to relieving the chronic double-door boxcar shortage.

Arkansas is rapidly becoming a factor in the plywood business with the advent of southern pine plywood. Double-door boxcars will be very helpful in loading the product at the mills and also will be helpful at the destination in lowering the cost of handling this material. Most plywood is 4 feet wide and 8 feet long, however, there are many larger sizes with fork trucks. The most economical way of shipping by rail is in double door boxcars.

Best wishes.

Sincerely,

ROLAND R. REMMEL.

MERIDIAN & BIGBEE RAILROAD CO.,
Meridian, Miss., July 19, 1965.

HON. OREN HARRIS,
House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: You are, I am sure, familiar with the so-called penalty per diem bill which recently passed the Senate as S. 1098.

As you know, this bill would certainly penalize the short-line railroads and further restrict all railroads by adding additional control over the industry by the Interstate Commerce Commission.

We understand that Nos. 9580 and 9270 have been assigned to similar bills in the House and we are very much opposed to them. Our main objection, of course, being that the short-line railroads are not in a position to make tremendous investments in equipment, and we feel the recent multilevel per diem rates will have the same effect in encouraging those railroads that are in a position to do so to build equipment, as would the penalty per diem bill.

I recall very pleasantly my short visit with you in El Dorado last fall and hope we have an opportunity to visit again some time in the future.

Any help you can give us in connection with this legislation will certainly be appreciated.

Cordially,

WILLIAM M. SHOEMAKER,
Executive Vice President.

BAUXITE & NORTHERN RAILWAY CO.,
Bauxite, Ark., July 7, 1965.

HON. OREN HARRIS,
Congressman, Washington, D.C.

DEAR MR. HARRIS: On behalf of the Bauxite & Northern Railway Co., I would like to go on record as being very much opposed to Senate bill, S. 1098, which deals with railroad per diem. With the increased per diem the longer railroads have been able to charge, we are burdened with the very heavy per diem costs and the larger railroads are not willing to give us commensurate increases in division to cover these costs. It is also true that a very small portion of car detention at terminals and otherwise can be charged to any railroad and we are completely at the mercy of our shippers in the length of time it takes them to load cars. Through the average agreement that we have with these shippers, the demurrage charged is always a very small proportion of the per diem that we are forced to pay. Therefore, we would bear the penalty of any such bill.

Very truly yours,

JAMES DAVIES, JR., *General Manager.*

INTERNATIONAL PAPER CO.,
LONG-BELL DIVISION,
Longview, Wash., July 6, 1965.

HON. OREN HARRIS,
Chairman, House Committee on Foreign and Interstate Commerce,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HARRIS: I understand that S. 1098 is expected to pass in the Senate in the very near future and will then come before the House for consideration. As you know, this is the bill to help alleviate the boxcar shortage. I am told this bill will go to your House Committee on Foreign and Interstate Commerce.

I sincerely hope that you will schedule S. 1098 for an early hearing when it comes to your committee. I can speak from personal experience when I say that the boxcar shortage in this country already is hindering the economy. And all signs point to an even more severe boxcar shortage this year. I have been warned that we are facing the worst boxcar shortage in history.

These are the figures cited to me: The daily boxcar shortage is already 2,650, double the shortage at this time last year. The daily shortage of all types of cars is nearly 5,200, just short of double last year's shortage. Last month alone the number of serviceable boxcars declined by 1,549 cars. Since June, 1,964, the total number of serviceable cars has declined by 56,000.

I am confident that you understand the seriousness of this problem and that you will help expedite the passage of S. 1098.

Sincerely,

ELIOT H. JENKINS, *General Manager.*

GEORGIA-PACIFIC CORP.,
Portland, Ore., July 15, 1965.

Re H.R. 7165, to help alleviate freight car shortages by establishing realistic car rental charges through ICC action.

HON. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce, Washington,
D.C.

DEAR OREN: Our company is deeply concerned about the seemingly ever present freight car shortage problem. Looking to the future, the situation is likely to get worse instead of better. The impact on our Arkansas operations which, as you know, are under another expansion program, this one over \$50 million, could be severely adversely affected.

While H.R. 7165 (and S. 1098) are certainly not complete answers to the problem, we believe that passage will help. This legislation simply makes it clear that the ICC can establish freight car user charges which are high enough to justify construction of additional cars, and also help insure that the maximum and most efficient use is made of boxcars now in service.

We were most pleased to see that the Senate has passed S. 1098 without a dissenting vote to get the ICC started on necessary study programs this year. We hope that the House can act without too much delay.

We will greatly appreciate anything you can do to expedite action by your committee and the House.

With kindest personal regards, I am,

Yours sincerely,

WM. C. NORMAN, *Vice President.*

(Whereupon, at 4:15 p.m., the committee recessed, to reconvene subject to the call of the Chair.)



