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AMEND HOURS OF SERVICE ACT OF 1907

GOVERNMENT
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HEARINGS

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 5196

A BILL TO AMEND THE ACT OF MARCH 4, 1907, TO PROVIDE THAT THE 16-HOUR LIMITATION UPON CONTINUOUS DUTY FOR CERTAIN RAILROAD EMPLOYEES SHALL APPLY TO EMPLOYEES INSTALLING, REPAIRING, AND MAINTAINING SIGNAL SYSTEMS, AND FOR OTHER PURPOSES

H.R. 8476

A BILL TO AMEND THE ACT ENTITLED "AN ACT TO PROMOTE THE SAFETY OF EMPLOYEES AND TRAVELERS UPON RAILROADS BY LIMITING THE HOURS OF SERVICE OF EMPLOYEES THEREON", APPROVED MARCH 4, 1907

(And Similar Bills)

JUNE 24, 27; AUGUST 1, 19, 26, 29; SEPTEMBER 9, 12, 16, 1966

Printed for the use of the Committee on Interstate and Foreign Commerce

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AMEND HOURS OF SERVICE ACT OF 1907

FRIDAY, JUNE 24, 1966

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

The subcommittee met at 10 a.m., pursuant to notice in room 2123, Rayburn House Office Building, Hon. Samuel N. Friedel (chairman of the subcommittee) presiding.

Mr. FRIEDEL. The subcommittee will please come to order.

This morning the Subcommittee on Transportation and Aeronautics is commencing hearings on bills to amend the Hours of Service Act of 1907.

One of these bills, H.R. 5196, introduced by the chairman of the full committee, Mr. Staggers, would amend this act to provide that it includes railroad signalmen.

Another bill, H.R. 8476, introduced by our colleague on the committee, Mr. Macdonald, is the first in a series of some 80-odd similar bills. This group would amend the act primarily to:

1. Reduce the maximum permissible number of hours of continuous time on duty from 16 to 12;

2. Require that an employee must have had at least 8 consecutive hours off duty during the previous 24-hour period before he may continue on duty or go on duty; and

3. Reduce from 16 to 9 hours the number of hours that a locomotive engineer may be continuously on duty where the engine crew consists solely of the engineer.

In addition, H.R. 8476 and the other similar bills have certain provisions relating to telegraphers and dispatchers, computation of time off duty, and time applicable to crews of wreck trains.

H.R. 8476 and similar bills also would increase the penalty for each violation of the Hours of Service Act from a minimum of $200 to a maximum of $500 to a penalty of $500 for each violation.

(H.R. 5196, H.R. 8476, and agency reports thereon follow:)

[H.R. 5196, 89th Cong., 1st sess.]

A BILL To amend the Act of March 4, 1907, to provide that the 16-hour limitation upon continuous duty for certain railroad employees shall apply to employees installing, repairing, and maintaining signal systems, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the first section of the Act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon", approved March 4, 1907 (45 U.S.C. 61), is amended by inserting immediately before the period at the end of the second sentence thereof the following: ", and includes persons installing, repairing, or maintaining signal systems".

SEC. 2. The amendment made by this Act shall take effect thirty days after the date of enactment of this Act.

[H.R. 8476, 89th Cong., 1st sess.]

A BILL To amend the Act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon", approved March 4, 1907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907 (45 U.S.C. 61, 62, 63, 64), is hereby amended to read as follows:

"That (a) this Act shall apply to any common carrier or carriers, their officers, agents, and employees, engaged in the transportation of passengers or property by railroad in the District of Columbia or any territory of the United States, or from one State or territory of the United States or the District of Columbia to any other State or territory of the United States or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States.

"(b) For the purposes of this Act—

"(1) The term 'railroad' includes all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease;

"(2) The term 'employee' shall be held to mean a person actually engaged in or connected with the movement of any train;

"(3) In computing time on duty, an individual shall be deemed to be continuously on duty from the time of reporting for duty until finally released from duty, except that any interim period available for rest for more than three hours shall not be regarded as time on duty.

"SEC. 2. (a) It shall be unlawful for any common carrier, its officers or agents, subject to this Act—

"(1) to require or permit an employee, in case such employee shall have been continuously on duty for twelve hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty; or, where the engine crew consists solely of a locomotive engineer, to require or permit such locomotive engineer who shall have been continuously on duty for nine hours, to continue on duty or to go on duty until he has had at least ten consecutive hours off duty.

"(2) to require or permit an employee to continue on duty or to go on duty when he has not had at least eight consecutive hours off duty during the preceding twenty-four hours.

"(b) In determining, for the purposes of subsection (a), the number of hours an individual is on duty, there shall be counted, in addition to time on duty in service of the character referred to in subsection (b) (2) of the first section of this Act, all time on duty in other service performed for the common carrier during the twenty-four-hour period involved.

"(c) Crews of relief trains or wreck trains may be permitted to remain on duty for a longer period than is otherwise permitted by this section when necessary to clear the track at the scene of a wreck, but only until such time as the track is cleared sufficiently to permit movement of trains.

"(d) The provisions of this section shall not apply to an employee during such period of time as the provisions of section 3 apply to his duty and off-duty periods.

"SEC. 3. (a) No employee, who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device, directs or controls the movement of a train or trains, or other mobile equipment operated on the rails of carriers, or who by the use of any such means, dispatches, reports, transmits, receives, or delivers orders, pertaining to or affecting the movement of a train or trains, or other mobile equipment—

"(1) shall be required or permitted to be or remain for more than nine hours, whether consecutive or in the aggregate, in any twenty-four-hour period in any tower, office, station, or place where two or more shifts are employed; or

"(2) shall be required or permitted to be or remain on duty for more than eleven hours, whether consecutive or in the aggregate, in any twenty-four-hour period in any tower, office, station, or place where only one shift is employed.

"(b) In determining, for the purposes of subsection (a), the number of hours an individual is on duty in a class of service, and at a place, described in paragraph (1) or (2) of such subsection, there shall be counted, in addition to the time spent by him on duty in such service at such place, all time on duty in other service performed for the common carrier during the twenty-four-hour period involved.

"(c) Notwithstanding subsection (a) of this section, in case of emergency the employees named in such subsection may be permitted to be and remain on duty for four additional hours in any period of twenty-four consecutive hours or not exceeding three days in any period of seven consecutive days.

"SEC. 4. (a) Any such common carrier, or any officer or agent thereof, requiring or permitting any employee to go, be, or remain on duty in violation of section 2 or section 3 of this Act shall be liable to a penalty of $500 for each and every violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violations shall have been committed; and it shall be the duty of such district attorney to bring such suit upon satisfactory information being lodged with him; but no such suit shall be brought after the expiration of one year from the date of such violation.

"(b) It shall be the duty of the Interstate Commerce Commission to lodge with the proper district attorney information of any such violations as may come to its knowledge.

"(c) In all prosecutions under this Act the common carrier shall be deemed to have knowledge of all acts of all its officers and agents: *Provided*, That the provisions of this Act shall not apply in any case of casualty or unavoidable accident or the act of God; nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time said employee left a terminal, and which could not have been foreseen.

"SEC. 5. It shall be the duty of the Interstate Commerce Commission to execute and enforce the provisions of this Act, and all powers granted to the Interstate Commerce Commission are hereby extended to it in the execution of this Act."

SEC. 2. This Act shall take effect thirty days after the date of its enactment.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 17, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for our views on H.R. 5196, a bill "To amend the Act of March 4, 1907, to provide that the 16-hour limitation upon continuous duty for certain railroad employees shall apply to employees installing, repairing, and maintaining signal systems, and for other purposes."

Since the Hours of Service Act was passed in 1907, great progress has been made in improving safety techniques in railroad operations, including centralized traffic control systems. The safety of railroad operations depends upon the continuous and proper functioning of these signal systems. If the employees to whom H.R. 5196 would extend the Act's protection are fatigued when performing their duties, the safety of railroad operations may be endangered. Furthermore, the health and safety of the persons involved may be endangered if they are required to work for periods of longer than sixteen hours.

A sixteen-hour limitation on continuous duty for persons engaged in these activities is, we believe, a bare minimum requirement for health and safety of the employees concerned and of persons traveling by rail. Accordingly, the Department of Labor supports the enactment of this bill.

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

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 27, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Rayburn House Office Building, 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. 5196, a bill "To amend the Act of March 4, 1907 to provide that the 16-hour limitation upon continuous duty for certain railroad employees shall apply to employees installing, repairing, and maintaining signal systems, and for other purposes."

H.R. 5196 would accomplish this by adding these employees to the first section of the Act.

The Bureau of the Budget would have no objection to enactment of this legislation.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 28, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on two identical bills: H.R. 8476, a bill "To amend the Act entitled 'An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon,' approved March 4, 1907," and H.R. 15749, a bill "To improve the safety of railroad transportation under the jurisdiction of the Interstate Commerce Commission." In general, these two bills would further define the application of the Act, specify on-duty and off-duty intervals for certain employees subject to the Act, and increase penalties for certain violations of the Act.

While the Bureau of the Budget favors the general objectives of the bills, we believe that the Committee should consider the comments on Section 2(a)(1) made by the Chairman of the Interstate Commerce Commission in his letter of November 29, 1965 (see attachment A), to the Senate Commerce Committee concerning S. 2180, an identical bill. The Interstate Commerce Commission states:

(a) That no evidence has been found indicating any connection between a recent upward trend in the number of train accidents and the length of time that train and engine employees were on duty;

(b) That hours of service of drivers of motor vehicles were established only after extensive hearings before the Commission;

(c) That no similar studies have been made respecting hours of service of locomotive engineers; and

(d) That the Commission does not now possess sufficient information to express any opinion on whether the provisions of Section 2(a)(1) should be approved, either as proposed or in some amended form.

Since there appears to be insufficient information to evaluate effectively the adequacy of Section 2(a)(1), the Bureau of the Budget suggests that the Committee consider delaying action on this section until the necessary information has been developed.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

ATTACHMENT A

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 29, 1965.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: On October 22, 1965, the Committee on Legislation of this Commission responded to your request for comments on S. 2180. As you know, this bill was introduced by Senator McGee (for himself and 20 other Senators), "To improve the safety of railroad transportation under the jurisdiction of the Interstate Commerce Commission."

This letter is written for the purpose of clarifying our prior letter with respect to Section 2(a)(1) of the bill. With reference to Section 2(a)(1), we stated in our letter of October 22, 1965:

(1) That no evidence has been found indicating any connection between a recent upward trend in the number of train accidents and the length of time that train and engine employees were on duty;

(2) That hours of service of drivers of motor vehicles were established only after extensive hearings before the Commission;

(3) That no similar studies have been made respecting hours of service of locomotive engineers; and

(4) That, in our opinion, the hours of service limitations proposed in Section 2(a)(1) should not be more restrictive than that of a driver of a heavy motor vehicle (ten hours on duty following eight consecutive hours off duty).

Upon reflection, the last point made in our letter (point (4) above) could be construed to mean that we would not object to the provisions of Section 2(a)(1) if the word "nine" on line 6 of page 3 of the bill were changed to "ten". That was not our intention. To eliminate any possible misunderstanding, we wish to emphasize that, for the reasons set forth in the first three numbered paragraphs above, we do not now possess sufficient information to express any opinion on whether the provisions of Section 2(a)(1) should be approved, either as proposed or in some amended form.

Accordingly, the last paragraph of our letter of October 22, 1965, should be revised to read as follows: "Subject to the qualifications mentioned above, but reserving judgment on the merits of Section 2(a)(1), we favor enactment of S. 2180."

Respectfully submitted.

CHARLES A. WEBB,
Chairman, Committee on Legislation.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 2, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for a report on H.R. 8476, a bill "To amend the Act entitled 'An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon', approved March 4, 1907."

Since the present maximum hours of service for railroad employees were set by Congress in 1907, great progress has been made in railroad operation. In addition to mechanical changes, factors such as the tremendous advances in traffic volume and the size and number of facilities have added to the complexity of present-day railroad operations and greatly increased the demands on railroad employees.

Consideration may appropriately be given, therefore, to revising hours standards in railroad employment and the application of the standards to additional groups of employees performing work essential to train movement. Proper revision might be helpful in enhancing the welfare and safety not only of the employees concerned but also that of the general public.

The Department is in favor of legislation to further safety in the railroad industry. We defer, however, in evaluating the bill's provisions to the Interstate Commerce Commission.

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

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., October 22, 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. 8476, introduced by Congressman Macdonald, to amend the Act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon", approved March 4, 1907. I am authorized to submit the following comments on behalf of the Committee on Legislation:

Section 1 defines "employee" as a person actually engaged in or connected with the movement of any train. It also provides that in computing time on duty an individual shall be deemed to be continuously on duty from the time of reporting for duty until finally released from duty, except that any interim period available for rest for more than three hours shall not be regarded as time on duty. This is in accordance with the generally prevailing practice of regarding an off-duty period of three hours or more, under circumstances which provide an opportunity for rest and recuperation, as breaking continuity of service.

Section 2(a)(1) would reduce the maximum lawful continuous time on duty for an employee from 16 to 12 hours, except where the engine crew consists solely of an engineer, in which case the maximum continuous time on duty would be limited to 9 hours.

Section 2(a)(2) provides that each employee shall have 8 consecutive hours off duty during the preceding 24-hour period. This provision is intended to provide an opportunity for meaningful rest and recuperation. Such a requirement would promote railroad safety.

Section 2(b) does not change the present requirements relating to so-called commingled service. On-duty time for any employee actually engaged in or connected with the movement of any train would include time on duty in any other service performed for the railroad during the 24-hour period involved. The courts generally have held, that in computing on-duty time, both protected and non-protected service during the 24-hour period involved must be considered. *Delano, et al., Receiver, Wabash Railroad Co.* v. *United States,* 220 F. 635; *St. Joseph & Grand Island R. Co.* v. *United States,* 232 F. 349 (353); *Oregon-Washington R. & Nav. Co.* v. *United States,* 223 F. 596. A few courts have held, however, that when nonprotected service follows protected service, the nonprotected service should not be considered in determining total time on duty. Section 2(b) would reconcile this divergence of views by establishing a uniform standard relating to commingled service.

Section 2(c) would limit on-duty time of crews on relief or wrecked trains to that necessary to clear the tracks at the scene of the wreck but only until such time as the track is cleared sufficiently to permit movement of trains. This section is more restrictive than the present exemption relating to wrecked trains and relief trains. At present employees of wrecked and relief trains are excluded from the Hours of Service provisions. Hence, at times such employees are on duty for 20 or more hours, including the time involved in hauling the wrecked equipment to a terminal. The operation of such trains by employees on extended periods of service can be as hazardous as the operation of any other train. Limiting on-duty time of wrecked train and relief train employees to that sufficient to clear the track for movement of trains would also promote railroad safety.

Section 3(a) extends the scope of the hours of service requirements relating to employees dispatching, delivering, transmitting or receiving orders to include transmissions by electrical or mechanical means, including radio. The present law is restricted specifically "to telephone and telegraph communication with the general use of radio and other forms of communication by railroads". This change in the law would seem desirable.

Section 3(a) also expands the present hours of service requirements relating to orders to include mobile equipment operated on rails. Because of the extensive use of mobile equipment for maintenance purposes it may be desirable to have

such equipment protected by train orders since there have been several recent accidents involving trains striking such equipment. However, proposed section 3(a) leaves open the question whether the employee operating mobile equipment and also receiving orders would be subject to the 9 or 11 hours restriction even though the mobile equipment may not be classified as "any train".

Section 3(a)(1) provides that where 2 or more shifts are employed the maximum lawful hours on-duty for an employee who directs or controls the movement of trains in any tower, office, or station, shall not exceed 9 hours in any 24-hour period. This section substitutes the phrase, "two or more shifts" for the present language, "day and night office". We have experienced no difficulty with the term "day and night office". In general, the courts have considered an office to fall within that category when open more than 13 hours in a 24-hour period. Since the term "shift" may require judicial construction, it may be desirable to clarify its intended meaning.

Section 3(a)(2) reduces the maximum on-duty time for employees working at one-shift offices from 13 to 11 hours in any 24-hour period. Our records do not disclose that the present maximum hours for such employees have resulted in any particular hazard to train operation. Therefore, we express no opinion as to the desirability of this proposed change.

Section 4(a) increases the penalty for each and every violation to $500. The present law provides for a penalty of not less than $200 nor more than $500 for each violation. The Commission has favored increased penalties for Hours of Service violations because the present penalty is inadequate.

Since enactment of the Hours of Service law in 1907, and particularly since diesel-electric operation, trains have become longer, speeds have increased, total train service employment has declined, and yet time on duty for the employees involved has remained fairly constant. These changes in operation appear to have resulted in more arduous work for train and engine employees. Although there has been a recent upward trend in the number of train accidents, no evidence has been found indicating that the length of time an employee was on duty is a significant factor in this adverse trend.

In connection with the Commission's responsibilities for motor carrier safety, we conducted extensive hearings on limiting the hours of service of drivers of motor vehicles. In Ex Parte No. MC–40 (sub 1), decided March 29, 1962, the Commission concluded that motor carrier drivers should have their total time on duty limited. With some exceptions, we prohibited motor carriers subject to our jurisdiction from permitting or requiring any driver to drive more than 10 hours following 8 consecutive hours off duty, or to drive for any period after having been on duty 15 hours following 8 consecutive hours off duty (49 Code of Federal Regulation 195.3).

We have made no similar study to determine whether a locomotive engineer, alone in the cab of a locomotive, is subject to fatigue to the same or greater extent than is a driver of a truck. While conditions are somewhat different, alertness to surrounding conditions would seem absolutely essential for safety of operation of a heavy truck by a driver or a locomotive and train by an engineer. However, a careful analysis of our accident statistics fails to indicate any basis for concluding that a locomotive engineer's on-duty time should be more restrictive than that of a driver of a heavy motor vehicle. Accordingly, we do not feel that the hours of service limitation for a rail employee engaged in the movement of a train, as proposed in section 2(a)(1), should be more restrictive than that of a driver of a heavy motor vehicle, who is limited to 10 hours on duty following 8 consecutive hours off duty.

A copy of the Commission's regulations on Hours of Service of drivers of motor vehicles is enclosed for your information (see attachment A).

Subject to the qualifications mentioned above, we favor enactment of H.R. 8476.

Respectfully submitted.

CHARLES A. WEBB,
Chairman, Committee on Legislation.

ATTACHMENT A

§ 195.3 Maximum driving and on-duty time.

(a) Except as provided in paragraphs (c) and (e) of this section and in § 195.10, no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive more than 10 hours following 8 consecutive hours off-duty or drive for any period after having been on duty 15 hours following 8 consecutive

hours off-duty: *Provided, however,* That drivers using sleeper berth equipment, or off-duty at a natural gas or oil well location, may cumulate the aforementioned total of at least eight hours off-duty in two periods of at least two hours each, resting in a sleeper berth, as defined in § 195.2(g), or resting while off-duty in other sleeping accommodations at a natural gas or oil well location.

(b) Except as provided in paragraph (e) of this section, no motor carrier shall permit or require any driver used by it to be on duty, nor shall any such driver be on duty, more than 60 hours in any 7 consecutive days as defined in § 195.2(c) regardless of the number of motor carriers using the driver's services. *Provided, however,* That carriers operating vehicles every day in the week may permit drivers to remain on duty for a total of not more than 70 hours in any period of 8 consecutive days. *Provided further, however,* That the limitations of this paragraph shall not apply with respect to any driver-salesman whose total driving time does not exceed 40 hours in any 7 consecutive days.

(c) The provisions of paragraph (a) of this section shall not apply with respect to drivers used wholly in driving motor vehicles having not more than 2 axles and whose gross weight, as defined in § 190.10, does not exceed 10,000 pounds, unless such vehicle is used to transport passengers or explosives or other dangerous articles of such type and in such quantity as to require the vehicle to be specifically marked or placarded under the Explosives and Other Dangerous Articles Regulations, § 77.823 of this chapter, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations: *Provided further, however,* That this section shall not apply with respect to drivers of motor vehicles engaged solely in making deliveries for retail stores during the period from December 10 to December 25, both inclusive, of each year.

(d) In the instance of drivers of motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(e) In the instance of a driver who drives motor vehicles solely within the State of Alaska such driver may be permitted to drive not more than 15 hours following 8 consecutive hours off duty and may not be permitted to drive after having been on duty 20 hours following 8 consecutive hours off duty. Such driver shall not be on duty more than 70 hours in any period of 7 consecutive days, provided that carriers operating every day in a week may permit drivers to remain on duty for a total of not more than 80 hours in any period of 8 consecutive days.

[27 F.R. 3554, Apr. 13, 1962, as amended at 28 F.R. 4198, Apr. 27, 1963; 28 F.R. 10263, Sept. 19, 1963]

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., November 30, 1965.

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

DEAR CHAIRMAN HARRIS: On October 22, 1965, the Committee on Legislation of this Commission responded to your request for comments on H.R. 8476. As you know, this bill was introduced by Congressman Macdonald, to amend the Act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon", approved March 4, 1907.

This letter is written for the purpose of clarifying our prior letter with respect to Section 2(a)(1) of the bill. With reference to Section 2(a)(1), we stated in our letter of October 22, 1965:

(1) That no evidence has been found indicating any connection between a recent upward trend in the number of train accidents and the length of time that train and engine employees were on duty;

(2) That hours of service of drivers of motor vehicles were established only after extensive hearings before the Commission;

(3) That no similar studies have been made respecting hours of service of locomotive engineers; and

(4) That, in our opinion, the hours of service limitations proposed in Section 2(a)(1) should not be more restrictive than that of a driver of a heavy motor vehicle (ten hours on duty following eight consecutive hours off duty).

Upon reflection, the last point made in our letter (point (4) above) could be construed to mean that we would not object to the provisions of Section 2(a)(1)

if the word "nine" on line 6 of page 3 of the bill were changed to "ten". That was not our intention. To eliminate any possible misunderstanding, we wish to emphasize that, for the reasons set forth in the first three numbered paragraphs above, we do not now possess sufficient information to express any opinion on whether the provisions of Section 2(a)(1) should be approved, either as proposed or in some amended form.

Accordingly, the last paragraph of our letter of October 22, 1965, should be revised to read as follows: "Subject to the qualifications mentioned above, but reserving judgment on the merits of Section 2(a)(1), we favor enactment of H.R. 8476."

Respectfully submitted.

CHARLES A. WEBB,
Chairman, Committee on Legislation.

Mr. FRIEDEL. Now, we have several witnesses to be heard.

Our first witness will be our colleague and former member of this subcommittee, one of the sponsors of the bill, Congressman Torbert Macdonald.

STATEMENT OF HON. TORBERT H. MACDONALD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

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

I appreciate very much this opportunity to appear before this distinguished subcommittee of which I was a member.

I would like, first, to commend the subcommittee on its diligence in being here in this very busy period of our legislative careers and at a time when the House is not in session.

I, for one, certainly appreciate the diligence and hard work which this subcommittee has done.

I am here to support H.R. 8476, which proposes amendments to the railroad employees hours of service law of 1907. I introduced this bill and it might be of some interest to the members of the subcommittee to know that at last count there were over 83 other Members of the House who have cosponsored the bill.

The basic purpose of the bill is to reduce the number of hours that railroad employees can be made to work within any 24-hour period.

As the law now stands railroad employees can be forced to work a maximum of 16 hours or more. There can be little doubt that 16 hours is much too long for anyone to have to work in a 24-hour period. It seems to me this is expecially true in an industry where the job of virtually every employee is directly related to the safety of the property and safety of the people serviced by the industry. Revision of the present law is long overdue. Modern day, high-speed, technical rail operations would have seemed fantastic when the present law was enacted many generations ago. Accidents on the railroads reported to the Interstate Commerce Commission make little or no mention of the number of hours the crew members or other employees had been on duty at the time of the accident. Yet no one can reasonably doubt that the long hours forced on many railroad employees is a heavy contributing factor in railroad accidents.

The need for legislation is clear and the provisions of the proposed amendments are moderate. I would like to summarize briefly these provisions:

1. The bill reduces the maximum permissible hours of continuous time on duty from 16 to 12 hours.

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2. Limits employees using electrical or mechanical devices in directing control of train movement (such as telegraphers) to 9 hours on duty where two shifts are employed and 11 hours where one shift is employed.

3. Limits locomotive engineers operating as the only member of engine crews to 9 hours of duty.

4. Makes it unlawful to require or permit an employee to continue on duty or to go on duty if he had not had at least 8 consecutive hours off duty during the preceding 24 hours.

5. Interim rest periods of more than 3 hours are not to be regarded as time on duty.

6. Exempts crews of wreck or relief trains for time needed to clear the track and permit movement of trains.

7. Sets $500 as the penalty for each violation of the proposed law.

I would like to point out with respect to item 4 above, providing for at least 8 hours off duty or rest time, that additional clarifying language might be considered by the committee to insure that employees in fact have a full 8 hours of rest time. Under the present hours of service law "deadheading" time; that is, time spent by an employee riding to and from his assignment at the direction of the carrier, is considered rest time. Many cases have been cited in which employees receive 8 hours of so-called off duty time but which in fact includes only 1 or 2 hours eating, or sleeping or at home time because most of the 8 hours was consumed in deadheading from the employee's off duty point.

As the members of this subcommittee know, I am sure, airline employees, under Federal law governing the Civil Aeronautics Board in section 41.58 of that act, are protected from such abuse by the following provision:

> Deadhead transportation. The time spent in deadhead transportation to or from duty assignment will not be considered a part of any rest period.

Application of this provision to railroad employees would make certain that employees in fact receive a full 8-hour rest period.

I believe the proposed amendments to the Hours of Service Act are responsive to the needs of road operating employees. Men who man the Nation's trains realize the inherent hazard of long hours and little or no rest while operating multimillion dollar trains. They require more realistic working conditions and I am confident this committee and the Congress realize this.

I respectfully urge this committee to act favorably on these proposed amendments so that railroad employees, having had full and proper rest periods, can more efficiently perform their duties and thereby enhance not only their own safety but also the safety of the passengers on the trains and the safety of the general public.

Mr. FRIEDEL. That is a very fine statement.

Are there any questions?

Mr. Pickle?

Mr. PICKLE. Mr. Chairman, I am sorry I came in late. I am going to read all of the testimony of our very able colleague and reserve the right to question later.

Mr. MACDONALD. Thank you, Mr. Pickle.

Mr. FRIEDEL. Mr. Cunningham?

Mr. CUNNINGHAM. No questions.

Mr. FRIEDEL. Thank you very much.

Is Congressman Olsen here?

(No response.)

Mr. FRIEDEL. Is Congressman Johnson here?

(No response.)

Mr. FRIEDEL. Our next witness will be Congressman William Hathaway who has introduced H.R. 13674.

STATEMENT OF HON. WILLIAM D. HATHAWAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. HATHAWAY. Mr. Chairman, I am pleased to submit the following statement in support of H.R. 13674 and similar bills to amend the Hours of Service Act of 1907.

The need for this legislation has become increasingly apparent as railroad safety deteriorates year after year. The additional burden placed on railroad engineers resulting from the removal of locomotive firemen from freight and yard locomotives is a contributing factor to the mental and physical fatigue under which many train operators work.

The safe operation of a railroad train requires a completely alert crew. Last year the railroads reported nearly 6,000 train accidents which killed or injured nearly 28,000 people. These figures strongly suggest to me that the crews on these trains were not completely alert due to the long hours that they have been working. It is well-recognized fact that a man slows down after 12 hours at the same job. His reflexes are not as good as they should be or as they were when he started. The health and welfare of railroad operating employees as well as that of the general public are at stake every time the train starts down the track. It is certainly in the public interest to have train operators awake and alert.

For these reasons, Mr. Chairman, I have introduced, along with several other Congressmen, a bill to amend the Hours of Service Act.

Basically, H.R. 12674 would do the following:

1. The bill reduces the maximum permissible number of hours of continuous time on duty from 16 to 12 hours.

2. It makes it unlawful for any common carrier, its agents or officers subject to this act, to require or permit an employee to continue on duty or go on duty when he has not had at least 8 consecutive hours off duty during the preceding 24-hour period.

3. It shall be unlawful to require or permit a locomotive engineer to continue on duty longer than 9 hours where the engine crew consists solely of a locomotive engineer.

4. Telegraphers (operators) and dispatchers may work no more than 9 hours whether consecutive or in the aggregate within any 24-hour period in office or station or place where two or more shifts are employed, nor will they be required to work more than 11 hours in any 24-hour period where only one shift is employed.

5. In computing time on duty only interim periods available for rest of more than 3 hours will be regarded as time off duty.

6. The law is made applicable to all employees actually engaged in or connected with the movement of any train on the tracks of the common carriers. The change makes it clear that employees handling intrastate traffic are to be covered when working on tracks of interstate carriers.

7. Crews of wreck trains or relief trains may be permitted to remain on duty for a longer period than is otherwise permitted by section 2 of this act, when necessary to clear the track at the scene of a wreck, but only until such time as the track is cleared sufficiently to permit movement of trains.

8. The penalty for each and every violation is increased to $500, such penalty to be recovered in a suit or suits to be brought by the U.S. district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed.

I consider all of these amendments to the Hours of Service Act necessary and respectfully urge the Subcommittee on Transportation and Aeronautics to give favorable consideration to my bill.

Thank you for allowing me this opportunity to share my views with you on this critical problem and proposed solution.

Mr. FRIEDEL. Thank you for your testimony Mr. Hathaway.

We will hear next from the Honorable Thomas O'Neill of Massachusetts.

STATEMENT OF HON. THOMAS P. O'NEILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. O'NEILL. It is an honor to submit this statement before the committee.

I strongly support H.R. 8476, introduced by Mr. Macdonald of Massachusetts.

By many people the 16-hour day is considered a thing of the past, but for railroad employees it is a present reality. The Hours of Service Act stems from 1907 and it is time that we brought it up to date. When this law was enacted, railroad operations were remarkably different from the high-speed, complex operations of today which require skill and technical knowledge.

The great modern trains carrying passengers and freight need men who are not overworked or overtired. There have been too many accidents concerning railroads, too many accidents to ignore the heavy workloads of the men who face the daily hazards of modern railroading. These men need the relief provided by this bill.

It is too much to ask that men be responsible for millions of lives and billions of dollars of freight and machinery when they can be compelled to work 16 hours or even 24 hours of continuous duty.

I think it is right that Congress recognize this fault and correct it. The act of 1907 should be amended to meet the demands and needs of the present.

Mr. FRIEDEL. Thank you for your concise statement, Mr. O'Neill.

We will hear next from Congressman Annunzio, who has introduced H.R. 13981. You may proceed, Mr. Annunzio.

STATEMENT OF HON. FRANK ANNUNZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. ANNUNZIO. Mr. Chairman, at last count over 80 Members of the House of Representatives had introduced the bill which we are considering here today. I am proud to have my bill, H.R. 13981, among them. In the Senate a companion bill, S. 2180, has been introduced with the support of over 20 Senators.

There will be much discussion of the pros and cons of this bill. It will be brought out that it is sponsored by the Brotherhood of Locomotive Firemen & Enginemen and opposed by the Brotherhood of Locomotive Engineers. It will be claimed that it will vastly increase wages and operating costs. It will also be claimed that it will reduce wages and injure the workingman.

Traditionally, it is difficult to persuade the House of Representatives to act on a labor-backed bill when labor is not itself united in its support. The easy way is to ask the parties to get together on a bill they can support and then come to the Congress.

I think, however, that in the case of H.R. 13981, and its companion bills, we do not have just this kind of situation. We are also dealing here with a fundamental responsibility of the Federal Government: to promote the safety of the employees and the public by preventing the operating of railroad trains under conditions which are hazardous. This is a responsibility which would be ours were there no unions involved. It is a responsibility which, once we are apprised of conditions which exist and require our action, we cannot shirk.

The law we are asked to amend by these bills was approved by President Roosevelt, President Theodore Roosevelt, in March 1907. The standards it set were considered no more than adequate even in 1907. At that time trains ran much more slowly than today. Not only were diesel locomotives then unheard of, but this was even before the days of the electrified railroad. It was a horse-and-buggy era, before the highway and the automobile.

Thus, we find that the law we are considering amending permits an operating employee of a railroad to remain on duty on a train continuously for 16 hours. The bill would reduce this to 12 hours.

The law at present does not require an employee to have 8 consecutive hours off duty before going back to work. H.R. 13981 and the other bills would require at least 8 hours of rest.

At present an engineer may work alone in his cab, without any other member of his crew to relieve him, for as long as 16 hours. The bill would require relief after 9 hours.

The law at present is defective in that it does not apply to employees handling intrastate traffic, even though working on trains which operate over the tracks of interstate carriers. There seems little value in limiting the hours of the interstate carrier's employees and leaving him free to be injured by an exhausted employee of an intrastate carrier. The bill closes this loophole in the law.

Mr. Chairman, in 1907 we established a 16-hour maximum period of consecutive duty in railroading. In 1916 Congress enacted the Adamson Act, which made the standard workday 8 hours. This left a loophole, whereby a man could work an 8-hour period 1 day and immediately follow this with another in the next. They call it doubling over. The hazards of this are obvious. This bill would close this and other loopholes.

Mr. Chairman, I believe there are sound reasons why, in the interests of fairness and sound labor policy, this bill should be favorably reported. But even if none of these considerations were present, I think we owe it to the American public, not only those who travel by train, but especially to others, to the motoring public, to bring the law up to date. Too long have their lives been endangered because we have allowed an obsolete safety standard to remain, unchanged, for 60 years on the statute books.

If an American train kills any American man, woman, or child from now on because the man at the throttle was blind from fatigue, the fault is not that of the railroad which put him in the cab. It is not the fault of the worker who was doubling over on two 8-hour shifts to fatten his paycheck. It will be our fault.

We passed a law in 1907 to protect the American public. Then we went to sleep for 60 years and never took another look at the changing requirements of railroading. I, for one, do not wish such a tragedy on my conscience. That is why I introduced H.R. 13981, and that is why I urge its favorable consideration and passage.

Mr. FRIEDEL. Thank you for your views Mr. Annunzio.

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

Mr. FRIEDEL. We will hear now from our colleague from North Dakota, the Honorable Rolland Redlin.

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

Mr. REDLIN. Mr. Chairman and members of the subcommittee, together with 80 of my colleagues, I have introduced legislation, H.R. 14160, to amend the Hours of Service Act, with the objective of promoting railroad safety. I am pleased to have the opportunity to make this presentation before this subcommittee in support of this legislation.

The original Hours of Service Act, when passed in 1907, was designed to combat an increasing number of railroad accidents caused by fatigue from an overly long workday. Today, the provisions of this law are outdated, because of vastly increased train traffic, longer and faster trains, fewer railroad employees, and the efforts to develop ultra-high-speed trains.

The proposed amendments to the Hours of Service Act would limit the number of consecutive hours which could be worked by persons engaged in or connected with the movement of trains. In addition, steps would be taken toward more effective compliance with the law.

The increasing incidence of accidents reported by the Interstate Commerce Commission underscores an urgent need for this legislation. I urge your committee to report out a strong bill along the lines of H.R. 14160.

Mr. Chairman, I request unanimous consent to have included in the hearing record at this point a resolution, adopted by the North Dakota Joint Legislative Board of Railroad Brotherhoods, endorsing this legislation.

(The resolution follows:)

RESOLUTION

Whereas it has been approximately sixty years since Congress adopted the act designed to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon, approved March 4, 1907 (45 U.S.C. 61, 62, 63, 64); and

Whereas since the adoption of said Act the length of trains has been increased many times and the trains are run at a speed several times greater than they were in the year 1907; and

Whereas due to the increased speed and length of said trains the railroad industry has witnessed an ever increasing number of accidents which jeopardize the lives of railroad employees and travelers upon said railroads; and

Whereas there has also been an increase in the number of collisions between railroad operated equipment and motor vehicles at railroad grade crossings; and

Whereas many of these accidents are the direct result of the long hours of duty that railroad employees are required to work at operating speeding and highly complicated railroad equipment for long periods of time without proper provisions for adequate rest; and

Whereas to continue to require such employees to work such long hours under such conditions, without rest, is detrimental to the health of employees and does not promote the safety of employees and travelers upon the railroads and highways: Now, therefore, be it

Resolved by the North Dakota Joint Legislative Board of Railroad Brotherhoods, That we hereby urge the passage of S.B. 2180, H.R. 14160, H.R. 8476 and any other comparable legislation proposals seeking to promote the safety of railroad employees by limiting the hours of service; be it further

Resolved, That the Secretary of this Board is hereby directed to forward copies of this Resolution to the Chairman of the appropriate Congressional Committees as well as to the United States Senators and Representatives from the State of North Dakota.

Mr. FRIEDEL. Thank you for your views and resolution, Mr. Redlin. We have several colleagues yet to hear from, so we will continue with Mr. Craley, of Pennsylvania, sponsor of H.R. 11298.

STATEMENT OF HON. N. NEIMAN CRALEY, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. CRALEY. Mr. Chairman, I am pleased to have introduced H.R. 11298, regarding the total hours of continuous service that can be required of a railroad operating employee. Similar legislation has been introduced by at least 83 other Members of the House.

The intent of this legislation is to amend the Hours of Service Act of 1907. The amendment which I proposed would limit the number of hours which railroad employees engaged in the operation of trains may be on duty, and require specified rest periods between service hours.

H.R. 11298 would reduce the maximum continuous hours of affected train service employees from 16 to 12 and would establish 9 hours as the limit for engineers operating trains without a fireman.

Telegraphers, dispatchers, and other employees who transmit orders affecting train movements by telephone or telegraph are limited to an on-duty period of 9 hours in any 24-hour period in towers, stations, or offices operated around the clock and to 11 hours on duty in any tower, station, or office operated only for one shift.

Engineers today operate larger trains and engines than before. Many have as many as 200 cars in a train and operate for as long as 15 to 16 hours without aid or relief. The engineer's reflexes, to say nothing of his health and general well being, could hardly be expected to profit from this kind of activity or even to function at a near maximum.

Mr. Chairman, it is my belief that this proposed legislation is progressive and important as a safety guarantee for the traveler, as well as a health guarantee for the employee. It is my hope that this legislation will receive rapid attention and affirmative action in Congress.

Mr. FRIEDEL. Thank you for your brief statement Mr. Craley.

We will hear next from the Honorable George Senner, sponsor of H.R. 9671.

STATEMENT OF HON. GEORGE F. SENNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. SENNER. Chairman Friedel, and distinguished members, I want to thank you for your courtesy in extending to me the opportunity of testifying in behalf of H.R. 8476, a most worthwhile and needed piece of legislation which I have proudly cosponsored in the form of H.R. 9671.

We have too long overlooked the serious safety weaknesses prevalent in the railroad industry.

Congress is currently deeply concerned with the safety factors of automobiles. Its preoccupation with the admittedly vital subject has captured national headlines. Yet, while our attention is being directed to the staggering toll of automobile deaths and injuries, the alarming increase in railroad accidents goes relatively unnoticed.

Mr. Chairman, I must underscore that the increase in railroad accidents has indeed been alarming. Furthermore, experts tell us that unless concrete action is taken, the accident rate will continue to accelerate.

This dedicated subcommittee can move to begin reducing the unnecessary destruction on our railroad tracks. H.R. 8476 will start at the very root of the accident problem by reducing one of the significant causes of accidents—human fatigue.

Under present law, railroad engineers may be worked for as many as 16 consecutive hours, rest 5 hours aboard train, and then be called on for another 16-hour shift.

With today's modern railroad system, the undivided attention of the engineer is imperative. With the fireman, the longtime helpmate of the engineer, gone from the cab, the operation of the high-speed locomotive is dependent solely on the mental and physical skill of the engineer.

Safety experts recommend periodic rests when driving one's automobile. Why should an engineer, responsible for the safe movement of a loaded train traveling at high velocity be permitted—even encouraged—to continue functioning for periods of time that promote deep fatigue.

Mr. Chairman, I respectfully urge the adoption of H.R. 8476 so that a serious defect in railroad safety standards can be revised in keeping with modern demands.

Thank you.

Mr. FRIEDEL. Thank you Mr. Senner. Our next witness will be Mr. St. Onge of Connecticut, who has introduced H.R. 9711.

STATEMENT OF HON. WILLIAM L. ST. ONGE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. ST. ONGE. Mr. Chairman and distinguished members of the committee, I want to thank you for this opportunity to present my views on the bills now under consideration before your committee which seek to reduce the maximum permissible number of hours of continuous time on duty for railroad operating personnel from 16 to 12. As sponsor of one of these measures I wish to express my deep gratitude to all of you for scheduling these hearings.

The need for this legislation has been brought to my attention by the Brotherhood of Locomotive Firemen & Enginemen, AFL–CIO, which seeks to correct certain unjust conditions existing on many railroad lines. One of these conditions of concern to me was cited by General Chairman W. B. Brown of the Brotherhood in a circular letter of August 30, 1965, addressed to all B.L.E. local chairmen, Pennsylvania Lines East and Pennsylvania-Reading Seashore Lines, in which he stated:

> It has also been called to my attention that engineers on long, interdivisional runs have now resorted to the use of "goofballs" to enable them to stay awake.

These engineers have been working on road freight service without firemen—helpers—who might relieve them. The use of drugs has been shown to be extremely harmful to the human body and often produces a state of complete exhaustion after its effects subside. The use of such drugs on long runs endangers both employees and passengers. This situation could be avoided by adoption of the proposed legislation, which would allow proper rest for operating employees. The harm that comes from the use of these drugs, along with the harm of working such long hours without the aid of relief, makes this legislation not only necessary but mandatory.

Mr. Chairman, I urge you and the members of your committee to approve the proposed bill, H.R. 9711, and similar bills, so as to effectively promote the safety of employees and travelers upon all railroads. Such legislation is long overdue and should therefore be enacted without further delay.

Mr. FRIEDEL. Thank you for your testimony, Mr. St. Onge.

Mr. ST. ONGE. Thank you for the opportunity, Mr. Chairman.

Mr. FRIEDEL. We will hear next from Congressman Garmatz, author of H.R. 9566.

STATEMENT OF HON. EDWARD A. GARMATZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GARMATZ. Mr. Chairman and members of the Subcommittee on Transportation and Aeronautics, as the author of H.R. 9566, a bill to amend the act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907, I urge favorable action on this legislation.

The fact that many of the railroad employees are working under legislation enacted in 1907 should be reason enough to warrant a very careful review of the situation.

The vast change in railroad equipment since 1907 has placed an increasing strain on the employees and it is inconceivable that they should be expected to work the same long hours permitted at that time. A 12-hour day for factory employees was not unusual at that time, but who would expect it of the same employees today?

The airlines and trucking companies have recognized the need for shorter hours and even the merchant seamen have more favorable hours than do those who would be effected by this legislation.

Information in my files indicates that it has been necessary to reprimand engineers on long interdivisional runs for resorting to "goofballs" to enable them to stay awake.

When such conditions exist, the time is long past due for a review and revision of the working hours for the safety of the train riding public and the crews and therefore I strongly urge adoption of this legislation.

Mr. FRIEDEL. Thank you for your testimony, Mr. Garmatz. It is a pleasure to have your views as author of companion bill H.R. 9566.

If there are no questions our next witness will be H. E. Gilbert, president of the Brotherhood of Locomotive Firemen & Enginemen.

STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY

Mr. GILBERT. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Gilbert, I would like to compliment you on submitting your statement 5 days ahead of time. It has been very helpful to the subcommittee.

Mr. GILBERT. Thank you, Mr. Chairman.

I. INTRODUCTION

Mr. Chairman, members of the committee, my names is H. E. Gilbert. I am president of the Brotherhood of Locomotive Firemen & Enginemen, an organization which represents virtually all locomotive helpers—firemen—and hostlers employed on railroads in the United States and a significant number of locomotive engineers.

I started my association with the railroad industry in the signal department of the Santa Fe Railroad more than 40 years ago. Later, I was employed as a locomotive fireman, then promoted to engineer on the Alton Railroad, now a division of the Gulf, Mobile & Ohio Railroad. I still hold seniority as a fireman and engineer on the G.M. & O.

For the past 19 years I have served as a national officer of the Brotherhood of Locomotive Firemen & Enginemen. I was elected a vice president in 1947, and international president in 1953, the position I occupy today.

I welcome this opportunity to appear before the Subcommittee on Transportation and Aeronautics of the Committee on Interstate and Foreign Commerce of the House of Representatives. I appear before you in support of H.R. 8476 introduced by the Honorable Torbert Macdonald, and the 83 like bills introduced by other distinguished Members of the House.

The proposed legislation would amend the present hours of service law for railroad employees, an act which was passed in 1907—nearly 60 years ago—as "an act to promote safety of employees and travelers upon railroads by limiting the hours of service of employees thereon."

Under the present 60-year-old law, railroad companies can require any employee actually engaged in or connected with the movement of any train to remain on duty for a period not to exceed 16 consecutive hours. The law requires the employee to be given 8 or 10 hours of consecutive rest before being returned to duty. However, there is an aggregating provision, whereby an employee can be released for short periods in order to legally extend his tour of duty and modify the 8- or 10-hour-rest provision. I shall discuss the specific sections of the present law and the proposed amendments later in my statement.

My appearance here today as the leadoff witness in support of amending the 1907 hours-of-service law has a somewhat historic note to it. Perhaps some of the committee members are aware of the long period of time in which my organization and various other railway labor unions have been seeking to gain the attention and ear of Congress in their efforts to adjust and modernize the 60-year-old law. With the exception of legislation changing and stiffening the section on fines, the law has gone unchanged for 60 years.

Research indicates that as far back as 1922, delegates to conventions of the Brotherhood of Locomotive Firemen & Enginemen were concerned with getting the law changed. However, nothing immediate came of this initial interest. In the thirties, the depression years and the problems of that era dominated Congress attention. Then came World War II and the shortage of trained railroad men to man the Nation's transportation backbone was a great problem. Whatever sentiment existed in the war years to amend the law was tempered by the heavy demands of national defense.

Once the war ended, railroad operating employees again raised the subject of amending the hours-of-service law at their various conventions. This rank-and-file interest resulted in legislation being introduced in both Houses of Congress in 1953, again in 1955, and for the third time in 1957.

It was in 1957 that the organizations were on the threshold of achieving formal congressional hearings on the bills to amend the law. However, the hearings never materialized and the legislation died the death of so many similar bills introduced at nearly every previous session.

The fact that in 1966 hearings on these necessary changes in the act are finally being held is an accomplishment that was some 44 years in the making. I hope that this major step forward portends the eventual passage of the legislation that I now propose to discuss.

II. PRESENT LAW AND AMENDMENTS

The hours-of-service law, as I have already indicated, has not been amended in any material respect since its original passage 60 years ago. The law as it now exists makes it unlawful for any common carrier by railroad subject to its provisions to require any employee "actually engaged in or connected with the movement of any train" to remain on duty for a period longer than 16 consecutive hours, following which such employee may not be required or permitted to return to duty until he has had at least 10 consecutive hours off duty; or to require or permit any such employee who has been on duty for an aggregate of 16 hours in any 24-hour period again to go on duty without having at least 8 consecutive hours off duty. These time prohibitions do not apply to the crews of wrecking or relief trains. It is the portion of the law which applies to what in common railroad parlance is called "the operating employees"; that is, engineers, firemen, conductors, and brakemen, and the yard switching crews.

The law further provides that no operator, train dispatcher, or other employee who by use of telegraph or telephone dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements shall be required or permitted to remain on duty for a period longer than 9 hours in any 24-hour period in towers, offices,

places, and stations operated continuously day and night, nor for a longer period than 13 hours in such places operated only during the daytime. In the case of emergency, these employees may be permitted to remain on duty for 4 additional hours in a 24-hour period on not exceeding 3 days in any period of 7 consecutive days.

The general purpose of the changes proposed in H.R. 8476 is to insure that the employees covered by the law are accorded at least 8 hours' rest in every 24 hours, to reduce the number of hours employees may be required or permitted to remain on duty, and to solve some problems of administration which have developed in the course of application of the present law.

Specifically, the changes embodied in H.R. 8476 provide for amending the present law in seven areas. They are:

1. Reduce the maximum permissible number of hours of continuous time on duty from 16 to 12 hours.
2. Make it unlawful to require or permit an employee to continue on duty or go on duty when he has not had at least 8 consecutive hours off duty during the preceding 24-hour period.
3. Make it unlawful to require or permit a locomotive engineer to continue on duty longer than 9 hours when the engine crew consisted solely of a locomotive engineer.
4. Make it unlawful to work telegraphers (operators) and dispatchers more than 9 hours, whether consecutive or in the aggregate, within any 24-hour period where two or more shifts are employed, nor more than 11 hours in a 24-hour period where only one shift is employed.
5. In computing time on duty only interim periods available for rest of more than 3 hours would be regarded as time off duty.
6. Crews of wreck trains or relief trains may be permitted to remain on duty for a longer period than is otherwise permitted by the act when necessary to clear the track at the scene of a wreck, but only until such time as the track is cleared sufficiently to permit the movement of trains.
7. Set the penalty for each violation at $500.

While there is some repetition involved, I believe a comparison, section-by-section, of the existing law and H.R. 8476 might be helpful at this point.

The first portion of H.R. 8476 contains the same language as that of the present law. Section 1(b) of the proposed bill contains two definitions and a basis for computing time on duty. Subsection (b)(1) defines the term "railroad" and the language contained therein is the same as that contained in the present law. Subsection (b)(2) defines the term "employee."

There is no counterpart language in the present law to that of subsection (b)(3), but the language up to the second comma on line 20 therein is merely a codification of the fashion in which the present law is interpreted. The only innovation of this provision is the establishment of a principle that in computing time on duty only interim periods available for rest for more than 3 hours shall be regarded as time off duty.

Section 2(a)(1) reduces the maximum permissible number of hours of continuous time on duty for operating men from 16 to 12. It retains the 10 consecutive hours off duty provision of the comparable section of the present law.

When the engine crew consists only of an engineer, another new provision in the section makes it unlawful to require or permit the locomotive engineer, who has been continuously on duty for 9 hours, to continue on duty until he has had at least 10 consecutive hours off duty.

Section 2(a)(2) provides that employees in engine and train service are not permitted to go on duty or continue on duty unless they have had at least 8 consecutive hours off duty during the preceding 24 hours. This is a new provision in the law and would eliminate the abusive practices which I will later discuss which have arisen under the aggregate time provisions of the present law.

Section 2(b) provides that in computing time on duty all railroad service rendered by the employee, whether connected with the movement of trains or not, is to be counted. This is a new provision which, however, is consistent with the interpretation of the present law which the majority of courts have espoused.

Section 2(c) provides that crews of wreck and relief trains will be allowed to remain on duty for a longer period than 12 hours when necessary to clear the track at the scene of a wreck, but only until the track has been cleared sufficiently to permit the movement of trains. This is a limitation upon the provision of the present law which is entirely inapplicable to crews of wreck or relief trains.

Section 2(d) is designed to clearly separate the applicability of the provisions of the time limitations contained in section 2 from those contained in section 3 should an employee at various times of his working day be in one or the other of the groups of employees covered respectively by the two sections.

Turning now to section 3, you will note that the language of section 3(a) more fully describes the duties of the employees involved than does the first proviso clause of section 2 of the present law. Since the present law was enacted, in addition to telegraph and telephone, radio and other electrical and mechanical devices have been adopted by railroads for the use of employees who participate in the direction and control of trains or handle orders concerning the movement of trains. The use of these present-day devices should be recognized in the act. The phrase "other mobile equipment" covers movements on the rails of equipment which may not technically be a train or trains, but which nevertheless must be considered for operational safety.

Section 3(a)(1) retains the same 9-hour period which the employee in this group shall be required or permitted to be or remain on duty as in the present law.

Section 3(a)(2) provides that telegraphers and dispatchers may work no more than 11 hours in any 24-hour period where only one shift is employed, as compared with 13 hours under the present law. Both of sections 3(a) (1) and (2) contain language describing the work assignments different than that contained in the present law.

Section 3(b) provides that in computing time on duty all railroad service rendered by the employee, whether in a class of service described in subsection (a) of section 3 or not, is to be counted.

Section 3(c) retains the same principle that the comparable provision of the present law provides, that is, that in the event of an emergency these employees may be permitted to remain on duty for 4 additional hours in any period of 24 consecutive hours or not exceeding 3 days in any period of 7 consecutive days.

Section 4 would bring about no substantial change from the present law, with the exception of the increasing of the amount of the penalty.

Section 4(a) of the bill would increase the penalty for each violation from not less than $200 nor more than $500, as provided by the present law, to $500 for each and every violation. The original hours of service law provided a maximum penalty of not more than $500 for each violation. Because of the small penalties being assessed by some courts, the Congress, on May 4, 1916, amended the law to provide a minimum penalty of $400 in 1916 and $200 in 1957, and maximum penalty of $500 for each violation. Experience has shown, however, that the courts, in practically every instance, have assessed the minimum penalty of $200, thus, in effect, establishing a standard penalty of that amount. All too often the present law with its comparatively insignificant penalty is violated for operating convenience.

III. AMENDMENTS TO HOURS OF SERVICE LAW WOULD REDUCE MAXIMUM PERMISSIBLE HOURS OF CONTINUOUS TIME ON DUTY FROM 16 TO 12 AND REQUIRE AT LEAST 8 HOURS REST IN PRECEDING 24-HOUR PERIOD

Over the road truck drivers are not permitted, by law, to drive more than 10 hours following 8 consecutive off-duty hours.

Seamen on merchant vessels of more than 100 tons gross are not permitted, by law, to work more than 8 hours in 1 day.

Airline operating personnel are not permitted, by law, to work more than 85 hours credited flight time per month or approximately 19.6 hours per week.

Under the Federal Hours of Service Act, railroad operating employees can be worked 16 hours without rest.

While I am fully aware that there is no direct relationship of duties of truck drivers, seamen, airline flight personnel, and railroad operating employees, I raise the point here to illustrate what is the obvious thinking of other industries, as well as the Government when it comes to limiting hours of work to provide a realistic safety factor in various other modes of transportation.

I might add facetiously that in the State of Pennsylvania, it is unlawful to work a horse more than 15 hours without rest.

It is also interesting to note that in 1907, when the United States was setting 16 hours as the work limit for railroad operating employees, European nations were generally limiting train and engine employees to about the 12-hour figure we seek today.

The Railway Age of May 10, 1907, reported that in Austria-Hungary, the daily service in engine and train service was restricted to 11 hours; continuous service to 14 hours. Local passenger and freight could aggregate to 18 hours.

In France, the hours of labor of engineers and firemen could not exceed an average of 10 hours in actual employment, and could not exceed 12 hours on any day.

In Germany, an 1899 law prescribed a monthly average of 10 hours per day; Italy had 13 hours, or in the aggregate 14; Netherlands, 10 or 12 hours in a 24-hour period, depending on exacting nature of work; and Switzerland fixed hours at 11 within 14, to be broken by a rest period of at least 1 hour.

When we talk about the U.S. railroad industry today, we are talking about a booming industry, an industry that is enjoying record earnings and profits. From year to year, railroad companies are either matching operation records or setting new ones. Trains are longer, faster, carry more tonnage, and travel more miles than before.

However, two items are not in the plus category. They are employment and safety. The railroad industry has been able to achieve operational and earning records while cutting employment to a bare minimum. But the industry is plagued with a horrible safety record. We believe the two items of understaffing and increased accidents are related.

Let's take a look at the railroad industry during the diesel era in respect to the hours-of-service law.

One would think that in this day and age of shorter workdays, shorter workweeks, and so forth, there would be little need for a law prescribing the limit in which a man can be worked and still produce safely. The record will show that in the railroad industry, there is actually an increased need for such a law; a definite need to amend the law to achieve a more realistic work hour limit; and, a crying need for stepped up enforcement of its provisions.

Technological change has enabled the railroad industry to become more productive, more profitable and, unfortunately, more unsafe. Technological advance—typified by the diesel locomotive—has permitted longer, faster trains and caused severe reduction in employment. The obvious result has been the shouldering of the increased transportation burden and its hazards by relatively fewer employees.

I am not going to go back to 1907, and try to analyze that era with today's operations. The 60-year difference, I am sure, would be obvious.

However, I would like to compare the beginning of the modern era of railroading—about 1945—and today's operations. In that 20-year period alone, the tremendous advance in rail operations is dramatic enough to illustrate that greater responsibility is being shouldered by a severely reduced railroad work force.

Employees subject to the hours of service law in 1945 numbered 354,613, according to wage statistics of the Interstate Commerce Commission. I should point out that 1945 was still a year in which steampower was used to a great extent. Nearly 20 years later, in 1964—the latest year for which statistics are available—employment of workers subject to the hours-of-service law slipped to 206,916—a reduction of 147,697, or more than 40 percent of the 1945 work force.

Looking at some of the figures of average operations as published by the Association of American Railroads, we find that in 1945, the average freight train was 51.9 cars in length, had an average tonnage of 1,072 tons, and moved an average of 15.7 miles per hour.

Twenty years later the freight train averaged 70.2 cars in length, hauled an average of 1,630 tons, and moved at an average speed of 20.2 miles per hour.

Remember that we are talking in averages. The speed of a local freight train, which is very slow as we know, is combined with the high-speed timed freight train to achieve the average, just as the 300-car train is averaged with the 10 freight cars in a local train.

Thus, from the published figures of the Association of American Railroads, we see almost a doubling of the transportation burden on

railroad operating employees. The figures I have stated reveal a 30 percent increase in train speeds, 50 percent more tonnage in the average train and the trains themselves are longer by some 40 percent. Remember, these achievements are the products of just 20 years, and in those same 20 years the railroad work force was cut back by 40 percent.

Technological change is not the only reason the railroad industry has been able to cut employment while boosting its operational level. A second reason involves the long hours required of many operating employees both within the 16-hour limit and beyond the legal work limit. What the practice of overworking an understaffed force does to safety, we will examine later.

At this point, I would like to illustrate for you some of the railroad practices in regard to long hours. A good beginning point would be the record of violations of the existing law as recorded in Interstate Commerce Commission statistics. Below is a review of the past 5 years.

Year ending June 30	Employees in train and engine service	Train dispatchers, operators, telegraphers, etc.	Total
1961	671	2,530	3,201
1962	773	1,775	2,548
1963	807	2,083	2,990
1964	610	2,262	2,872
1965	792	2,327	3,119

During the 1961–65 period the Interstate Commerce Commission initiated prosecution of 715 violations through the offices of the Attorney General. The courts fined railroad companies $158,810 for violating the Federal law.

I suggest that the significance of these figures is not the figures themselves because it is fair to assume that the number of instances of excess service reported to the ICC represents but a small fraction of the total number of instances that train crews have been on duty for periods of 16 hours as a matter of routine operation.

What is significant is that these figures—as limited as they obviously are—represent violations of a Federal law, and far exceed the modern concept in other industries of what constitutes the maximum day's work that an employee can be expected to work efficiently, productively, alertly, and safely.

IV. LONG HOURS AND MINIMUM REST ARE WITHIN LAW

Violations of the 16-hour work law for railroad operating employees is not the main cause of my being before you today. Certainly, there is abuse of the law by the railroad companies—abuse far more prevalent that what we see in the ICC reports. However, the core of the problem, as it presents itself in the practices of the railroads, is within the confines of the present law.

If a railroad works a man 16 hours and 1 minute it is in violation of the hours of service law. If he is worked 15 hours and 59 minutes there is no violation of the law. The 2-minute difference offers little comfort to an overworked, overtired railroad operating employee.

This is especially true when his carrier engages in the "sharpshooting" practice of having him sign off duty at 15 hours and 59 minutes instead of a full 16 hours. By so doing the carrier has to give him only 8 hours rest instead of 10 hours that would be due him, had they worked him the full 16 hours.

Additionally, you should understand that the 8-hour rest period is often not a full rest period at all. The employee can be relieved short of the 16-hour limit and told to wait for a train on which to deadhead to a terminal. He then goes home, if it is his home terminal, or to a lodging facility, if it is not his home. Usually he will eat and go to bed. Remember, from the time he marked off duty at 15 hours and 59 minutes he is considered as being on 8 hours rest, and can be recalled after the 8-hour period expires.

Mr. FRIEDEL. Mr. Pickle?

Mr. PICKLE. I just wanted to ask Mr. Gilbert on this point, if this is a common practice; if this is done regularly, that they require a man to sign off at 15 hours and 59 minutes. Is that a hypothetical situation, or is this standard practice?

Mr. GILBERT. Well, it is more general than hypothetical, I will say, Mr. Congressman. Some of the tables that we will present are representative of what takes place on these railroads throughout the country.

Mr. FRIEDEL. You may proceed.

Mr. GILBERT. It does not matter that a part of this rest period may be spent deadheading on a diesel locomotive to a terminal where he can eat and sleep. Nor does it matter that his 8 hours rest may include only 1 or 2 hours sleep because of the time consumed in deadheading from his off-duty point, eating, and so forth.

I should explain here that "deadheading" is the term applied to the time spent by an employee riding to and from his assignment in another location at the direction of the carrier. It is common in this day of reduced passenger service that the men ride in cabs of diesel locomotives rather than deadhead in passenger coaches. I know of one eastern carrier that threw a mattress on the floor of a diesel cab and told an engineer to get his rest while deadheading.

I want to emphasize the fact that deadheading time is considered rest time within the 8 or 10 hours required by the hours of service law.

Such is not the case for airline personnel who come under Civil Air Regulations. I am repeating the same provision here that was quoted by Congressman Macdonald. Section 41.58 of the Civil Air Regulations provides:

> Deadhead transportation. The time spent in deadhead transportation to or from duty assignment will not be considered a part of any rest period.

I submit that a similar provision should be made applicable to railroad operating employees so that 8 hours' rest means just that.

I have a few examples of abuses permissible under the present law, which the proposed amendments will rectify. These examples will also serve to illustrate the various provisions of the existing law.

The first case concerns an engineer who was on duty 30 hours and 39 minutes within a total period of 38 hours and 40 minutes; was given 8 hours' rest within the period, but was able to spend only 2 hours and 15 minutes at home.

The case involves Engineer J. C. Lewis of the Louisville & Nashville Railroad. He was called for duty at 8:30 a.m., April 29, 1966.

His run was an extra freight train from Louisville to Doyle, Ky., and return. He had made the one-way trip and was on the return leg to Louisville when he was told to mark off duty at Bischoff, Ky., on a siding track used for passing. This was at 12:29 a.m., April 30. He had worked 15 hours and 59 minutes. He was told to wait at the siding until another train following him could tow his train to Louisville. The waiting period and the trip to Louisville took 5 hours and 46 minutes. Therefore, when he left the railroad yard for home, he had been on duty or deadheading for 21 hours and 45 minutes.

Engineer Lewis was home eating when the crew clerk called and told him that he was to report fur duty at 8:30 a.m. for a trip to Howell, Ind.

You must remember that the 5 hours plus that Lewis was deadheading was counted as his rest. Couple with this the time it took him to drive home and eat and you will see that he had been allowed the 8 hours' rest and was, therefore, legally available to the company for service. The fact that he did not have a chance to sleep obviously did not concern the L. & N. officials.

Lewis reported for work again at 8:30 a.m. and completed his run to Howell, Ind., at 11:10 p.m., April 30.

Recapitulating the time involved in this case, we see that:

1. Lewis was on duty 30 hours and 39 minutes.
2. Lewis deadheaded, in the cab of a locomotive, for 5 hours and 46 minutes.
3. Lewis spent 2 hours and 15 minutes at home which, coupled with deadhead time, made up his 8 hours' rest.
4. At no time was the Hours of Service Act violated.

Significant points in the Lewis case to consider are: (1) the obvious safety factor involved when a man is pressed to his endurance limit; (2) the sharpshooting practice of the L. & N. in relieving Lewis at a siding at 15:59 hours instead of 16 hours so that he would be ready for duty again in 8 hours; and (3) the fact that Lewis spent more than half his rest period deadheading in the same locomotive that he had been working on for the previous 15 hours and 59 minutes.

Another illustration of the problem of "sharpshooting" as cited in the *Lewis* case came to me from Miles H. Holloway, a Norfolk & Western Railroad engineer on the Pittsburgh Division of the Wheeling & Lake Erie District. Mr. Holloway will appear before you as a witness, but I think it would be helpful if I insert at this point his brief letter and comments.

Under date of December 12, 1965, Mr. Holloway wrote:

> This will deal with violations of the Hours of Service law on the Norfolk & Western Railroad on the Pittsburgh Division where I am employed as a locomotive engineman.
>
> Under date of June 1, 1962, the carrier posted sample time claim reports in the form of instructions to engine and train service employees under the total time on duty column, not to exceed or not over 15 hours and 59 minutes. Even though a crew is towed into their terminal from many miles out, the 15:59 is shown on the time claim as total time on duty. There is no dispute regarding continuous time or overtime until the locomotive is placed on dock which is frequently from 2 to 5 hours after the 16 hours has elapsed.
>
> In addition to this violation, we are being denied the 10-hour rest period after being outlawed because we were only on duty 15 hours and 59 minutes even though we were out 18 to 20 hours. We can only have 8 hours rest after the engine docks.
>
> I have complained to our committee that the denial of our 10 hours rest constitutes a modification of our labor contract by the mere posting of instructions on the bulletin boards and in conflict with the Railway Labor Act.

Reporting procedures are being bypassed by the carrier by this 15:59 expedient and our labor contract is being violated and we are placed in the position of falsifying time claims. We are being verbally instructed on the run I am on to try to make the yard limit board in 16 hours so we can be towed by a yard crew for the balance of the trip.

More work is being programmed than can possibly be done within the 16 hours and I have never seen so many violations of the 16-hour law. I am sure you will take whatever action is necessary to put a stop to these wholesale violations.

The situation as described by Mr. Holloway existed from June 1962 to March 1966, when the carrier, under pressure from Interstate Commerce Commission inspectors, revised the instructions issued engine and train service employees.

I now understand that the men are instructed to record the actual time worked rather than an arbitrary 15 hours and 59 minutes. However, this does not stop the practice or working men to the 15:59 limit, and then towing them into the terminal. If the crew exceeds 16 hours, they are subject to investigation by the carrier.

As I stated earlier, Mr. Holloway will appear before you as a witness and he will explain the entire situation.

Further examples of deadheading time cutting in on rest periods can be seen in two instances reported to me from our officers on the New York, New Haven & Hartford Railroad. These cases also show that deadhead time is spent riding freight trains, subways, and automobiles where it is impossible for the offduty employee to get any meaningful rest.

Engineer A. D. Dupuis and Helper (fireman) J. J. Donovan are regularly assigned men on trains BG1–BG8 of the New Haven Railroad. They report at Cedar Hill, a yard in New Haven, Conn., run to Bay Ridge, a yard in Brooklyn, N.Y., and return to Cedar Hills. The round trip covers a total of 180 miles.

On October 30, 1965, Dupuis and Donovan started work at Cedar Hill at 3:15 a.m. When they arrived at Bay Ridge, they were informed that they could not bring their train into the yard due to a derailment. These men remained on duty until 6 p.m., October 30, 1965, and were then told they were relieved. They had been on duty a total of 14 hours and 45 minutes. Both were ordered to deadhead back to Cedar Hill. However, in order to deadhead, they had to take the subway from Brooklyn, N.Y., to Grand Central Station, and then a New Haven train to New Haven, Conn., where they were given a ride by a fellow employee to Cedar Hill Yard. They signed off at 9 p.m., October 30, 1965, and asked for 8 hours' rest from 9 p.m. The chief dispatcher agreed to the 8-hour rest, and said they could report the next morning at 5 a.m., instead of the regular starting time of 3:15 a.m.

However, the chief dispatcher changed his mind, since, under the hours of service law, their legal rest would have been up in time to report at the regular starting time of 3:15 a.m.

He called both at their homes about 10 p.m. and told them their assignment was called for 3:15 a.m. This would mean 4 hours or less sleep followed by another 14- to 16-hour workday. They refused the call and marked off the job, consequently losing pay.

Another incident on the New Haven involved Fireman J. J. Callahan.

He is the regular fireman on trains NG1, GB2, also running between Cedar Hill and Bay Ridge Yards. On October 5, 1965, he went on duty at Cedar Hill at 11:16 a.m. and was on the return trip when he

"outlawed," or in other words reached the 16-hour limit, at Oak Point Yards, New York at 3:16 a.m. the morning of October 6.

Callahan was instructed to deadhead home on his own train—a freight train—and arrived at Cedar Hill at 6:15 a.m. He asked for 10 hours' rest from 6:15 a.m. but the official said the 10-hour rest period required by law had started at 3:16 a.m., when he was relieved.

Callahan complained that he was not able to get proper rest riding a diesel locomotive and that the time necessary to go to and from Cedar Hill Yard and his home would not allow more than 3 or 4 hours' sleep. Also, he would then be working another 14- to 16-hour shift without sufficient rest. Callahan refused the call and he, too, lost a regular work turn.

The specific cases I have described for you are not isolated instances of abuse within the limits of the law. At the same time, I am not implying that they are typical of the majority of railroad jobs. They are instances that occur often enough and with enough regularity to prompt employees involved to seek legislative relief by asking for amendment of the hours-of-service law.

I would now like to direct your attention to some additional evidence of the excessive hours required of many railroad operating employees.

On the succeeding pages, I have reproduced work reports from four railroads, selected so as to include all major sections of the Nation—East, Southeast, Southwest, and Northwest. The reports cover varying work situations and varying times.

I have reproduced a list of freight assignments on the New York Central Railroad between DeWitt (East Syracuse) and Buffalo, N.Y. They are assignments that exceeded 12 hours. The list starts August 31, 1965, and ends on November 1, 1965. We can safely assume that a similar number of long-hour assignments were operated on the Buffalo-to-DeWitt run.

I am not going to analyze any of them, but I would like to call your attention to the number of runs in excess of 15 hours and those that are listed as ending at 15:59 hours.

Crews working these long assignments would be entitled to only 8 hours rest, including whatever time it took them to go home and any deadheading time involved. I want you to understand that I do not represent these long-hour assignments as being in the majority on this particular division of the New York Central. They are not. However, you can see for yourself that runs of 13, 14, 15, and 16 hours are not isolated instances by any stretch of the imagination.

In fact, the table contained on pages 21 and 21a have 69 runs listed with 12 hours or more; 31 that are over 15 hours; 8 that have 15 hours 59 minutes, and 1 listed at 19 hours 40 minutes.

(The table referred to follows:)

New York Central RR. freight assignments in excess of 12 hours—Dewitt (East Syracuse) to Buffalo, N.Y.

Date	Train	Members of crew	Time on duty	Time off duty	Total time	Miles
Aug. 31, 1965	AB-21 DB-3	Wolber and Crocker	4:45 p.m.	8:35 a.m.	15:50	154
Sept. 1, 1965	AB-21	Keefe and Johnson	7:00 p.m.	7:45 a.m.	12:45	154
Sept. 2, 1965	NB-3	Wolber and Farsaci	10:30 p.m.	11:25 a.m.	12:55	154
Do	BB-1	Walker and Hansen	6:05 p.m.	6:15 a.m.	12:10	154
Sept. 3, 1965	DB-3	Boleno and Oswald	8:45 p.m.	12:01 a.m.	15:16	154
Do	AB-21-DB-3	Reiller and Sattler	3:45 p.m.	7:40 a.m.	15:55	154
Sept. 7, 1965	Roch T. A	Sheriff and Clary	4:00 a.m.	6:00 p.m.	14:00	124
Sept. 8, 1965	BB-1	Track and Dye	5:35 p.m.	9:34 a.m.	15:59	154
Do	AB-21	Herb and Schiedo	4:00 p.m.	6:00 a.m.	14:00	154
Sept. 9, 1965	DB-3	Gooch and Korber	3:30 p.m.	7:00 a.m.	15:30	154
Do	AB-21	Catalfu and Oswald	5:30 p.m.	5:45 a.m.	12:15	154
Sept. 10, 1965	DB-3	Herb and Mahan	3:45 p.m.	5:30 a.m.	14:45	154
Sept. 13, 1965	do	Kellogg and Tierney	3:15 p.m.	3:15 a.m.	12:00	154
Sept. 14, 1965	AB-21	Trach and Schnieder	4:15 p.m.	8:44 a.m.	15:59	154
Do	NB-3	Bauld and Pembleton	3:10 p.m.	5:00 a.m.	13:50	154
Sept. 16, 1965	BB-1	Kellogg and Farsaci	8:30 p.m.	12:01 p.m.	15:30	154
Sept. 18, 1965	BP-1	Ralicki and Taffner	8:15 p.m.	3:30 p.m.	15:30	154
Sept. 17, 1965	BB-1	Hunter and Oswald	10:00 p.m.	1:30 p.m.	15:30	154
Sept. 18, 1965	NB-3	Bauld and Strack	10:10 p.m.	12:45 p.m.	14:35	154
Do	BB-1	Sheriff and Percy	7:45 p.m.	8:05 a.m.	12:20	154
Sept. 19, 1965	AB-21 DB-3	Reynolds and Mahan	5:45 p.m.	5:45 a.m.	12:00	154
Sept. 22, 1965	AB-21	Reynolds and Wilger	4:15 p.m.	4:30 p.m.	12:15	154
Do	do	Bauld and Farsaci	4:30 p.m.	8:29 a.m.	15:59	154
Sept. 25, 1965	do	Legacy and Dempster	5:15 p.m.	7:50 a.m.	14:35	154
Sept. 26, 1965	AB-21 DB-3	Catalono and Buckley	3:20 p.m.	4:45 a.m.	13:15	154
Sept. 27, 1965	DB-3	Herb and Farsaci	3:15 p.m.	7:14 a.m.	15:59	154
Sept. 28, 1965	AB-21 DB-2	Reiller and Coveny	5:00 p.m.	8:45 a.m.	15:45	154
Sept. 29, 1965	BB-1	Kellogg and Wagner	6:30 p.m.	7:10 a.m.	12:40	154
Sept. 30, 1965	Roch. T. A	Erler and Sellick	5:15 a.m.	9:10 p.m.	15:35	124
Do	AB-21 DB-3	Gooch and Hansen	3:45 a.m.	5:30 a.m.	13:45	154
Oct. 1, 1965	AB-21	Herb and Korber	7:00 p.m.	9:30 a.m.	14:30	154
Oct. 2, 1965	AB-21 DB-3	Robinson and Friert	4:30 p.m.	8:20 p.m.	15:50	154
Oct. 5, 1965	AB-21	Robinson and Clark	4:30 p.m.	8:20 p.m.	15:50	154
Oct. 6, 1965	DB-3	Herb and Noll	3:30 p.m.	4:00 a.m.	12:30	154
Oct. 8, 1965	BB-1	Robinson and Kopecki	8:00 p.m.	9:20 a.m.	15:50	154
Do	NB-3	Wolber and Ebert [1]	11:30 p.m.	1:45 p.m.	14:15	154
Do	BB-1	Legacy and Schneider	10:15 p.m.	10:30 a.m.	12:15	154
Do	AB-21	Kellogg and Friert	4:30 a.m.	7:30 p.m.	15:00	154
Oct. 9, 1965	DB-3	Conlin and Wilson	6:00 a.m.	6:40 p.m.	15:00	154
Do	MB-1 HB-1	Mills and Compil	6:00 p.m.	1:30 p.m.	19:40	172
Oct. 10, 1965	AB-21 DB-3	Robinson and Parfitt	5:30 p.m.	8:35 a.m.	15:05	154
Oct. 11, 1965	BB-1	Donoghue and Friert	8:30 p.m.	12:20 p.m.	15:50	154
Do	DB-3	Wolber and Manser	3:15 p.m.	3:50 a.m.	12:15	154
Oct. 12, 1965	AB-21	Boleon and Noll	4:45 p.m.	8:00 a.m.	15:15	154
Oct. 13, 1965	AB-21 DB-3	Wolber and Coveny	4:00 p.m.	6:30 a.m.	14:40	154
Oct. 14, 1965	NB-3	Herb and Percy	5:30 p.m.	7:00 a.m.	15:00	154
Do	AB-21 DB-3	Catalono and Friert	5:15 p.m.	5:15 a.m.	12:00	154
Oct. 15, 1965	do	Miner and Wilson	6:45 p.m.	10:44 a.m.	15:59	154
Oct. 16, 1965	do	Baker and Roewer	3:30 p.m.	7:29 a.m.	15:59	154
Oct. 17, 1965	do	Boleno and Tierney	6:30 p.m.	10:00 a.m.	15:30	154
Oct. 19, 1965	BB-1	Robinson and Urbanski	8:30 p.m.	9:50 a.m.	12:50	154
Oct. 20, 1965	HB-1	Lohtran and Popier	5:30 p.m.	6:40 a.m.	13:10	172
Do	BB-1	Gavin and Pembleton	7:45 p.m.	11:44 a.m.	15:59	154
Oct. 21, 1965	NB-3	Reiller and Jasniecki	3:45 p.m.	7:44 a.m.	15:59	154
Oct. 23, 1965	NB-1	Donahue and Barrus	9:15 a.m.	11:15 p.m.	14:00	154
Do	BB-1	Leahy and Dye	8:45 p.m.	9:15 a.m.	12:30	154
Do	AB-21 DB-3	Kellogg and Eischen	4:15 p.m.	6:45 a.m.	14:30	154
Oct. 24, 1965	do	Parzy and Tierney	6:15 p.m.	8:30 a.m.	14:15	154
Oct. 27, 1965	AB-21	Strack and McEdwards	5:10 p.m.	7:30 a.m.	14:20	154
Do	HB-1	Mills and Coumpe	5:30 p.m.	6:45 a.m.	13:15	172
Do	DB-3	Boleno and Tierney	10:30 a.m.	12:50 p.m.	14:20	154
Oct. 29, 1965	BB-1	Kellogg and Shea [2]				
Do	NB-1	Donoghue and Buckley	8:30 a.m.	11:15 p.m.	14:45	174
Do	NB-3	Hyde and Taffner	3:10 p.m.	4:15 a.m.	13:05	154
Oct. 30, 1965	do	Bauld and Eischen	10:15 p.m.	10:30 a.m.	12:15	154
Do	DB-3	Robinson and Bieglow	3:45 a.m.	7:15 p.m.	15:30	154
Do	BB-1	Leahy and Romburg	7:15 p.m.	8:45 a.m.	13:30	154
Do	AB-21	Reynolds and Whitmore	4:00 p.m.	7:00 a.m.	15:00	154
Nov. 1, 1965	do	Herb and Ratz	5:30 p.m.	9:00 a.m.	15:50	154

[1] Ebert outlawed due to turning at 11:20 a. m.
[2] Relieved by Coyne at Bergen 16 hours.

Mr. GILBERT. The next example I wish to direct to your attention involves the Louisville & Nashville Railroad. This list shows the trains and duty time assignments on the main stem, second division of

the L. & N. between Louisville, Ky., and Nashville, Tenn., for the month of March 1966.

You will note that the hours of service law was violated on three of the assignments and that many assignments were runs of 15 hours or more. Also, all but one engineer on those runs had to work without the assistance of a locomotive helper (fireman). This meant that they were not able to trade off with other qualified enginemen during the long assignments. This particular point will be discussed later in my statement.

Another significant point is that most of the locomotives were made up of four or more diesel units. There are a liberal number of six- and seven-unit locomotives which engineers had to handle alone.

Mr. E. L. Howard, who prepared the list of L. & N. assignments, will appear before you as a witness and explain in detail the work-hour problems confronting crews on this particular division.

By observing the times on pages 23, 23a and 23b of my testimony, there are indications of three of 15 hours and 59 minutes; two of 16 hours, and three of hours that would constitute violations.

(The table referred to follows:)

Louisville & Nashville RR.—Engine crew assignments, main stem, 2d division (Louisville to Nashville)

[March 1966]

Date	Train	Engineer	Units	Hours	Miles	Fireman
1	X	Jenkins	4	9:50	193	
1	73	Howard	4	9:45	193	
3	X	White	5	12:25	193	
3	X	Feathers	4	11:30	193	
3	X	Holmes	1	13:35	64	
4	77	Westerfield	4	13:50	193	
4	79	Alexander	3	12:30	193	
4	71	Wallace	4	14:20	193	
5	77	Williams	4	12:45	193	
5	X	Cole	4	14:35	193	
5	X	Jenkins	1	15:59	100	
6	X	Pinkleton	4	14:25	193	Dorris.
6	73	Deener	4	12:40	193	
6	X	Holmes	2	15:25	64	
6	77	Daugherty	4	14:30	193	
6	X	Jackman	4	12:05	193	
7	X	Westerfield	4	12:50	189	
7	71	Alexander	4	12:20	193	
8	X	Pulley	2	17:45	100	
8	X	Howard	3	11:15	189	
8	71	Rexroat	4	10:15	189	
8	X	McFadden	4	11:40	193	
9	X	Pulley	1	10:35	64	
9	71	Collins	4	9:35	189	
9	X	Pipes	4	11:55	193	
9	79	Jackman	4	11:15	193	
9	X	Feathers	5	13:20	193	
9	X	Cole	3	15:30	330	
10	73	Brady	4	12:20	193	
10	71	Westerfield	7	11:20	189	
10	77	Fields	4	15:55	193	
10	X	Alexander	4	9:55	193	
11	X	Rexroat	5	15:25	189	
11	X	McFadden	4	12:15	193	
11	X	Deener	3	12:25	193	
12	X	Pulley	1	13:47	100	
12	X	Pipes	4	14:20	193	
12	X	Jackman	5	12:20	193	
12	X	Lewis	4	10:20	193	
12	X	Feathers	3	13:05	193	
13	73	Brady	4	14:50	193	
13	X	Westerfield	4	11:50	193	
13	X	White	3	16:35	193	
13	X	Whittaker	4	10:20	193	
14	X	Harness	3	14:35	193	
14	X	Pipes	4	9:20	193	
14	79	Deener	4	10:30	193	
14	X	White	2	13:18	64	
15	X	Jenkins	4	12:20	193	

Louisville & Nashville RR.—Engine crew assignments, main stem, 2d division (Louisville to Nashville)—Continued

[March 1966]

Date	Train	Engineer	Units	Hours	Miles	Fireman
15	X	Jackman	4	11:05	193	
15	X	Feathers	3	11:05	193	
15	77	Durrett	4	15:00	193	
16	73	Perdue	4	11:45	193	
16	X	Campbell	2	15:59	64	
16	X	Brady	4	15:35	193	
16	X	Whittaker	4	14:30	193	
16	X	Carter	3	14:30	189	
17	X	Fields	7	13:30	193	
17	X	Campbell	1	16:00	64	
17	X	Roddy	3	10:20	193	
17	77	Williams	4	15:30	193	
18	77	Jenkins	5	15:30	193	
18	71	Collins	4	11:30	189	
18	79	Jackman	5	13:15	193	
18	27	Campbell	1	12:50	64	
18	X	Pulley	1	12:10	100	
19	73	Carter	4	10:25	193	
19	X	Campbell	3	13:20	100	
19	X	Fields	5	15:25	193	
19	X	Alexander	4	13:30	193	
20	73	Grey	4	12:15	193	
20	X	Williams	4	15:59	193	
20	X	Deener	5	9:00	193	
20	X	Alexander	4	13:30	193	
21	73	Grey	4	12:15	193	
21	X	Feathers	4	10:00	193	
21	X	Tatum	3	14:28	193	
22	77	Brady	3	9:05	193	
22	79	Alexander	4	10:20	193	
22	X	Whittaker	4	10:10	193	
23	X	Williams	8	10:30	193	
23	X	Payne	6	15:05	193	
23	79	Roddy	4	10:40	193	
23	73	Jackson	4	10:40	193	
24	77	Liford	3	16:20	193	
24	X	Jackman	6	10:34	193	
24	X	Tucker	1	15:40	100	
24	73	Feathers	4	11:30	193	
25	77	Brady	3	10:45	193	
25	X	Anderson	2	15:55	100	
25	79	Alexander	4	13:20	193	
25	X	Campbell	5	12:40	100	
25	73	Hooper	4	11:35	193	
26	77	Williams	4	11:55	193	
26	79	Roddy	4	11:20	193	
27	73	Jenkins	4	12:00	193	
27	X	Cole	3	14:50	193	
27	X	Tucker	2	9:20	100	
27	X	Deener	4	11:45	193	
27	X	Lewis	4	16:00	193	
27	73	Feathers	4	10:20	193	
28	79	Alexander	4	13:30	193	
28	WK X	Campbell	1	15:45	100	
29	77	White	2	10:35	193	
29	79	Roddy	4	9:35	193	
29	X	Holmes	2	14:05	100	
30	77	Jenkins	5	10:40	193	
30	79	Jackman	4	9:30	193	
31	X	Westerfield	6	15:00	189	
31	X	Payne	4	10:05	193	

Mr. GILBERT. On the Sante Fe Railroad, we selected a particular job and listed its worktime for an entire month. The job is identified as "Etter Switcher" working in and out of Amarillo, Tex., switching various plants and facilities in that area, and operating as a local freight train.

Total miles run for the job is 143. Almost daily the time-on-duty is at or near the 16-hour limit. Only 1 day a week does the assignment work less than 14, 15, or 16 hours. That day is Saturday, as you will see in your review of the following report.

Again, you will note that half the engineers on the job had to work the long hours without the benefit of relief or help from a locomotive helper (fireman).

The list shows 5 with 15 hours and 59 minutes; and 18 with more than 15 hours; and only 6 of the jobs that were under 15; 1 under 12.

(The table referred to follows:)

Santa Fe Railroad, Plains Division, Amarillo, Tex., August 1965—Time worked on local and pool freight assignments

Day of month	Initial terminal	Final terminal	Total time on duty	Total miles run	Fireman on assignment		Name of engineer
					Yes	No	
1							
2	Amarillo	Amarillo	15:50	143		X	J. T. Luke.
3	do	do	15:55	143		X	Do.
4	do	do	15:45	143		X	Do.
5	do	do	15:55	143		X	Do.
6	do	do	15:59	143		X	Do.
7	do	do	12:15	143		X	Do.
8	do	do	Sunday				
9	do	do	14:55	143		X	C. E. Galloway.
10	do	do	14:45	143		X	J. B. McCroan.
11	do	do	15:59	143		X	L. P. Landes.
12	do	do	15:45	143		X	J. B. McCroan.
13	do	do	16:00	143		X	L. P. Landes.
14	do	do	13:45	143		X	H. R. Brown.
15	do	do	Sunday				
16	do	do	15:15	143		X	W. H. Weaver.
17	do	do	15:59	143	X		D. T. Curry.
18	do	do	15:59	143	X		W. H. Weaver.
19	do	do	15:45	143	X		T. H. Armstrong.
20	do	do	15:55	143	X		Do.
21	do	do	10:15	143	X		Do.
22	do	do	Sunday				
23	do	do	15:50	143	X		E. F. Green.
24	do	do	15:15	143	X		Do.
25	do	do	15:25	143	X		Do.
26	do	do	15:10	143	X		Do.
27	do	do	15:10	143	X		Do.
28	do	do	13:55	143	X		Do.
29	do	do	Sunday				
30	do	do	15:59	143		X	A. R. Mayberry.
31	do	do	15:10	143	X		Do.

Mr. GILBERT. The fourth example of long-hour assignments comes from the Union Pacific Railroad. The brotherhood's local chairman at Glenns Ferry, Idaho, Mr. W. Allison, lists the hours worked in pool freight service by engine crews operating between Glenns Ferry, Idaho, and Huntington, Oreg.

The first page of Mr. Allison's report shows assignments in excess of 12 hours that operated between Huntington, Oreg., and Glenns Ferry, Idaho, and from Pocatello, Idaho, to Glenns Ferry, from June 23, 1965. And there are 49 of them in this category.

He lists separately those runs that exceeded 9 hours and on which the engine crew consisted of only the engineer. It should be noted that the time period of June to September was one of good weather. A similar check in winter months would, I am sure, see the list of long-hour assignments greatly expanded.

The second and third pages of Mr. Allison's report show the on-duty times of assignments running from Glenns Ferry to Huntington. He covers the period of May 5, 1965, to November 10, 1965.

On these sheets there are 45 of those runs that are over 12 hours. That is on the second sheet. And the third one has 13 on which the employees were on duty over 12 hours.

(The tables referred to follow:)

Union Pacific RR.—Hours worked in pool freight service Huntington, Oreg., to Glenns Ferry, Idaho, and Pocatello, Idaho, to Glenns Ferry, Idaho

Number of hours worked in excess of 12 where a firemen (helper) is employed				Number of hours worked in excess of 9 where a firemen (helper) was not employed		
Date	Hours worked	Engineer	Firemen (helper)	Date	Engineer	Hours worked
June 23	12:55	Frazier	Bybee	July 17	Cartwright	9:15
June 24	13:00	Gaffner	Hess	July 20	Downey	13:45
Do	14:20	Tripple	Hofeldt	July 23	Cartwright	10:05
June 25	15:35	Marley	Erickson	Aug. 12	Uhl	13:15
Do	12:05	Grow	E. E. Johnson	Aug. 15	Rhodes	10:50
June 26	14:10	Shrum	Richards	Aug. 18	Burton	11:15
July 2	13:00	Egusquiza	Tucker	Aug. 24	Burbank	11:50
July 30	12:25	Powers	Johnson	Aug. 29	Morris	15:59
Do	12:00	Thomas	Flisher	Sept. 1	Paulson	11:15
Aug. 1	12:05	Grow	Thompson	Oct. 2	Laible	9:50
Do	14:30	Frazier	McGhee	Oct. 3	Cartwright	10:15
Aug. 3	12:10	Bloom	Arnold	do	Marley	12:23
Aug. 5	13:10	Burbank	Tomlinson	Oct. 4	Connelly	14:25
Aug. 8	12:35	Jones	Hukill	Oct. 5	Wright	12:35
Aug. 10	13:15	Parry	Perry	Oct. 6	Bain	16:00
Aug. 17	13:00	Shrum	Arnold	Oct. 7	Grow	10:30
Aug. 19	13:20	Laible	Arnold	Oct. 9	Powers	10:20
Aug. 20	13:10	Bloom	Sanders	Oct. 15	Marley	9:05
Aug. 26	13:50	Allison	Perry	Oct. 17	Nelson	11:05
Do	12:40	W. H. Anderson	J. Pierce	Oct. 18	Davis	10:00
Aug. 28	15:00	Grow	Goodman	Oct. 19	Hawk	10:05
Aug. 31	14:55	Grow	Goodman	Oct. 22	Davis	9:45
Sept. 2	14:30	Bloom	Sanders	Oct. 30	Transtrum	11:30
Oct. 3	12:30	Norton	Bybee	Nov. 2	Gaffner	9:15
Oct. 7	13:50	Connelly	Lohr			
Oct. 8	12:15	Bailey	Russell			
Oct. 9	13:40	Cox	Gaudion	Local beet service Glenns Ferry, Idaho, to Monidoka and return to Glenn Ferry, Idaho, no firemen (helper)		
Oct. 15	12:25	Rhodes	Colson			
Oct. 21	12:40	Uhl	Sanders			
Do	12:40	McAnulty	Pierson			
Oct. 23	12:45	Williams	Rebich	Oct. 23	Wright	13:30
Oct. 28	13:15	Rhods	Arnold	Oct. 24	Wright	11:30
Oct. 31	13:15	Joslyn	Arnold	Oct. 26	Shrum	12:00
Nov. 2	15:00	Robertson	McGhee	Oct. 27	Ryan	11:30
Nov. 3	14:45	Brubank	Flisher	Oct. 31	Harmon	10:55
Nov. 5	14:25	Starkey	C. E. Johnson			

Union Pacific RR.—Hours worked in pool freight service Glenns Ferry, Idaho, to Huntington, Oreg.

With firemen (helper)				Without firemen (helper)		
Date	Hours worked	Engineer	Firemen	Date	Engineer	Hours worked
May 5	14:05	Norton	Pierson	Aug. 9	Rhoads	10:25
May 7	12:30	Tripple	Hofeldt	Aug. 11	Uhl	15:55
May 10	14:40	Grow	Slogowski	do	Norton	10:45
May 11	15:10	Shrum	Tomlinson	Aug. 14	McGhee	14:45
May 21	12:50	Joslyn	Cullum	Aug. 19	Burbank	15:20
Do	12:45	McAnulty	Hoffer	do	Tripple	11
June 22	13:25	Frazier	Bybee	Aug. 21	Tripple	11:35
July 8	12	Burbank	Hukill	Aug. 22	Burbank	10:05
July 13	14:05	Norton	Rebich	Sept. 17	Cartwright	9
July 17	14:10	Allison	Perry	Sept. 18	Thompson	13:10
July 22	12:25	Smith	Fields	Sept. 21	Rhoads	11:15
July 23	13	Allison	Perry	Oct. 4	Grow	9:15
Do	13	Thompson	Tomlinson	Oct. 6	Eggers	12:30
July 28	13:55	Tripple	Richards	Oct. 9	Rhoads	9:20
July 29	14:10	Hukill	Whipple	Oct. 10	Rhoads	12:10
Aug. 3	12:10	Parry	McGhee	Oct. 20	Clark	9:55
Aug. 5	14:15	Tripple	Richards	Oct. 23	Rhoads	10:30
Aug. 12	12:35	Joslyn	Cullum	Oct. 21	Thompson	9:45
Aug. 13	12:55	Equsquiza	Tucker	Nov. 3	Rhoads	10:30
Do	13:45	Steen	Winters	Nov. 5	Steen	10:25
Aug. 17	13:35	Steen	Wise	Nov. 8	Rhoads	13:25

Aug. 19	15:30	Uhl	Tucker			
Aug. 20	14:30	Allison	Perry			
Aug. 23	14:35	Joslyn	Cullum			
Aug. 25	13:55	Carpenter	Pierson			
Aug. 29	13:25	Smith	Fields			
Sept. 3	12:25	Shrum	Cullum			
Sept. 5	12:05	Joslyn	Cullum			
Sept. 7	12:45	Shrum	Richards			
Sept. 9	13:25	R. D. Clark	L. L. Clark			
Sept. 13	15:30	Williams	Rebich			
Sept. 15	13:50	Cartwright	Woodworth			
Sept. 17	14:30	Tripple	Richards			
Sept. 19	13:30	Norton	Bybee			
Sept. 21	14:05	Smith	Woodworth			
Sept. 24	13:40	Parry	Hofeldt			
Sept. 30	12:30	Frazier	Arnold			
Oct. 1	14:15	Shrum	Hukill			
Do	12:20	McAnulty	Pierson			
Oct. 3	12:10	Joslyn	Hofeldt			
Oct. 4	14:20	do	do			
Oct. 8	12:50	Bloom	Sanders			
Oct. 11	14:30	Allison	Colson			
Oct. 19	13:20	Steen	Bertasso			
Oct. 22	12:10	Carpenter	Perry			
Oct. 24	15:45	Thompson	Harmon			
Nov. 4	12:05	Robertson	Flisher			
Nov. 10	14:10	Clark	Tomlinson			

Mr. GILBERT. As I stated earlier, these four carriers are offered as examples of what is occurring on railroads throughout the Nation. The practice of working operating employees abnormally long hours is not isolated to one railroad nor to one section of the country. The "sharpshooting" practices we noted on the L. & N. and Norfolk & Western also are not applicable to a few carriers alone. We find the same practices to be a problem national in scope.

Reducing the legal limit from 16 to 12 hours would not only provide an improved higher safety factor in the industry but would mean healthier and more humane working conditions for the employees involved.

Admittedly, there are some employees who fear a reduction in hours carries with it a reduction in take-home pay. In some cases this is true. However, in this respect the reduction in the hours of service cannot alter in any way the basic rates of pay. We have found that operating employees of all crafts are clamoring for the changes that will give them more realistic working hours and sufficient meaningful rest.

V. AGGREGATING

I turn now to another factor in the present law that demands change. This is the provision that permits the railroads to keep employees on duty 16 hours in the aggregate in any 24-hour period. This means that when an employee is engaged in service of this type, the carrier is not required to provide him with an off duty period of at least 8 consecutive hours until he has been on duty 16 hours in any 24-hour period.

Official statements of the Interstate Commerce Commission recognize the flaw in this practice because a carrier may require an employee to remain on duty in the aggregate for an indefinite period of time without an off-duty period of 8 consecutive hours and yet be in compliance with the law.

An example used by the ICC in explaining this part of the law reads like this:

> If the employee was on duty 4 hours, off duty 4 hours, on duty 4 hours, and so on, alternately, for a week or a month, he would not have been on duty 16 hours in any 24-hour period. Consequently, the carrier would not have been required to provide him with an off-duty period of at least 8 consecutive hours.

You can readily see that the greatest hardships are imposed upon operating employees under this section of the law. To test a specific instance, for the purpose of determining whether the law has been violated, one may select any time of the day or night and determine whether in the prior 24 hours the employee has been on duty an aggregate or total of more than 16 hours.

The physical punishment to which a man's mind and body is subjected to in this type of work-hour limitation is not in any respect conducive to railroad safety or the health of the individual involved.

So that you will better understand this provision of the law, let me cite a second example.

Consider a 24-hour period, and assume that in the first 8 hours, an engineman is continuously on duty. He is released for 4 hours, then recalled for 7 hours. By this time, after 19 hours, he would have worked an aggregate of 15 hours and would have been off duty 4 hours.

If he is now released from duty for as much as 5 hours, the 24-hour period is completed; the law has not been violated; the man has worked a total of 15 hours; he has had one rest period of 4 hours and another rest period of 5 hours, and yet he can once again be called to duty without violating the law.

Thus, it is possible, by using work periods of 7 to 8 hours and releasing men for periods of 4 to 5 hours, to work a man from New Year's Day to New Year's Day and never once allow him a normal period for rest and recuperation.

Moreover the rest period of 4 and 5 hours is not sufficient enough to permit a man to go to and from his home, eat and gain any meaningful amount of restful sleep.

If the aggregate number of hours that operating employees may work in any 24-hour period is limited to 12 hours, as we support in the proposed amendments, then it will no longer be possible to deprive an employee of the right to have at least 8 consecutive hours off duty in each 24-hour period.

The proposed change is no more than a reasonable condition for operating employees faced with the speed and hazards of modern-day railroading to acquire the rest and recuperation that will make them more efficient, safer, and healthier workers. We must remember that the railroad industry—both the employer and employee—must provide the highest degree of safety possible in its service to the public. This is not possible for the employee when he is near exhaustion for lack of proper rest.

VI. ENGINEERS WORKING ALONE

Another proposed change in the law would limit a locomotive engineer to 9 hours of continuous duty when the engineer is the only member of the engine crew.

I am sure the Congress is well aware of the fact that a certain number of locomotives on U.S. railroads are operated with only an engineer as a member of the engine crew. Missing from about half the crews in freight and yard service are locomotive helpers (firemen). They were forced off their jobs by a compulsory arbitration ruling issued by an arbitration board created by Congress in 1963.

I want to make it clear at this point that I am not before you to argue the merits of the diesel fireman issue. At this very time the brotherhood is working diligently in several ways to bring this long dispute to a conclusion. It is not my purpose to involve this subcommittee, these hearings or, indeed, the legislation amending the hours of service law in the railroad manning issue.

However, I submit that neither the Congress, railroad industry, nor the public can ignore the fact that powerful locomotives are being operated by only one man in an engine crew and that many of these one-man operation assignments are doubly hazardous because of the long hours which the engineer is forced to work without help or relief.

You will recall that I have already presented typical examples of assignments and runs over certain districts. With the exception of New York State where all the jobs were staffed with an engineer and locomotive helper (fireman) there are clear examples of excessive hours imposed on engineers forced to work alone.

I noted the L. & N.'s Main Stem Second Division where only one job carried a fireman during last March. Three of the assignments

actually violated the Hours of Service law, with engineers working alone.

On the Santa Fe, half the assignments of the switching job I used for illustration purposes were operated without a fireman, and about the same ratio applies to the Union Pacific assignments I illustrated.

It is fair to state that the same conditions exist in all States where "safe crew laws" are not on the books.

What does it mean to an engineer to have to operate alone, without his helper (fireman)? Basically, it means that he has to run blind on one side of his locomotive most of the day or night, whatever the case may be. Many times he cannot take care of the basic human needs of eating, relaxing, personal relief, and so forth. He cannot leave his post while the locomotive is moving because he cannot turn over the controls to another employee. There is no other qualified employee in the cab with whom he can entrust the controls.

Much of the assignments involving long hours of service involve what is termed "local freight." This refers to freight trains which do a large amount of switching en route from one terminal to the next. A fast, time freight train would not normally perform en route switching.

It is on local freight assignments that the engineer is completely alone in the cab during switching operations. By that I mean no one, not even the head brakeman, is riding in the cab to help maintain a lookout. Thus, the local freight engineer is performing switching work for 13 to 16 hours and at times beyond the legal limit with absolutely no one to even warn him of danger on his blind side.

I am sure you have heard the railroad companies' slogan of "why should there be three men in the cab of a freight locomotive when there are only two in the cab of passenger train locomotives?" They capitalize on the fact that the engineer, fireman, and head brakeman ride in the cab of a freight train while it is en route, and mislead the public to believe that even without a fireman the engineer would always have someone with him.

This is not true. During a switching movement, the head brakeman leaves the cab to participate in the switching move on the ground. In the cab is the engineer and the fireman. But with about half the firemen gone from freight locomotives, much of the en route switching is being done by the engineer operating alone and therefore blind on one side of his locomotive and train.

The severe handicap imposed on these engineers has taken its toll, both in terms of the health of engineers and the safety record of the railroads.

Frankly, there is no statistical study available to reveal the increased strain and pressure on an engineer forced to work alone. I am aware that in this day and age of scientific study everything has to have a statistical equivalent in order to be understood. This particular subject does not.

I would, however, like to read you a short letter from an engineer's widow which says more than I can say and much more than any statistical table will ever reveal about this problem. This is the letter I received from Mrs. Thelma Measles of Mineola, Tex., dated April 10, 1966. She wrote:

DEAR MR. GILBERT: My husband, William Measles, died on December 7, 1965 of injuries he received in a one-car accident on December 5, 1965, while return-

ing home from work as an engineer on a 11 p.m. to 7 a.m. switch engine in Dallas, Texas. He lacked 2 months and 13 days of being of retirement age.

His very words to me on his arrival home on the morning of December 4 were—"It's just plain hell trying to work those jobs alone at night. You are just groping in the dark." He was completely exhausted and I firmly believe he would be alive today had he had a fireman to assist him.

It is my opinion to force a man of his age, or a man of any age for that matter, to work those jobs alone is nothing but sheer brutality and as for the officials who so gallantly took over the jobs in freight service during your recent strike—each should be forced to work one of the yard jobs, then perhaps they would understand more fully the cause your men are fighting for.

Sincerely,

/s/ Mrs. Thelma Measles.

Another barometer of safety problems stemming from the excessive work hours required of operating employees as well as the undermanning now in evidence, are the official train accident statistics of the Interstate Commerce Commission.

The accident picture on the Nation's railroads in one word is in a "frightening" mess. Just a few months ago the Subcommittee on Government Activities of the House Committee on Government Operations studied a phase of the problem and reported:

> Month after month, with tragic monotony, between 15 and 20 workers are killed on the Nation's railroads. Fifteen hundred more on an average are injured. Every year, over 1,000 people are killed in railroad grade-crossing accidents. The trend in these statistics continues relentlessly resulting not only in a tragic loss of life, but also a huge financial burden on the national economy. As late as 1962, accidents caused a staggering loss to the railroads of $150 million in personal injury and property damages.

Let me expand a little on the statistics the subcommittee reported. From 1963 to 1965 there was an increase of 25.6 percent in train accidents. These are accidents defined by the ICC as causing more than $750 damage to railroad property or equipment whether or not a casualty was involved. Within this group of train accidents, and for the same 1963 to 1965 period, the number of collisions involving railroad equipment—other than at grade crossings—was up more than 22 percent. Collisions are a type of accident more likely to result from undermanned crews or overworked employees.

These particular years are important because 1963 was the last full year that the railroads operated with the standard number of men in operating crews. The year 1965 was the first full year recorded without standard crews on many jobs. At the same time, 1965 saw the employment of railroad operating personnel hit its lowest point. It has since gone lower.

What it all means is that railroads are operating with undermanned crews, and pushing remaining employees to the limit of their endurance in work performed and hours worked, resulting in a continual and serious deterioration of railroad safety.

There is no single or simple answer to the problem of railroad safety. There are many causes of accidents and just as many cures. One such cure, so to speak, is providing operating employees with sufficient rest while preventing excessive work hours so that they are at their prime while on the job.

It also follows that if a work-hour limit is fixed for locomotive engineers and locomotive helpers (firemen) when they are working together, a work-hour limit of fewer hours should be set for locomotive engineers who are required to work alone.

The proposed legislation provides for this necessary safety safeguard in the section which limits locomotive engineers working alone to 9 hours of continuous onduty time.

VII. OTHER PROVISIONS OF BILL

1. Wreck trains

Under the present law, crews of relief or wreck trains remain as such from the time they leave their terminal until their return after the tracks are cleared. They may be required to remain on duty, therefore, for an indefinite period of time.

The proposed amendments recognize the practicalities involved when emergency circumstances necessitate the use of a relief or wreck train. Under the proposed bill, crews of wreck or relief trains may be permitted to remain on duty for longer than 12 hours when necessary to clear the tracks at the scene of a wreck. To prevent abuses of this practical relaxation of the time prohibition, however, this subsection provides that the crews may be permitted to remain on duty for such longer time only until the track is cleared sufficiently to permit the movement of trains.

2. Time on duty

Section 1(b)(3) of the bill applies to all employees covered by the bill and concerns time on duty and brief rest periods. This provision has no counterpart in the present law. In computing time on duty, the employee is considered to be continuously on duty from the time he reports until he is finally released. Only interim periods available for rest for more than 3 hours shall be regarded as time off duty. This provision is necessary to clarify the recurring question of whether particular brief and not final releases from duty break the continuity of service. There have been varying holdings on the question by the courts. As the situation now stands whether or not a given release breaks the continuity of service is a question to be determined by the facts and circumstances surrounding each case; and there is no assurance that different courts dealing with similar circumstances would arrive at the same conclusion.

The period of 3 hours seems a reasonable one and reflects the actual practice of a number of carriers who have arbitrarily fixed 3 hours as the length of time necessary to break continuity of service on their railroads.

3. Sections dealing with telegraphers, dispatchers, etc.

I have directed most of my statement toward the problems affecting railroad operating crafts including engineers, helpers (firemen), brakemen, conductors, and switchmen, with particular attention to the engine service employees. This is so because my responsibility is to the engine service crafts, and of course, the Brotherhood of Locomotive Firemen & Enginemen is the collective bargaining agent for helpers (firemen) and many engineers.

There are other important amendments offered which concern the hours of service of train dispatchers, telegraphers, telephoners, agent-telegraphers, agent-telephoners, block operation operators, telegrapher towermen, and others.

I shall not get into this area of the bill because I understand there will be a witness representing these groups of employees who is better qualified to inform you on the need for the proposed changes.

The Brotherhood of Locomotive Firemen & Enginemen supports the changes because they too concern the broad principle of improved railroad safety.

4. Fines for violations

Section 4(a) of the bill would increase the penalty for each and every violation to $500. The original hours of service law provided a maximum penalty of not more than $500 for each violation. Because of the small penalties being assessed by some courts, the Congress, on May 4, 1916, amended the law to provide a minimum penalty of $100 and maximum penalty of $500 for each violation. In 1957, the Interstate Commerce Commission asked Congress to authorize stiffer fines for all safety violations; the ICC proposed $500 as a minimum, but Congress decided on a minimum of $200. This change included hours of service violations. Experience has shown that all too often the present law with its comparatively insignificant penalty is violated for operating convenience. The penalty should be increased so as to bring it in line with present day values and thus restore its deterrent effect.

VIII. ICC SUPPORTS AMENDMENTS

I am sure that a spokesman for the Interstate Commerce Commission will appear before your committee to state the Commission's position on the amendments proposed in this legislation. However, I would like to include in my statement a brief summary of the position already taken by the Commission's legislative committee supporting this legislation.

I refer to the letter addressed to Senator Warren G. Magnuson, chairman of the Senate Committee on Commerce by Commissioner Charles A. Webb, Chairman of the ICC's Committee on Legislation, concerning Senate bill 2180, which is a similar bill to the one we are discussing here today.

Mr. Webb's letter was dated October 22, 1965, and in summary he said:

1. Proposed changes providing that rest of 3 hours or more will not be considered time on duty are in accordance with the generally prevailing practice.
2. Section 2, which reduces the maximum lawful continuous time on duty and provides that each employee shall have 8 consecutive hours off duty in the preceding 24, would help promote railroad safety.
3. Section 2(b) would reconcile differences on the counting or not counting of all time on duty, whether the service came under the law or not.
4. Limiting on-duty time of wreck train and relief train employees would also promote railroad safety.
5. Section 3 is a desirable change in extending the scope of the law to include employees dispatching or receiving train orders by radio and other electronic devices.
6. Commission has favored increased penalties of hours of service violations because present penalty is inadequate.
7. Commission noted that truckdrivers are limited to 10 hours on duty when working alone and the need for alertness by an engineer is just as important as for a truckdriver.
8. The ICC Legislative Committee favors enactment of the legislation with certain minor qualifications.

IX. OPPONENTS AND THEIR ARGUMENTS

I found it interesting to go back through old publications of the brotherhood to find out what problems the leaders of the B.L.F. & E.

and other organizations faced in 1907, when the Hours of Service Act was passed. Surprisingly enough the same opposition was raised in 1907 that is being raised today.

Railroad companies in those days started a campaign among their employees urging them to write their Congressmen to oppose any limitation of work hours. The companies argued that if the men were limited to 16 hours and not permitted to work 24 they would lose much in earnings. Nothing was said about loss of life resulting from the long hours.

I must admit that my research indicated that a small number of employees did protest the passage of the law at the urging of the employers.

Today a similar situation is true. Railroad officials are telling our people not to support changes in the law, alleging they will lose earnings. Some of the men have fallen for this 60-year old tale of the railroads and have been misguided into voicing opposition to a bill which is directly related to their own well-being.

I am happy to state, however, that only a very few voices are heard in opposition, and I guess we have to expect that. Railroad operating employees throughout the country want these changes and many of them told you so.

Before closing I would like to address myself to a letter circulated among Congressmen by Mr. Tom Pickett, an official of the Association of American Railroads. Mr. Pickett stated the opposition of the AAR to the bill and I would like to examine his reasons and motives.

First he took the position that hours of service and railroad safety are not at all related. I cannot believe anyone in railroading is so uninformed that they do not know that long, tedious work hours are mankilling hours; that human efficiency declines rapidly after 8, 10, or 12 hours on duty; that alertness is the prime ingredient of a safe trip either in the yard or over the road. The simplest answer to Mr. Pickett's surprising statement are accident statistics recorded by the ICC which are really records supplied by the railroad industry itself.

Second in Mr. Pickett's argument is that the bill is a subterfuge designed to put more men to work and thus enable the railroad unions to collect more dues. He also adds that the support of the bill by my organization is an effort to restore some of the jobs lost under compulsory arbitration.

These arguments are the smokescreen raised by the railroad companies to avoid the main issue of long hours and deteriorating safety.

Frankly, I see nothing wrong in putting men to work and collecting union dues from them, if we represent them. However, we put men to work through collective bargaining agreements and do not rely on railroad safety legislation to do the job. Whether the proposed amendments would increase employment to any great degree is a situation controlled by the railroad companies. How they reschedule runs and assignments will determine the number of employees needed.

Insofar as the accusation that we are trying to use the bill to unwind some of the problems thrust on us by compulsory arbitration, I think the record of recent months is clear on that point. We are fighting daily to get the railroad companies to the bargaining table where the manning issue will be settled. Mr. Pickett's statement in

this respect is deliberately abusive of my organization and irrelevant to the real issue involved in this legislation.

Mr. Pickett next claims that railroad employees work reasonable hours. Those on long hour jobs, he says, are there because the companies need to schedule such jobs to meet the demands of the public. True, many railroad workers work reasonable hours, but enough do not, and therefore we have the problem of long hours and deteriorating safety.

There should be no insurmountable problems for the industry to schedule runs within the reasonable limit of 12 hours, which is 4 hours beyond the normal workday. However, unless the railroads are required to conform to a 12-hour limit they will never voluntarily reduce the long-hour jobs.

Another charge by Pickett is that reducing the work-hour limit would prevent employees from working overtime at premium rates. Mr. Pickett knows that most of the long-hour jobs occur in road service where overtime is based on a speed and miles ratio. For example—a crew on a 200-mile freight run would not begin earning overtime rates until after 16 hours because their overtime threshold is figured on the basis of 200 miles divided by 12½ miles per hour or 16 hours, the legal work limit.

There may be some few employees who will suffer a loss in earnings, but the gain made in more humane work hours, meaningful rest periods and leisure time would more than compensate them for any loss.

Operating employees generally work under monthly mileage limitations such as 3,800 miles per month in freight service and 4,800 miles per month in passenger service. Thus, their monthly earnings would be relatively unchanged since they would work the same number of miles per month.

I find it amusing whenever the railroad industry voices concern about the earnings of its employees. When such is the case there have to be ulterior motives hidden in their assumed concern.

In his fifth point, Mr. Pickett raises the threat that railroad employees will be kept at away-from-home terminals for longer priods than at present if the law is passed. This is pure coercion on his part to scare some of our people into opposing the bill. The railroads can schedule their trains to provide both service to the public and decent work hours for the men who man the trains. Reducing the work-hour limit will in many cases reduce the time a crew is away from home. But, again, I say that unless the railroads are forced to make the changes, they will continue the same inhuman conditions that have been in effect for more than 60 years.

I do not believe the railroad industry has any substantial reason for opposing this progressive legislation. The few points raised by Mr. Pickett are strictly self-interest items for the railroad industry and are in no way responsive to the need for better service to the public and, of utmost importance, improve railroad safety.

Not only do the railroads lack any significant argument against the proposed changes, it should also be noted that the railroad companies accepted the 12-hour work limit when it was proposed as part of the report of the Presidential Railroad Commission in February of 1963. The Commission recognized the problem inherent in the unusually long hours required of railroad operating employees and recommended that the 16-hour limit be reduced to 12. The Associa-

tion of American Railroads promptly accepted the Commission's report.

X. CONCLUSION

In 1907, the subject of hours of service of railroad operating employees was important enough to gain mention in the state of the Union message of President Theodore Roosevelt. The President did not say much but what he did say was helpful. His support of the legislation was stated in this manner:

> I call your attention to the need of passing a bill limiting the number of hours of employment of railroad employees. The measure is a very moderate one and I can conceive of no serious objection to it.

The statement of Theodore Roosevelt could well describe the legislation before you in 1966—nearly 60 years later—in much the same way. It is moderate and there can be no really serious objections to it.

The basic issues of reducing the work-hour limit, providing 8 hours' consecutive rest in 24, widening the law's scope for dispatchers, telegraphers, et cetera, and establishing a meaningful fine to deter violations amount to nothing more than a modernization and tightening up of an existing statute.

Whatever slight impact it may have on the annual earnings of a few employees is more than offset by gains to be realized in better working hours, adequate rest periods, and safer, more healthful working conditions.

The railroad industry will not suffer. Little, if any, additional cost is involved for the industry. There will be a matter of better scheduling confronting the industry, but in the long run we can expect this point to produce more efficient service because employees will be better rested and more able to perform the work required of them in a safe and efficient manner.

The main force and purpose of these amendments address themselves quite properly to the Government's interest and responsibility in legislating in the public interest and for the public safety.

The Hours of Service Act of 1907, and the amendments now proposed are properly concerned with safety. The law is not designed to permit excessive overtime, nor is it a law giving free license to the railroad industry to schedule work on a 16-hour basis rather than a 10-, 11-, or 12-hour basis. It is a law to protect the public by limiting railroad operating employees to a reasonable length of service time within 24 hours.

The record is clear that in this day and age of long, fast trains, the approaching era of superspeed rail passenger service, that the present law is not sufficient to deal with hazards and work problems of the 1960's. The law of 1907 was adequate when one steam locomotive hauled 30 cars and moved at average speeds of 10 miles per hour or less. Today the pressure and responsibility of high-speed railroad service demands a realistic reappraisal of safety legislation, especially of laws passed at the turn of the century which dealt with conditions that have long since vanished.

Therefore I strongly urge your subcommittee, the full Committee on Interstate and Foreign Commerce and the House of Representatives to approve this moderate legislation which will result in safer, more

efficient railroads and at the same time afford railroad operating employees reasonable work limits.

Before closing I would like to state that the Brotherhood of Locomotive Firemen & Enginemen endorses and supports H.R. 5196 introduced by the Honorable Harley O. Staggers as another amendment to the existing hours of service law.

It is my understanding that the purpose of H.R. 5196 is to include railroad signalmen under the provisions of the law. I heartily agree, and I am sure you will be fully apprised of such need by the president of the Brotherhood of Railroad Signalmen.

I would like to thank you for permitting me to appear before you today to express my views and sentiments of the many railroad workers who desire the changes embodied in H.R. 8476 and the 83 like bills now before the House of Representatives.

Mr. FREIDEL. I want to thank you, Mr. Gilbert, for your enlightening statement. I was glad to note you included safety as one of the principal things needed in this legislation.

One thing I did not hear, and I would like to have it cleared up, how do the hours work? Does it work by hours or does it work by mileage?

Mr. GILBERT. In what respect, Congressman?

Mr. FRIEDEL. Well, I was told that if a train runs from here to Baltimore and back, that is only 100 miles, and that would considered 8 hours, one way, 8 hours another way.

Mr. GILBERT. Well, the time for which the employees receive pay operate miles or hours, whichever provides the greater compensation. When the number of miles run exceed the number of hours divided by 12—the number of miles divided by 12½—then the employee goes on overtime. But, as cited in the example on runs of 200 miles, the employee cannot get overtime until he has violated the hours of service.

Mr. FRIEDEL. I want to follow that.

If it runs from 200 miles, like from Washington New York—I do not know whether it takes 5 hours, 8 hours, or what—what would an engineer be paid? Sixteen hours?

Mr. GILBERT. He would be paid on a mileage basis. He would be operating on a mileage basis, and he would be paid so much per mile for the miles run.

Mr. FRIEDEL. What would it be from here to New York?

Mr. GILBERT. Whatever the miles are, times, I think 232.

Mr. FRIEDEL. For the 200 miles, what would it be?

Mr. GILBERT. For the 200 miles, it would be 200 miles times the miles per hour. I think—wait, I have not accurately stated that to you, Congressman.

He would be paid 200 miles times the rate per mile specified in the schedule for the service he was performing, or, in other words, if it is 200 miles, it would be equivalent to 2 basic days' pay. But this is another sort of a catch propaganda that we run into sometimes when we are talking about the miles or hours. I do not mean that you are raising it, for that point, Congressman, but the fact of the matter is when we are paid on a mileage basis, if it is 160 miles we run, we get 160 times the rate per mile.

Mr. FRIEDEL. And, roughly, what would that be?

Mr. GILBERT. Well, it varies with the type of service. The type of service in passenger is less than through freight and the local

freight is more, and it also varies by virtue of the weight on drivers, by the locomotives used. Unless I had a table exactly in front of me and you knew the number of units in the consist, I could not provide that.

But it is around $25 per hundred or so. It varies above and below that.

Mr. FRIEDEL. All through your testimony you mentioned hours.

Mr. GILBERT. Yes, sir.

Mr. FRIEDEL. What I am trying to clear up in my mind, are these actually hours that there was any engine driving, or was this computed on mileage which might only take him 6 hours or 8 hours and get paid for 16? That is what I want to know.

Mr. GILBERT. Oh, no, these were actually computed on the time the man was in service. These tables that I have provided——

Mr. FRIEDEL. Not mileage, at all?

Mr. GILBERT. No; they all are comprised of actual service on the locomotive. They are not computed times, they are work times. In other words, the men actually perform the service over this period of time.

Mr. FRIEDEL. All right now. When you speak of service would that be other than a movement of the train?

Mr. GILBERT. Well, your time begins when you are required to report for duty and it ends when you are relieved, or your engine is placed on the designated track. All the time elapsing between these two specified periods constitute your time on duty.

In other words, and I am sure some of these boys in explaining some of these tables I have mentioned will tell you about the time they go on duty at Louisville and the time they are relieved at Nashville, and vice versa, and show all that takes place in the intervening period of time.

Mr. FRIEDEL. The purpose of the question is to clear the record up now so that we can understand what it is.

Mr. GILBERT. Yes, sir.

Mr. FRIEDEL. I have a couple of other questions here.

On page 14, in your statement you have an extensive discussion of an employee's rest period being often not a full rest period at all. You state that deadheading time is considered rest time within the 8 or 10 hours required by the hours of service law and you state that such may not be the—may not be applicable to airline employees. Does this statement include both the rest time and the deadhead time? Is that included together?

Mr. GILBERT. Yes. In other words, if an employee is required to deadhead to an outlying point to go on duty, he may be called at his home terminal at a time when his rest period of 8 hours might start, and he would get to the objective terminal where he is to go to work. He may use 6 hours of that time in deadheading, and he would have 2 hours after he arrived at the point he was going on duty. All of the time spent would be considered under the present hours of service as rest time, even though 6 hours of it were spent in going to the point where he is to go on duty.

Mr. FRIEDEL. I just wanted to clear the record up on that.

Would you indicate where in the bill deadheading time is excluded from rest time, or where deadheading time is included in time on duty? Is the exclusion included in section 2(a)(2) as modified by

section 1(b)(3), or is the inclusion as time on duty included in section 2(b)?

Mr. GILBERT. You are talking now of the proposed legislation?

Mr. FRIEDEL. Yes.

Mr. GILBERT. If I understand the question right, would I indicate where in the bill deadheading time is excluded from rest time? That is the existing bill.

Section 2 reads that it shall be unlawful for any common carrier, its officers or agents subject to this act, to require or permit any employee subject to this act to be or remain on duty—now, this has been interpreted through the years, on duty, as to be actually engaged in the operation of the train. As a result of that, when he is deadheading, he is excluded from this provision, on duty, even though he is often under the pay of the carrier and is not resting, you can be assured of that. But it is in the interpretation of on duty in the present bill that it is excluded.

Mr. FRIEDEL. But now you would have deadheading included in rest periods?

Mr. GILBERT. It has been by interpretation, that deadheading is not considered on duty, so therefore, they count it in the rest time.

Mr. FRIEDEL. That is the intention of your bill to include that?

Mr. GILBERT. It is to correct that, whereby in the proposed amendments, this is to be corrected by including deadheading time as on duty. In other words, it cannot be used to take away from the rest time that the bill contemplates the employee should have.

Mr. FRIEDEL. Mr. Cunningham?

Mr. CUNNINGHAM. Mr. Gilbert, your testimony was very comprehensive. I do not think that any of us has ever worked on a railroad or been a part of any of the operations of a railroad. Maybe it would have been better if we had started out with a seminar so that you could describe in more detail the actual operation. So maybe some of our questions are less intelligent than they should be, and I hope you will bear with us. I have a few things I would like to ask. They are in no way hostile, but just to bring out information.

Now, these employees, sir, they do not work 16 hours every day, do they?

Mr. GILBERT. Not all of them; no, sir.

Mr. CUNNINGHAM. How many of them?

Mr. GILBERT. There are many of them—well, they vary from railroad to railroad. I think as some——

Mr. CUNNINGHAM. You mean there are some employees who work 16 hours a day, we will say, 5 or 6 days a week?

Mr. GILBERT. Yes, sir, there are, and there will be some who will testify here who will tell you about it, too, because they are on those long-hour jobs that are scheduled to work those hours, they cannot complete the work that is programed for them in a less period of time.

Mr. CUNNINGHAM. Do they make considerable extra money in so doing?

Mr. GILBERT. Well, they make the money as contemplated by the rules for the payment of overtime or excessive miles if they do not get any overtime.

Mr. CUNNINGHAM. Well, it is my understanding that most of the employees might work 16 hours or cover so many miles, and they may

do this in a matter of a couple of days, and then they are off a couple of days. Many of them have other jobs and they like this arrangement.

Mr. GILBERT. Well, there may be some as a result of the mileage regulations that when they reach the mileage regulations governing the worktime, they would ordinarily be relieved from service.

Mr. CUNNINGHAM. Are most of these men that you have been speaking about on local freight service rather than high-speed transcontinental trains?

Mr. GILBERT. Well, the long-hour jobs may be predominantly in the local freight service or the switch runs or the mine runs, or what-have-you, but there are some types of service on the long mileage divisions that would, if they are required to do station switching and other work in connection with doing the work or performing the service that railroads should be performing, they would run into long hours on long divisions.

Mr. CUNNINGHAM. From what I know about it, it seems to me that the more miles they run, the longer time they have off, and they like to get their mileage over with, say, in a couple of days of 16-hour runs, and then have a couple of days off to take other jobs.

Mr. GILBERT. Well, I doubt whether they wo ld be interested in other jobs after they get this time in on the railroads. But there are some jobs on some runs that are such as you state. We recognize those facts as facts.

Mr. CUNNINGHAM. Well, if 16 hours 5 or 6 days a week is bad, certainly 12 hours would be, too.

Mr. GILBERT. Well, it would be helpful to that extent. I think there is a period beyond which your energy begins to sag, and I think it would sag a little more about 14 hours than it would around 12, and so on. But at least we are trying to be humane about our request to eliminate the abuses that have grown up in the application of the existing law by the manner in which the carriers impose this as a work requirement on the employees. It is somewhat aggravated at the present moment by virtue of the fact that they are short of employees and they require them to work in excess, and you almost have to be ready for entrance into the hospital to be relieved. And if you do undertake to do it, you have to, in some instances, furnish a doctor's report that you are actually incapacitated.

Mr. CUNNINGHAM. Now, I removed this from your statement, but you have a list here, Union Pacific Railroad, hours worked in pool freight service, Huntington, Oreg., to Glenns Ferry, Idaho, and Pocatello, Idaho, to Glenns Ferry, Idaho, and you list a variety of engineers and firemen, all by different names. Would it be possible for you or any of the witnesses who are going to testify to give us an equal number of trips using the same man's name and the hours that he worked? Because I think you could pick out one man here and one man there, but I would like to know for my information how many hours John Jones worked, we will say, over a period of months and how much time he had off.

Mr. GILBERT. I think that could possibly be obtained. We do not have Mr. Allison here as a witness, but I am sure that that information is available, because again——

Mr. CUNNINGHAM. I wish it could be supplied, it would be quite helpful, I think.

Mr. GILBERT. Do you want it for all of the men listed, what constituted a——

Mr. CUNNINGHAM. I do not care if it would be these particular men. That would be all right, or any other group of men. It could clear up in my mind, and I think the committee's, that we would take, what you say, Fireman Pierce—I would like to know how many hours he actually worked in, say, a month's period and how much rest time he had. And if it could be supplied, either by you or other witnesses, it would be helpful to me.

Mr. GILBERT. We do have some witnesses that follow me that can supply that type of information for the men you refer to. Now, if that is not sufficient, we shall be happy to get whatever you desire for clarification or edification.

Mr. CUNNINGHAM. Just one more thing, because I think the chairman wants to conclude soon and Mr. Pickle, I am sure, wants to ask some questions. But in this matter of safety, sir, you say the industry is plagued with a horrible safety record. What figures can you or the ICC provide this committee as to what accidents were directly attributable to the hours of service?

Mr. GILBERT. Well, the only statistics, I believe, that the ICC would be able to furnish you would be that which has been furnished by the railroads. We have found that that is far from complete, because many of the accidents that are reported to us—when I say to us, I mean to us as an organization—we have found that on investigation, they have not been reported to the ICC even as required by law. So the statistics they can provide are not complete.

Mr. CUNNINGHAM. You understand that many things cause accidents?

Mr. GILBERT. Yes, sir.

Mr. CUNNINGHAM. We are talking about hours of service. And I think we have to get factual information, and somebody ought to be able to determine actually how many of these accidents are caused by what you believe to be excessive hours of work, men going to sleep, fatigue, and so on.

Mr. GILBERT. Unfortunately, Congressman Cunningham, there are just a few of the accidents that are reported to the ICC that are actually investigated and would contain in their report the cause of the accident. I think it is something like 3 percent of those reported are actually investigated to the point that they would develop the information you now seek.

Mr. CUNNINGHAM. Are you saying that the ICC only investigates those that are reported?

Mr. GILBERT. That is right, and only a small percentage of those reported.

Mr. CUNNINGHAM. What about the big wrecks that are in the newspapers, on the television and the radio?

Mr. GILBERT. Oh, if somebody is killed or something real serious, they do have investigations made. But I am talking about the type that is reported as a requirement of the law. Only a small percentage, I believe it is 3 percent or less, are actually investigated, and only those that are actually investigated would contain the type of information you now seek from the ICC as to the cause.

Mr. CUNNINGHAM. Well, if it is only 3 percent, and you say it is a horrible safety record, that does not quite jibe.

Mr. GILBERT. I am talking about those that are investigated.

Mr. CUNNINGHAM. You say only 3 percent?

Mr. GILBERT. I think it is around 3 percent. But that does not represent the number of accidents that happen. They are far in excess of 3 percent. The 3 percent is only—about 3 percent is the number of accidents that are actually reported to the ICC that they do investigate and render a report on.

Now, the number of accidents reported as compared to the number reported in former years is the basis of which I make my statement of a horrible mess and more accidents actually taking place in addition to the increased number that are being reported. We found from the reports that come to us that one group reported to us, we found that 58 percent of them had not been reported to the Interstate Commerce Commission.

Mr. CUNNINGHAM. Well, my only point is that when you use the phrase "horrible safety record," we really do not have statistics on that, do we?

Mr. GILBERT. We do not have the type you are talking about. We have the people with no arms and no legs and the dead ones and the injured ones that form the basis on which I am making my statement.

Mr. CUNNINGHAM. But these people that you are talking about, have you investigated those to find out whether that is due to fatigue, going to sleep, working excessive hours, or what?

Mr. GILBERT. We have no policing powers. They are reported to us and they are not obligated to tell us anything. The Interstate Commerce Commission has some authority to go in and investigate and require the people to give them statements. We do not have any. We do not have access to obtaining that.

In fact, at one time, we had a little trouble even getting our representatives into the investigations the ICC was holding in order that we could be a party to listening to what they had to say. So our source of information is not as open in obtaining as it is to the ICC.

Mr. CUNNINGHAM. But there ought to be something that we can go into. I happen to have been in safety work profession for many years, and I know that you cannot do much about preventing accidents if you do not know the cause.

Mr. GILBERT. I agree with you wholeheartedly. More policing should be done, not only of the accidents that are reported and to find out what is causing them, but a little more policing should be done as to why they are not reporting them.

Mr. CUNNINGHAM. But you cannot police them unless you know the cause of the accidents.

Mr. GILBERT. That is why I say I do not disagree with your objective about not only getting what is causing them, but when you only actually investigate about 3 percent of those that are reported and then we find the large number not reported, then your objective is going to fall pretty flat before we get off the ground because of the unavailability of that type of information.

Mr. CUNNINGHAM. Thank you, sir. And you understand my questions were only to bring out information which we need to study this legislation.

Mr. GILBERT. Sure.

Mr. CUNNINGHAM. I thank you very much.

Mr. FRIEDEL. I want to make a brief statement. We have Congressman Olsen here. The committee has to come back at 2 o'clock

and we can hear you then, or if you would not take long now, we can hear you right now.

Mr. OLSEN. I would just as soon come back at 2 o'clock. It is not long, but I would just as soon come back.

Mr. FRIEDEL. The committee will stand in recess until 2 p.m., when we will recognize Congressman Olsen.

Mr. Gilbert, if there are any questions of you at that time, would you be available to answer them?

Mr. GILBERT. I will be here.

(Whereupon, at 12:10 p.m., the subcommittee was in recess, to reconvene at 2 p.m. the same day.)

AFTERNOON SESSION

Mr. FRIEDEL. The subcommittee will now come to order for the purpose of continuing hearings on H.R. 5196 and H.R. 8476.

Our first witness this afternoon is our distinguished colleague, Congressman Olsen.

Mr. Olsen, you may proceed.

STATEMENT OF HON. ARNOLD OLSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MONTANA, ACCOMPANIED BY MILAN BOYAN

Mr. OLSEN. Thank you, Mr. Chairman.

I want to say first of all that it is indeed an honor and a privilege to testify before this distinguished committee, particularly yourself, Mr. Chairman, and our very distinguished colleague from Omaha. Mr. Cunningham and I are long time colleagues on another committee, so we have come to know each other very well, as I have come to know you in our relationship here in the Congress. It is really a privilege here to testify before you.

I want to say, too, that it is rather fortunate that I was tardy this morning, because I had an opportunity, which I probably would not have taken, to listen to Mr. Gilbert, who spoke in behalf of the Brotherhood of Firemen & Enginemen.

I was very much impressed with his statement. I have been engaged as a practicing lawyer and in other pursuits for many years in the law business and I have become aware that the hours of service in industry have a great deal to do with safety. It is one of the great arguments for the 8-hour day, and it is really one of the great and strong arguments for why we should have a greater penalty, when overtime occurs. I am not the authority on the subject; I read the authorities. And the authorities repeat this over and over again. Of course, that is the recommendation of the administration at present and of our Labor Department, that the penalty for overtime has to be much greater. One of the big reasons is safety.

Now, Mr. Chairman, Congress has the traditional and important role of legislating in the area of railroad safety. Many of the major safety requirements affecting the railroad industry were either initiated by law or are now bolstered by legislative action.

I might say that this industry is akin to the mining industry. They have had to go to Government to get safety regulations. Whereas in earlier years in industry, unions were able to negotiate safety, it

never was successful enough, so that now, in very nearly every State in the Union, we have safety codes I would say in pretty nearly every class of employment. The only one exempt, it seems to me, is farming, and I think it is too bad that we do not have safety codes there.

For instance, I am prompted by my colleague, Milan Boyan, that yesterday, the mine safety bill, which would now encompass the hard rock mines—for years and years, the coal mines were the only ones covered by safety regulations in this field—yesterday the bill passed the Senate. That is one of the last fields that I know of in industry where we did not have laws regulating safety.

Now, in the railroad industry, one such safety law was passed in 1907, which limits railroad operating employees to 16 hours on duty in 24 and provides for specific rest periods following the legal limit of work. This 60-year-old statute has gone unchanged through the ensuing years with the exception of some adjustment in the penalty provisions.

It is my understanding that this law permits railroads to work engineers, firemen, conductors, brakemen, and switchmen up to 16 consecutive hours without rest and that they are also permitted to work the men an aggregate of 16 hours in 24 without having to provide them with an 8-hour consecutive rest period.

The amendments offered in H.R. 8476, sponsored by Torbert Macdonald, and H.R. 8477, which is my bill, and they are identical, reduces the 16-hour limit to a more reasonable 12 hours and provides that all employees subject to the law be given at least 8 consecutive hours rest in the preceding 24-hour period.

I might say there that in the trucking industry, which is a competitor of railroading, the hours of service are limited to 10. I would rather we should have such a rule for railroads, but it was the understanding among those of us who sponsored this legislation that probably 12 was the best we could get at this time. That is the reason we had the bill drafted the way it is. Myself, I think that is very reasonable of us, and I think that we should some day soon sponsor 10 hours as the maximum before there is an 8-hour, and then there would be an 8-hour resting period.

It is amazing to me that this law has not been amended earlier. After some research, I found that in the 60-year period that the law has been in existence the whole character of railroad operations has undergone tremendous change. Train speeds, train length, and train tonnage have nearly doubled in just the past 20 years. Yet there has been no move to require the railroads to provide operating employees with adequate rest periods in order to insure safe and efficient operation in view of this added burden and responsibility falling upon them.

That there is a need for more and more attention to safety legislation and a greater safety effort on the part of the industry is seen clearly in the climbing rate of train accidents as reported to us by the Interstate Commerce Commission, I must say very well elaborated upon this morning by Mr. Gilbert.

I do not believe it is an unwarranted assumption to state that excessive work hours imposed on the men who man the Nation's trains has been one cause of the month-by-month increase in train accidents.

Again I point out that it is the duty and responsibility of Congress to legislate in this area. Therefore, I strongly support the proposed amendments and urge that they be given favorable consideration.

I want to say here now, where the States have provided for safety codes in the many crafts in industry, I think that uniformity among the States is absolutely required in this transportation industry. That is why I insist that it is the field where Congress must do something.

During the 1965 Montana State legislative session, House Joint Resolution No. 3 was passed and signed by the Governor of Montana. The resolution supported a reduction in the hours of service of railroad employees. I point this out, Mr. Chairman, for the record, and I know that other State legislative bodies have taken similar action.

Mr. Chairman, I have here a number of letters and petitions sent to me by railroad employees in Montana in support of my bill, H.R. 8477, which is similar to H.R. 8476, which we are conducting hearings on today. These letters express the view of railroad employees who are members of each of the various brotherhoods of organized railroad employees. Each letter strongly urges the enactment of this legislation.

I do not suppose that you would want to put these in the testimony as such, but that you would put them in the file that is related to the printed testimony.

Mr. FRIEDEL. They will be kept in the file for the purpose of the committee.

Mr. OLSEN. I would ask at this time unanimous consent that these letters be put in a file that would be related to the testimony taken here.

Mr. FRIEDEL. There being no objection, it is so ordered.

Mr. OLSEN. I thank my colleague very much.

(The documents referred to will be found in the files of the subcommittee.)

Mr. OLSEN. That concludes my testimony, Mr. Chairman.

Mr. FRIEDEL. I thank my colleague. The only thing I would like to add to this is that I would like to have a copy of the resolution passed by the Montana State Legislature in 1965.

Mr. OLSEN. I ask permission to supply that to you later today or on Monday.

Mr. FRIEDEL. It will be inserted in the record at this point.

Mr. OLSEN. Thank you, I will have that for you.

Mr. FRIEDEL. Yes. Thank you.

Mr. OLSEN. Thank you.

(The document referred to follows:)

HELENA, MONT., *February 10, 1965.*

Hon. ARNOLD OLSEN,
U.S. Representative,
House Office Building, Washington, D.C.

DEAR REPRESENTATIVE OLSEN: In accordance with the mandate of the Thirty-Ninth Legislative Assembly of the State of Montana, I attach for your information and such action as you may deem necessary a copy of House Joint Resolution No. 3.

Sincerely yours,

FRANK MURRAY,
Secretary of State.

HOUSE JOINT RESOLUTION No. 3

(State of Montana)

A joint resolution of the Senate and House of Representatives of the State of Montana to the Congress of the United States, the Montana congressional delegation, the Committee on Interstate and Foreign Commerce of the United States Senate, and the Committee on Interstate and Foreign Commerce of the United States House of Representatives requesting the passage of legislation to amend 34 Statutes at Large 1416, codified as 45 United States Code, section 62, relating to the hours which employees of railroads may be required to work

Whereas, federal law now allows a railroad to require its employees to work as long as sixteen consecutive hours without rest; and

Whereas, the present federal law was enacted in March of 1907, for the purpose of safeguarding the health and safety of employees and travelers upon railroads and that law has never been amended; and

Whereas, the high speed operation of modern railroads imposes an undue strain upon employees required to work the long hours now allowed, thus endangering the health and safety of employees and travelers upon railroads.

Now, therefore, be it resolved by the Senate and House of Representatives of the State of Montana:

That the Legislative Assembly of the State of Montana request the Congress of the United States to amend 34 Statutes at Large 1416, codified as 45 United States Code, Section 62 to provide that it shall be unlawful to require employees subject to sections 61 to 64 inclusive of this title to remain on duty for a longer period than twelve consecutive hours, and provide that any employee who has been on duty twelve consecutive hours shall not be required or permitted to continue or again go on duty without having had at least ten consecutive hours off duty; and no such employee who has been on duty twelve hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty; and providing however, that no operator, train dispatcher or other employee who by the use of the telegraph or telephone dispatches, reports, transmits, receives or delivers orders pertaining to or affecting train movements shall be required or permitted to remain on duty for a longer period than twelve hours in all towers, offices, places and stations operated only during the daytime, except in case of emergency.

Be it further resolved, that the Secretary of State be instructed to send copies of this resolution to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the members of the Montana delegation of Congress, to the Chairman of the Committee on Interstate and Foreign Commerce of the United States Senate, and to the chairman of the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

This bill was received by the Governor this 5th day of February 1965.

TIM BABCOCK, *Governor.*
By JEANIE MORRIS.

Approved 2-6-65.

TIM BABCOCK, *Governor.*

Mr. FRIEDEL. Are there any questions?

Mr. CUNNINGHAM. No questions. I appreciate my colleague's statement.

Mr. OLSEN. Thank you very much, gentlemen.

Mr. FRIEDEL. Mr. Gilbert?

STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD BENNETT, ATTORNEY—Resumed

Mr. FRIEDEL. Mr. Gilbert, in the morning session, I asked a question about the rest period including deadhead time, to clear that language up. Have you come to a conclusion that can clarify that?

Mr. GILBERT. Well, we thought that it was clearing up when we talked about the rest time, but I believe that to avoid any misunder-

standing about the intent and desires, if this provision could be added to section 2(b):

> In determining for the purpose of subsection (a) the number of hours and individuals on duty, there shall be counted in addition to the time on duty in service of the character referred to in subsection (b)(2) of the first section of this Act all time on duty in other services performed for the common carrier during the 24-hour period involved, and all time involved in deadhead transportation to or from duty assignments.

We believe that will clarify the situation insofar as removing the present operation of counting deadhead time as rest time.

Mr. FRIEDEL. Thank you. I have just one other question.

This is with reference to your statement on page 41. You comment that there should be no insurmountable problems within the industry to schedule runs within the reasonable minimum of 12 hours, which is 4 hours beyond the reasonable workday. It would appear that you are referring here to "work," when you speak of a maximum of 12 hours. What would be the situation with respect to yard service, where 8 hours is the normal workday, and now many persons persons work two shifts, 8 hours each? Apparently, they would be prevented from doing so by this bill, certainly if they were consecutive shifts. I am wondering whether this would mean the 8-hour shifts would be broken into two 4-hour portions, or does this limitation of 12 hours contemplate a change to a 6-hour day?

In asking such a question, of course, I am familiar with the fact that just as we have in the Hours of Service Act the 16, we also have the 8-hour Adamson Act. In other words, is this a bill primarily concerned with safety, or is it concerned primarily with reduction to a 6-hour workday?

Mr. GILBERT. If I understand your question correctly, the answer would be no, because while it would limit the time on duty in a 24-hour period to 12, it would not of necessity shorten the workday to 6. That is what I understand your question to be.

Mr. FRIEDEL. Right. It would not.

Now, what about when they work in the yard for 8 hours a day for two shifts, 16 hours? Would they be limited to 4-hour days?

Mr. GILBERT. No, this does not contemplate any change in the present basic day for yard service. It would, in its application, I think, without any effort to evade what it will do, it would prevent a man maybe doubling through, as we call it, in the railroad parlance, from 8 in the morning until midnight, which would be 16 hours, and under certain circumstances, it would prevent him from working from 6:30 to 2:30 in the afternoon and then come out again at 10:30 at night.

But I do not believe that is in consonance with what we believe to be our standard of living in this country, that we have to put in all of our time in working to make a living.

Mr. FRIEDEL. In other words, when he works 8-hour shifts in a yard, he would be prevented from working two shifts?

Mr. GILBERT. Through our doubling out—well, there are certain circumstances, depending upon when the 24-hour period would start, that that may be accomplishable. But that would be, I think, rare if they would aggregate—it might prevent aggregating—aggravating is our word for it when we are required to do it. Aggregating would be prohibited if it would prevent the individual involved from getting the 8 hours consecttive rest in a 24-hour period.

Mr. FRIEDEL. All right, thank you.

Mr. Cunningham?

Mr. CUNNINGHAM. I have no more questions.

Mr. FRIEDEL. I want to thank you very much. We have other witnesses.

Mr. GILBERT. Thank you, sir.

Mr. FRIEDEL. Our next witness will be Mr. A. M. Lampley, vice president-national legislative representative, Brotherhood of Locomotive Firemen & Enginemen.

I understand that you have a lengthy statement. Would you like to summarize it?

STATEMENT OF A. M. LAMPLEY, VICE PRESIDENT-NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY

Mr. LAMPLEY. Yes, sir. I would like to summarize the statement and place it in the record, and only touch on the most salient parts of the statement, Mr. Chairman, if I may.

Mr. FRIEDEL. The full statement will be included in the record.

Mr. LAMPLEY. Before I start, I have a request from President George H. Harris of the Order of Railway Conductors & Brakemen, who has a statement filed here in support of H.R. 8476. I would like to submit it for the record.

Mr. FRIEDEL. It will be placed in the record.

(The statement referred to follows:)

STATEMENT OF PRESIDENT GEORGE H. HARRIS OF THE ORDER OF RAILWAY CONDUCTORS & BRAKEMEN

Mr. Chairman and members of the committee, my name is George H. Harris. I am president of the Order of Railway Conductors and Brakemen, an international railway labor organization which was founded in 1868 and has its headquarters in Cedar Rapids, Iowa. It represents railroad conductors on more than 80 percent of the mileage of the class I railroads and represents road brakemen on some railroads, as for example, the Great Northern, the Spokane, Portland & Seattle, the Elgin, Joliet & Eastern, the Grand Trunk Western, the Tennessee Central, and several other smaller properties.

I have had more than 40 years experience in railroad operations. I entered railway service as a road brakeman on the Baltimore & Ohio Railroad in November 1923. I was promoted to a road conductor in 1942 and served as a conductor until June 1951, when I became fully employed by the Order of Railway Conductors and Brakemen. In this organization I have served as division secretary, local chairman, special representative, chairman of the general committee of adjustment for the Baltimore & Ohio Railroad, grand trustee, vice president, senior vice president, and as president.

As a brakeman and conductor working on the railroad, and as a representative of the Order of Railway Conductors and Brakemen I have had many years of observation in the practical operation of the Hours of Service Act. That Act was originally enacted in 1097 at a time when the 12-hour day was commonplace in American industry. It permits railroads to keep their operating employees on duty 16 continuous hours. It also permits railroad carriers to require their employees to work 16 hours in the aggregate in a 24-hour period.

Such a law is clearly archaic in this modern day. There has been no legislation dealing with the hours of service of railroad employees since the Adamson Act of 1916, which recognized the 8-hour day as "the measure of the standard of a day's work for the purpose of recommending the compensation for services" of railroad employees. The Adamson Act, however, did not reduce the continuous hours which a railroad operating employee may be required to work without rest.

These hours are not the same in 1966 as they were in the year 1907. The Hours Service law, therefore, is clearly obsolete and in need of revision.

The provisions of the law for aggregating 16 hours on duty in a 24-hour period have undoubtedly caused the most hardship. By giving an employee two or three hours off duty, from time to time, a railroad can require on duty service over extended periods of time in excess of 16 hours without violating the law. When railroad operating employees are required to remain on duty over long periods of time, with only small amounts of intermittent rest, there is an obvious drain of their physical and mental energies and an increase in the hazards of operation.

The Hours of Service law was originally passed as a safety measure to preven accidents and injuries to the general public and to railroad employees due to fatigue created by long hours. It would defy human experience to contend that men do not lose altertness after long hours with only intermittent rest. This is particularly so where after a 16 hour day or 16 hours of work in a 24-hour period an employee may be put back on the job after only 10 or 8 hours off duty. Men are commonly called up one and a half hours ahead of the time for reporting for duty. Because of this and because of transportation from home or to another sleeping point, time consumed in eating and other human necessities creating delay in getting to sleep and the like, it is not uncommon that only 4 to 5 hours actual rest is obtained during 8 or 10 hour off duty periods. Thus, as far as safety is concerned the man who has worked long hours the day before may actually be more fatigued the next day even if his duty time is more normal. The fundamental point, in any event, is that the standards which were thought to be proper in 1907 have long since been outmoded. It should require no extended argument on my part that the length of hours of service should be reduced in this day and age.

Lest you might assume that the men do not now actually work such long hours as are permitted under the law, let me assure you that the contrary is the case. A work period of 16 hours or 16 hours service aggregated in a 24-hour period and/or a return to work with such incomplete rest as can be gained in 8 or 10 hours off is an ordinary, routine occurrence on a substantial percentage of our runs.

The Presidential Railroad Commission, at page 112 and following of its report, referred to the extreme variation of the hours worked by railroad operating employees. It noted that a substantial percentage of railroad operating employees work more than 70 hours a week. It also observed that these long hours may be due, in part at least, to the influence of the 16 hour provision of the Hours of Service Act. The Commission recommended that the hours of continuous duty be reduced by collective bargaining. While I agree that a reduction of hours through collective bargaining would be preferable to legislation; nevertheless, it is not easy to accomplish reduction of hours by collective bargaining while a statute of Congress gives recognition to 16 continuous hours on duty. Furthermore, I believe it is desirable that Congress give expression to a policy of reduced hours of service more nearly consonant to modern-day principles. I further direct your attention to the fact that the railroads warmly accepted the recommendations of the Presidential Railroad Commission. While my organization dissented to some of the recommendations of the Presidential Commission, it specifically noted in its dissent at page 263 of the Commission Report that it did not disapprove every recommendation made by the Commission. My organization did not dissent from the Commission's recommendation for reduction of hours. As a matter of record, the Grand Division of my organization in its convention held in 1933 adopted the following resolution:

"Resolved that the ORC Grand Division assembled, go on record as favoring a reduction in the hours of service law from 16 to 12."

The Grand Division, or convention, is our governing body and that Resolution has been carried forward ever since that date and it continues to be the policy of our organization.

Mr. Chairman and members of the committee, I am very appreciative of the opportunity to appear before your committee and express the view of the Order of Railway Conductors and Brakemen in respect to reduction of the Hours of Service Law. Thank you.

Mr. BENNETT. Mr. Chairman, at this time, might I file one other statement, also? Mr. Jesse Clark, president of the Brotherhood of Railroad Signalmen, was unable to be here today and asked that we have his statement filed for the record. It is directed primarily toward H.R. 5196.

Mr. Clark has also authorized me to indicate his support for H.R. 8476. That statement has been distributed, sir.

Mr. FRIEDEL. That will be placed in the record.

(The statement referred to follows:)

STATEMENT OF JESSE CLARK, PRESIDENT, BROTHERHOOD OF RAILROAD SIGNALMEN

My name is Jesse Clark; I am president of the Brotherhood of Railroad Signalmen. Our headquarters are at 2247 West Lawrence Avenue, Chicago, Illinois, 60625, and we represent more than 99% of the persons in the United States and Canada who are working today in the craft of Railway Signalling.

The Hours of Service law (45 U.S.C. 61–64) applies to common carriers by railroad and employes engaged in or connected with the movement of any train operated in interstate or foreign commerce, and limits the number of hours certain employes can be required or permitted to remain on duty. One purpose of the proposed legislation is to include a group of employes within coverage of the law who are not now included, to wit: employes whose duties encompass the construction, installation, repair, maintenance, testing and inspection of signal systems, commonly called "signalmen". This proposed legislation is sponsored not only by the Brotherhood of Railroad Signalmen which represents such employes for collective bargaining purposes, but it also has the support of the Railway Labor Executives' Association.

The Hours of Service law, enacted March 4, 1907, prohibits the carriers from working (1) a member of a train crew for longer than 16 continuous or aggregate hours in 24, or (2) a dispatcher, telegrapher, operator, or other employe concerned with movement of trains more than 9 hours in 24 where offices are open continuously, or 13 hours where office is open only during the day. The law also provides for prescribed off-duty periods after a certain amount of time on duty.

The purpose of the Law is stated in its preamble as "an Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon". The Act was intended to promote safety of train operations by preventing the excessive mental and physical strain which usually results from remaining too long at an exacting task. It was to prevent the dangers which must necessarily arise to the employee and to the public from continuing a person in a dangerous and haxardous business for periods so long as to render him unfit to give that service which is essential to the protection of himself and those entrusted to his care.

This Act was enacted by reason of the many casualties in railroad transportation which resulted from requiring the discharge of arduous duty by tired and exhausted men whose energies and powers were so weakened by overwork as to render them inattentive to duty or incapable of discharging the responsible labors of their positions.

Signalmen are directly connected with the movement of trains, and the importance of their work to the safe operation of trains cannot be overemphasized. It is vitally necessary for the protection of the traveling public, for the protection of other employes, and for the protection of the signalmen themselves, that their hours of service be limited and that they be accorded a sufficient amount of rest within a 24-hour period.

Automatic block signal systems, traffic control systems, train stop, train concontrol and cab signal systems, interlocking systems, rail-highway grade crossing protection, automatic classification yards, hot box detectors, broken flange detectors, and other similar appliances and systems, are the responsibility of the signalmen to construct, install, test, inspect, repair and maintain. As these systems are becoming more complex and refined, and longer and faster trains are being operated than ever before, it is more important than ever that signalmen be included in the Hours of Service Act.

The railroad has made many technological changes and improvements in railway signaling during the period since passage of the Hours of Service Act. For example, in the last 50 years the railroad industry increased its mileage of automatic block signal over 100 percent. Traffic control systems, and train stop, train control and cab signal systems were virtually unknown in 1907. Today they are installed on a substantial number of miles of track.

During the period when the Hours of Service Act was enacted train operation was governed primarily by the time table and a schedule. As the number of trains increased, and as the distance each train traveled became greater, a more flexible system was necessary. The possibility of delay to a particular train in-

creased as the distance over which trains operated was extended. Also, proper coordination between crews was practically impossible because of inadequate communication facilities. It became apparent that centralized responsibility controlling traffic would be advantageous. For many years the train order system was used and was the standard method of operation. As the industry progressed, a greater reliance was placed upon the block signal system which was eventually made almost completely automatic. Eventually the automatic block signal system and train order operation was replaced by the system that is being greatly expanded today—the traffic control system whereby trains operate on signal indication only and without the use of train orders.

The Interstate Commerce Commission prepares an annual tabulation of statistics pertaining to train, interlocking, and train communication systems used on the railroads of the United States. The report of January 1, 1951 shows there was traffic control systems on 11,171 miles of road and 12,357 miles of track. There was a gradual increase each subsequent year. The report of January 1, 1963 shows that trains operate on signal indication only without train orders on a total of 33,739 miles of road and 39,918 miles of track. The report of January 1, 1965, shows 35,544 road-miles and 42,282 track-miles of traffic control system in service in the United States.

Under the CTC or T.C.S. system, safety of railroad operations is completely dependent upon the continuous functioning of the signal system as intended and the unfailing display of proper signal aspects. It is axiomatic that a signal system is no better than the maintenance afforded it. And it follows that no fatigued signalman should be permitted to work on a signal system where his mistakes may result in signal failures or display of improper aspects which could lead to catastrophic derailments or collisions.

It is of the utmost importance that all aspects of railway signaling be properly constructed, installed, repaired, maintained, and inspected. If faulty workmanship should lead to the malfunctioning or non-functioning of those safety devices, dire consequences could result. The most obvious example is a signal which displays a proceed indication when, because of the presence of another train on the track ahead, it should show a stop indication. Such a peril-laden situation could be brought about by the inadvertent switching of two wires which in the intricate and involved signaling circuits may be only a fraction of an inch apart.

The signalman's job must be performed with utmost accuracy. The facilities upon which he works, and the instruments with which he performs his tasks, are highly complicated and are becoming more so as time goes by. They demand of him not only a great degree of skill, but, what may be ever more important, a physical and mental state of constant alertness and attention to duty.

A signal system does not have inherent safety factors as a natural and inseparable quality. Any human error, particularly on the part of a signalman, can drastically affect the intent and purpose of a signal system. It is obvious, then, that an employee must be in full possession of his faculties to safely install, maintain and test such equipment. A signalman worked excessive hours in either the construction or maintenance of signal systems may make errors in the intricate wiring or adjustment of those devices which would circumvent the safety functions of the system.

The present law covers those classes of employes, such as interlocking operators, towermen, and levermen, who operate the signaling equipment that is installed and maintained by signalmen. This equipment is so designed as to prevent operators making a mistake and establishing conflicting routes for trains. The interlocking machines are equipped with locks designed to prohibit conflicting routes for trains being established by the operator. In addition, electric circuits lock all switches and signals conflicting with a train movement until the movement has been completed. Signalmen, not covered by the present law, install, test, inspect and maintain such equipment and circuits. There is no existing protection against the signalmen making an error caused by fatigue or exhaustion, while maintaining the equipment which could render the above-mentioned safety devices completely ineffective.

Signalmen are directly concerned with the movement of trains in another important fashion. In order to perform their duties of inspecting and maintaining the signal systems they must travel from point to point on the railroad riding on track motor cars. Generally the track motor cars are operated under what are called "line-ups"; that is, the signal man obtains from the dispatcher a list of trains and the approximate time they are expected to operate on the territory where he is to work during certain periods. Normally the train crews have no advance information of the presence of track motor cars on the track over which

the trains are running. The track car is insulated and does not actuate the signals. The signalman has the responsibility of getting his car off the track when a train approaches. He must constantly be alert to the possibility of a collision with a train, not only for his own protection and the protection of the equipment in his charge, but also because of the threat of serious damage to the engine and train and to its occupants. Collisions between track motor cars and trains are numerous and many derailments of engines have occurred as a result thereof.

Evidence of the dangers of track motor car operation is contained in the Interstate Commerce Commission's Railroad Accident Investigation Report No. 3518 dated July 1, 1953, made in connection with a track motor car-passenger train accident on the Texas and New Orleans Railroad on May 28, 1953, which resulted in the death of one employe. The report stated that since January 1, 1944, the Commission has investigated 45 collisions involving track cars which resulted in the death of 81 persons and the injury of 144 persons.

In a similar report, No. 3996 dated January 22, 1964, which involved a similar collision on the Santa Fe Railroad at De Soto, Kansas, on June 21, 1963, resulting in one death, it was noted that during the past 10 years the Commission had investigated 52 such accidents that resulted in 63 deaths and 111 injuries. From the foregoing, it can be seen that signalmen are in constant danger when operating a track motor car, and it is increasingly important for such employes to be mentally alert at all times because of the fact that trains are being operated at greater speeds than before. Some track motor cars have been replaced with highway vehicles but this does not lessen the importance of signalmen being mentally alert at all times because of the fact that operating a highway vehicle today on public roads requires that the operator be physically and mentally alert. The necessity for such alertness increases as traffic becomes more congested and generally faster.

Signalmen are frequently required to work excessive lengths of time. There are numerous instances where signalmen have been required to work exceptionally long hours at their vital and exacting work. For example, signalmen have been on duty from 16 hours to as many as 32 hours without rest. There are examples of signalmen working in excess of 16 hours within 24, for three, four or five days in succession. These not unusual examples are ample reason for the inclusion of signalmen within the scope of employees subject to the Hours of Service Act.

At the present time signalmen may be required to work an indefinite number of hours consecutively, or they may be released after a normal tour of duty of eight hours, and shortly thereafter be recalled to work without regard to whether or not they have had sufficient off-duty time for rest and recuperation of their physical and mental faculties. Maintainers who are assigned to outlying territories are not infrequently called upon at times, when snow storms interfere with the proper functioning of the signal systems, to go in excess of 24 hours without sleep. Signalmen are frequently required to work relief shifts of eight hours after having completed their own regular eight hour assignments. There have been many cases where second and third trick signalmen's assignments have been abolished, and signalmen who have already performed eight or more hours of service, have been called outside their regular tours of duty to perform work formerly done by employes on the abolished tricks. Such occurrences are on the increase because of the drastic reduction in railway signal maintenance forces which has resulted in fewer men being required to take care of the signal systems. It is obvious that a signalman is under a greater physical and mental strain when his maintenance territory and work load is increased in size. Such increase in responsibility makes it increasingly important that he be protected against being worked an excessive amount of time.

When an employe performs the complicated and mentally demanding work required of signalmen, and the preservation of lives and expensive equipment and cargoes is dependent upon the accuracy with which he performs that work, it is unthinkably hazardous to cause him to work beyond 16 continuous hours, or to deny him a rest period of 8 hours out of 24. This is increasingly important because of the fact that many maintenance signalmen work alone in all kinds of terrain and weather, day and night, winter and summer.

"Signalmen" include employes holding the following positions:

1. Technicians, whose duties include the maintenance, adjustment, repair, testing and replacement of complicated electronic and electromagnetic components in Traffic Control Systems and Yards where detection of defects, switching, and retardation of cars is accomplished automatically.

2. Signal Inspector and Telephone and Telegraph Inspector, whose duties are to inspect automatic block signal systems, train-stop and train control systems, interlocking plants and non-automatic fixed signals, or telegraph and telephone

system and the equipment and accessories used in connection therewith, in order to secure compliance with specifications and standards, and to insure satisfactory construction, installation, repair and maintenance.

3. Signalman and Signal Maintainer, whose duties are to perform work in connection with the construction, repair and maintenance of signals and signaling apparatus, (including hot-box detector devices located at strategic points along the line of road) usually performing the electrical and mechanical work in connection therewith.

4. Signal Foreman, Leading Signalmen and Leading Signal Maintainers, who have charge of and are responsible for the work of a group of signalmen and others doing signal work.

5. Assistant Signalman and Assistant Signal Maintainer, who are employes in training for a journeyman position in the signalmen's craft.

6. Signal Helper and Signal Maintainer Helper, who assist other signal employes in the performance of their work.

The inclusion of signalmen in the Hours of Service Act is made more necessary due to the fact that even though there has been a decline in the number of signal employees, there has been an increase in signal failures. For example, annual reports of the Interstate Commerce Commission show there were the following *false restrictive failures* of railway signals in the United States:

For the year ending—

June 30, 1961: 23,884.
June 30, 1962: 27,047.
June 30, 1963: 27,173.
June 30, 1965: 28,456.

Many such signal failures are investigated and repaired outside regular working hours, by employees who have been called for overtime work after having completed their regular 8-hour tour of duty. It is obvious that the average number of such failures being corrected each year by one person is increasing. Including signalmen in the Hours of Service Act would protect them from having such failure investigation work reach the danger point, if it has not already reached such a point.

The proposed legislation, by including signalmen within the coverage of the Hours of Service Act, would be consistent with the original purpose of the law—to promote the safety of employees and travelers upon railroads. It would expand the coverage of the law to include an additional group of employees directly connected with the movement of trains. There is no gain in job opportunities or in compensation for the employees whom the proposed legislation would affect. There should be no increase in labor costs to the railroads as a result of this legislation. The sole purpose of the proposal is the promotion of safe working conditions and the safety of train operations.

Mr. FRIEDEL. And you asked that Mr. Harris' statement be included in the record, did you not?

Mr. LAMPLEY. Yes, sir.

Mr. FRIEDEL. You may proceed.

Mr. LAMPLEY. My name is A. M. Lampley. I am a vice president-national legislative representative for the Brotherhood of Locomotive Firemen & Enginemen with officers at 400 First Street NW., Washington, D.C. The headquarters for the organization is located in Cleveland, Ohio. Our organization represents approximately 97 percent of the employees in the crafts of locomotive firemen (helper), hostler, and hostler helper, on railroads in the United States. We also represent a large number of employees in the craft of locomotive engineer with approximately 36 percent of such actively working employees being members of our brotherhood.

Mr. Chairman, some of the other statements have been covered here. I may state that labor has displayed an interest in obtaining legislation limiting the number of hours over many, many years. I will not go into this.

But I would like to call your attention to one paragraph on page 2 that was made some years ago by Judge Clarke, who was later Supreme

Court judge, in the case of *United States* v. *Baltimore & Ohio Railroad Company*. In his charge to the jury, Judge Clarke said:

> Now, gentlemen of the jury, this law is a very important one. It does not concern the workmen alone; it concerns first of all the safety of the public, which must use railroads, and the theory of the law is that safety is being best promoted when the men who operate the trains are not exhausted or sleepy when on duty. We all know that there comes a stage of exhaustion to us all when we become indifferent to our surroundings, and at such time we do not have a due appreciation of them, certainly not such as every man should have who is employed in the operation of a railroad.
>
> It is also the purpose of the law to protect the employees so that they may not be killed or injured in the course of their duties as a consequence of being weary and heavy laden with hours of service.

Mr. Chairman, before I prepared the statement, I did not know at that time that the Interstate Commerce Commission would be here and testify as to their enforcement of the hours of service, and our understanding was that we were to prepare some statement of our work with the Interstate Commerce Commission. But I understand now that they will be here, so I will skip that part of the statement and go to page 9.

I prepared and distributed to lodges of the Brotherhood of Locomotive Firemen & Enginemen a petition form which operating employees could sign to state their support for changing the hours-of-service law. At first my thought was to get a sampling of the men within our own organization. However, once the petitions got into the field we found that many others in different crafts wanted to get on the list in support of the changes.

The petition was not designed as a vehicle to canvass all operating employees. That would be impossible. Our only purpose was to get a sampling of views and we are extremely pleased to report our results.

In only a few months this year, nearly 24,000 men signed the petition. Many men in other crafts searched out B.L.F. & E. members so that they could sign their names. We have some 23,862 signatures representing 11,699 enginemen, 10,885 train service employees, and 2,278 men who did not designate their craft nor organization.

I have them, the signatures, which I will not enter into the record unless the chairman wants them. I would not think he would, but we have them here, sir.

My purpose in bringing these is to indicate to you, and on page 14, Mr. Chairman——

Mr. FRIEDEL. Just one question.

On page 10 where you say 11,699 enginemen, are these engineers or firemen?

Mr. LAMPLEY. That includes both of them.

Mr. FRIEDEL. Do you have any breakdown on how many are enginemen, how many are firemen?

Mr. LAMPLEY. Yes, sir; we do. On pages 13 and 14, we have them by State and by organization. You will see that we have, of the Brotherhood of Locomotive Firemen & Enginemen, this indicates, Mr. Chairman, not only firemen but our figure includes enginemen. Just how many are engineers in this group, I do not know, but this indicates of the members that belong to our organization, 8,499, and the members that belong to the Brotherhood of Locomotive Engineers, 3,205 have signed these petitions.

We strongly urge your passage of this legislation. Safety on the railroads is much discussed among all employees. I feel that this

would be one of the finest pieces of legislation that could be enacted by the Congress this year.

Mr. FRIEDEL. Thank you, Mr. Lampley, for your very precise statement. Your full statement will be included in the record.

Mr. LAMPLEY. Thank you.

(The statement referred to follows:)

STATEMENT OF A. M. LAMPLEY, VICE PRESIDENT-NATIONAL LEGISLATIVE REPRESENTATIVE, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

My name is A. M. Lampley. I am a vice president-national legislative representative for the Brotherhood of Locomotive Firemen & Enginemen with offices at 400 First Street NW., Washington, D.C. The headquarters for the organization is located in Cleveland, Ohio. Our organization represents approximately 97 percent of the employees in the crafts of locomotive fireman (helper), hostler, and hostler helper, on railroads in the United States. We also represent a large number of employees in the craft of locomotive engineer with approximately 36% of such actively working employees being members of our Brotherhood.

I am appearing here today in support of H.R. 8476 and 83 like bills designed to amend the Hours of Service Act, entitled, "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employes thereon," which was originally enacted March 4, 1907. Among railroad employes this Act is commonly referred to as the 16-hour law, or the Hours of Service law.

As far back as the 1830's labor displayed interest in obtaining legislation limiting the hours of work for wage earners. At that time groups of workers began to press for legislation directed toward the interest of the workers as a whole. Working from sunup to sundown was held to be imcompatible with good citizenship for it did not afford the workman adequate leisure, or heathful rest periods. Today maximum hour laws for laborers are usually found only where the safety of the public is concerned, such as on trucks, buses, air lines and railroads. In the early 19th Century the usual work day from sunup to sundown was accepted as a normal day. Now, well into the 20th Century, only railroad operating employees continue to work from sunup to sundown and in many cases from sunup one day until sunup the next.

The first laws actually limiting the working day for men were those passed primarily to help prevent accidents on the railroads.

Legislation such as the proposed amendments has been supported by my organization for many years. We are of the opinion that this legislation will benefit all railroaders covered by the Act. This opinion is shared by operating employees covered by the Act on every railroad in the nation.

The present Hours of Service law was originally enacted on March 4, 1907, almost 60 years ago. The purpose of its passage at that time was to promote the safety of employes and travelers upon railroads by limiting the total permissible time on duty of certain classes of railroad employes whose actions could affect the safe movement of trains. This purpose cannot be better stated than was done by Judge Clarke (later appointed to the Supreme Court) in the case of United States v. Baltimore & Ohio Railroad Company, unreported. In his charge to the jury, Judge Clarke said:

"Now, gentlemen of the jury, this law is a very important one. It does not concern the workmen alone; it concerns first of all the safety of the public, which must use railroads, and the theory of the law is that safety is being best promoted when the men who operate the trains are not exhausted or sleepy when on duty. We all know that there comes a stage of exhaustion to us all when we become indifferent to our surroundings, and at such time we do not have a due appreciation of them, certainly not such as every man should have who is employed in the operation of a railroad. It is also the purpose of the law to protect the employes so that they may not be killed or injured in the course of their duties as a consequence of being weary and heavy laden with hours of service."

This statute now makes it unlawful for any common carrier by railroad subject to its provisions to require any employe "actually engaged in or connected with the movement of any train" to remain on duty for a period longer then 16 consecutive hours, following which such employe may not be required or permitted to return to duty until he has had at least ten consecutive hours off duty, or to require or permit any such employe who has been on duty for an aggregate of 16 hours in any 24-hour period to go on duty again without having at least 8 consecutive hours off duty. Aggregating as here referred to is the practice of

releasing an employe from duty for short periods during a 24-hour period so as to extend a single tour of duty.

I would like to point out here that the term "in any 24-hour period" can be any 24 consecutive hours starting from the time an employe goes on duty after having had a bona fide off-duty period. With this in mind you can readily see that under the aggregating provision an employe could theoretically remain on duty indefinitely without an off-duty period of eight consecutive hours and yet would be performing service within the law. Just for illustration, an employe could alternate with four hours on duty, four hours off duty and not be on duty 16 hours in any 24-hour period.

The law also covers the hours of work limit applicable to employes such as dispatchers, telegraphers, towermen, etc. This area of the law, I am sure, will be discussed by a competent witness from the organization involved.

As the national legislative representative of the Brotherhood of Locomotive Firemen and Enginemen my office has a natural liaison function with the Interstate Commerce Commission.

I regularly handle complaints from our people in the field that railroads are violating various safety laws or that some have instituted "sharpshooting" practices to skirt the intent of the law, if not its literal meaning.

Thus, I am familiar with the functions of the ICC in the enforcement of railroad safety laws, and I would like to provide for the record some of the background information on this function as it relates to enforecement of the Hours of Service law.

At the outset, I want to way that in most instances we have found the staff and officials of the ICC most helpful and willing to hear our problems. I personally believe that the ICC is understaffed when it comes to safety inspectors. Such a situation is reflected in the relatively low number of safety violations recorded and the even lower number prosecuted, with the guilty railroad being fined by the courts.

The Hours of Service law is administered by the Hours of Service Division, Bureau of Railroad Safety and Service of the ICC.

One hundred and nineteen inspectors are primarily charged with Car Service and Safety Appliance inspections. These inspectors have the additional duty of inspecting carrier records for violations of the Hours of Service law.

I understand that there is no formal inspection of such records, but rather spot checks are conducted commensurate with the time available to the inspectors in line with their other inspection duties. The Hours of Service checks are made when the inspectors are in the vicinity of a railroad headquarters where such employment and hours of service records are kept.

I am informed that the average number of Hours of Service inspections made annually approximates 750.

The Interstate Commerce Commission is not unwilling to admit that many of Hours of Service violations investigated are called to the Commission's attention by the various railroad labor organizations. Upon receipt of such complaints—many of which originate from my office—a decision is made from Washington as to whether the records of the alleged offending carrier should be checked. Some are checked and some are not.

Much of the Hours of Service information comes from records which carriers are required to file with the ICC. One such is a monthly report of all operating employes, operators, dispatchers, etc., who are required to exceed the maximum limitation of hours on duty on a day or days. This report is not required when hours of service limitations are not exceeded in any given month.

The Commission reviews these forms for the cause of the violation. Again, a decision is made whether to follow up the violation with a field investigation.

In addition to the report of violations, carriers are required to keep available on the property certain forms for inspection by ICC employes. These are:

(1) Time Return and Delay Report of Engine and Train Employes (usually a part of the daily time slip).

(2) Station Record of Train Movements (maintained at major stations and towers where trains arrive and depart).

(3) Daily Time Report of Employes who transmit, receive, or deliver orders pertaining to train movements.

(4) Dispatchers Record of Train Movements (otherwise known as the "train sheet").

There is also a register maintained at terminals for employes to sign in and out but this is not a federally required form, as many persons think.

Following investigation of an Hours of Service violation, a decision is made whether to prosecute. If prosecution is decided upon, the evidence is turned over to the U.S. District Attorney in the Federal judicial district where the violation occurred. Proceedings are then instituted before the Federal District Court and fines are levied on the basis of the amended law—not less than $200 nor more than $500. In almost all cases the minimum fine is levied.

The statute of limitations applicable to Hours of Service violations is one year. Thus, if the ICC does not initiate an investigation and prosecution of a violation within one year the offending carrier cannot be further prosecuted on the particular violation involved.

My purpose in reviewing for you the ICC's enforcement function addresses itself to the change incorporated in section 4 of the suggested amendments. This section would set $500 as the fine for each and every violation of the Hours of Service law.

All too often we find that the carriers deliberately violate the law, because it is more convenient to do so, rather than give their employes needed rest. The present fine is obviously no deterrent. Nor are the present inspection procedures of the ICC a major deterrent. Spot checks give only a superficial picture of the violations that occur regularly.

I have had reproduced on page 11 of my statement a breakdown of the enforcement statistics relative to the Hours of Service law for the years 1961 through 1965. At first glance one would think that the statistics prove one point—that there are relatively few violations of the existing law.

We must remember these are spot checks. Please look at the figures for 1965. You will note that the number of regular inspections—and this is on a spot inspection basis—amounted to 751. Through these inspections the ICC found 105 violations—that is nearly one in seven on a spot check basis. Even the five year figure of 3,900 investigations and 355 violations found is a one in ten ratio, and again this is not an industry wide check.

You will also note that in 1965, the ICC reported 130 complaints of violations received and investigated. These investigations turned up 283 violations—which means they found more than one violation after they got into the case.

The year 1965, with 388 cases transmitted for prosecution, was one of the most active for the ICC in the 5-year period. However, the fines assessed and the number of counts actually prosecuted fell short of 1964.

On page 12 I have reproduced the record of violations for the first 3 months of 1966. The figures are self-explanatory, and I am sure you can see that when certain carriers make a decision to violate the law they do not hesitate to do it in a big way. The Louisville & Nashville is a prime example here.

On the question of fines, you will note that only one case brought more than the minimum fine. That was the Erie-Lackawanna which was fined $600 for two violations.

I believe this brief look at the enforcement record bolsters the need for a truly meaningful fine, so that violation of a Federal safety law is not taken as lightly as it obviously is in the case of the Hours of Service law.

Before concluding I want to discuss briefly the support given the proposed changes in the law by railroad operating employes. Most of you have heard or read some statements from the Association of American Railroads that the workers involved do not support the amendments. I am here to state unequivocally that there is strong and widespread support for the proposed amendments among the employes.

My office becomes somewhat of a listening post when legislation affecting the welfare of railroad workers is introduced in the Congress. My mail gives me a fairly accurate view of the thinking of men we represent, and I make my statement of their support for this bill on that basis.

To counteract some of the rumors that were being circulated by opponents to this measure, I decided to seek a sampling of the views of the men who are covered by the law.

I prepared and distributed to lodges of the Brotherhood of Locomotive Firemen and Enginemen a petition form which operating employes could sign to state their support for changing the Hours of Service law. At first my thought was to get a sampling of the men within our own organization. However, once the petitions got into the field we found that many others in different crafts wanted to get on the list in support of the changes.

The petition was not designed as a vehicle to canvass all operating employes. That would be impossible. Our only purpose was to get a sampling of views and we are extremely pleased to report our results.

In only a few months this year, nearly 24,000 men signed the petition. Many men in other crafts searched out B.L.F. & E. members so that they could sign their names. We have some 23,862 signatures representing 11,699 enginemen, 10,885 train service employes and 2,278 men who did not designate their craft nor organization.

I have attached a summary sheet of the petition signatures to my statement so that you can see for yourself the broad support given the changes by the men most directly affected. This support is nationwide and touches all crafts and operating organizations.

In conclusion, I strongly urge your support of this much needed legislation. Safety on our railroads needs little discussion from me. Accident statistics are graphic enough to persuade you that something must be done to change the course of deteriorating railroad safety. I believe these significant changes in the Hours of Service law will help immeasurably in that respect and accordingly urge you to support this bill.

ICC enforcement of the Hours of Service Act, 1961–65

	1961	1962	1963	1964	1965	Total
Number of regular inspections	1,004	781	777	649	751	3,962
Instances of excess service investigated	1,959	1,767	1,671	1,348	1,543	8,288
Violations disclosed by regular inspection	51	63	49	87	105	355
Number of complaints investigated	51	62	94	112	130	449
Violations disclosed by complaints investigated	102	97	109	209	283	800
Violation cases transmitted for prosecution	153	157	158	300	388	1,156

Source: Report of the Section of Railroad Safety Bureau of Railroad Safety and Service of the Interstate Commerce Commission.

Hours of service prosecutions, 1961–65

	1961	1962	1963	1964	1965	Total
Counts	156	77	97	202	183	715
Penalties	$33,450	$17,500	$21,300	$45,910	$40,650	$158,810

Source: Interstate Commerce Commission.

Hours of service violations January–March 1966, counts and penalties

Railroad	Counts	Penalties
Baltimore & Ohio	15	$3,000
Delaware & Hudson	1	200
Erie-Lackawanna [1]	2	600
Gulf, Mobile & Ohio	2	400
Louisville & Nashville	30	6,000
Missouri-Kansas-Texas	1	200
Northern Pacific	2	400
Southern Railway	13	2,600
Western Pacific	10	2,000
Totals	76	15,400

[1] Only case in which fine assessed was more than $200 minimum provided by act as amended.

Hours of service petition, total count

State	B.L.F. & E.	B.L.E.	O.R.C. & B.	B.R.T.	S.U.N.A.	Others
Alabama	85	11	6	58	0	7
Arizona	46	29	6	29	0	23
Arkansas	86	32	10	99	0	31
California	484	352	84	359	101	169
Colorado	136	28	7	52	10	31
Connecticut	2	5	1	0	0	0
Delaware	41	8	0	15	0	1
District of Columbia	18	3	0	43	0	22
Florida	161	45	38	110	15	72
Georgia	109	62	14	180	9	35
Idaho	116	79	19	118	0	33
Illinois	501	158	105	473	15	81
Indiana	293	129	83	487	6	65
Iowa	231	91	43	196	24	64
Kansas	10	3	0	32	0	0
Kentucky	334	121	37	409	0	40
Louisiana	61	18	9	111	5	17
Maine	74	12	0	61	0	14
Maryland	237	64	29	385	1	163
Massachusetts	9	0	0	0	0	1
Michigan	177	86	18	175	1	83
Minnesota	198	51	37	70	20	47
Mississippi	40	33	19	89	0	11
Missouri	362	155	88	405	6	32
Montana	55	51	32	2	1	50
Nebraska	269	108	24	209	18	20
Nevada	97	71	37	185	3	20
New Hampshire	11	0	0	0	0	0
New Jersey	36	11	2	10	0	42
New Mexico	12	0	0	0	0	0
New York	748	314	56	965	19	160
North Carolina	48	23	6	54	0	17
North Dakota	88	27	58	90	4	72
Ohio	812	164	27	792	6	153
Oklahoma	70	18	9	50	0	25
Oregon	118	58	31	105	8	10
Pennsylvania	817	259	30	949	0	331
South Carolina	51	19	6	28	0	16
South Dakota	4	7	3	18	0	0
Tennessee	75	36	13	87	3	2
Texas	519	116	40	267	31	106
Utah	157	82	6	60	6	36
Vermont	19	12	1	17	0	6
Virginia	231	79	28	222	1	97
Washington	153	64	71	87	23	24
West Virginia	67	35	23	104	0	20
Wisconsin	101	43	6	95	0	22
Wyoming	125	33	5	30	0	7
Total	8,494	3,205	1,167	8,382	336	2,278
Grand total			23,862			

Mr. FRIEDEL. Mr. Cunningham, do you have any questions?

Mr. CUNNINGHAM. No, thank you. I appreciate the gentleman's appearance. I have no questions.

Mr. FRIEDEL. Mr. Lampley, since Mr. Clark's statement has been filed and Mr. Leighty is not here, could you answer some questions on section 3 of the bill?

Mr. LAMPLEY. I do not have it before me.

May I say, Mr. Chairman, I have just had a phone call from Mr. Leighty, president of the Transportation Communication Employees Union, and he would like to testify on Monday, if that would be possible.

Mr. FRIEDEL. We will defer this question until Monday, then.

Mr. LAMPLEY. Fine.

Mr. FRIEDEL. Thank you very much.

Our next witness will be Mr. Walter P. Dunn, locomotive engineer on the Boston & Maine Railroad.

Mr. Dunn, you may proceed.

STATEMENT OF WALTER P. DUNN, LOCOMOTIVE ENGINEER, ON BEHALF OF THE BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY

Mr. DUNN. Thank you, Mr. Chairman, members of the committee. My name is Walter P. Dunn. My address is Box 177, Natick, Mass. I am employed by the Boston & Maine Corp., Fitchburg Division, in the capacity of locomotive engineer. This statement is made on behalf of the Brotherhood of Locomotive Firemen & Enginemen of which I am a member. I commenced my service with the Boston & Maine Corp. in 1941, and except for 4½ years of service in the U.S. merchant marine in the capacity of marine engineer, during World War II, and the Korean war, I have been in the employ of the Boston & Maine Corp. in engine service. I was promoted to the craft of locomotive engineer in 1955, and since that time have worked continuously in this capacity, except for occasional breaks for service with my brotherhood which I serve from time to time on special assignments.

It will be my purpose to testify in favor of the proposed changes in the Hours of Service Act, as contemplated by H.R. 8476 and related bills. I am familiar with the present act and have also studied carefully the proposed revisions. My concurrence with the proposed revisions is made upon the basis of my years of practical operating experience.

Those of us who are actually engaged in engine service have long realized that our safety and that of the train we may be operating depends to a very considerable extent upon one having had proper rest before going out on the many arduous runs that confront us in modern-day railroad operations. To be compelled to work up to or over the present legal maximum of 16 hours, even on double-manned locomotives, is objectionable to me and also to all engine service employees I know.

It is a matter of record that every railroad has a rule embodied in its operating rule book which expressly commands every operating employee to obtain sufficient rest and be physically fit, before reporting for duty. As is well known to all railroad men, failure to comply with this basic rule can imperil one's employment with an individual carrier. With the scant few hours available to them between each day's trip or tour of duty in which to obtain their proper sleep and relaxation, the engine crewmen who at present are compelled to work up to 16 hours a day, day after day, are certainly unable to appropriately conform to this requirement.

The fact that many operating conditions in the railroad industry have changed greatly since 1907 shows the need for a revision of the 1907 Hours of Service Act to reduce the maximum hours of service permitted from 16 hours to 12 hours or less. The 16-hour provision of the Hours of Service Act, presently in effect, was legislated by the lawmakers of another era, who had before them, among other facts, the basic concept that virtually all locomotives were double manned, that is, by an engineer and a qualified fireman. Through the years from 1907 until very recently, with few exceptions, the double-manning of all locomotives, both steam and nonsteam, was an accepted

industrywide practice. I might add that the 16-hour law, up to the present time, has permitted the carriers to operate trains at will right up to the legal maximum hours and without regard to the fatigue and strain with which engine crews are confronted, regardless of whether single or double manned.

The committee might wish to consider the unsatisfactory record of violations and abuses of the existing law the carriers have compiled since the law was enacted in 1907. It is my hope that the proposed increase of the fine to the amount of $500 for violation of the proposed law by an individual carrier will provide a stonger deterrent to the indiscriminate disregard of the law as it presently exists.

I wish to point out at this juncture that it will not be my purpose to discuss to any great extent the drastic changes which have taken place in railroad safety and operations, as a result of the passage of Public Law 88–108 and the creation of Arbitration Board 282. To enter into any detailed discussion of the board's findings might well be construed as an effort to reopen or argue that fireman-manning issue before this committee, and most assuredly, this is not my purpose. It is important to note, however, that the few references which may be made to the results of the board's findings, as actually implemented from May 7, 1964, up to the present, are inescapably linked to the necessity for a reduction from the 16-hour limitation of the present law to a maximum of 12 hours, or less, if a locomotive is single-manned.

For the record, I do not concede that a fireman-helper is less necessary today than formerly, but insist, by virtue of the fact he is a trained assistant to the engineer, that his services today are as sorely needed as ever by the many thousands of locomotive engineers who have been recently forced to operate without this assistance.

The very history of the railroad industry will reveal that since the days of the most primitive, wood-burning locomotive, it has been the practice of the qualified fireman to relieve the engineer from his operating duties for such reasons as tensions, fatigue, personal needs, possibly dirt lodged in his eye, or a host of related reasons. In the very earliest days, when engineers were compensated more in prestige than money, the practice was not so prevalent as in later years when the engineer's image became somewhat preempted by the early airplane pilot and so on up to the astronaut, as at present. It is significant, however, that while the locomotive engineer's image may have been besieged, his job content certainly did not disappear with his image. On the contrary, his job content and responsibilities are far greater today than ever before, now that American railroads have crossed the threshhold of total dieselization of their locomotive power.

It is a far cry from the nostalgic coal-fired locomotive of 1907, hauling 20 or 30 small wooden cars, to the mighty multiple-unit diesel locomotive of today, hauling 200 or more cars at what were formerly regarded as express train speeds. The engineer's need for relief from the tension and fatigue he faces has been a real one since the very inception of the industry and has never been denied by the carriers generally, since they have sanctioned the practice without either official notice or comment. The former firemen, and now the fireman-helper, has efficiently performed, in addition to his other duties, the relief of the engineer over the years.

Today locomotive engineers are confronted with a steadily changing industry, one which has in fact changed even since Award 282 was made effective. Locomotives have greater horsepower than ever before and their complexity has increased more than in proportion. Train speeds are going higher, in a bid by the railroads to haul more commodities. Trains are heavier and longer, with a resultant increase of difficulties in train handling, such as starting and stopping the train, which can be hazardous under a variety of conditions. Locomotive maintenance, sparse on many railroads, shows up in Interstate Commerce Commission locomotive inspection reports, indicating the percentage of mechanically defective locomotives is increasing yearly on many carriers. This factor causes many unnecessary stops and delays to trains, thus confronting the engineer with the possibility of severe discipline should he be unable to locate and correct one or more of the hundreds of malfunctions which can and do occur to diesel-electric and electric locomotives in normal, everyday operation.

Mr. FRIEDEL. Are you going to read the whole statement? We have a statement here of 19 pages, and we have quite a schedule. I thought you might want to summarize this and put your whole statement in the record.

Mr. DUNN. I believe we could do that if it would be helpful.

Mr. FRIEDEL. Some of it is repetitious, and we do have other witnesses.

Mr. DUNN. I shall be glad to do that if it is helpful to you, I am sure.

My statement dwells upon the problems in operation as an engineer—that an engineer is confronted with today, most particularly since many of our assignments are single manned; that is, with only the services of an engineer in the locomotive crew. I have tried to point out what specific train-handling problems are—he is handling lethal cargo, he is confronted with the grade-crossing problem today more than ever, where reckless motorists and truckdrivers combined try to beat the train to the crossing. As I have commented in my statement, any engineer who daily survives such near misses has a grim story to tell in terms of nervous tension and anxiety.

I have indicated to the committee that a single-manned engineer has complete responsibility for correcting any locomotive malfunction even though the head brakeman is present. The railroads, I believe, have been eminently successful in selling the concept that there are two men in the cab at all times, the cabs of these locomotives. This, for purposes of my statement, I do not quarrel with, but I am indicating to the committee that whatever amount of time on a given run or tour of duty that the brakeman is present, he is absolutely of no assistance to the engineer as it relates to relief, train handling, or anything of the mechanical problems which may confront the engineer.

Mr. FRIEDEL. Do you know of any runs that are continuous runs, that run for 8 hours at a time, 12 hours at a time, or 16 hours at a time, any continuous runs where an engineer cannot get any relief whatsoever?

Mr. DUNN. Yes; this is my next point, sir, in my statement. Going along, then, from the fact that the trainman who is assigned to the cab or locomotive is of no assistance to the engineer, for he cannot embrace any of the tensions or fatigue that an engineer is confronted with, in

line with what I have dealt with in my statement. He may be there to observe a signal or various operations of the train, such as inspection of the rear of the train, watching out for hotboxes or dragging equipment on that side of the engine, but as far as engineer's assistance goes, he is of no assistance whatsoever, mainly because he is unqualified for this work, and, too, he has work of his own to do.

From about page 8 and onward in my statement, I go into describing specifically my own assignment, which I think would come to the question you have just asked me.

I would ask you at this point to turn your attention to the attachment to my statement, which is a sort of day-to-day timetable that I arrived at for this run that I hold as an engineer.

Mr. FRIEDEL. Which one are you referring to specifically, Monday to Thursday, is that it?

Mr. DUNN. Yes, sir. You notice at the top of the page, the railroad is described, the train symbol is described, the type of service, the engine crew, and the dates. This small exhibit covers 7 consecutive weeks of my employment on this particular train from January 3, 1966, through February 18, 1966, which is recent operating experience for me.

Mr. FRIEDEL. I am following you here now.

On duty, you say, Boston.

Mr. DUNN. Yes.

Mr. FRIEDEL. Are you on duty at 8:10 a.m.?

Mr. DUNN. Yes, sir.

Mr. FRIEDEL. 8:10 a.m.; you arrive at West Cambridge at 9:03 a.m.?

Mr. DUNN. Yes.

Mr. FRIEDEL. You arrive at Watertown at 10:59 a.m.?

Mr. DUNN. Yes.

Mr. FRIEDEL. You depart Watertown at 7:35 p.m.?

Mr. DUNN. Yes.

Mr. FRIEDEL. That is over a 9-hour layover, is it not, sir?

Mr. DUNN. Absolutely not, sir, that is not a layover. This assignment from 8:10 in the morning to 8:50 at night on Monday, the 3d, for example, is a continuous tour of duty. Watertown, Mass., as I have stated in my formal statement here, is a turnaround point. This train runs, as I have stipulated at the top of the page at type of service, runs from Boston to West Cambridge to Watertown, Mass., daily except Friday and Sunday.

Mr. FRIEDEL. As I see it, 8:10 to 10:59 is 2 hours and 49 minutes?

Mr. DUNN. Yes, sir.

Mr. FRIEDEL. Then you laid over 8 hours and 35 minutes before you returned? From 7:35 p.m. to 8:50 p.m., that is an hour and 15 minutes. So actually, an hour and 15 minutes and 2 hours and 40 minutes—50 minutes—that would be a little over 4 hours' riding time.

Mr. DUNN. I concur with that, but the point that I think is important, you will notice I have these times numbered to the left of the column here, and this would be for purposes of narration. The time between times No. 3 and 4 is the time that I was at the city of Watertown performing continuous industrial switching. This is not a layover in any sense of the word. The times between No. 1 and No. 3 are the times that it takes me to go from Boston to Watertown, and this would be in line with my narration, and the times between

No. 4 and No. 6 are the times it takes me to go from Watertown back to Boston. But the times between No. 3 and No. 4 are the times that I am at the city of Watertown, which is the principal reason for this job, to perform the switching and servicing of all the industries in the city of Watertown.

Mr. FRIEDEL. Well, from the time that you leave to the time that you arrive back in Boston is 16 hours and 40 minutes. Is that what this shows?

Mr. DUNN. No.

Mr. FRIEDEL. 8:10 to 8:50 p.m.?

Mr. DUNN. I would like to take you down to what I call recapitulation of the whole thing here.

Mr. FRIEDEL. I am trying to read it. As I see it, from the time you left Boston, on duty at 8:10 a.m., and off duty at Boston was 8:50 p.m.?

Mr. DUNN. Yes, sir.

Mr. FRIEDEL. Is that not 16 hours and 40 minutes?

Mr. DUNN. No, it is 12 hours and 40 minutes.

Mr. FRIEDEL. I mean 12 hours and 40 minutes. What do you get paid for, the mileage or the hours?

Mr. DUNN. I get paid for 12 hours and 40 minutes.

Mr. PICKLE. And you are protesting that?

Mr. DUNN. Protesting what, sir?

Mr. PICKLE. If I understood you, if the chairman will yield——

Mr. FRIEDEL. Mr. Pickle.

Mr. PICKLE. You are shown on duty as 12 hours and 40 minutes.

Mr. DUNN. Yes, sir.

Mr. PICKLE. You get paid for that?

Mr. DUNN. Yes, sir.

Mr. PICKLE. Your hours of service were actually less than that?

Mr. DUNN. No; my total time on duty for that day was 12 hours and 40 minutes. If you will go across the column, my time on duty for Tuesday, the 4th, was 15 hours and 50 minutes; my time on duty on Wednesday, the 5th, was 12 hours, 50 minutes; my time on Thursday, the 6th, was 15 hours and 30 minutes; and for Friday, the 7th, it was 15 hours and 30 minutes. I most emphatically am protesting that type of hours on duty.

Mr. FRIEDEL. The ones that you were on duty 15 hours and 30 minutes, from 10:49 a.m. on Thursday, the 6th, you arrived at Watertown at 10:49, and you departed Watertown at 9:47 p.m.

Mr. DUNN. Yes, sir.

Mr. FRIEDEL. What did you do in between times?

Mr. DUNN. As I stipulated, on Monday the 3d, from 10:49 a.m. on this date you have cited to 9:47 p.m., I was continuously involved in industrial switching of the industries at that point.

Mr. FRIEDEL. Continually? All the time?

Mr. DUNN. Without letup.

Mr. FRIEDEL. You never left the engine?

Mr. DUNN. I left the engine for a lunch period, yes.

Mr. FRIEDEL. Well, wait a minute. You said you were continually switching, all the time.

Mr. DUNN. Yes, sir.

Mr. FRIEDEL. That is what I am asking. Then you said you took a lunch period. How did you leave the engine if you were always switching?

Mr. DUNN. Sometime between 10:49 a.m. and 9:47 p.m., we have to stop for a lunch period, sometime in a spread of 15 hours and 30 minutes.

Mr. FRIEDEL. I understand that. Is there any kind of a break, say 2 hours, 3 hours?

Mr. DUNN. The period for the lunch?

Mr. FRIEDEL. No, not for the lunch. In between that 10:49 and 9:47, I cannot picture you being switched around from all these different places from 11 o'clock in the morning until 9:30 at night. That is why, for me as a layman—I have never been on a railroad; I would not know.

Mr. DUNN. I wish to tell you, Mr. Chairman, that by departing from my original prepared statement, I may have created some area of confusion, because this whole attachment here was designed and coordinated with my statement. Where I am now just trying to summarize, there may be places where I am not as concise and clear as I might have been had I gone through the statement.

But I do wish to have the committee understand, just take any page here, you select them——

Mr. FRIEDEL. You pick any one at all.

Mr. DUNN. Let us work from the first page, then, Thursday the 6th that you have spoken about.

Mr. FRIEDEL. All right.

Mr. DUNN. What I am trying to portray there is the excessive spread of hours that I am compelled to work on this assignment 5 consecutive days a week, and Thursday the 6th is a typical day. There are shorter days, and in some cases, there are longer days.

Mr. FRIEDEL. This is 15 hours and 30 minutes on the 6th, is that right?

Mr. DUNN. Yes.

Mr. FRIEDEL. Total time head trainman absent from cab of locomotive daily was 13 hours and 20 minutes.

Mr. DUNN. Yes, sir.

Mr. FRIEDEL. What I am trying to find out is—you said you went out for a lunch period.

Mr. DUNN. Yes.

Mr. FRIEDEL. Do you get put on a siding for 1 hour, 2 hours, 3 hours? Is it continuously moving?

Mr. DUNN. With the exception of this lunch period, yes. The lunch period is, in line with your suggestion, maybe 30 minutes, 35 minutes, 40 minutes, because I have a long distance to walk to a restaurant. It can hardly be construed as a rest period.

Mr. FRIEDEL. How many hours are you permitted to work a month?

Mr. DUNN. The 16 hours per day is the only limitation I have on me.

Mr. FRIEDEL. You can work 16 hours a day for 30 days?

Mr. DUNN. No, my train is a 5-day assignment, as I show at the top of the page here, under type of service, daily except Saturday and Sunday. I am permitted to work 5 days every week.

Mr. FRIEDEL. And you can make up to 80 hours in that week?

Mr. DUNN. That is theoretically correct, although I believe if I worked 80 hours, I would be in violation of the Hours of Service Act.

As a matter of fact, if you go to the bottom of the page here, total time on duty for the 5-day period, for this specific week we are discussing, it was 72 hours, 20 minutes. Between August 30 and Sep-

tember 3 of last year, I had one week where I worked 79 hours and 40 minutes in the 5 days. That is pretty close to the 80 hours that you suggest.

Mr. FRIEDEL. This is on a freight train, is it?

Mr. DUNN. Yes, sir, local freight service.

It might be of interest to you, while we are discussing this, to know that the miles I run in the spread of this number of hours is slightly under 16.

Mr. FRIEDEL. Slightly under 16 miles?

Mr. DUNN. Yes, sir, which is all stipulated in my statement.

Mr. FRIEDEL. Are you a member of the Engineers Union, or the Engineers & Firemen's Union?

Mr. DUNN. I am a member of the Firemen & Enginemen's Union; yes, sir.

Mr. FRIEDEL. Mr. Cunningham?

Mr. CUNNINGHAM. Sir, on that matter, I wanted to ask a question. You are a member of the Firemen and Enginemen?

Mr. DUNN. Yes, sir.

Mr. CUNNINGHAM. There is another group of engineers that are separate from you, is there not?

Mr. DUNN. Yes, that is a fact.

Mr. CUNNINGHAM. On this sheet that was just under discussion, do you work all year long, except for vacation periods, these same hours 5 days a week?

Mr. DUNN. Yes. These were taken as typical of my operating experience on this particular assignment.

Mr. CUNNINGHAM. I mean you work every day, 5 days a week, these hours?

Mr. DUNN. Approximately.

Mr. CUNNINGHAM. Except for a vacation period, perhaps?

Mr. DUNN. Yes, and as I stipulated on page 1 of my statement, except for times when I serve my own organization on various special assignments which would, of course, break the continuity of railroad service by my doing so.

Mr. CUNNINGHAM. Do you get premium pay for these extra hours?

Mr. DUNN. By premium pay, I presume you mean time and one-half?

Mr. CUNNINGHAM. Yes.

Mr. DUNN. Yes.

Mr. CUNNINGHAM. Double time?

Mr. DUNN. Time and one-half. We would like to see double time in the railroad industry, but it does not exist.

Mr. CUNNINGHAM. How often are you paid by the railroad?

Mr. DUNN. Each week.

Mr. CUNNINGHAM. By the week?

Mr. DUNN. Yes.

Mr. CUNNINGHAM. What would you make, then, off of these long hours per week?

Mr. DUNN. Well, in terms of gross earnings, I regrettably do not have the figures before me. I can very easily supply the gross earnings to you for each of these weeks I presented, if it would be helpful. But it is in excess of $200 a week, if that is helpful at all.

Mr. CUNNINGHAM. I just wanted to get a rough idea.

Mr. DUNN. It is over $200 a week, based on 72 hours and 20 minutes a week on duty.

Mr. PICKLE. Would the gentleman yield?

Mr. CUNNINGHAM. That is all I have to ask.

Thank you, sir.

Mr. FRIEDEL. Mr. Pickle?

Mr. PICKLE. I am interested in knowing how you get this assignment if you work roughly 15 or 16 hours a day, 5 days a week. Does the board send you out on this assignment, or whoever calls you?

Mr. DUNN. No; this is what we call a bid-in assignment. We bid on these runs by seniority, sir.

Mr. PICKLE. You have enough seniority that you bid this, you get this on bid; you ask for it?

Mr. DUNN. Yes, sir.

Mr. PICKLE. And I now ask you, do you protest this?

Mr. DUNN. I protest these hours that I am required to work. I do not protest the nature of the work or the locale.

Mr. PICKLE. Would you choose something that would be less strenuous if you had the choice?

Mr. DUNN. Less strenuous?

Mr. PICKLE. Well, fewer hours. It seems to me you are asking for long periods and pretty good pay, but you bid on it.

Mr. DUNN. That is true.

Mr. PICKLE. Could you bid on something that was less burdensome to you, that would satisfy your needs and your requirements? Is that unreasonable to ask?

Mr. DUNN. No; I do not say your question is unreasonable. I do not feel it is an unreasonable question.

Mr. PICKLE. I mean, would this be unreasonable for the railroad or for society to expect you to take fewer hours?

I cannot quite understand, if these are long, drawn-out, onerous hours, why you would bid on them. Why do you not bid on something more satisfactory to you?

Mr. DUNN. Well, the fact is, Congressman Pickle, that with the seniority I hold, I have no choice but the same type of job. In the terminal that I work from, which is Boston, most of the local freight assignments on my division are similar to this. The through-freight assignments are even worse from a fatigue standpoint then these, and that is why I elect not to cover through freight. This is the more desirable of the two, such as they are.

Mr. PICKLE. Are there not people with less seniority who would like to have this?

Mr. DUNN. I am not in a position to speak for other people. I imagine that somebody else would take it if I did not, yes. I certainly concur with that.

Mr. PICKLE. I do, too.

One other question in connection with your testimony. I do want to read your testimony, and I think we do put you at a disadvantage when we ask you to pot-shot or skim over it. Maybe we have not gotten the full context of it.

Is it the normal thing when you go from Boston to Watertown and then you have 8 hours in the yard of switching duty—is this typical of most of the engineers who are assigned on jobs throughout that area of the country?

Mr. DUNN. Yes, it is.

Mr. PICKLE. So no matter where they are sent, there is a certain amount of layover and they do the work within the yard?

Mr. DUNN. I want to clear up the point about layover which Mr. Friedel brought up originally. There is no such thing as layover in this assignment from any time in the morning until any time at night. The work is continuous. It never stops except, as I said, for a brief lunch period.

Mr. PICKLE. This is typical of all the engineers who go out on these kinds of assignments?

Mr. DUNN. Yes, sir, and I had dwelt on this some in my statement, too.

Mr. FRIEDEL. Could anyone in the yard take over on the switching of the engine until the train was made up to return?

Mr. DUNN. Mr. Chairman, we would be delighted to have somebody take over some of these duties. But in line with the more recent settlement that was arrived at in the so-called White House agreement of June 25, 1964, we are confronted with the fact that the railroads have won the right to take the last switcher off a given yard. Many of these local freights now do the work that was formerly done by a yard switcher, thus extending the workdays.

Mr. FRIEDEL. Do they not have the engineers in switching yards?

Mr. DUNN. Not at the West Cambridge, sir. We do predominately our own switching at West Cambridge. We do all of our switchin at Watertown.

Mr. FRIEDEL. How about Watertown, where the big layover is?

Mr. DUNN. It is not a layover in any sense.

Mr. FRIEDEL. I understand. I am probably not wording it right. But I see you arrived at Watertown on Thursday, the 6th, at 10:49 a.m. You departed Watertown at 9:47 p.m. During the time, you are in the yard switching. My question is would not the railroad be better off to have a man in the yard, an engineer, to do the switching?

Mr. DUNN. I would think so.

Mr. FRIEDEL. Well, is that not done?

Mr. DUNN. No; it is not. As I have stated, and again, I have to keep referring to my statement, I have touched on this problem in the statement. But it is the end of the track, so to speak, it is the end of a short branch line. It is only 2⅞ miles long. When we get out there, to just put it in quotes, "we own the railroad." We are it; we are the switcher.

Mr. PICKLE. Will the gentleman yield?

Mr. FRIEDEL. Yes.

Mr. PICKLE. Do you think it would be more practical and advantageous that a railroad actually assign switchmen within the yard and not have to depend on engineers to come in? If they did that, what would happen to you?

Mr. DUNN. This is something that is solely the railroad's initiative. I do not come before you, sir, as a railroad superintendent or somebody who diagrams the assignments. I think that if some other job were assigned to this area which would cut down the overtime, it would be helpful all around, but, as you must understand, I am only an engineer and have no control over the diagraming of these assignments.

Mr. PICKLE. I understand that. But like the chairman, I am trying to look at it as a layman. But if they had engineers doing switching work in any particular yard, which does make sense to me, too, then it would seem to me that you would go from Boston to

Watertown and, in a 3-hour period, you would be there, and then you have to get back to Boston, for which you will not be paid, and then your money, instead of being in excess of $200 a week, would be about a third of that. You and the other engineers would not like that. Why would you protest this if there is some other kind of solution than long hours?

Mr. DUNN. Later on in my statement, I have touched on this. However, I would be happy to answer your question now.

There are some of us who are more than routinely aware of the fact that there will be a cut in pay involved here. There will be a cut in overtime earnings if this committee favorably reports out this amendment and it is adopted by the Congress, no question about it. But the inescapable fact is that, speaking for myself and all engineers of my acquaintance, we are ready to take a cut in overtime earnings as opposed to some inevitable cut in our health and physical well-being by virtue of working these hours stipulated on these seven pages I have given you.

Mr. PICKLE. If there would be a cut in your pay if these hours are reduced——

Mr. DUNN. Yes, sir; in the overtime earnings, there definitely would be.

Mr. PICKLE. Would it follow that the railroads would have to add additional people to take care of the hours that have been cut off from the 16 to the 12?

Mr. DUNN. That is something that I just spoke to you previously about. I am not an expert on diagraming runs.

Mr. PICKLE. You do not have to be an expert on that. That would follow, would it not?

Mr. DUNN. It would, yes. There would have to be some rescheduling done.

Mr. PICKLE. You may not know as an engineer, or you could ask your counsel there, how many more people would the railroad put on if these hours were reduced from 16 to 12? How many additional employees would this require that they would have to put on?

Mr. DUNN. I rather think, Mr. Pickle, that the number would be negligible with intelligent rescheduling of the trains.

Mr. PICKLE. You say you are going to take a cut in salary and whatever amount is going to be cut from you is going to be put somewhere else if the service is going to be given. You are saying that it just comes out even, and there is no additional cost to the railroad?

Mr. DUNN. I do not say there is no additional cost, but I do say that the expansion of crews could well be negligible, with some intelligent rescheduling of the trains. That is my feeling.

Mr. PICKLE. So the reduction would be on you and there would be no appreciable cost to the railroad. Is that what you are testifying to?

Mr. DUNN. Yes, I would testify that there would be some, but it would be negligible in my view, as I understand it.

Mr. PICKLE. I must say I am not an expert in this field, but I would think that there would be some appreciable increase to the railroads and, in fact, what we have to look at as a committee would be to ascertain if the safety that is involved for the public, and the health of the employees, be fairly related to the cost that might be put on the railroad? If there is no appreciable increase of cost, that might not be a problem. I just do not know.

Mr. DUNN. I was just wondering if it might be appropriate for you to direct that question to Mr. Gilbert, who is far more conversant with policy in the overall picture than am I, who is merely operating an engine, so far as testifying in this proceeding.

Mr. FRIEDEL. I want to thank you, Mr. Dunn.

Mr. BENNETT. Might be, sir, just indicate two more paragraphs in his statement which concern another exhibit he has?

Mr. FRIEDEL. Certainly.

Mr. DUNN. I would like to go back into the statement for two paragraphs, if I may. I will begin at the middle of page 12.

It matters not whether it be a 95° afternoon in July or a 20-below-zero day in February, the engineer is stationed at his open cab window, fair weather or foul. Due to the varying number of cars I handle during the day—this is all Watertown I am speaking of now—the nearest member of the ground crew is often many car lengths away, or around a curve, or between other cars, or in a shadow, thus requiring me to be constantly in a leaning position from the cab window, a fatiguing task in itself, hour after hour with no relief of any sort available. In conjunction with the physical contortions required of me in this regard, there is the ever-present dead-man pedal to be coped with. This dead-man pedal requires about 7 to 8 pounds pressure to keep it depressed with one's foot. Release of this pressure for any reason will immediately set the brakes on the locomotive or train, as the case may be, thus causing the movement to come to a stop.

It is a well-known fact, even to a nonmedical person such as I, that speaking in terms of muscular fatigue, a continuous contraction of muscles produces fatigue much sooner than an alternative contraction of muscles. There is virtually no way that a continuous contraction of muscles in the leg may be avoided, especially when looking backward as I do most of the day. Thus, the extreme fatigue generated by such postures as I must assume in the cab arrives much earlier in the day than if I had either a relief or someway to change my position in the cab seat.

Mr. FRIEDEL. Does that refer to this booklet you have here with these pictures?

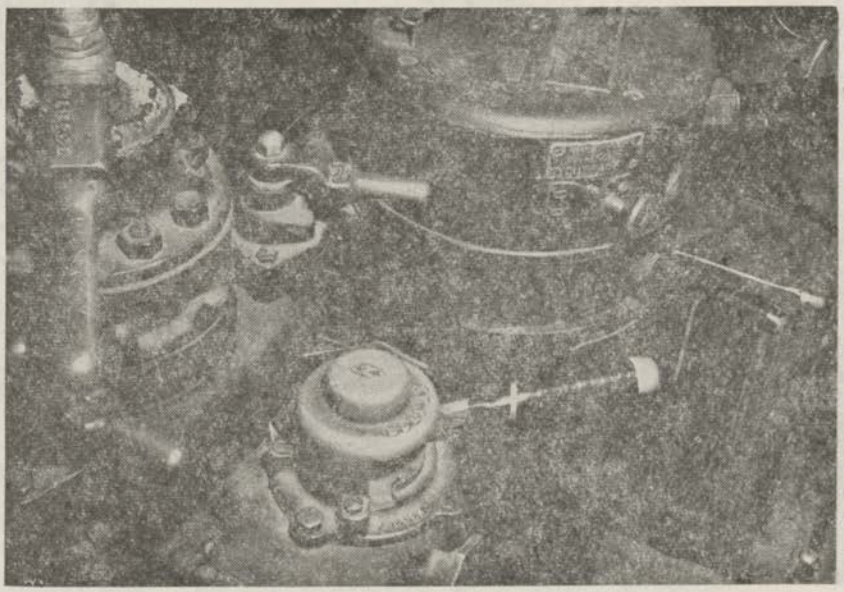


FIGURE 1.

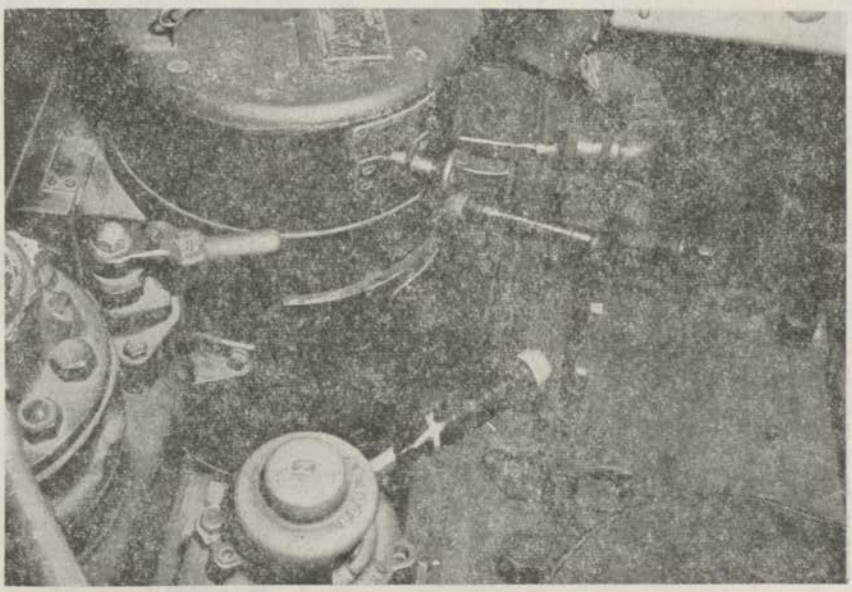


FIGURE 2.

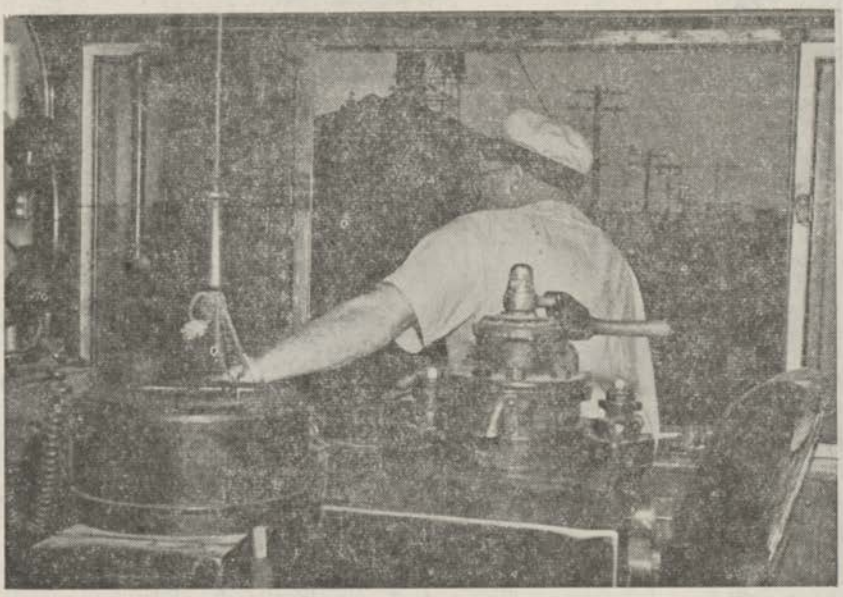


FIGURE 3.



FIGURE 4.



FIGURE 5.



FIGURE 6.



FIGURE 7.

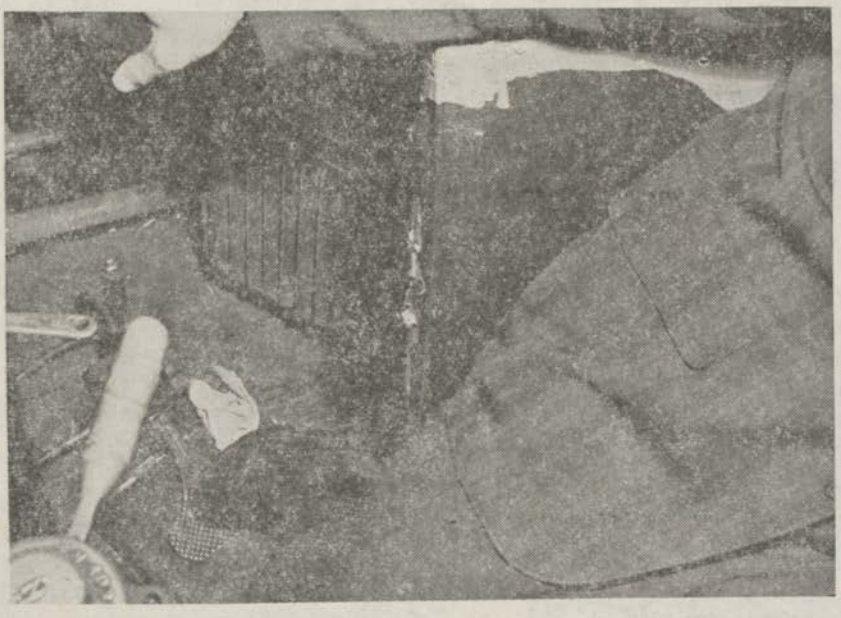


FIGURE 8.



FIGURE 9.



FIGURE 10.

Mr. DUNN. Yes, sir. I want to conclude with this paragraph and then I will briefly narrate, if I may, that exhibit you have before you.

Mr. FRIEDEL. Proceed.

Mr. DUNN. Since I have neither a relief nor a way to change my position, or to change feet on the pedal for that matter, I am confronted with bodily fatigue many hours before I can expect to go off duty at the end of the day. I would like to distribute a few photographs in connection with this phase of my discussion on the dead-man pedal, which I feel will more graphically explain this problem.

This exhibit that you have before you is in terms of photographs. Figure 1 is merely a photograph which depicts all the controls that an engineer uses in the operation of the locomotive. Describing them briefly, to the extreme left of the picture is the automatic brake valve. Beneath that long handle is a sanding valve which places sand beneath the wheels. To the right of it is a valve which rings the bell. In the front center of the picture is the independent brake valve which the engineer manipulates when he has no cars attached to the train. Just to the rear of that is a long circular column you will see. There is one handle which projects to the right of the picture by which he reverses the direction of the locomotive, and the extreme right in the top of the picture is the throttle of the locomotive by which you govern the speed of the engine.

The next picture, figure 2, is a duplication of picture No. 1, with one exception, that down at the middle of the picture at the bottom you will see again this engineer's brake valve that I told you about, the independent brake valve. Beneath that, you will see the pedal on the floor. This is the dead-man pedal I have alluded to previously in my testimony. This picture gives you an overall view of the placement of the dead-man pedal.

If you will turn now to page 3——

Mr. PICKLE. How does the dead-man pedal work? You have to keep 7 or 8 pounds pressure on it?

Mr. DUNN. Yes. You see, you have to keep your foot on it at all times and a pressure of about 7 or 8 pounds is required to hold that pedal depressed to the floor. If, for any reason, you remove your foot from the pedal, it will allow the pedal, which is airloaded, to fly up, so to speak, and that causes a communication with main reservoir air right into your airbrake system of the train and applies the brakes and stops the train. It just admits a quick supply of air into the airbrake system to apply the brakes of the locomotive.

Mr. PICKLE. If you removed your foot, would it apply the brakes immediately?

Mr. DUNN. Immediately. Within a matter of maybe 2 seconds, yes.

Figures 3, 4, 5, and 6 are here for you just to examine as to some of the usual positions an engineer has to assume when operating a locomotive. Figure 3 shows the engineer leaning out the window looking ahead. It might be interesting to you gentlemen to know that figures 3 and 5 are pictures of the engineer operating the engine ahead.

Figures 4 and 6, show him working when he is working backward, which is a little more difficult to operate the engine by. In conjunction with my own statement, I work in a backward position practically all day long when I am at the city of Watertown we have been discussing.

While you folks walk by the engine in Union Station over here or however you travel, look up at the engineer, he looks as though he is looking out the window a little bit, and maybe there is not much involved in it. But I thought you might like to have these views of the contortions he is going through as they appear from the inside of the cab.

If you will turn over to the next page, which concludes this exhibit, figures 7, 8, 9 and 10 are here to give you some indication of the contortions he must place his body in in order to keep this pedal depressed these many hours I have described to you.

In figure 7, you will note that in the lower left-hand corner, we again have this independent brake valve we have been discussing, and above it this throttle and reverse lever. You will notice the man's body is almost horizontal to the seat position here in order to get out the window far enough to get this ground crew member that he presumably is looking for, or some signal.

Figure 8 depicts pretty much the same situation, except as you will notice here, the man's leg is contorted down and behind the seat in order to hold this dead-man pedal depressed.

Figure 9 shows how the pedal on some engines can only be reached, really, with a man's toe.

Figure 10 is just another elaboration of that picture, but shows you the position of both his legs.

I would just point out, in concluding this exhibit, that this is not now and again that this takes place. This is all day for the hours I have mentioned in this attachment to my prepared statement.

Mr. FRIEDEL. These pictures are not of you? You are not in any of these pictures, are you?

Mr. DUNN. No; I prepared the pictures, however.

Mr. FRIEDEL. I notice he has a sport coat on.

Mr. DUNN. That is a good point. The gentleman in pictures 3, 4, 5, and 6 was not available the day I was able to make pictures 7, 8, 9, and 10, so I actually had his brother do it, they being of similar stature, both of whom are locomotive engineers and both of them assigned to this type of run.

Mr. FRIEDEL. Of course, you understand it and the pictures are good, but I am thinking out loud; maybe we could arrange for our subcommittee to visit one of these yards, like western Maryland close by, and see how they switch these cars and see what happens, use an on-site inspection, see how they do this. I wonder if that could be arranged so we could see how they operate these switching functions?

Mr. BENNETT. I might say this, sir. I do not think it is our part to arrange it. I assume there would be no difficulty having it done. However, I think the value of it would only be to familiarize a non-railroad worker with what the items are that we have been talking about. I do not think that it would quite be possible to go out and look at one switch engine in Alexandria and be able to see from a short visit there the actual working conditions which take place day in and day out throughout the country. That is why we have made an effort to bring the locomotive engineers from all parts of the country who can relate their experiences and their actual day-to-day operating conditions to you.

I am saying this, sir, we cannot, as such, arrange the trip, and I think it would have limited value, but it may have some value, sir.

Mr. FRIEDEL. I think a firsthand inspection to see how they move their bodies and look out the window, if we could see it physically, would be much better than a picture. I would not want to pick out one of these easy things. Pick a bad one and a good one.

Mr. BENNETT. Sir, I think it might be, with all due respect, a little difficult to engage in normal operations with a jury of 12 good men and women watching what is going on. I think it might be most difficult, sir.

Mr. FRIEDEL. I thought that it might be better.

Does that conclude your statement?

Mr. DUNN. Just very briefly, I would like to state in conclusion, if I may, Mr. Chairman, that my statement also alluded to some side conditions which I feel are very fatiguing and create a good deal of tension in people like myself who are required to work these hours.

It relates to vandalism which is practiced on the railroads today, in urban areas such as the one I am operating in. I think it speaks for itself.

Then I would like to conclude and say, as I have on page 18, that to me it appears as a sad commentary that the lawmaking tribunals of our great country, are even confronted with this matter of a proposed reduction in the present hours of service law. One has only to look across the ocean to Great Britain to perceive an impressive array of limitations to hours of service for engineers, which have been agreed to in a true collective bargaining manner. The British Railways, whose equipment, operating rules, and practices are similar to ours, saw the need for a limitation on the number of hours an engineer should be required to work, both single and double manned. From about 1956, comprehensive agreements were drawn up which limit the miles and hours an engineer may work.

Then to close, I am appreciative of the chance to appear before your committee today in this regard, and would hope, based on the number of hours that I indicated in my survey, that some consideration will be given to a reduction in them, because people like myself cannot go on forever working these hours and expect to say as healthy as we may presently be.

I thank you.

Mr. FRIEDEL. Thank you, Mr. Dunn, for your statement.

(The complete statement of Mr. Dunn follows:)

STATEMENT OF WALTER P. DUNN, LOCOMOTIVE ENGINEER, ON BEHALF OF THE BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN

My name is Walter P. Dunn and my address is Box 177, Natick, Massachusetts. I am employed by the Boston and Maine Corporation, Fitchburg Division, in the capacity of locomotive engineer. This statement is made on behalf of the Brotherhood of Locomotive Firemen and Enginemen of which I am a member. I commenced my service with the Boston and Maine Corporation in 1941, and except for four and one-half years of service in the U.S. Merchant Marine in the capacity of Marine Engineer, during World War II and the Korean War, I have been in the employ of the Boston and Maine Corporation in engine service. I was promoted to the craft of locomotive engineer in 1955, and since that time have worked continuously in this capacity, except for occasional breaks for service with my Brotherhood which I serve from time to time on special assignments.

It will be my purpose to testify in favor of the proposed changes in the Hours of Service Act, as contemplated by H.R. 8476 and related bills. I am familiar with the present Act and have also studied carefully the proposed revisions. My

concurrence with the proposed revisions is made upon the basis of my years of practical operating experience.

Those of us who are actually engaged in engine service have long realized that our safety and that of the train we may be operating depends to a very considerable extent upon one having had proper rest before going out on the many arduous runs that confront us in modern-day railroad operations. To be compelled to work up to or over the present legal maximum of 16 hours, even on double-manned locomotives, is objectionable to me and also to all engine service employees I know.

It is a matter of record that every railroad has a rule embodied in its operating rule book which expressly commands every operating employee to obtain sufficient rest and be physically fit, before reporting for duty. As is well known to all railroad men, failure to comply with this basic rule can imperil one's employment with an individual carrier. With the scant few hours available to them between each day's trip or tour of duty in which to obtain their proper sleep and relaxation, the engine crewmen who at present are compelled to work up to 16 hours a day, day after day, are certainly unable to appropriately conform to this requirement.

The fact that many operating conditions in the railroad industry have changed greatly since 1907 shows the need for a revision of the 1907 Hours of Service Law to reduce the maximum hours of service permitted from 16 hours to 12 hours or less. The 16 hour provision of the Hours of Service Act, presently in effect, was legislated by the law makers of another era, who had before them, among other facts, the basic concept that virtually all locomotives were double manned, that is, by an engineer and a qualified fireman. Through the years from 1907 until very recently, with few exceptions, the double-manning of all locomotives, both steam and non-steam, was an accepted industry-wide practice. I might add that the 16 hour law, up to the present time, has permitted the carriers to operate trains at will right up to the legal maximum hours and without regard to the fatigue and strain with which engine crews are confronted, regardless of whether single or double-manned.

The Committee might wish to consider the unsatisfactory record of violations and abuses of the existing law the carriers have compiled since the law was enacted in 1907. It is my hope that the proposed increase of the fine to the amount of $500.00 for violation of the proposed law by an individual carrier will provide a stronger deterrent to the indiscriminate disregard of the law as it presently exists.

I wish to point out at this juncture that it will not be my purpose to discuss to any great extent the drastic changes which have taken place in railroad safety and operations, as a result of the passage of Public Law 88–108 and the creation of Arbitration Board 282. To enter into any detailed discussion of the Board's findings might well be construed as an effort to reopen or argue the fireman manning issue before this Committee, and most assuredly, this is not my purpose. It is important to note, however, that the few references which may be made to the results of the Board's findings, as actually implemented from May 7, 1964 up to the present, are inescapably linked to the necessity for a reduction from the 16 hour limitation of the present law to a maximum of 12 hours, or less, if a locomotive is single-manned.

For the record, I do not concede that a fireman-helper is less necessary today than formerly, but insist, by virtue of the fact he is a trained assistant to the engineer, that his services today are as sorely needed as ever by the many thousands of locomotive engineers who have been recently forced to operate without this assistance.

The very history of the railroad industry will reveal that since the days of the most primitive, wood-burning locomotive, it has been the practice of the qualified fireman to relieve the engineer from his operting duties for such reasons as tensions, fatigue, personal needs, possibly dirt lodged in his eye, or a host of related reasons. In the very earliest days, when engineers were compensated more in prestige than money, the practice was not so prevalent as in later years when the engineer's image became somewhat pre-empted by the early airplane pilot and so on up to the astronaut, as at present. It is significant, however, that while the locomotive engineer's image may have been besieged, his job content certainly did not disappear with his image. On the contrary, his job content and responsibilities are far greater today than ever before, now that American Railroads have crossed the threshold of total dieselization of their locomotive power.

It is a far cry from the nostalgic coal fired locomotive of 1907, hauling 20 or 30 small wooden cars, to the mighty multiple-unit diesel locomotive consists of today, hauling 200 or more cars at what were formerly regarded as express train speeds. The engineer's need for relief from the tension and fatigue he faces has

been a real one since the very inception of the industry and has never been denied by the carriers generally, since they have sanctioned the practice without either official notice or comment. The former fireman, and now the fireman-helper, has efficiently performed, in addition to his other duties, the relief of the engineer over the years.

Today locomotive engineers are confronted with a steadily changing industry, one which has in fact changed even since Award 282 was made effective. Locomotives have greater horsepower than ever before and their complexity has increased more than in proportion. Train speeds are going higher, in a bid by the railroads to haul more commodities. Trains are heavier and longer, with a resultant increase of difficulties in train handling, such as starting and stopping the train, which can be hazardous under a variety of conditions. Locomotive maintenance, sparse on many railroads, shows up in Interstate Commerce Commission Locomotive Inspection Reports, indicating the percentage of mechanically defective locomotives is increasing yearly on many carriers. This factor causes many unnecessary stops and delays to trains, thus confronting the engineer with the possibility of severe discipline should he be unable to locate and correct one or more of the hundreds of malfunctions which can and do occur to diesel-electric and electric locomotives in normal, everyday operation.

A locomotive engineer when departing on his run is confronted with the fact that it is necessary to operate his train under every variety of weather conditions, around the clock, in snow, fog, rain, blizzards, sleet, cold, heat and in darkness as well as daylight.

I think it evident that modern railroading, with its increased emphasis upon high speed, on-time operation, and longer, faster, heavier trains, is placing greater dependence than ever upon the skills of the engineer and at the same time is increasing his responsibilities and job content in an inordinately burdensome manner. As the speeds and tonnage of trains continue to increase, so do the distances required to stop such trains increase in proportion. A locomotive engineer is often confronted with the fact that he may have highly volatile cargo in his train consist. This may be in the form of chlorine gas, gasoline, propane gas, TNT, atomic materials and many highly corrosive and lethal liquids. The engineer is hard pressed to handle a typical train in a manner that will minimize or eliminate excessive slack action due to the cars running in or out. Train run-in or run-out, which is the slack between the cars being contracted or stretched, as the case may be, when in motion, constantly presents the possibility of a train breaking apart and its many dire consequences to that train, and trains on adjacent tracks in the event of a possible derailment. The engineer must constantly endeavor to handle the train in a manner which will avoid excessive slack action, which creates the possibility of injuring conductors, brakemen, flagmen or other employees riding the rear of the train, as well as avoiding other mishaps to the train or crew.

It is a matter of public record that the engineer of today is confronted, more than ever, with reckless truck drivers and motorists who vie with one another for positions whereby they may participate in the suicidal game of "beat the train to the grade crossing". Any engineer who daily survives such near misses has a grim story to tell in terms of nervous tension and anxiety.

Under single-manning of a locomotive, the engineer has complete responsibility for correcting any locomotive malfunction even though a head brakeman may be present in the cab of the locomotive at times. The head brakeman is a completely untrained man, in regard to locomotive and train handling, maintenance, inspections and malfunctions. Since the brakeman is completely untrained in mechanical duties, and has a full job content of his own, it is incumbent upon the engineer to stop the train if a malfunction occurs and then hope to locate and rectify it in order to proceed.

The need for the present Hours of Service Law to be reduced from 16 hours to 12 hours or less becomes readily apparent when consideration is given to the very brief concept of a changing industry which I have discussed above.

The additional strain and tension which has been heaped upon the engineer, most particularly since the services of a trained, qualified man are often no longer available to him with the advent of single-manning under Award 282, is placed further into perspective by considering that the end product of continuous mental strain is physical fatigue. Combining this physical fatigue with a variety of tensions which present themselves, such as the kaleidoscopic pattern of physical characteristics as the right of way rushes by the cab window when moving at speed, noise levels of the engines, rough riding locomotives, the need to think ahead and be cognizant of everything that *might* happen before it *does* happen on a fast mov-

ing train, is more than a human being should be expected to endure, even if double-manned and operating within the scope of the present 16 hour law. To then expect an engineer to go out on his run and accept all this without any form of assistance or relief whatever, is going far beyond the realm of human endurance, in my view. It should be borne in mind that when a trained assistant is not available to the engineer in a given trip, the engineer can anticipate no assistance whatever from the head brakeman in the serious operating considerations enumerated above.

Regardless of whether the head brakeman is present in the cab at all times, or just part of the time, the inescapable fact remains that the engineer operates his engine alone, for all practical intents and purposes, with just one pair of hands, one given set of reflexes, one mind, one body, one set of regulatory functions to cope with all the tensions, emotions and fatigue which may confront him during his run. The head brakeman, even though present, cannot share or relieve the engineer of any of the undue burdens placed upon the engineer, for he simply is not qualified to do so and is further reluctant to try and assume them, as he has a job of his own to do.

I shall now discuss another area with the intent to place further into perspective the need for a reduction in the present Hours of Service Law, from 16 hours to 12 hours or less, for operating employees. This area is related, to a degree, to what I have already discussed, but has enough specificity attached to it to merit a separate discussion.

My discussion up to this point has been directed primarily toward over-the-road freight operations. I now wish to discuss the exact nature of the freight run on which I am presently employed as a locomotive engineer. My present assignment is best described as a combination of local freight and industrial switching duties. This assignment operates daily from Boston to Watertown, Massachusetts, and returns to Boston. The total miles traveled each day is 16 miles. This run, like hundreds of similar runs, has only one man assigned to the engine crew, namely the engineer. The train crew is composed of a conductor and two brakemen.

I report five days a week, Monday through Friday, at a regular starting time in the Boston Engine Terminal facilities of my employing carrier. After a thorough inspection of the locomotive assigned me each day, I am then required to run this locomotive single-manned, with nobody in the cab to accompany me on this leg of my assignment, to a point called West Cambridge, Massachusetts. This operation, nearly five miles in length, is made at maximum permissible road speeds on main-line trackage in signal territory, and I repeat, with nobody in the cab other than myself. At West Cambridge, I meet the train crew, make up or couple onto the outbound train, test the air brakes and then proceed to Watertown, Massachusetts, the turnaround point of this assignment each day. The distance from West Cambridge to Watertown is approximately two and seven-eighths miles in length.

As has been already stated, the first several miles of my run is made at road speeds with no one in the cab of the locomotive with me. In this span of miles, I am compelled to pass through what we railroaders refer to as the "combat zone." This is a slum area extending from Prospect St. Bridge, Somerville, Massachusetts, to the West Cambridge, Massachusetts Yard facilities. On days when the schools are on holiday, or during summer vacation, it is the usual thing for the engine to be stoned almost continuously while passing through this area. The tracks are strewn with debris and rubbish, nearly rail-high in places, and cement blocks, logs, iron bars, barrels, supermarket carriages, and many other objects are forever being placed on the rails in the hope of derailing an engine or train.

From Prospect St. Bridge to West Cambridge, there are about six overhead bridges of various types. The amount of stones and other objects hurled from these bridges at moving engines or trains defies adequate description here; such as the device of a large rock tied to a rope and suspended to the exact height of the window glass area of a fast moving locomotive.

I feel it readily evident that a locomotive engineer, especially when single-manned, is a sitting duck in the situations described, and with no advance warning as a rule, is prone to serious injury or even worse, as these objects come crashing through the cab windows, with the ever present possibility confronting him that he can become blinded for life, if he survives the incident.

The tension and anxiety which confronts an engineer every day of his life in normal road operations is certainly compounded when he must face these additional anxieties and hazards I have mentioned. It is my understanding that

this condition is prevalent on all railroads operating in urban areas, and is not peculiar to the Boston & Maine Corporation alone.

I have personally been stoned so severely that it became necessary for me to place a board on the dead-man pedal, contort my leg around the throttle stand of the engine in order to place my foot on the board and thus attempt to operate the engine from the middle of the cab, in order to get away from the glass areas of the locomotive cab which were being stoned. The operation of the locomotive is interfered with to some extent by this means, but to stop the locomotive in the midst of a gang of hoodlums on the track, would be to invite serious injury at best.

On more than one occasion, I have stopped the locomotive, however, with the result that one or more intoxicated hoodlums have entered the cab of the locomotive brandishing knives. When locomotives were double-manned, this possibly served as somewhat of a deterrent to such acts of violence, but with single-manning, the engineer has lost the psychological advantage of two men being present, and is a prime target for the whims of the slum area hoodlums and others.

It is a matter of carrier record that on November 18, 1965, my engine was so severely stoned that the front windows of the engine were smashed out by a gang of vandals on a bridge at West Cambridge, and I was forced to leave the job at that point due to a head injury. The carrier's records are replete with similar incidents, which apparently are continuing unabated, providing a frustrating problem to any engineer.

An engineer, either single or double-manned, being exposed to the above hazards and the tension and anxiety which attends such lawless deeds, is most certainly entitled, in my view, to a reduction in the hours he can be required to work each day. I have personally found it to be a nerve wracking, exhausting experience to operate a locomotive each day, under the conditions mentioned. Taking into account the routine problems of operation which I shall describe in the following, coupled with the few I have just described, certainly provides a valid case in behalf of the modest reduction in hours of service proposed.

In continuing my description of the run I presently operate, it is pointed out that while I have no one in the cab with me from Boston to West Cambridge, I do have the head brakeman with me in the cab from West Cambridge to Watertown, Massachusetts. This is by virtue of the fact that he must flag protect four grade crossings in this distance and is assigned to ride the engine. Speeds are slow on this portion of the run, due mainly to poor track conditions, but are also kept down because of the presence of objects often placed on the track in attempt to derail the train. On one occasion, the head brakeman and I were forced to break up and remove an entire cedar post fence which had been placed on the rails. Tampered switches are an ever present hazard where vandals break the switchlocks and then either line the switch for a side track or leave it half-lined in an attempt to derail the engine or train. Constant vigilance, with or without the head brakeman, is required of an engineer on this type of run.

When this assignment arrives at Watertown, Massachusetts, the head brakeman leaves the engine and is on the ground in conjunction with switching cars and servicing the many industries in that area, which is quite heavily industrialized. This is the major part of the work of this assignment.

It is significant to note that from the time I arrive at Watertown, Massachusetts in the early forenoon, until I depart from this point sometime during the evening, there is absolutely no one in the cab of the locomotive with me during this entire length of time. Actually, during this period the need for a second man on the other side of the cab, which is blind to me, is most critical. It is during this period that much heavy, routine switching is done. Next, the various industries are served. Plant personnel are on and about the tracks and in the cars. Trucks and plant vehicles come and go unannounced; grade crossings are gone over dozens of times a day; small school children are on and about the cars, following the example of their older brothers and sometimes sisters, of riding the sides and ends of cars; and alcoholics are on and about the tracks frequently. One industry I serve has a vast amount of truck traffic in and out of it, none of which is visible to me from my side of the engine. With the train crew busily engaged at their duties, I must often move forward and backward, not being able to see what confronts me on the opposite side of the engine. The many near misses which take place at this point, as well as in conjunction with all the aforementioned, certainly can induce extreme tension and fatigue after long hours on duty, day in and day out, with no let up in sight except a hoped for reduction in the maximum hours of service, as proposed in the legislation before you.

It matters not whether it be a 95 degree afternoon in July or a 20 below zero day in February, the engineer is stationed at his open cab window, fair weather

or foul. Due to the varying number of cars I handle during the day, the nearest member of the ground crew is often many car lengths away, or around a curve, or between other cars, or in a shadow, thus requiring me to be constantly in a leaning position from the cab window, a fatiguing task in itself, hour after hour with no relief of any sort available. In conjunction with the physical contortions required of me in this regard, there is the ever present dead-man pedal to be coped with. This dead-man pedal requires about 7–8 pounds pressure to keep it depressed with one's foot. Release of this pressure for any reason will immediately set the brakes on the locomotive or train, as the case may be, thus causing the movement to come to a stop.

It is a well-known fact, even to a non-medical person such as I, that speaking in terms of muscular fatigue, a continuous contraction of muscles produces fatigue much sooner than an alternative contraction of muscles. There is virtually no way that a continuous contraction of muscles in the leg may be avoided, especially when looking backward as I do most of the day. Thus, the extreme fatigue generated by such postures as I must assume in the cab arrives much earlier in the day than if I had either a relief or some way to change my position in the cab seat.

Since I have neither a relief or a way to change my position, or to change feet on the pedal for that matter, I am confronted with bodily fatigue many hours before I can expect to go off duty at the end of the day. I would like to distribute a few photographs in connection with this phase of my discussion on the dead-man pedal, which I feel will more graphically explain this problem.

Resuming my discussion of my present assignment, I feel it important to point out that since I operate on a track which other trains seldom use during my normal hours, my engine is constantly in motion, stopping usually only to change direction while switching. The constant coupling onto cars, uncoupling from cars, switching strings of cars without using air brakes, the many impacts resulting from both coupling and slack action between cars when moving them, plus poorly maintained track and heavily sprung locomotives, all adds up to one physical impact after another to the engineer seated on the engine. One must be constantly braced, due to this, and the rigid positions one must maintain, plus being constantly braced for the unexpected jolt, can become tiresome after a period of many hours on duty.

The exposure to extremes of heat or cold, the inordinately long number of hours I am required to work in severely contorted body positions, the impacts, noise levels, jolts, the reflections of lights at night into all the cab windows often obscuring good vision, are just a few of many reasons which, when considered together with the outright operating hazards of malicious tampering with railroad property that I have previously described, should certainly provide valid reason for a reduction in the hours of service operating crews are presently required to work.

In addition, all the problems which confront me daily on my outbound trip to Watertown are there in reverse order on my inward trip to Boston, in one form or another.

I have with me a brief hours-on-duty survey made by me covering my present assignment. I feel that this survey may be helpful regarding the proposed amendments to the Hours of Service Law. This survey shows my working hours for a seven week period from January 3, 1966 through February 18, 1966. You will note that I show for each day not only the total time on duty for each day and the week, but also the total time that the head brakeman is present in the cab of the locomotive, as well as the time that he is absent from the cab of the locomotive. I have maintained similar records for this same assignment during various parts of 1965. The information shown in this present survey is not in any manner unusual for this assignment.

There are a considerable number of similar freight assignments operated by this carrier throughout its operating territory which work excessive hours. The assignment I have described is not an isolated example on the Boston & Maine. Some of the similar runs work excessive hours six days every week. This condition is not limited to the type of assignment that I have described. It may be found to exist on many of the through freight assignments on my operating division. In addition, almost all of the through freight assignments on my operating division are single-manned.

Upon completing a long day's work under the few conditions I have described and after I have commuted to my residence in the west suburbs of Boston, I am usually completely exhausted, both physically and mentally. The thought often enters my mind, as it does many of my fellow engineers on my property as well as other railroads, as to just how much longer we can all safely continue our working

lives under the present conditions. By safely continuing our working lives, I have reference to safety as it affects the individuals, his fellow workers, the equipment he operates, and in addition, the safety of the traveling and shipping public. Safety can also be regarded in terms of one's ability to continue working, free of disciplinary action by railroad management, in the event one becomes involved in some mishap which many times is the end-product of excessive hours on duty.

A tired, fatigued worker is a distinct liability in any industry, whether he be operating an industrial machine or a locomotive. The added hazard of operating any machine or vehicle which moves should be readily apparent. It is my thought, as well as that of most men with whom I work, that we cannot long continue the excessive hours engineers are presently required to work, without exacting a grim toll in the physical well being of this time honored craft. It should be noted, in concluding this phase of my statement, that for years engineers have endured, yet abhorred, being forced to work up to 16 hours and have done so only due to the fact that a qualified relief was available to them whenever they became over-fatigued for the reasons I have previously mentioned.

Today, however, many engineers no longer have any relief available to them, yet the problems they are confronted with remain unchanged and in certain cases are even worse than formerly. It readily follows, therefore, that the court of last resort for thousands of long-hours weary engineers is the hoped for and long awaited reduction in the Hours of Service Act.

The end result of the proposed reductions will be seen in terms of the physical and mental betterment of all operating employees, the safety of each crew will inevitably improve, and the employing carrier stands to benefit in terms of increased safety and efficiency in operation. A rested, alert worker can be expected to produce more in a safe manner than can a tired, over-fatigued worker who is always a hazard both to himself, others he may work with, as well as the equipment he operates.

It stands unquestioned, in my view, that principle beneficiaries of such improved operations will be the traveling and shipping public. This contention is borne out by the fact that presently any carrier can let a train stay sidetracked for hours on end, secure in the knowledge that the crew can be held on duty up to 16 hours without penalty. Were the maximum hours on duty to be reduced to the proposed levels, an expedited movement of trains could be anticipated, with goods being moved faster from point to point than is presently the case.

This fact was found to be so in 1907 when the present law was enacted. Up to 1907 trains could be held on the road any number of hours which might suit a carrier's convenience. After the present law was enacted, train movements were immediately expedited to conform to the 16-hour limitation placed on hours of work to the benefit of the carrier, the employee and the public. What held true in 1907 certainly holds true today and it would appear that a justified reduction in hours on duty would provide a long overdue means of further expediting the movement of trains all over the U.S.A.

In concluding this statement I would like to comment briefly on the positions of opponents of this bill which has been made known to me in a general way by my organization.

With regard to the position of the Association of American Railroads in opposing amendments to the Hours of Service Act, I can only state that their position is best described as traditional, which at times also becomes contradictory and facitious as it relates to the Association's concern over the alleged loss of earnings to employees.

Regarding the opposition of another organization which purports to represent many locomotive engineers in this country, I wish to state that I have had difficulty in attaching any credibility to their position as I understand it. It is readily seen that their many engineer members are confronted with identically the same problems and hazards which I have hereinbefore enumerated and it is a matter of record that the many thousands of locomotive engineers who are members of my organization are confronted with the same problems. This is due to the fact that all railroads are intricately interwoven as it relates to gauge of track, types of equipment, operating procedures and a host of other factors which renders them inter-related for purposes of this proceeding.

For an organization to go on record as opposed to the one change in a law, which will untimately benefit its members in the ways I have previously described, immediately places their attitude quite beyond my comprehension. The thinly disquised pretext regarding a potential cut in pay fails to meet the test when closely examined. For those few cases where a cut in pay can actually be proven, I wish

to state that I, as well as many men I know, stand ready to endure a reduction in overtime earnings as opposed to a permanent reduction in our health and well being caused by the present excessive hours of service we are required to perform.

To me, it appears as a sad commentary that the law making tribunals of our great country are even confronted with this matter of a proposed reduction in the present Hours of Service Law. One has only to look across the ocean to Great Britain to perceive an impressive array of limitations to hours of service for engineers, which have been agreed to in a true collective bargaining manner. The British Railways, whose equipment, operating rules and practices are similar to ours, saw the need for a limitation on the number of hours an engineer should be required to work, both single and double-manned. From about 1956, comprehensive agreements were drawn up which limit the miles and hours an engineer may work.

In 1907 the railroads were inflexibly opposed to any limitation to hours of service for operating employees and strenuously resisted the enactment of the present 16 hour law. It is quite obvious their position remains the same today, hence the need for operating employees to come to the Halls of Congress for sorely needed relief based on present-day operating practices.

I am deeply appreciative of the opportunity to appear here today in behalf of the proposed amendments which will provide a reduction in hours of service and I strongly urge that the proposals contained in this bill be given favorable consideration. I trust that my remarks will have been helpful in whatever determinations are finally made regarding the proposed amendments to the present law. In closing, I wish to state that the many locomotive engineers for whom I speak today are anxiously awaiting and hoping for a favorable reporting by the Committee on this long overdue amendment which embodies so many humane considerations.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only.
Dates: Jan. 3 through Jan. 7, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	8:10		8:10		8:10		8:10		8:10	
Arrive West Cambridge	9:03		9:15		9:07		9:07		9:10	
Arrive Watertown	10:59		10:44		10:43		10:49		11:15	
Depart Watertown	**7:35**		**10:00**		**7:50**		**9:47**		**8:57**	
Arrive West Cambridge	**8:13**		**10:30**		**8:20**		**10:15**		**9:33**	
Off duty, Boston	**8:50**		**12:00**		**9:00**		**11:40**		**11:40**	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	12	40	15	50	12	50	15	30	15	30
Total time head trainman present in cab of locomotive, daily	2	34	1	59	2	6	2	10	2	41
Total time head trainman absent from cab of locomotive, daily	10	6	13	51	10	44	13	20	12	49
Total time on duty in 5-day period	72	20								
Average hours on duty, daily	14	28								

NOTES

Percentage of time head trainman present in cab of locomotive in 5-day period, 15.8. Times shown: Lightface, a.m.; boldface, p.m.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only
Dates: Jan. 10 through Jan. 14, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	8:10		8:10		8:10		8:10		8:10	
Arrive West Cambridge	9:13		9:00		9:14		9:08		9:11	
Arrive Watertown	**12:14**		10:30		10:30		10:49		10:55	
Depart Watertown	**9:03**		**4:07**		**7:20**		**9:10**		**5:11**	
Arrive West Cambridge	**9:40**		**4:32**		**8:10**		**9:42**		**5:42**	
Off duty, Boston	**10:55**		**5:30**		**9:30**		**11:20**		**7:20**	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	14	45	9	20	13	20	15	10	11	10
Total time head trainman present in cab of locomotive, daily	3	38	1	55	2	6	2	13	2	15
Total time head trainman absent from cab of locomotive, daily	11	7	7	25	11	14	12	57	8	55
Total time on duty in 5-day period	63	45								
Average hours on duty, daily	12	45								

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Percentag ((itim (head trainman presentin cab of locomotive in 5-day period, 19.

Times shown: Lightface, a.m.; boldface, p.m.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only.
Dates: Jan. 17 through Jan. 21, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	8:10		8:10		8:10		8:10		8:10	
Arrive West Cambridge	9:09		9:10		9:10		9:18		9:30	
Arrive Watertown	11:02		10:50		10:50		10:54		10:54	
Depart Watertown	**9:40**		**4:40**		**8:20**		**8:46**		**8:26**	
Arrive West Cambridge	**10:17**		**5:20**		**9:02**		**9:18**		**9:10**	
Off duty, Boston	**11:30**		**6:45**		**10:30**		**11:10**		**10:40**	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	15	20	10	35	14	20	15	—	14	30
Total time head trainman present in cab of locomotive, daily	2	30	2	20	2	22	2	8	2	8
Total time head trainman absent from cab of locomotive, daily	12	50	8	15	11	58	12	52	12	22
Total time on duty in 5-day period	69	45								
Average hours on duty, daily	13	57								

NOTES

Percentage of time head trainman present in cab of locomotive in 5-day period, 16.4. Times shown: Lightface a.m.; boldface, p.m.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only.
Dates: Jan. 24 through Jan. 28, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	10:10		8:30		8:10		8:10		8:10	
Arrive West Cambridge	11:22		10:20		9:21		9:19		9:13	
Arrive Watertown	2:48		11:45		10:56		10:43		10:15	
Depart Watertown	10:16		9:40		5:21		8:15		5:06	
Arrive West Cambridge	10:56		10:25		5:57		8:44		5:40	
Off duty, Boston	12:30		11:20		7:20		10:15		7:25	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	14	20	15	10	11	10	14	5	11	15
Total time head trainman present in cab of locomotive, daily	4	6	2	10	2	11	1	53	1	36
Total time head trainman absent from cab of locomotive, daily	10	14	13	—	8	59	12	12	9	39
Total time on duty in 5-day period	66	—								
Average hours on duty, daily	13	12								

NOTES

Percentage of time head trainman present in cab of locomotive in 5-day period, 18. Times shown: lightface, a.m.; boldface, p.m.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only.
Dates: Jan. 31 through Feb. 4, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	10:10		8:10		8:10		8:10		8:10	
Arrive West Cambridge	11:13		9:11		9:10		9:15		9:13	
Arrive Watertown	4:23		1:03		10:40		10:37		10:44	
Depart Watertown	8:15		10:45		10:07		6:57		9:05	
Arrive West Cambridge	9:35		11:22		11:02		7:47		9:40	
Off duty, Boston	10:30		12:08		12:09		9:40		11:35	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	12	20	15	58	15	59	13	30	15	25
Total time head trainman present in cab of locomotive, daily	6	30	4	29	2	25	2	12	2	6
Total time head trainman absent from cab of locomotive, daily	5	50	11	29	13	34	11	18	13	19
Total time on duty in 5-day period	73	12								
Average hours on duty, daily	14	38								

NOTES

Percentage of time head trainman present in cab of locomotive in 5-day period, 24.1. Times shown: Lightface, a.m.; boldface, p.m.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only.
Dates: Feb. 7 through Feb. 11, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	8:10		8:10		8:10		8:10		8:10	
Arrive West Cambridge	9:18		9:13		9:08		9:14		9:13	
Arrive Watertown	11:52		10:35		10:49		11:40		10:35	
Depart Watertown	9:55		5:25		5:30		8:45		8:20	
Arrive West Cambridge	10:30		7:12		6:40		9:18		8:54	
Off duty, Boston	12:09		8:25		8:00		12:09		11:10	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	15	59	12	15	11	50	15	59	15	—
Total time head trainman present in cab of locomotive, daily	3	9	3	9	2	51	2	59	1	56
Total time head trainman absent from cab of locomotive, daily	12	50	9	6	8	59	13	—	13	4
Total time on duty in 5-day period	71	3								
Average hours on duty, daily	14	12								

NOTES

Percentage of time head trainman present in cab of locomotive in 5-day period, 19.7. Times shown: Lightface, a.m.; boldface, p.m.

Railroad: Boston & Maine Corp.
Train No.: B–3 and B–4.
Type of service: Freight—Boston, West Cambridge to Watertown, Mass., daily except Saturday and Sunday.

Engine crew: Engineer only.
Dates: Feb. 14 through Feb. 18, 1966.
Number of days: 5.

Day of workweek	Monday		Tuesday		Wednesday		Thursday		Friday	
On duty, Boston	8:10		8:10		8:10		8:10		8:10	
Arrive West Cambridge	9:09		9:37		9:17		9:22		9:27	
Arrive Watertown	10:48		11:28		10:33		10:56		10:53	
Depart Watertown	**9:47**		**7:40**		**8:37**		**8:32**		**9:51**	
Arrive West Cambridge	**10:23**		**8:09**		**9:10**		**9:03**		**10:28**	
Off duty, Boston	**12:00**		**9:35**		**10:10**		**10:40**		**12:08**	
Recapitulation:	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*	*Hours*	*Minutes*
Total time on duty, daily	15	50	13	25	14	—	14	30	15	58
Total time head trainman present in cab of locomotive, daily	2	15	2	20	1	49	2	5	2	3
Total time head trainman absent from cab of locomotive, daily	13	35	11	5	12	11	12	25	13	55
Total time on duty in 5-day period	73	43								
Average hours on duty, daily	14	45								

NOTES

Percentage of time head trainman present in cab of locomotive in 5-day period, 14.2. Times shown: Lightface a.m.; boldface, p.m.

Mr. FRIEDEL. The next witness will be Mr. Edward L. Howard, a locomotive engineer on the Louisville & Nashville Railroad.

You may proceed to read your full statement or summarize it. If you summarize it, the full statement will appear in the record.

STATEMENT OF EDWARD L. HOWARD, LOCOMOTIVE ENGINEER, ON BEHALF OF THE BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY

Mr. HOWARD. Mr. Chairman, committeemen, my name is Edward L. Howard, and I reside at 4514 South Third Street, Louisville, Ky. I have been employed as a locomotive fireman and engineer since April 17, 1943, by the Louisville & Nashville Railroad Co. I am appearing in support of H.R. 8476, a bill to amend the Hours of Service Act. I would like to discuss with this committee the operation of freight trains on the Louisville & Nashville Railroad with which I am familiar.

I was first employed as a fireman-helper by the Louisville & Nashville Railroad on April 17, 1943. I was examined for promotion to locomotive engineer during 1947 and 1948. I established seniority as a locomotive engineer in July 1964. My seniority district is the main stem, second division, which begins at Bowling Green, Ky., and extends south to Nashville, Tenn., and also includes two small branches. In 1964, I was elected local chairman of the Brotherhood of Locomotive Firemen & Enginemen for my seniority district. Prior to my election I served as vice local chairman since 1960. As local chairman I represent the members of the B.L.F. & E. on the main stem, second division, and I am also a member of the B.L.F. & E. General Grievance Committee on the L. & N. As a member of this committee I have a general knowledge of the overall operation of the Louisville & Nashville Railroad.

My service as a fireman-helper has not been confined to the main stem, second division. I have also performed service on the Louisville, Henderson and St. Louis division, and the Louisville, Cincinnati and Lexington division. My seniority district also operates interdivisional service with other seniority districts. I perform service regularly on the main stem, first division, from Bowling Green to Louisville, Ky., since we operate interdivisional service with this division.

The interdivisional service between the main stem, first division and the main stem, second division, operates through freight trains between Louisville, Ky., and Nashville, Tenn., a distance of approximately 190 miles. This territory contains two main grades. On a southbound trip from Louisville there is a 4-mile hill, Mauldraugh Hill, that is located 34 miles south of Louisville. In steam engine days this was classified as helper territory, with a helper engine assigned to assist the trains over the hill. It takes approximately 20 to 25 minutes to get a through freight train over this hill, and this hill is 1.50 percent grade. After reaching the top of the hill, the territory is a running road with short up and down grades until about 33 miles north of Nashville. There is a steep descending grade to Nashville from this point called South Tunnel; this was also helper

territory in steam engine days. In the 190 miles there are approximately 12 sidings where trains may pass or meet. These sidings vary in length and usually hold 150 cars or more. This territory is single main track except for three small portions of double track located near Nashville, Bowling Green, and Louisville. Trains are operated in this territory by centralized traffic control under the direction of a train dispatcher.

The territory between Louisville and Nashville is a part of the L. & N.'s north-south main line from Cincinnati, Ohio. Traffic consists of passenger trains, through freight trains, and local trains. There are a total of approximately 25 trains a day operating in this territory. In each direction daily there are three regular passenger trains, one passenger train every other day, five through freight trains, one through freight train from Louisville to Bowling Green, three local freight trains, and an average of one extra through freight train. The through freight trains operate the entire 190 miles.

Mr. FRIEDEL. Pardon me just a second. Three local freight trains and an average of one extra through freight train? Do you mean each day?

Mr. HOWARD. Each day.

Regularly assigned crews operate this service. The extra freight trains are handled by so-called chain gang service, which is the extra board pool service. The through freight trains normally operate between the yards at Louisville and the yards at Nashville, making few, if any, stops along the way to pick up or set off cars. The local freight trains perform the majority of local switching service at the various industries and sidetracks. Trains in the opposite direction on the single track pass each other, and faster trains run around slower trains, by use of the passing sidings and small stretches of double track.

The passenger trains are scheduled to make the trip from Louisville to Nashville in 3 hours and 15 minutes or 4 hours and 20 minutes. The fast freight trains have an assigned running time of approximately 6½ hours for this trip, although they seldom make this time. The maximum permissible train speed in this territory is 70 miles per hour for passenger trains and 50 miles per hour for freight trains, subject to local restrictions for track curvatures and other conditions.

Since the beginning of this year I have held approximately 45 assignments as engineer on through freight runs operating in this same territory. Only 15 of these assignments have completed the 190-mile trip in less than 9 hours, 30 of the trips have required more than 9 hours to complete the assignment, and 17 of the trips have taken over 12 hours. Some of my assignments have completed the trip from Louisville to Nashville in approximately 7 to 9 hours; however, some of the trips have taken as long as 15 hours 10 minutes and 15 hours 40 minutes. In the majority of the cases the long hours on duty are due to waiting at passing sidings or at end of double track for opposing trains to clear the way. There are also considerable delays waiting to enter the final terminals. Only to a small extent are the through freight trains delayed because of performing local switching service. During a recent trip I waited at one point for 2 hours to meet three opposing trains.

My experiences are not unusual in this regard. During the month [1] May of this year I am aware that there have been 52 through freight assignments leaving Louisville that have taken an excess of 9

hours to reach Nashville, including 18 such assignments that have taken over 12 hours. The time on duty for these trips has varied from 9 hours 10 minutes to 16 hours. Some of these trips have taken 9 hours 25 minutes, 10 hours 45 minutes, 12 hours 5 minutes, 13 hours 35 minutes, 14 hours 50 minutes, 15 hours 35 minutes, and 16 hours. This situation has existed for some time. Since the beginning of this year there have been approximately 400 through freight assignments leaving Louisville that have taken in excess of 9 hours to reach Nashville. This same situation also exists on the through freight assignments going north from Nashville to Louisville and the situation has existed for some time.

This situation of excessive long hours on duty is not confined to this one territory. It also exists on through freight assignments operating under similar conditions between Louisville and Corbin, Ky. This service goes over the Lebanon branch, a distance of approximately 170 miles. This is one of the carrier's routes from Louisville to Knoxville, Tenn. The through freight service has a scheduled running time of about 6 hours for this trip. However, the actual running time varies greatly. Since the beginning of this year the through freight trains have made the trips many times in under 9 hours. However, more frequently a greater length of time has been consumed on this trip. It is not unusual for this assignment to take 12 hours or longer to complete its run or consume as much as 16 hours in this trip. This through freight assignment may do some local switching service on occasion, but primarily the delay is again because of meeting or passing trains.

This same situation of long hours on duty also exists for the through freight assignments that operate on the 185-mile territory from Cincinnati to Corbin, Ky.; on the 200-mile territory from Nashville to Birmingham, Ala.; and on the 250-mile territory from Nashville to Atlanta, Ga. The long hours on duty are not confined to assignments operating long distances. In the territory from Louisville to Cincinnati, about 110 miles, through freight trains frequently take 12 to 16 hours to make the trip. Also, enginemen assigned to go from Louisville to Cincinnati are often required to immediately take a train back to Louisville. This causes the employee to be working 16 hours or longer. At Cincinnati the men are frequently released from duty for 3 hours or more before they are assigned to trains to return to Louisville. Under such circumstances men are working and are under pay 16 hours or longer each day with only a 3-hour rest period during this time. The release-from-duty period at Cincinnati can extend the total time period to 19 or more hours.

In addition to the through freight assignments there are local freight assignments on the L. & N. that are on duty for excessive long hours. For example, there is a local freight assignment which operates from Louisville to Bowling Green, Ky., and another local which operates from Bowling Green to Louisville each day. The total trip is about 130 miles. These local freight trains perform the majority of the local switching service in this territory. Each day these locals work about 16 hours to perform the necessary service.

The vast majority of the through freight assignments that I have discussed operate without a fireman. The engine crew consists solely of an engineer. In the 45 assignments that I have held this year as an engineer, I have only had a fireman assigned on two round trips—that is, on freight trips.

The long hours on duty on these through freight assignments cause the engineer to be extremely tired and exhausted at the end of the trip. The engineer is not as alert after 12 hours on duty as he is at the beginning of the trip. At the present time, due to the possibility of long hours on duty, an engineer must train himself to meet these conditions should they occur. The engineer must condition himself to be able to stand the long hours on duty, frequently up to 16 hours.

In this CTC territory, the train operations are governed by the wayside signals. The signals convey the authority for the trains to proceed, no other written order is required. Therefore, the signals are of extreme importance, they must be clearly observed, understood, and acted upon. The trains in the territory average about 110 cars and are tonnage trains. That is, they contain full tonnage for the grades encountered on the territory. The engineer must constantly control the speed of the train in accordance with the signal indications and special instructions. For example, with certain classes of engines we may not enter a siding at more than 10 miles per hour. Obviously, the operation of such a train in this territory requires the constant alertness, attention, and concern of the locomotive engineer.

It appears to me that the railroad can control the operation to such an extent that it would be unnecessary for these through freight trains to remain out on the road in excess of 9 or 12 hours. The majority of the delays are presently being caused by trains sitting doing nothing, waiting for opposing trains to pass and clear the way. The freight trains frequently will not fit into the side tracks because of the excessive lengths of the trains. Therefore, the trains cannot meet and pass at the passing sidings. The dispatcher must hold the trains at the end of the double tracks to wait for opposing trains to clear the way. The entire territory is under the control of train dispatchers who direct the movement of trains by actual control of the signal system. The fact that the passenger trains, and on occasion the freight trains, perform this service in under 9 hours is ample indication that it can be done.

I also wish to call the committee's attention to two cases that have recently occurred on my railroad where men have been forced to commence an assignment without having had proper rest. In both of these cases the engineers were on duty performing service for 16 hours when they were relieved because of present provisions of the hours-of-service law. The engineers were relieved out on the road while they were still on their trains since their 16 hours on duty had expired. It was necessary for the trains to be pulled into the terminals by another train. In each case the engineers who were relieved were being paid while their trains were towed into the terminal. However, the carrier considered that the men were deadheading and thus resting and could immediately be again used for service without 8 or 10 hours off duty away from the railroad. In one case the total time consumed by the engineer performing service and deadheading amounted to 36 hours and 25 minutes. He was relieved at 6:15 a.m. and again called to duty at 8:30 a.m. the same morning. These examples indicate to me the necessity for the hours of service law clearly requiring men to have an adequate rest period each 24 hours before being called for service and clearly prohibiting excessive long hours on duty.

Mr. FRIEDEL. I want to thank you, Mr. Howard, for your statement.

Mr. BENNETT. Mr. Chairman, might I indicate that earlier this morning, we had a question concerning the time that a man might work a month or a week. I think Mr. Gilbert indicated that Mr. Howard as well as Mr. Dunn would have some information on that.

(The following information was subsequently submitted by Mr. Howard:)

Record of hours on duty of fast freight engineer, W. T. Jackman, of the Louisville & Nashville RR., main stem, 1st division, operating Louisville to Nashville and return, January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time	Date	Train No.	Miles	Time
			Hr. Min.				Hr. Min.
2d	79	193	9 15	2d	72	188	8 5
5th	79	193	10 20	6th	72	188	8 10
8th	79	193	10 10	9th	72	188	8 20
11th	79	193	7 45	11th	72	188	12 30
14th	79	193	10 45	15th	72	188	7 55
17th	79	193	9 0	17th	72	188	10 45
20th	79	193	12 40	21st	78	188	8 45
23d	79	193	8 0	24th	78	188	11 30
26th	79	193	10 15	27th	72	188	9 25
31st	79	193	10 30				

FEBRUARY 1966

				2d	72	188	10 15
4th	79	193	10 40	5th	72	188	17 15
7th	73	193	10 50	8th	(1)	188	15 28
10th	73	193	13 0	11th	(1)	188	14 15
13th	79	193	13 10	14th	(1)	188	10 45

Vacation 2 weeks.

MARCH 1966

3d	79	193	11 40	4th [2]			
6th	79	193	12 5	7th	72	188	9 55
9th	79	193	12 15	10th	72	188	8 0
12th	79	193	12 55	13th	72	188	10 35
15th	79	193	11 5	16th	72	188	7 45
18th	79	193	13 15	19th	72	188	9 0
21st	79	193	8 45	21st	74	188	8 45
24th	79	193	10 35	25th	72	188	8 0
30th	79	193	9 30	31st	72	188	10 30

APRIL 1966

2d	79	193	8 5	3d	72	188	6 10
5th	79	193	9 55	6th	72	188	8 45
8th	79	193	9 20	9th	72	188	7 5
11th	79	193	7 0	11th	(1)	188	8 45
13th	79	193	7 50	14th	72	188	14 5
23d	79	193	9 5	24th	72	188	7 45
26th	79	193	9 25	27th	72	188	6 50
29th	79	193	9 0	2oth	74	188	9 5

MAY 1966

2d	79	193	7 55	3d	72	188	6 25
5th	79	193	10 35	6th	72	188	7 35
8th	79	193	16 20	9th	94	188	6 40
11th	79	193	10 20	12th	72	188	6 40
14th	79	193	8 0	15th	72	188	10 15
17th	79	193	8 20	18th	72	188	9 15
29th	79	193	12 0	30th	94	188	6 25

Vacation 1 week.

[1] Extra train.
[2] Deadheading on train No. 98.

Record of hours on duty of fast freight engineer, C. S. Brady, of the Louisville & Nashville RR., main stem, 1st division, operating Louisville to Nashville and return, January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time	Date	Train No.	Miles	Time
			Hr. Min.				Hr. Min.
3d	71	189	8 40	4th	74	188	6 0
6th	71	189	7 10	7th	74	188	6 50
9th	(1)	193	6 50	10th	74	188	7 10
12th	77	193	13 0	13th	72	188	8 15
15th	77	193	13 25	16th	74	188	10 10
18th	71	189	6 42	19th	74	188	10 30
21st	71	189	7 50	22d	74	188	11 3
27th	77	189	15 50	28th	74	188	7 5
31st	(1)	193	11 10				

FEBRUARY 1966

				1st	(1)	188	13 25
4th	(1)	193	6 0	5th	(1)	188	15 0
7th	77	193	14 35	8th	76	188	12 15
10th	71	189	11 25	11th	76	188	15 15
13th	(1)	189	13 15	14th	(1)	188	14 43
16th	73	193	11 10	17th	76	188	16 0
19th	73	193	9 10	20th	(1)	188	15 30
25th	(1)	193	13 20	26th	(1)	188	12 35
28th	(1)	193	8 48				

MARCH 1966

				1st	76	188	14 7
3d	(1)	193	9 55	4th	(1)	188	11 25
6th	(1)	193	9 55	7th	(1)	188	11 25
9th	73	193	12 20	10th	76	188	9 45
12th	77	193	14 45	13th	(1)	188	10 40
15th	77	193	14 35	16th	(1)	188	9 45
21st	77	193	9 5	22d	76	188	15 55
24th	77	193	11 15	25th	76	188	7 45
27th	77	193	8 50	28th	74	188	

APRIL 1966

2d	73	193	10 20	3d	76	188	11 20
5th	73	193	8 5	6th	76	188	9 10
8th	73	193	8 55	9th	76	188	8 35
11th	73	193	8 20	12th	76	188	8 25
14th	77	193	10 10	15th	76	188	8 55
17th	77	193	10 55	18th	76	188	8 50
20th	77	193	11 10	21st	(1)	188	12 5

MAY 1966

Vacation							
23d	77	193	15 55	24th	(1)	188	7 35
26th	77	193	6 50	27th	(1)	188	10 25

[1] Extra train.

Record of hours on duty of Engineer J. A. Dowell, of the Evansville division of the Louisville & Nashville RR., working Louisville to Howell, Ind., and return, January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time		Date	Train No.	Miles	Time	
			Hr.	*Min.*				*Hr.*	*Min.*
2d	158	151	6	0	3d	183	151	10	15
4th	184	151	8	55	5th	157	151	14	10
7th	158	151	8	20	7th	183	151	12	35
9th	184	151	8	45	10th	157	151	8	45
12th	158	151	8	45	13th	183	151	8	15
14th	184	151	9	15	15th	157	151	9	45
17th	158	151	7	10	18th	183	151	11	30
22d	158	151	7	40	23d	183	151	14	15
27th	158	151	13	30	28th	183	151	12	30
29th	184	151	15	40	30th	157	151	9	50

FEBRUARY 1966

1st	158	151	10	15	2d	183	151	12	25
3d	184	151	12	42	4th	157	151	13	45
5th	(1)	151	10	50	Deadheading return.				
7th	158	151	12	5	8th	183	151	13	00
11th	158	151	13	25	12th	183	151	14	05
16th	158	151	9	5	15th	183	151	13	35
18th	184	151	10	25	19th	157	151	13	05
21st	158	151	7	20	22d	183	151	12	15
23d	184	151	8	25	24th	157	151	12	15
26th	184	151	13	5	27th	157	151	11	00
28th	158	151	10	0					

MARCH 1966

					1st	157	151	13	20
2d	158	151	16	0	4th	(1)	151	16	0
6th	(1)	151	14	20	7th	(1)	151	10	50
8th	158	151	12	40	9th	183	151	12	45
10th	184	151	9	23	11th	157	151	12	20
13th	158	151	8	15	14th	183	151	8	45
18th	158	151	10	5	19th	183	151	9	25
23d	158	151	9	0	24th	183	151	12	18
25th	184	151	13	20	26th	157	151	11	15
28th	158	151	6	30	29th	183	151	7	31
30th	184	151	10	55	31st	157	151	9	30

APRIL 1966

2d	158	151	9	10	3d	183	151	8	19
4th	184	151	7	15	5th	157	151	11	5
7th	158	151	8	55	8th	183	151	9	45
9th	184	151	8	30	10th	157	151	8	10
12th	158	151	8	30	13th	183	151	8	15
14th	(1)	151	7	57	15th	157	151	11	59
17th	158	151	8	40	18th	183	151	10	45
22d	158	151	11	30	23d	183	151	11	35
27th	158	151	9	45	28th	183	151	16	0
29th	184	151	9	15	30th	157	151	14	5

MAY 1966

2d	158	151	8	35	3rd	183	151	12	10
Vacation									

[1] Extra train.

Record of Engineer J. C. Lewis, of the L. H. & St. L. division of the Louisville & Nashville RR. Co., working in fast freight service between Louisville, Ky., and Madisonville, Ky., and working in pool service between Louisville, Ky., and Howell, Ind., or Doyle, Ky., January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time		Date	Train No.	Miles	Time	
			Hr.	Min.				Hr.	Min.
6th	(1)	163	13	2	7th	(1)	163	12	25
8th	(1)	163	14	45	9th	(1)	163	11	5
11th	132	163	14	45	12th	131	163	11	15
13th	(1)	163	14	0	14th	(1)	163	10	35
18th	(1)	163	15	59	19th	(1)	163	11	35
20th	(1)	163	15	55	21st	(1)	163	12	35
27th	(1)	163	11	50	28th	(1)	163	16	0
30th	(1)	10	[2]10	15					
31st	(1)	163	[3]10	40					

FEBRUARY 1966

					1st	(1)	163	20	15
3d	132	111	15	55	4th	(1)	219	[4]14	0
5th	(1)	163	14	20	6th	(1)	163	12	55
8th	132	163	15	59	9th	(1)	163	16	25
10th	(1)	163	15	35	12th	(1)	163	16	25
13th	(1)	163	11	50	14th	(1)	163	14	45
15th	(1)	111	15	45	16th	(1)	144	[5]16	35
17th	(1)	163	15	59	18th	(1)	163	13	20
19th	(1)	163	10	15	20th	(1)	163	13	15
28th	(1)	163	10	25	28th	(1)	163	10	55

MARCH 1966

1st	(1)	163	9	10	2d	(1)	163	15	15
6th	(1)	163	15	0	7th	(1)	163	10	55
10th	(1)	163	16	30	11th	(1)	163	15	3
16th	(1)	163	10	10	17th	(1)	163	13	20
18th	(1)	163	15	15	19th	(1)	163	15	10
21st	(1)	163	13	50	22d	(1)	163	12	0
23d	(1)	163	12	25	24th	(1)	163	16	5
25th	(1)	163	13	50	26th	(1)	163	11	40
29th	132	163	12	5	30th	131	163	14	35

APRIL 1966

2d	132	163	11	50	3d	131	163	10	45
7th	132	163	12	30	8th	(1)	163	13	5
9th	(1)	163	10	25	10th	131	163	8	5
16th	158	151	9	35	17th	183	151	9	0
19th	(1)	218	14	45					
20th	184	151	10	35	21st	157	151	14	45
23d	158	151	9	55	24th	183	151	16	25
25th	184	151	9	20	26th	157	151	12	5
28th	(1)	218	16	25					
29th	(1)	218	21	45					
30th	(1)	151	14	40	30th	[6]	151	[7]	

MAY 1966

5th	132	163	12	25	6th	131	163	12	0
7th	132	163	11	25	8th	(1)	163	14	45
10th	(1)	163	12	20	11th	131	163	11	5
12th	132	163	9	40	13th	131	163	13	5
14th	(1)	163	10	5	15th	(1)	163	7	20
17th	132	163	14	40	18th	131	163	12	35
19th	132	163	11	10	20th	131	163	9	35
26th	(1)	163	12	55	27th	(1)	163	13	55
28th	(1)	163	16	0	29th	(1)	163	13	55
31st	(1)	163	11	40					

[1] Extra train.
[2] Returned to home terminal and relieved.
[3] Deadhead for service on freight engine. I was on duty 10 hours 40 minutes, then was off duty 4 hours 50 minutes before returning to duty.
[4] Tied up at Owensboro, Ky., account of hours of service. After 8 hours' rest continued to Madisonville, Ky., then without having rest continued to Louisville, Ky.
[5] Tied up at Owensboro, Ky., account of hours of service. After 8 hours' rest continued on to Madisonville, Ky., and without having rest, left terminal en route to Louisville, Ky., but was tied up on line of road at Cloverport, Ky., account of hours of service.
[6] Auto.
[7] Deadhead.

Record of hours on duty of fast freight engineer, C. Rose, on the L. H. & St. L. district of the Louisville & Nashville RR., in interdivision work from Louisville, Ky., to Madisonville, Ky., and return, January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time		Date	Train No.	Miles	Time	
			Hr.	Min.				Hr.	Min.
1st	132	163	12	50	3d	132	163	15	10
4th	131	163	15	20	5th	132	163	12	20
6th	131	163	11	10	10th	132	163	14	25
11th	131	163	13	10	12th	132	163	13	5
13th	131	163	12	0	14th	132	163	14	10
15th	131	163	15	20	17th	132	163	13	45
18th	131	163	13	0	19th	132	163	12	15
20th	131	163	11	0	26th	132	163	15	59
27th	131	163	14	15	28th	132	163	15	50
29th	131	163	12	15	31st	132	163	15	50

FEBRUARY 1966

1st	132	163	15	55	1st	132	163	12	10
4th	132	163	14	50	5th	131	163	13	50
6th	184	151	9	10	7th	157	151	8	50
9th	132	163	12	20	10th	131	163	15	45
11th	132	163	10	0	12th	131	163	10	15
14th	132	163	15	59	15th	131	163	12	50
16th	132	163	15	59	17th	131	163	12	20
18th	132	163	13	15	19th	131	163	15	20
21st	132	163	15	55	22d	131	163	11	30
23d	132	163	15	0	24th	131	163	12	10
28th	132	163	15	50					

MARCH 1966

2d	132	163	15	45	1st	131	163	15	0
7th	132	163	15	10	3d	131	163	15	50
9th	132	163	15	20	8th	131	163	15	50
12th	132	163	13	30	10th	131	163	12	45
15th	132	163	15	10	13th	131	163	9	20
17th	132	163	9	20	16th	131	163	13	35
19th	132	163	8	20	18th	131	163	12	45
22d	132	163	9	20	20th	131	163	12	10
28th	132	163	11	50	23d	131	163	14	20
30th	132	163	12	20	29th	131	163	11	10

APRIL 1966

4th	132	163	15	10	5th	131	163	13	25
6th	132	163	11	10	7th	131	163	9	20
11th	132	163	13	0	12th	131	163	11	20
13th	132	163	12	20	14th	131	163	14	20
18th	(1)	218	15	59					
20th	(1)	218	15	59					
21st	158	151	8	50	22d	183	151	10	50
23d	158	151	[2] 7	20	23d	(1)	151	[2] 9	50
24th	184	151	9	45	25th	(1)	151	8	50
26th	158	151	9	45	27th	183	151	15	55
28th		112	[2] 4	0	28th	[3]	100	8	
29th	[3]	100	8	0	29th		112	[2] 4	0

MAY 1956

2d	132	163	15	59	3d	131	163	15	59
4th	132	163	13	35	5th	131	163	15	45
6th	132	163	15	59	7th	131	163	15	50
9th	132	163	12	20	10th	131	163	[4] 8	0
11th	132	163	15	20	12th	131	163	15	30
13th	132	163	13	0	14th	131	163	12	20
18th	132	163	12	10	19th	131	163	14	10
20th	132	163	14	0	21st	131	163	11	50
23d	132	163	12	45	24th	131	163	12	30
25th	132	163	15	55	26th	131	163	13	10

[1] Extra train.
[2] Deadheading.
[3] Yard.
[4] Efficiency man on this run.

Record of hours on duty of Engineer W. P. Stevenson, of the Birmingham division of the Louisville & Nashville RR. Co., January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time		Date	Train No.	Miles	Time	
			Hr.	Min.				Hr.	Min.
2d	55	118	6	15	3d	50	115	5	0
4th	(1)	100	13	0	5th	(1)	100	6	45
10th	51/50	106	10	20	13th	51/50	106	13	40
15th	133/132	100	7	30	17th	81	120	14	45
18th	80	200	15	59	21st	37	120	15	0
22d	38	118	7	55	24th	(1)	118	7	50
24th	(1)	115	7	50	27th	81	200	14	5
28th	80	200	15	59	30th	99	202	6	55
					31st	80	200	13	30

FEBRUARY 1966

5th	81	200	14	10	6th	80	200	15	15
8th	81	200	15	59	9th	80	200	15	59
11th	81	218	15	59	12th	80	204	15	59
13th	81	200	11	10	15th	80	200	15	50
17th	81	200	15	59	18th	80	200	15	59
20th	81	200	13	10	21st	80	200	13	40
22d	81	200	15	30	24th	80	200	13	10
26th	81	200	15	59	27th	80	200	13	20

MARCH 1966

1st	81	200	14	45	2d	80	200	15	20
4th	37	200	15	59	5th	80	200	15	59
7th	81	200	13	10	8th	80	200	15	0
10th	81	200	15	59	11th [2]	80	200	15	35
15th	(1)	118	5	20	15th	(1)	115	5	5
16th	39	127	7	25	16th	36	127	7	35
17th	(1)	100	15	59	18th	(1)	100	9	50
20th	(1)	119	6	50	21st	51/50	106	14	55
22d	[3] 99	202	4	55	23d	[3] 98	202	4	52
23d	39	122	8	40	24th	38	118	7	15
25th	(4)	100	8	15	29th	39	122	8	25
29th	38	127	8	30	30th	(1)	208	14	50

APRIL 1966

1st	(1)	102	9	55	3d	(1)	118	5	25
3d	(1)	115	5	50	4th	(1)	118	7	20
5th	(1)	121	7	35	7th	51/50	106	15	0
11th	(4)	100	7	30	13th	(1)	118	5	0
14th	(1)	119	5	30	15th	81/39	120	11	36
16th	36	118	8	40	23d	51/50	106	8	20
25th	(1)	206	13	30	29th	(4)	100	9	10

MAY 1966

3d	135/134	106	15	59	5th	(1)	118	7	20
6th	(1)	119	5	40	8th	[3] 5	202	6	45
8th	[3] 4	205	7	15	11th	135/134	106	15	5
14th	[3] 5	202	5	33	14th	[3] 4	205	7	15
17th	(1)	100	11	35	18th	(1)	100	12	0
19th	(1)	100	10	10	20th	(1)	100	12	0
21st	135/134	106	12	10	22d	95	200	8	20
24th	(1)	100	10	55	25th	(1)	100	13	50
26th	(1)	100	10	45	27th	(1)	111	13	20
31st	(1)	131	10	10					

[1] Extra train.
[2] Following this date W.JP. Stevenson gave up his assignment on trains 80 and 81 because of the long hours on duty.
[3] Passenger train.
[4] Yard.

Record of hours on duty of Engineer George Hill, of the Birmingham, N. & D. division of the Louisville & Nashville RR. Co., working between Nashville, Tenn., and Birmingham, Ala., January to May 1966

JANUARY 1966

Date	Train No.	Miles	Time		Date	Train No.	Miles	Time	
			Hr.	Min.				Hr.	Min.
1st	81	119	12	20	1st	80	119	6	30
3d	99	202	5	30	4th	98	202	[1] 4	15
7th	5	202	4	40	7th	6	202	[1] 4	35
12th	[2]	142	15	59	14th	24	100	4	30
14th	81	119	11	20	16th	80	119	8	20
17th	5	202	[1] 4	15	17th	80	202	15	25
19th	81	202	14	55	21st	80	202	16	0
23d	81	202	10	30	24th	80	202	17	5
26th	81	202	13	20	27th	80	202	13	20
29th	81	202	14	25	30th	80	202	24	15

FEBRUARY 1966

1st	81	202	14	25	2d	80	202	15	35
4th	81	202	15	45	5th	80	202	15	15
7th	81	202	10	30	8th	80	202	18	5
10th	81	202	14	5	11th	80	202	15	50
13th	81	202	14	35	14th	80	202	14	5
16th	81	202	18	0	17th	80	202	15	59
19th	81	202	15	0	20th	80	202	13	45
22d	81	202	19	30	23d	80	202	15	59
25th	81	202	14	10	26th	80	202	15	59
28th	81	202	11	0					

MARCH 1966

					1st	80	202	14	45
3d	81	202	15	59	4th	80	202	15	55
9th	81	202	15	50	11th	80	202	24	20
12th	81	202	14	0	13th	80	202	15	45
15th	81	202	13	35	16th	80	196	16	55
18th	81	201	14	45	19th	80	196	16	0
24th	81	203	15	40	25th	80	198	14	10
27th	81	201	14	0	28th	80	198	15	0
30th	81	203	16	0					

APRIL 1966

					1st	80	200	16	0
2d	81	204	12	0	3d	80	198	13	15
4th	81	201	15	5	6th	80	198	13	45
8th	81	203	12	10	9th	80	198	13	10
11th	81	201	9	10	12th	80	196	15	30
14th	81	201	12	55	15th	80	198	12	15
17th	81	201	16	0	18th	80	198	13	45
20th	81	200	15	30	21st	80	198	17	10
23d	81	203	13	55	24th	80	198	15	50
26th	81	203	11	50	27th	80	198	12	35

MAY 1966

2d	81	203	12	45	3d	80	198	14	40
8th	81	202	13	0	9th	80	198	11	55
11th	81	202	15	15	12th	80	198	14	55
14th	81	202	13	35	15th	80	198	13	20
17th	81	203	15	55	18th	80	198	15	25
20th	81	203	14	25	21st	80	198	15	0
26th	81	203	12	5	27th	80	198	15	20
29th	81	202	11	5	30th	80	198	12	35

[1] Deadheading.
[2] Extra train.

Mr. FRIEDEL. All right. I would like to ask a few questions first.

Mr. BENNETT. I beg your pardon, Mr. Chairman.

Mr. FRIEDEL. In your last paragraph, you say in one case the total time consumed by the engineer performing service and deadheading amount to 36 hours and 25 minutes. He was relieved at 6:15 a.m. and again called for duty at 8:30 a.m. the same morning.

The first thing I would like to know is was he paid for the 36 hours and 25 minutes?

Mr. HOWARD. I am sure he was until he registered off. You have a certain mileage you run on your longer runs. After the hours consumed for the mileage, then you are on an overtime basis.

Mr. FRIEDEL. Do you know whether he got time and a half over 12 hours, 16 hours, or how much extra time did he make on this run?

Mr. HOWARD. I believe the run makes 152 miles. It would be after 12.5 miles per hour at 152 miles. Then it would be overtime paid.

Mr. FRIEDEL. How much time was used for deadheading?

Mr. HOWARD. While deadheading, he was on the same rate of pay as he was when he pulled his train to the side track and relieved. The only reason he was relieved was the 15 hours and 59 minutes hours of service law.

Mr. FRIEDEL. But you mentioned his full service including deadheading was 36 hours and 25 minutes.

Mr. HOWARD. That was the trip; 15 hours and 59 minutes, he was relieved; some 4 or 5 hours he sat on the side track, and being towed to his home terminal, and when he was called to go back on duty at 8:30, the trip and——

Mr. FRIEDEL. Either you are not following me or I am not following you. In one case, the total time consumed by the engineer performing service and deadheading amounted to 36 hours and 25 minutes, you say. How many hours of that was deadheading? Was it 16 hours of service and 20 hours deadheading?

Mr. HOWARD. Let me read you a little letter here, the way we are handling this.

Engineer J. C. Lewis of Lodge 878, who has seniority on the L.H. & St. L. division of the L. & N. Railroad operating between Louisville, Ky., and Howell, Evansville, Ind., reported the following incident: On April 29, 1966, he was called at South Louisville for train extra South Louisville to Doll, Ky., and return. Reporting——

Mr. FRIEDEL. Is this a particular case?

Mr. BENNETT. Yes, he is referring to the same case Mr. Gilbert has summarized in detail in his statement. It came from a carrier Mr. Howard is employed with, so Mr. Howard referred to it again.

Mr. FRIEDEL. Are you referring to the one that was 36 hours and 25 minutes?

Mr. BENNETT. Yes, sir, it is the same case Mr. Gilbert referred to, I believe, on page 15 of his statement.

Mr. FRIEDEL. All right. You may proceed.

Mr. HOWARD (reading):

Reported for duty at 8:30 a.m. central standard time. He made the trip to Doll and was returning to Louisville when he was relieved at Bischoff, Kentucky, a passing siding, at 12:29 a.m., central standard time, April 30, 1966, on account of the Hours of Service law. He remained at Bischoff on the locomotive and was picked up by a following train which coupled to his train and proceeded to Louisville, Kentucky, where he finally went off duty at 6:15 a.m.

Mr. PICKLE. I wonder if the gentleman would suspend? Is there some way we can get an answer to the question Mr. Friedel asked? You are going to read a two- or three-page statement. How much time was spent deadheading?

Mr. HOWARD. I would say the actual deadheading, maybe an hour on the first sidetrack out of the terminal.

Mr. PICKLE. You are saying the actual time of the deadheading in this instance was approximately 1 hour?

Mr. HOWARD. Yes. But he was held sitting out there at a siding track on his locomotive waiting for another train to come pull him in. Do you want to count him deadheading for time sitting still, waiting for somebody to come get him? He was not moving when another locomotive coupled into him and picked his locomotive and train up. Then he was moving toward his home terminal.

Mr. PICKLE. When he first started moving, then you say that started the deadheading?

Mr. HOWARD. That would be counted as deadhead. He was moving. What would you count the time from 12:29 until that train picked him up 4 or 5 hours later? You could not count it rest period.

Mr. PICKLE. Was he paid for that time? That 5 hours that he was waiting to be towed?

Mr. HOWARD. Yes, sir, he was paid for it. That is what you call blood money. That is long hours.

Mr. PICKLE. Do you object to that?

Mr. HOWARD. Yes, sir.

Mr. FRIEDEL. I still do not know—was that 36 hours and only 1 hour deadheading?

Mr. BENNETT. No, sir, it was longer than that.

Mr. HOWARD. Five hours and forty-six minutes from the time he went off duty, relieved at Bischoff, 15 hours and 59 minutes on duty until he got to the register.

Mr. FRIEDEL. All right.

Let me see if I can follow you. He was on duty for 15 hours and 59 minutes.

Mr. HOWARD. Yes, sir.

Mr. FRIEDEL. Then what happened?

Mr. HOWARD. He was relieved in the sidetrack. Nothing there but a bunch of weeds.

Mr. FRIEDEL. How long did he stay there?

Mr. HOWARD. Five hours and 46 minutes.

Mr. FRIEDEL. And he was paid overtime for that, time and a half?

Mr. HOWARD. Yes.

Mr. FRIEDEL. Now, was there any fatigue in the 5 hours? Did he have to watch any signals, did he have to operate anything?

Mr. HOWARD. No; he was tied up. He was supposed to be relieved for the hours of service law at 16 hours and given rest.

Mr. FRIEDEL. I am just trying to picture, what he was doing. You are giving the impression of 36 hours and maybe 5 hours deadheading time, and 31 hours was actually working hours. That is the point I want to get clear.

Mr. HOWARD. After 15 hours and 59 minutes he was relieved from duty at an outlying point where he could not do anything. If you have ever been on a locomotive, there are no facilities for sleeping on there.

Mr. FRIEDEL. Somebody said they put a mattress down. Are there any facilities—could he have a caboose on the end, could he go back and sleep in the caboose?

Mr. HOWARD. Oh, there are a couple of seats back there.

Mr. FRIEDEL. Could he go back and sleep there?

Mr. HOWARD. I guess he could, if he wanted to walk 100, 150, 200 cars to it through the weeds.

Mr. FRIEDEL. Could they do it?

Mr. HOWARD. I do not know of any cases where they do.

Mr. FRIEDEL. You do not know of anyone that does that?

Mr. HOWARD. Maybe work trains that are tied up for a short period of time. If they have a chance, they may go back to the caboose and sit down and eat their lunch.

Mr. FRIEDEL. On page 5 of your statement, your first paragraph, you said this service goes over to the Lebanon Branch, a distance of approximately 170 miles. You say this is one of the carrier's routes from Louisville to Knoxville, Tenn. The through freight service has a scheduled running time of about 6 hours for this trip.

What about the actual running time? It says, at the beginning of this year, the through freight trains have made the trips many times under 10 hours.

What I want to know is this: The distance is 170 miles. If they make it in 6 hours, do they get paid less, or if they make it in 9 hours, do they get paid the same amount of money?

Mr. HOWARD. No, sir. On your long mile trips, on your 170 miles, I would say approximately 2 hours and some few minutes would be overtime if you stayed 16 hours, though if you could make the trip in 6 hours, you would make the same money, the same rate of pay for the weight of the locomotive for the distance traveled on the trip.

Mr. FRIEDEL. I am not following you again.

One hundred seventy miles that you mentioned, and through freight service has scheduled running time of about 6 hours. Then you say that the same train many times has made the trip under 9 hours.

Mr. HOWARD. Yes, sir.

Mr. FRIEDEL. I want to know if the men make it in 6 hours or 9 hours, do they get paid the same amount of money?

Mr. HOWARD. Yes.

Mr. FRIEDEL. And if they make it in 12 hours, do they get the same amount of money?

Mr. HOWARD. Yes.

Mr. FRIEDEL. Because it is under 170 miles? That is one thing I want for the record.

Mr. HOWARD. At 12.5 miles an hour, the 16 hours would figure 200 miles. So that would be approximately 13 hours and a half that he could work out there and there would be no difference in the money he made should he make the trip in 6 or 7 hours or 9 hours. After 13 hours and 30 minutes approximately, then the 170 miles would go into overtime.

Mr. FRIEDEL. Thank you very much.

Mr. Pickle?

Mr. PICKLE. I don't want to prolong the questioning, Mr. Howard, but for my information, what organization do you belong to?

Mr. HOWARD. I belong to the Brotherhood of Locomotive Firemen & Enginemen.

Mr. PICKLE. I wonder if you know, to go back to Mr. Dunn, what organization does he belong to?

Mr. DUNN. The same organization, sir.

Mr. PICKLE. Have we had any testimony from the Brotherhood of Locomotive Engineers?

Mr. FRIEDEL. They want to be heard in opposition to the bill.

Mr. PICKLE. Oh.

Mr. HOWARD. Sir, I have some reports here—excuse me.

Mr. PICKLE. Well, we will have that testimony later.

Mr. FRIEDEL. Yes.

Mr. PICKLE. Let me just ask you one question about this particular train, where the engineman put in 36-plus hours. Is it the normal practice that when he is put off on the siding, is it because a passenger train must come through and the siding is not long enough for the freight train, or would this particular train be short enough to fit into the siding and therefore the other train could go through?

Mr. HOWARD. The reason he was put in there was mainline trains coming into the line ahead of him from Nashville and Corbin, and possibly the yard was blocked so that they held him out at that point.

Mr. PICKLE. Is it normal he would be put on a siding like this for 5 to 6 hours?

Mr. HOWARD. No, sir.

Mr. PICKLE. Why was that train there in the first place?

Mr. HOWARD. Possibly the yard was blocked and not able to take it.

Mr. PICKLE. It was not a breakdown or anything like that?

Mr. HOWARD. No, sir.

Mr. PICKLE. Just the stop within the yard—the yard was blocked.

Mr. HOWARD. One reason they hold them out there sometimes is because this particular sidetrack is just out of the yardboard limits. At the yardboard, he goes on an hourly penalty time over the miles run. To keep the yard time down, then he was put on a sidetrack before he got to the yardboard.

Mr. PICKLE. Mr. Chairman, I do have some other questions to ask—not many—but I have some I would like to ask Mr. Gilbert, who testified earlier, and the noon period came and I didn't get to talk with him. Would it be possible that he could come back to the stand so that we might pursue it a little further?

Mr. FRIEDEL. All right.

Then, Mr. Howard, I want to thank you. You are excused.

Mr. HOWARD. Thank you.

Mr. FRIEDEL. We will call on Mr. Gilbert. I do have a very important engagement around 4 o'clock. I intended to recess the meeting at 4, so I hope you can be brief so I shall not be late for my appointment.

I wish to announce that we will continue the hearings on Monday morning at 10 o'clock. The first witness will be the ICC, and then we will start hearing some more proponents of the bill.

STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY—Resumed

Mr. PICKLE. Mr. Chairman, I will make it very brief.

I am asking you these questions for general information only. This is for nothing other than factual purposes. I asked the engineer who testified earlier if we passed the law reducing hours from 16 to 12, this would require, would reduce the hours, and I assume then that the railroad would have to hire other people to fill in for the hours that have—that otherwise would be lost. Is this correct?

Mr. GILBERT. That would depend upon the type of rescheduling that they may do of their existing runs. It is not just per se that they would have to do them. It would depend on what they did in the rescheduling of their runs as to whether they would require additional employees.

Mr. PICKLE. Is it your opinion that they could reschedule and solve their problem this way?

Mr. GILBERT. It is my opinion that they could, because this is something that we have found through the years, and I have been in this industry about 40 years or a little more, that each improvement we obtain in matters of this kind, they would raise a lot of sand about they are going to have to hire a lot of new people and have to work a lot of overtime and so on. But we found that it brought the best out of them in rearranging the runs or doing a little better job of supervising, and they eliminated what they were fearful of at the outset.

Mr. PICKLE. I am trying to get a definite statement of what your opinion would be. Is it your opinion that in the majority of instances this problem could be solved just as well by the railroad rescheduling their men?

Mr. GILBERT. I would say the majority of cases I believe that, yes, sir.

Mr. PICKLE. All right.

Mr. GILBERT. And I might add that in many instances it would be less costly for handling, because 5½ hours of overtime to an individual will employ another individual 8 hours at straight time, talking money-wise, because in 5 hours and 20 minutes, if they work me overtime, they could hire you for 8 hours at the same money.

Mr. PICKLE. Well, your point is that in the majority of cases it could be handled simply by rescheduling and that it would be less expensive to the railroads to do it that way?

Mr. GILBERT. In the long run, I actually believe that, because of the experiences I have had through the more than 40 years on the railroads.

Mr. PICKLE. I would say it would appear to require hiring additional people, but you say you would not have to hire any additional people. They can do it by rescheduling?

Mr. GILBERT. I think in many instances—I said the majority of instances—it could be done by better supervision, which is another way of saying the same thing that you mentioned.

Mr. PICKLE. These examples you gave this morning of 15 hours and 59 minutes, is this the exception of the engineer, or is this average?

Mr. GILBERT. Well, you mean in the tables that I presented?

Mr. PICKLE. Yes.

Mr. GILBERT. Well, these tables were taken from the various sections of the country which we believe to be in evidence on each of the railroads, possibly to the same ratio that they are on these that were exemplified.

Mr. PICKLE. In general practice, and not in the table that you presented, because obviously they would be if the figures were there. I am talking about the average practice, when the railroad sends an engineer out on the road, is the average run at least 15 hours and 59 minutes, or approximately that, near that?

Mr. GILBERT. I do not think you could say the average.

Mr. PICKLE. Well, are you giving the unusual situations to prove the point that some men do work long hours, or is this something that happens in the majority of cases?

Mr. GILBERT. No, we are giving you the facts that are taking place throughout the Nation by setting up these typical examples in order that this committee may know of the manner in which the abuses to the hours of service law are being employed by the carriers.

Sure, there are a lot of runs that make the time over their road in 5 or 6 hours, but if they all did, we would not be in here trying to correct the abuses that are being foisted upon these employees by the railroads. As long as the law is such as it is, the abuses will continue, and we believe that these human beings should be respected as such.

Mr. PICKLE. I think we would all agree that no man should be asked to work excessive hours, no matter what his job, certainly one where he is operating a vehicle in which other people's lives or property are entrusted. So we certainly would all agree with that.

But following up the statement you just made, that if these hours were reduced greatly, to 5 or 6 hours, you would not be here complaining about the abuses, the gentleman who testified before you, Mr. Dunn, said he thought it would be well if the railroad would schedule him in such a way that he could go from Boston to Watertown and then, instead of being used and employed locally, that they would hire local switchmen or enginemen to do the job there. Now, if that were the case, if they did that, and you said you were indirectly approving the same thing, what is going to happen to that engineer when he gets up there? How can he afford to take the job if he stays there, he runs for 3 hours on the road and then he gets to Watertown and then he has to wait 8 hours to come back and he is not in pay status during the meantime? Is it not better to work him, if it is not unreasonable, than to let him just put 3 hours up and 2½ or 3 hours back, and his whole total pay is 5 hours?

Suppose he did this regular day and night period, then that man would have to have a place to stay, a place to sleep and eat. It would seem to me that would be a great expense to the man, and certainly not profitable.

Mr. GILBERT. These are the situations that we refer to that, with a rescheduling or a little better supervision, the layover could be avoided and the men would not be required to put in the excessive hours now required on these runs. We are not trying to avoid the excessive hours in what we believe to be abuses of the present hours-of-service law, and as long as it remains as it is, with the maximum figure such as it is, these abuses will continue.

We believe that if they are lowered there will be better jobs for the men, but the railroad officials will employ a little more ingenuity and reschedule the runs and rearrange the work where it will be better for all concerned.

Mr. PICKLE. I wish you could submit for this committee later your idea how, through the process of rescheduling, they could solve this problem, because I would be interested in seeing it. You must have some facts and figures in your study to support your statement to that effect. I think the committee would be interested in seeing how you recommend that rescheduling to handle it. If it could, then we have no problem here.

Mr. GILBERT. Forty years of experience have taught me a few things about it. I do not profess to be an expert, but I have seen some of these things happen such as I have mentioned to you here.

Mr. PICKLE. I am sure it is a difficult problem to know, when you send a man out, just exactly how long he is going to get to a place, how long he is going to stay over, how long he will work, when he will get back, because you go through a 24-hour cycle. Of course, it is a technical problem you live with over the years.

But I would think, by and large, the average railroad man would put in the equivalent of an 8-hour day of work.

Mr. GILBERT. Here is the situation, Congressman. The employee himself does not take unto himself how much work he is going to do between Louisville and Nashville. That is directed by some official of the carrier. If they find him out there and they still have about 4 hours to go under the 16 hours, then he has the right to give him some work to do in that period of time. The man does not take the work on of his own volition. He is directed to do it.

That is why I say that the supervision can change the time it takes a man to take his train over the division. And the longer the division, the more latitude the employer has to utilize these services and avoid overtime payment.

Mr. FRIEDEL. Will the gentleman yield?

Mr. PICKLE. Yes, I will yield.

Mr. FRIEDEL. Do you know the engineers are opposed to this bill?

Mr. GILBERT. I do not know the engineers per se are. I know there are some officials of the Brotherhood of Locomotive Engineers that are. But when you say engineers, I am talking about the rank and file that I have talked to, they are not opposed to it. But I do know some of the officials of the organization are.

Mr. FRIEDEL. Not the officials, the elected officers. I am speaking of the president——

Mr. GILBERT. He is an official.

Mr. FRIEDEL. He was in to see me. One of the instances he cited to me was that of a passenger train. The best example is the train from Baltimore to Washington. It is under a hundred miles, and he gets paid 8 hours. If he returns the same day, he is paid for another 8 hours. It does not take over 3 hours on the whole thing, round trip, maybe 4 hours, and he gets paid for 2 days' work.

Mr. GILBERT. I do not agree with that interpretation.

Mr. FRIEDEL. Is that true or not?

Mr. GILBERT. I would say it would be untrue. From here to Baltimore?

Mr. FRIEDEL. Yes.

Mr. GILBERT. He could not possibly, in a passenger train, put in 8 hours on service.

Mr. FRIEDEL. Does he get paid 8 hours for that run?

Mr. GILBERT. He would be paid a minimum day for here to Baltimore, which would be 100 miles. But he does not get paid for 8 hours. Only the time he is in service is counted under the hours-of-service law.

Mr. FRIEDEL. Correct me now, anything under 100 miles on passenger service is considered 8 hours. Is that right or not?

Mr. GILBERT. It is considered 100 miles.

Mr. FRIEDEL. Passenger trains?

Mr. GILBERT. I am talking about passenger trains. Somebody is trying to give you an erroneous impression about the difference between hours paid and services performed. Now, there is no relationship between the two unless you exceed the number of hours; for example, in passenger service, it would be 5 hours. Then, on most of the roads, the overtime starts after 5 hours. On some, it starts after the scheduling or the schedule of the run.

For example, if it went 100 miles and is scheduled to go 2 hours and 40 minutes, the overtime would start after 2 hours and 40 minutes. But the time on duty between Baltimore and here, unless they held him on duty at Baltimore or held him on duty here, would not be 8 hours, Congressman. It would only be, I would say, maybe 2 hours at the most, in either direction.

Mr. FRIEDEL. What about the service from Washington to New York?

Mr. GILBERT. I imagine the scheduling on that varies. I think about 4 hours and 20 minutes is the minimum schedule, maybe, on these through trains.

Mr. FRIEDEL. Would they get paid for miles?

Mr. GILBERT. Miles.

Mr. FRIEDEL. Two hundred miles would be what? One hundred miles is 8 hours. Is that right or wrong?

Mr. GILBERT. The 100 miles in relation to the hours have no bearing on the application of the hours-of-service law. What you get paid or the relevant miles or time has no relationship to the hours of service. It is only the actual time that you are on duty. If he runs the 232 miles from Washington to New York in 5 hours, 5 hours would be all that would be counted under the hours of service, notwithstanding the fact that he would get paid 232 miles. But under the Hours of Service Act as it presently exists, it would only become 5 hours, if I am correct on the time.

Mr. FRIEDEL. Now, I am getting confused here.

Mr. GILBERT. I think somebody tried to confuse you someplace along the line.

Mr. FRIEDEL. What I was told is that under 100 miles is considered 8 hours; they get paid for 8 hours.

Mr. GILBERT. No; they get paid for 100 miles.

Mr. FRIEDEL. What would that be?

Mr. GILBERT. Whatever the rate for the engine on which he performed the service is. The passenger service rate is the lowest of any.

Mr. FRIEDEL. Can you give us a schedule on that?

Mr. GILBERT. Well, we can get the rates of pay for you, Congressman. I think that may answer the problem.

Mr. PICKLE. Well, Mr. Gilbert, in conclusion, let me say to you that I have followed your testimony this morning closely. I think it is some of the most concise and well-prepared testimony I have heard this year. It was a fine statement, and I will read it again and study this matter further.

In a lighter vein, I want to ask you: It is 4 o'clock now on Friday afternoon. We have put in about 5—and some of us 6—days already, and I guess we have put in about 75 to 100 hours. In your testimony this morning, you said that while you were concerned about the 16 hours being excessive, you pointed out that in the State of Pennsylvania, even a horse was not allowed to work over 15 hours. Do you think Congressmen would be entitled to the same consideration as horses get?

Mr. GILBERT. Well, Congressman, I have thought of that a lot in the vein of whether the international president of the Brotherhood of Locomotive Firemen & Enginemen ought to be rated with the horses in Pennsylvania, which prohibits them from working more than 15 hours.

Mr. PICKLE. Of course, we get the same argument as to how much time we actually put in. I am just wondering, when we go out now in the evening to attend the rural electrification or the bankers or the insurance association, would that be deadheading, in your opinion?

Mr. GILBERT. Well, your experience is not much different than mine. I may have to go to Spokane, Wash., to attend a meeting, and I work all day and then I fly out there, 2,000 miles. But I only get a yearly salary, you see.

Mr. PICKLE. I will go out this evening to participate in a function, and I will get paid for it, in the sense that I am on annual pay, so I do not believe I am going to complain.

That is all.

Mr. FRIEDEL. Thank you, Mr. Gilbert.

Gentlemen, the meeting now will be closed and we will meet again on Monday morning at 10 a.m.

(Whereupon, at 4:05 p.m., the hearing recessed to reconvene Monday, June 27, 1966, at 10 a.m.)

AMEND HOURS OF SERVICE ACT OF 1907

MONDAY, JUNE 27, 1966

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. Samuel N. Friedel (chairman of the subcommittee) presiding.

Mr. FRIEDEL. The subcommittee will come to order.

This is a continuation of the hearings started Friday on H.R. 5196 introduced by Congressman Staggers, and H.R. 8476 introduced by Congressman Macdonald.

Our first witness is Congressman Barratt O'Hara.

Mr. FRIEDEL. It is always a pleasure to have my colleague from Illinois before the committee.

STATEMENT OF HON. BARRATT O'HARA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. O'HARA. Mr. Chairman and members of the subcommittee, I am happy to appear before you today in support of legislation to make the railroads safer for their workers and their passengers. On March 29 I introduced a bill that would further limit the number of hours that railway workers may be on duty continuously and I am gratified to know that 84 of my colleagues have proposed similar limitations.

The bills before you would reduce the maximum permissible number of hours of continuous time on duty from the present 16 hours to 12.

The carriers would be forbidden to require or permit an employee who had been on duty continuously for 12 hours to return to duty until he had had 10 consecutive hours off duty.

A locomotive engineer who constitutes an engine crew alone would not be permitted to work more than 9 consecutive hours or return to work until he had had at least 10 hours off duty. It would be unlawful for carriers to permit an employee to continue on duty or go on duty when he has not had at least 8 consecutive hours off duty in the preceding 24-hour period.

In cases of emergency, crews of relief or wreck trains would be permitted to work more hours than normal, when such work might be necessary to clear the track at the scene of a wreck, if an additional crew were not available, but in any event the overtime work would be halted when the track was sufficiently cleared to permit the movement of trains.

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Telegraphers and dispatchers could work no more than 9 hours, whether consecutive or in the aggregate within any 24-hour period in an office or station where two or more shifts are maintained. They would not be allowed to work more than 11 hours in any 24-hour period where only one shift is employed.

The safety legislation, advocated by the Brotherhood of Locomotive Firemen & Enginemen and other railway unions would amend the 1907 measure, entitled "An act to promote safety of employees and travelers upon railroads by limiting the hours of service of employees thereon."

My bill would insure that employees in intrastate traffic would enjoy the same protection as would those engaged in interstate work.

The act of 1907 marked a milestone in the history of railroad safety.

It spared workers from the long hours that made them less alert, prone to accidents, and mistakes in judgment. But in the intervening years have come heavier equipment and high speeds that require shorter hours still. And there are many other features to the bills that I introducted and a number of my colleagues have introduced.

Mr. Chairman, the railway brotherhoods conduct a never-ending campaign to raise safety standards. Let us all do all we can to help them.

I might add, Mr. Chairman, if the committee in its graciousness will allow me this personal reference, the fight for greater safety for railroad workers and for rail passengers is one in which I have been enlisted for over half a century. In 1913, when I was Lieutenant Governor of Illinois and president of the Illinois State Senate, I was privileged to play a part in the enactment of full crew legislation. Such legislation was necessary at that time if rail tragedies were to be avoided and the loss of lives of rail workers and passengers kept at the minimum.

In all things we must recognize, as did the founders of our Republic, the frailty of human nature.

Fatigue can destroy the alertness of the most alert. The sole purpose of this bill is to assure as far as is reasonably possible that no railroad worker would be worked continuously, and deprived of necessary interims of rest, until the alertness demanded of one in his position had been weakened and ultimately destroyed in the physical frailty of human nature.

Mr. Chairman, I do thank you for the privilege of appearing before you.

Mr. FRIEDEL. I want to thank you for your very fine, complete statement. I know you always take an interest in safety in any mode of transportation?

Is Congressman Horton here?

You may proceed Mr. Horton.

STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. HORTON. Mr. Chairman, I appreciate the courtesy extended to me in being permitted to testify before your subcommittee on the bill, H.R. 10389, which I have introduced.

The legislation I have proposed would promote the safety of employees and travelers on railroads by limiting the hours of service of employees.

Basically, the existing law sets a maximum of 16 consecutive hours of work to be followed by 10 hours of rest. After any 16 hours work in an aggregate 24-hour period an 8-hour rest period is required. Employees whose work controls or affects train movements through transmission or delivery of orders by telegraph or telephone are limited to 9 hours maximum per 24-hour period in towers or posts operated around the clock, and to 13 hours maximum posts operated only in the daylight hours.

My bill, H.R. 10389, updates and amends the present 60-year-old law. The 16-hour limit is reduced to 12 hours of labor to be followed by 10 hours off duty. Furthermore, all employees must have at least 8 consecutive hours off duty in the preceding 24. Section 3 of the proposed legislation, updates the limitations on telegraph and telephone operators, to include people operating equipment that has come into use since the existing law was passed, such as radio control apparatus.

Specifically, any employee who, "by the use of telegraph, telephone, radio, or any other electrical or mechanical device, directs or controls the movement of a train or trains, or other mobile equipment operated on the rails of carriers, or who, by the use of any such means dispatches, reports, transmits, receives, or delivers orders, pertaining to or affecting the movement of a train or trains or other mobile equipment" is subject to a 9-hour maximum per 24 in towers operating two shifts, and an 11-hour maximum at posts operating only one shift.

Revision of existing law along the lines set forth in H.R. 10389 is necessary for many reasons. Modern, expensive, high-speed equipment requires alert attention by its operators. After 12 hours work, employees' reflexes are slow. Besides being hazardous to the worker's health, the long hours are dangerous to all passengers, other rail employees, and the general public in and around trains. Many engineers, I am told, have to take stay-awake pills to operate at all. With highly technical modern rail operations, millions of dollars of equipment, and increasing traffic, the rising accident rate on railroads is alarming. With trains running through crowded cities, crossing the paths of thousands of people, it is too dangerous to have physically exhausted personnel directing and running the trains. The proposed legislation will set more reasonable work periods and thereby cut down on the rigorous requirements which often cause great physical strain on employees, thus making train service safer for all.

Mr. Chairman, I would like to join with my many colleagues who have introduced this legislation, in emphasizing the intent of this bill. It is designed in the interest of both the public at large and the rail workers to increase safety in railroad operations. As such, it affects us all, and can only have the effect of providing safer rail service.

Mr. FRIEDEL. Thank you for your testimony, Mr. Horton.

If there are no questions we shall hear next from the Honorable Michael Feighan, of Ohio.

STATEMENT OF HON. MICHAEL A. FEIGHAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. FEIGHAN. This Congress, Mr. Chairman, prides itself in the establishment of the Great Society. We have done much in the last two sessions to bring America into the 6th decade of the 20th century. We have guaranteed every American the right to vote. Strides have been taken to create better housing and education, and to improve our cities. For almost 60 years, though, we have done nothing about the Hours of Service Act.

I have introduced these amendments to the Hours of Service Act to insure the safety of the American people and I cannot urge you too strongly to report them favorably. Under present law trainmen not infrequently are subject to 16 continuous hours of work in 1 day. This is dangerous. When the Hours of Service Act was passed in 1907, a different era prevailed. Trains moved ahead usually at far slower speeds than they go today; few automobiles crowded our roads; and the 12-hour day was commonplace.

In recent years both accidents and speed have proliferated. Today many passenger trains average more than 60 miles per hour. The trains that used to go but 100 miles each day now can travel almost 400 miles. Yet in this era of high speed that requires maximum reflexes, railroad employees are still working under laws written at the turn of the century. Working 16 straight hours dulls a man's senses. Accidents sometimes are unavoidable. But when an accident occurs because of carelessness due to fatigue, we have only ourselves to blame. We should have brought the Hours of Service Act into the 2d half of the 20th century a long time ago, Mr. Chairman. It is our fault we didn't. But now we have the opportunity to right a wrong. We must do it before any other people are injured by the Nation's trains.

There is more to this bill, Mr. Chairman, than just safety, although preventing more accidents is the primary goal of this legislation. There is a human side, too. We created the basic 40-hour week and the 8-hour day when the Congress passed the Fair Labor Standards Act in 1938—almost 30 years ago. But still the Congress has not gone on record for decent hours for hard-working railroad employees. For the first time we are going to require that trainmen have at least 8 consecutive hours off duty during any preceding 24-hour period. This is only right.

And in this bill, Mr. Chairman, we are closing a loophole in the law. Not only will the law apply to carriers in interstate commerce, but also to intrastate companies using the tracks of common carriers. I don't know, Mr. Chairman, how this loophole ever occurred in the first place, but now is the time to do something about it.

And to those opponents of this badly needed legislation who say that these amendments to the Hours of Service Act will introduce too much inflexibility, all I can say is that they are wrong. In case of emergency, the crews of wreck trains will still be permitted to remain on duty for a longer period than is otherwise allowed so that the tracks may be cleared at the scene of a wreck. This flexibility has been introduced into this bill so that we can make sure extra works, when it must be done, will not be unnecessarily curtailed.

As you can see, Mr. Chairman, we have a good bill here. This bill reduces the maximum number of hours of continuous time on duty

for trainmen from 16 hours to 12. And when a locomotive engineer works alone, we can be assured of our safety because the engineer will not be on duty for more than 9 consecutive hours. Adequate rest will be given railroad employees and almost as importantly these hardworking people will be given a decent workday and workweek.

The next accident caused by trainmen too tired to see well or react quickly will be our fault. We can do something about this situation, Mr. Chairman. And we should do it now.

Mr. FRIEDEL. Your views are appreciated Mr. Feighan.

If there are no questions we will proceed by hearing from the Honorable Paul Fino, author of H.R. 9764.

STATEMENT OF HON. PAUL A. FINO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. FINO. I urge this committee to act favorably on my bill, H.R. 9764, or the many similar bills filed.

The purpose of this bill, quite simply stated, is to reduce the maximum number of hours that can be worked by railroadmen engaged in the operation of trains.

I have heard it said by detractors of this legislation that it is aimed at creating more railroad jobs. Perhaps. I am not sure this is such a bad thing. I believe the railroads have been feeling job pressure recently. I think it is a good idea to create some more jobs by reducing the maximum hours of continuous job service from 16 to 12.

We are living in a modern age where increasing emphasis is being put on a short workday and workweek. I see no reason why the railroads should not have shorter workdays and fuller employment.

I realize that there may be the occasional situation where flexibility in hours of service is called for. I would support any equitable means of meeting these circumstances in the language of the legislation, but I do not think that they are of enough significance to refute the need for legislation of the sort under consideration to change the maximum hours of service law.

Mr. FRIEDEL. Thank you for your concise statement Mr. Fino.

We will hear now from the Honorable William Ford of Michigan.

STATEMENT OF HON. WILLIAM D. FORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. FORD. Mr. Chairman, I would like to add my strong support to the bill designed to amend the Hours of Service Act.

It seems to me only commonsense that the outdated hourly limitations of this act should be brought into line with those of other comparable industries. Under the existing regulations, locomotive engineers are allowed to operate their equipment for up to 16 hours. The amendments would lower this limit to 12 hours.

Truckdrivers engaged in interstate commerce are allowed to drive only 10 hours, airplane pilots are restricted to 100 hours a month. Many locomotive engineers are men of 60 years, or older. A 16-hour workday is hardly conducive to safe operation. These enginemen are in charge of trains which sometimes run to 250 cars, more than 2 miles in length. The tonnage hauled by such a train would equal the amount in nearly 400 truck-trailer units.

It is not fair to ask any man to accept such responsibility, and then expect him to put in a working day that is double that of most other persons.

It is also in the public interest to promote safe operation of trains by preventing the mental and physical strain that could so easily result from keeping a man on the job for too many hours. And certainly, it is to the benefit of railroad management to protect their investment by preventing possible accidents due to overtired operators.

There are other important changes provided in these amendments, which are designed to modernize a law which was passed some 60 years ago, before the American way of life was so drastically changed by the technological revolution.

These amendments, I believe, are long overdue, and I strongly urge their adoption.

Mr. FRIEDEL. Thank you for your statement, Mr. Ford. If there are no questions we will hear next from Mr. Fulton of Tennessee.

STATEMENT OF HON. RICHARD FULTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. FULTON. Mr. Chairman, my thanks to you and the distinguished members of the committee for this opportunity to go on record as favoring legislation to amend the Hours of Service Act to "promote safety of employees and travelers upon railroads by limiting the hours of service of employees thereon."

It is my privilege to sponsor H.R. 9535 which I believe, is identical to H.R. 8476 by Representative Macdonald and others.

Chairman Webb of the Interstate Commerce Commission put the argument for favorable consideration of this legislation very succinctly when he wrote in October of 1965:

> Since enactment of the Hours of Service law in 1907 and particularly since diesel-electric power operation, trains have become longer, speeds have increased, total train service employment has declined, and yet time on duty for the employees involved has remained fairly constant. These changes in operation appear to have resulted in more arduous work for train and engine employees.

Chairman Webb further stated that evidence does not necessarily indicate that length of time which an employee was on duty has any relationship to the recent upward trend in train accidents.

Nonetheless, 16 hours of continuous service in the operation and maintenance of a moving train is much too long for any operating employee under the best of conditions.

Indeed, the ICC has prohibited motor carriers subject to its jurisdiction, with some exceptions, from permitting or requiring any driver to drive more than 10 hours following 8 consecutive hours off duty, or to drive for any period after having been on duty 15 hours following 8 consecutive hours off duty.

Safety, not monetary, considerations are of paramount importance here and I feel very strongly that they would be best served through enactment of H.R. 9535 or similar legislation. I respectfully request, therefore, that the committee consider favorably these proposals.

Mr. FRIEDEL. Thank you Mr. Fulton. We will hear now from our colleague from Iowa, the Honorable John Schmidhauser. You may proceed Mr. Schmidhauser.

STATEMENT OF HON. JOHN R. SCHMIDHAUSER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. SCHMIDHAUSER. Mr. Chairman, I have come here today to testify in favor of my bill, H.R. 10455, to amend the Hours of Service Act. I have come to testify because I think that there is a particular urgency that this bill be passed, and quickly. I have been appalled to learn of the conditions under which railroad employees are forced to work. From the testimony previously presented to this committee, we know that it is not uncommon for the carrier to force its employees to work for more than the 16-hour maximum and then to penalize them if they report this excessive duty on their worksheets. Perhaps more disturbing yet is the inadequate provision made for rest periods. How can an engineer be expected to perform alertly when he has been on duty for long hours, in an uncomfortable position, and had only a few hours of sleep on a jolting, lurching train before he came on duty? The wonder is that there are not more accidents. That there are not is a tribute to the devotion and skill of the railroad employees, but it should not blind us to the dangers involved.

This problem of railway safety has become even more acute, Mr. Chairman, for two reasons. The first is the phasing out of firemen. No longer can the engineer count on the trained assistance of his fireman, or on his relief if the engineer becomes fatigued. Now the engineer must run the train alone and without any skilled assistance perform additional duties. Certainly the personal experience of the railroad employees themselves, as indicated by the testimony already given before this committee, confirms the fears that were expressed when the change was instituted, that the loss of the fireman is creating a safety problem on the railroads.

The second reason why the need is great for immediate action on the bills before this committee is the plans to institute high-speed passenger service between the major metropolitan areas in the near future. As provided in legislation passed by the 89th Congress, there will soon be such service on the eastern seaboard, and the lives of all who travel on these trains will be in danger if the hours of service of the employees who operate the trains are not limited. Why is it, Mr. Chairman, that airline operating personnel are limited by law to 85 hours of flight time per month, that merchant seamen are limited to 8 hour shifts, that truckdrivers are limited to 10 consecutive hours of driving—in short, that operating employees of the other transportation industries in the Nation have much more severely limited hours of service than railroad employees?

We in Congress are much concerned these days with traffic safety, Mr. Chairman. I myself have introduced a number of bills to insure that our cars, farm vehicles, and highways are made safer so that the needless slaughter ceases. It would be foolish of us, however, to concentrate only on highway safety and ignore the more than 2,000 Americans killed and injured in train wrecks every year. It would also be foolish to ignore the fact that railroad accidents have increased 25 percent in the period since they began to operate with shorthanded crews in 1963. Not only do these accidents result in death and injury to thousands of Americans each year, Mr. Chairman, but they also result in a loss of $150 million in personal injury and property damage.

It is ironic that the means to prevent this loss exist—limit the number of hours operating employees must work and insure that they have adequate rest—and yet the railroads fight the legislation now under consideration. The carriers can only gain by their passage, yet they are compelled by some mysterious reflex action to give battle to any bills which would protect the welfare of their employees and promote safety, just as the automobile industry felt compelled to fight any attempts to legislate the safety standards which it has failed to voluntarily institute. Thus does the shortsightedness of the industries lead to an urgent need for Government regulation. For surely in this case, if the carriers had not abused their employees, had not asked that they work impossible hours, had treated them like human beings who grow tired and have families whom they wish to see, then there would be no need for the legislation we are now considering.

To conclude, Mr. Chairman, I urge that the legislation now under consideration be approved by this committee and scheduled for action by the House as quickly as possible. To delay is to ignore the welfare of all who work and ride on the railroads of our country.

Mr. FRIEDEL. Thank you for your testimony, Mr. Schmidhauser.

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

Mr. FRIEDEL. We have one more colleague to hear from at this time, the Honorable Hervey Machen, who has introduced H.R. 9250. You may proceed Mr. Machen.

STATEMENT OF HON. HERVEY G. MACHEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. MACHEN. I appreciate this opportunity to testify in behalf of my bill, H.R. 9250, and related bills that will "promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon."

We have seen national attention focused recently on the grim statistics of accidents primarily on the highways. However, we must be concerned with accidents wherever they occur and not neglect any opportunity to reduce their incidence. Although it would be very difficult to say how many railroad accidents have occurred because the employees were pressed to work past their maximum alertness, we can be certain that the number is not negligible. This bill, by setting a 12-hour maximum limit of continuous hours of service which railroad employees can work, would make an important contribution to safety on the railroads.

We live in a high speed age and will soon be seeing faster and faster equipment put into operation on the railroads. The operation of this fast equipment demands the most alert and efficient crews that it is possible to obtain. The men operating these trains bear great responsibility, not only for their freight and equipment, but also for pedestrian and vehicular traffic in the cities and towns en route.

It is imperative that the public be assured of every protection that is available. For railroad employees to operate at top efficiency proper time for rest and relaxation must be available. Under present law it is possible for employees to remain on duty much longer than it is healthful or safe.

I hope that this committee sees fit to report out this bill and that it will receive early action in the Congress.

Thank you for your time and consideration.

Mr. FRIEDEL. Thank you Mr. Machen.

Now, we will hear from Mr. Bush.

STATEMENT OF HON. JOHN W. BUSH, CHAIRMAN, INTERSTATE COMMERCE COMMISSION; ACCOMPANIED BY ROBERT D. PFAHLER, DIRECTOR, BUREAU OF RAILROAD SAFETY AND SERVICE; AND H. L. HILZINGER, ASSISTANT DIRECTOR AND CHIEF, SECTION OF RAILROAD SAFETY

Mr. BUSH. Mr. Chairman, we have a brief statement. I have asked Director Robert Pfahler, the Director of the Bureau of Railroad Safety and Service, and Mr. H. L. Hilzinger, the Assistant Director and Chief of the Section of Railroad Safety to accompany me here, if there are any technical questions they could answer them better than I.

If I may, I will read our brief statement.

My name is John W. Bush. I am the Chairman of the Interstate Commerce Commission, and I have served in that capacity since January of this year.

I appreciate this opportunity to testify on behalf of the Commission on H.R. 5196, introduced by you, Mr. Chairman, a bill to amend the act of March 4, 1907, to provide that the 16-hour limitation upon continuous duty for certain railroad employees shall apply to employees installing, repairing, and maintaining signal systems, and for other purposes, and H.R. 8476 and similar bills, to amend the act entitled, "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon."

First I will discuss H.R. 8476. Section 1 defines "employee" as a person actually engaged in or connected with the movement of any train. It also provides that in computing time on duty an individual shall be deemed to be continuously on duty from the time of reporting for duty until finally released from duty, except that any interim period available for rest for more than 3 hours shall not be regarded as time on duty. This is in accordance with the generally prevailing practice of regarding an off-duty period of 3 hours or more, under circumstances which provide an opportunity for rest and recuperation, as breaking continuity of service.

Section 2(a)(1) would reduce the maximum lawful continuous time on duty for an employee from 16 to 12 hours, except where the engine crew consists solely of an engineer, in which case the maximum continuous time on duty would be limited to 9 hours.

Section 2(a)(2) provides that each employee shall have 8 consecutive hours off duty during the preceding 24-hour period. This provision is intended to provide an opportunity for meaningful rest and recuperation. Such a requirement would promote railroad safety.

Section 2(b) does not change the present requirements relating to so-called commingled service. On-duty time for any employee actually engaged in or connected with the movement of any train would include time on duty in other service performed for the railroad during the 24-hour period involved. The courts generally have held that, in computing on-duty time, both protected and nonprotected service during the 24-hour period involved must be considered. *Delano, et al., Receiver, Wabash Railroad Co.* v. *United States*, 220 F.

635; *St. Joseph & Grand Island R. Co.* v. *United States*, 232 F. 349 (353); *Oregon-Washington R. & Nav. Co.* v. *United States*, 223 F. 596. A few courts have held, however, that when nonprotected service follows protected service, the nonprotected service should not be considered in determining total time on duty. Section 2(b) would reconcile this divergence of views by establishing a uniform standard relating to commingled service.

Section 2(c) would limit on-duty time of crews on relief or wrecked trains to that necessary to clear the tracks at the scene of the wreck but only until such time as the track is cleared sufficiently to permit movement of trains. This section is more restrictive than the present exemption relating to wrecked trains and relief trains. At present employees of wrecked and relief trains are excluded from the hours of service provisions. Hence, at times such employees are on duty for 20 or more hours, including the time involved in hauling the wrecked equipment to a terminal. The operation of such trains by employees on extended periods of service can be as hazardous as the operation of any other train. Limiting on-duty time of wrecked train and relief train employees to that sufficient to clear the track for movement of trains would also promote railroad safety.

Section 3(a) extends the scope of the hours of service requirements relating to employees dispatching, delivering, transmitting or receiving orders to include transmissions by electrical or mechanical means, including radio. The present law is restricted specifically "to telephone and telegraph communication." With the general use of radio and other forms of communication by railroads, this change in the law would seem desirable.

Section 3(a) also expands the present hours of service requirements relating to orders to include mobile equipment operated on rails. Because of the extensive use of mobile equipment for maintenance purposes it may be desirable to have such equipment protected by train orders since there have been several recent accidents involving trains striking such equipment. However, proposed section 3(a) leaves open the question whether the employee operating mobile equipment and also receiving orders would be subject to the 9 or 11 hours restriction even though the mobile equipment may not be classified as "any train."

Section 3(a)(1) provides that where two or more shifts are employed the maximum lawful hours on duty for an employee who directs or controls the movement of trains in any tower, office, or station, shall not exceed 9 hours in any 24-hours period. This section substitutes the phrase, "two or more shifts" for the present language, "day and night office." We have experienced no difficulty with the term "day and night office." In general, the courts have considered an office to fall within that category when open more than 13 hours in a 24-hour period. Since the term "shift" may require judicial construction, it may be desirable to clarify its intended meaning.

Section 3(a)(2) reduces the maximum on-duty time for employees working at one-shift offices from 13 to 11 hours in any 24-hour period. Our records do not disclose that the present maximum hours for such employees have resulted in any particular hazard to train operation. Therefore, we express no opinion as to the desirability of this proposed change.

Section 4(a) increases the penalty for each and every violation to $500. The present law provides for a penalty of not less than $200 nor more than $500 for each violation. The Commission has favored increased penalties for hours of service violations because the present penalty is inadequate.

Since enactment of the hours of service law in 1907, and particularly since diesel-electric operation, trains have become longer, speeds have increased, total train service employment has declined, and yet time on duty for the employees involved has remained fairly constant. These changes in operation appear to have resulted in more arduous work for train and engine employees. Although there has been a recent upward trend in the number of train accidents, no evidence has been found indicating that the length of time an employee was on duty is a significant factor in this adverse trend.

In connection with the Commission's responsibilities for motor carrier safety, we conducted extensive hearings on limiting the hours of service of drivers of motor vehicles. In Ex Parte No. MC–40 (Sub–1), decided March 29, 1962, the Commission concluded that motor carrier drivers should have their total time on duty limited. With some exceptions, we prohibited motor carriers subject to our jurisdiction from permitting or requiring any driver to drive more than 10 hours following 8 consecutive hours off duty, or to drive for any period after having been on duty 15 hours following 8 consecutive hours off duty (49 CFR 195.3).

We have made no similar study to determine whether a locomotive engineer, alone in the cab of a locomotive, is subject to fatigue to the same or greater extent than is a driver of a truck. While conditions are somewhat different, alertness to surrounding conditions would seem absolutely essential for safety of operation of a heavy truck by a driver or a locomotive and train by an engineer. However, we do not now possess sufficient information to express any opinion on whether the provisions of section 2(a)(1) should be approved, either as proposed or in some amended form.

Subject to the qualifications mentioned above, but reserving judgment on the merits of section 2(a)(1), we favor enactment of H.R. 8476.

I now direct my remarks to H.R. 5196, a bill to amend the act of March 4, 1907, to provide that the 16-hour limitation upon continuous duty for certain railroad employees shall apply to employees installing, repairing, and maintaining signal systems, and for other purposes.

We recognize that employees responsible for installing, repairing, or maintaining signal systems play a vital role in safe train operation. Certainly signal systems must be operable at all times in order to assure safety on the rails. At present the on-duty time of these employees does not come within the Hours of Service Act, and we have not conducted a study to determine whether their hours should be restricted. Also, a review of our investigations of rail accidents failed to disclose any such accidents resulting from the fatigue of signalmen. This group of railroad employees is just a part of the maintenance and repair force of a railroad. Inattentiveness in performance of track, car, or locomotive maintenance work due to excessive fatigue could conceivably also affect the safety of trains. Hence, if signalmen are to be considered under the Hours of Service Act, it seems entirely possible that other rail craftsmen may request similar

consideration. For these reasons we are not in position to recommend that persons installing, repairing, or maintaining signal systems should have a 16-hour limitation upon continuous duty.

That concludes our formal statement, Mr. Chairman.

Mr. FRIEDEL. Thank you, Chairman Bush.

The purpose of these bills is to promote railroad safety; is that correct?

Mr. BUSH. Yes.

Mr. FRIEDEL. Do you have any factual evidence showing that long hours of work by employees are a cause of accidents?

Mr. BUSH. In what group, Mr. Chairman? There are two bills. One includes the carriers that perform the movement of trains, and the other bill pertains to the people who are not actually involved in moving the trains, but in duties of preparing for such movement or helping to implement the movement.

Mr. FRIEDEL. Do you have any factual figures to show that accidents occur because of these long hours?

Mr. BUSH. I will ask Mr. Pfahler, our director.

Mr. PFAHLER. No sir; we have no facts or figures on this.

Mr. FRIEDEL. Mr. Bush, on page 6 of your statement you refer to the ICC regulations prohibiting motor carriers subject to your jurisdiction from permitting or requiring any driver to drive more than 10 hours following 8 consecutive hours off duty, or to drive for any period after having been on duty 15 hours following 8 consecutive hours off duty. Does this apply also to the motor bus drivers?

Mr. BUSH. Yes sir.

Mr. FRIEDEL. It does?

Mr. BUSH. Yes sir.

Mr. FRIEDEL. I understand that we have motor buses that drive from here to New York nonstop, it takes 4 hours and 10 minutes, and there are no rest periods for that driver, he has to be on that wheel continuously probably going more than 60 miles an hour. Is there any thought given to the driver under those circumstances?

Mr. BUSH. That is the really difficult area, where you have those that are borderline cases. The driver that drives the bus from here to New York is normally expected to drive back, and normally wants to drive back. In most cases he would prefer to start and end such a run in the area in which he lives. The example you use is a good one to point up that difficult borderline where there would have to be a substitute driver to take the bus back the other way. We do have a great problem there.

Mr. FRIEDEL. But there is no rest period for the driver in the 4 hours and 10 minutes?

Mr. BUSH. No sir.

Mr. FRIEDEL. Thank you.

Mr. Pickle?

Mr. PICKLE. Mr. Chairman, I would like to defer to my colleague. I just came in. I would like to have a chance to read the testimony.

Mr. WATSON. Thank you very much, Mr. Pickle.

Thank you for your statement, Mr. Bush. We appreciate the complexity of the problems you have with the Commission. I certainly share your desire to improve the safety record of our common carriers.

But I am a little disturbed at your statement that there has been no evidence found indicating that the length of time that an employee

is on duty is a significant factor in the increase in accidents. You state that there has been a recent upward trend in the number of train accidents. You have not studied that to make any determination factually as to what the cause of these accidents is?

Mr. BUSH. I would like to ask our Director Pfahler to address himself to that question, because it certainly is an important one, and a part of our study.

Mr. PFAHLER. The greatest increase has been in the collisions and derailments. While collisions may have that as a factor, we have no figures which would correlate the time of the man who was on duty to the collisions. In those that we have investigated we have not found that the man was on duty an excessively long period of time.

Mr. WATSON. You say you have not found in those accidents that the man was on duty for an excessively long duty of time?

Mr. PFAHLER. Not in those that we have investigated. The statistical reporting does not include this as a factor in the report. The derailments possibly could have been prevented by extra alertness. But again we have no statistical evidence which would correlate the time on duty, whether the man had been on duty for 4 hours, 8 hours, 12 hours, or 16 hours, is not a factor in the statistical reporting, and therefore we have no way of correlating this.

Mr. WATSON. Am I to understand that your investigations do not include a study of the length of time that the operator was actually on duty?

Mr. PFAHLER. It does in the ones that we actually investigated. But we only investigate somewhere in the neighborhood of 50 a year, which is an infinitesimal part of the total number of accidents.

Mr. WATSON. And in those that you investigated you found no evidence——

Mr. PFAHLER. We found no evidence to correlate the time on duty as a continually recurring factor in accidents.

Mr. WATSON. So from your study, then, you would conclude that the length of time, even up to the 15 or 16 hours, would not be a primary contributing factor to the cause of wrecks?

Mr. PFAHLER. Not among those investigated, no.

Mr. WATSON. You said that you have not made a study of the subject of fatigue on the part of the operator of a train. Is such a study proposed, or do you have the personnel to make such a study?

Mr. BUSH. We would like to make such a study. We have so many problems in the hopper for the small amount of personnel that we have. This is an area which is rather difficult and intangible. When accidents occur we can find out, of course, very easily and factually how many hours the person has worked. But to find out specifically and measurably how much any amount of fatigue contributed to it is a very difficult area to pin down.

Mr. WATSON. Have you as a Commission had complaints relative to this particular factor of fatigue contributing to the cause of wrecks on the part of any of the organized groups?

Mr. BUSH. No sir, we have not.

Mr. WATSON. You have not?

Mr. BUSH. No.

Mr. WATSON. I notice on page 3 of your testimony that you say the crews working to clear up wrecks and such as that, that they are exempt from the hours of service, is that not correct, under the present law?

Mr. BUSH. Yes sir.

Mr. WATSON. Now, under your testimony you would feel that such exclusion is not justifiable?

Mr. BUSH. We feel that they should stay on duty only long enough to physically clear the track.

Mr. WATSON. In other words, you do believe they should stay there such time as required to clear up the wreck?

Mr. BUSH. To enable them to remove the wreckage and remove the train; yes sir.

Mr. WATSON. Well, that is virtually the same provision of the law as it is now.

Mr. BUSH. Substantially; but a little less.

Mr. WATSON. You suggested that there should be some clarification of language. This is on page 5, the first paragraph, there should be some clarification of language as to the definition of "shift." Do you have any suggested language that the committee might consider?

Mr. PFAHLER. Not offhand. A shift, I think, as used in here probably means an 8-hour working period that employees normally work on a regular shift or tour of duty. As to how to make this more specific, offhand I am not prepared to say.

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

Mr. FRIEDEL. Mr. Pickle.

Mr. PICKLE. Welcome to the committee, Mr. Bush. I am sorry that I didn't get here in time to hear your testimony. I have been trying to read it and get your position.

It seems to me that you have given a fairly weak endorsement of this legislation. Is that an accurate statement?

Let me rephrase it. You say on page 7 that, "Subject to the qualifications mentioned above, but reserving on the merits of section 2(a)(1), we favor enactment of H.R. 8476."

Now, the 2(a)(1) makes reference to the reduction from 16- to 12-hour period, if I remember correctly, which is in effect the heart of the legislation. Now, you say, "Subject to the qualification mentioned above," and still reserving judgment on the very heart of the case, you endorsed it. Now, what are you endorsing? There is not much less to endorse.

Mr. BUSH. We said, section 2(a)(1) would reduce the maximum law for continuous time on duty for an employee from 16 to 12 hours, except where the engine crew consists solely of an engineer, in which case the maximum continuous time on duty would be limited to 9 hours.

Mr. PICKLE. That is what you reserved judgment on, you haven't made up your mind whether that is good or bad.

Mr. BUSH. Actually, Mr. Congressman, our records are not compiled in such a manner or not furnished to us in such a manner that we can consider that we would be as expert in deciding this as we were after we had completed the full study that we did in some previous years on the motor carrier driver law. And we do have some reservation as to the Interstate Commerce Commission taking a firm stand on an important transportation matter without having sufficient information to enable us to arrive at a Commission conclusion or recommendation, because I know that whatever we say on such a matter should have considerable weight. And we just simply have not been able to make as complete a study as we did in the motor carrier field. That is the reason for our caution or reservation.

Mr. PICKLE. Is it reasonable to say, then, that you point out that no one should work excessive hours, but that you don't have any studies to prove that this is necessarily excessive in this particular case?

Mr. BUSH. In the short time that we have discussed and studied this we have tried to draw comparisons between motor carrier drivers and the employees who move trains. There are some comparable factors, and others quite different. The general factor of fatigue, of course, I would say would be quite comparable. But where on a highway a driver can pull over and take a nap if he wishes, for example, he has an advantage which an engineer or people moving trains do not have. On the other hand, people moving trains, while they have great responsibility, and are under tension, and so forth, they do not have many other drivers to contend with coming in the opposite direction and trying to pass them, and so forth. So it is pretty hard to compare the two without the kind of study that we made on the hours-of-service question for motor carrier drivers.

Mr. PICKLE. I would agree, Mr. Chairman, that it is difficult to prepare. I have noticed in the testimony of Friday that many of the engineers in one type of duty—for instance, going from Washington to Baltimore and perhaps then switching around the yard for a different time, so that there is a considerable break over a long period of hours, even involving several hours of dead time or idle time where there wouldn't be an intense dedication to their duty.

Mr. BUSH. Yes.

Mr. PICKLE. Let me ask you this for my information and background. I was interested in the testimony two of the engineers gave Friday. One in particular was the run from Boston to Watertown. Now, the engineer left Boston and went to Watertown, and then stayed in the yard doing switching duty for approximately 8 or 9 hours, at which time he returned to a regular run back into Boston. He had to put in a total of about 15 hours and 59 minutes, or at least in that category. He got paid for the whole time. The question that intrigued me was, if this was a common practice, if most of the railroads sent their engineers out into neighboring towns or cities and then switched them around all day and brought them in. And the reply was yes, this is true in the majority of cases. Do you know for a fact, as a member of the ICC, if this is common practice, if this is required in a majority of engineers over the country?

Mr. BUSH. Mr. Pfahler used to work with them. I would like to ask him.

Mr. PFAHLER. There are so many different kinds and combinations of service that I would rather characterize that it is not an uncommon practice. But I think that many railroads switch crews and train crews are under separate seniority rules, so I would say that for that person this would not be a common practice.

Mr. PICKLE. This engineer had seniority, and chose that route. And I wondered if this is common, that the employees choose the longer and/or most burdensome run. Is this a personal choice?

Mr. PFAHLER. I would say that many would prefer to get 2 days instead of 1.

Mr. PICKLE. But are there two groups in which there is some disagreement?

Mr. PFAHLER. Apparently, yes. You have some people who want to earn all the overtime that they can get, and you have some people

who want to make a reasonable living in an 8-hour day. I think you have people who will work any time that they are called, who are anxious to work every bit that is possible. And there are other people who want to work a minimum time. And then somewhere in between is a happy medium where a man works according to the exigencies of the service and protects his work to the best of his ability.

Mr. PICKLE. Then there is a great area of disagreement as to what is actually based?

Mr. PFAHLER. Yes.

Mr. PICKLE. Do you in the Commission have any figures to tell us if there is an element of cost involved in this kind of practice? For instance, to take the practice that is common, you send engineers into neighboring towns and use them many hours switching around, and then run them, and you pay them for the 15 hours, which would include both time and time and a half, would it cost the railroads more if they worked them 12 hours or less and hired local trainmen in the local yards?

Mr. BUSH. It is my opinion that it would cost a great deal more.

I also believe that when the railroad people, the AAR testify, they will probably have a complete study.

Mr. PICKLE. I will reserve that question for them.

Why would it cost them more?

Mr. BUSH. It is just my guess that it would. But I think that they will probably——

Mr. PICKLE. The testimony of one engineer the other day was, no, he thought it would come out about the same, that there would be no increase in cost. And that was rather interesting to me.

Mr. BUSH. I think that was probably just an uneducated guess on his part, which it would have to be on my part too. But I believe the railroad people—they are sitting here—would have all those figures for you.

Mr. PICKLE. Have you had any of the two groups come to you and express their interest either for or against the bill?

Mr. BUSH. No sir, neither one of them.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. FRIEDEL. We have with us now the chairman of the full committee, Congressman Staggers, sponsor of one of the bills. And I wonder if Congressman Staggers would like to say a few words.

Mr. STAGGERS. I will wait for my turn.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. I would like to ask your, Mr. Chairman, based on your experience as Chairman of the Interstate Commerce Commission, and member of the Commission, and based upon your experience back in Ohio, whether you wouldn't agree that the railroad industry is a unique industry and different from the other industries of the Nation?

Mr. BUSH. Yes.

Mr. DEVINE. And the working tools and working hours are peculiarly different in this industry than they would be in any other?

Mr. BUSH. Yes. I am not sure whether you were here, Mr. Congressman, when I said that we had made quite an extensive study of this same question for motor carrier drivers. And it is extremely difficult to try to compare the two, and it bears out what you say, that this a very distinctive business not exactly comparable to anything.

Mr. DEVINE. Thank you.

Mr. FRIEDEL. Mr. Bush, what is considered a reportable accident, damages, money damages?

Mr. PFAHLER. By money damage and by personal injury, both, or either. It is $750 worth of damage to the equipment, or a person who is disabled for 1 day and not able fully to perform his duties.

Mr. FRIEDEL. I want to ask two brief questions. Does the ICC have information about the actual hours of work by railroad operating employees, do you have those figures, the actual hours of work they perform?

Mr. PFAHLER. We have the gross figures, but not tabulated so that it would show employees work 8, 10, 12, 14 hours, or anything like that.

We also get reports of all instances where employees work more than the 9-, 13-, or 16-hour provisions under the Hours of Service Act. But these would only be those in excess, not those who worked up to that period of time.

So we have no statistical information which would show what was normal.

We do know that the number of employees have been reduced. And we know that the hours they are paid on a per employee basis have gone up some.

Mr. FRIEDEL. Do you figure it on the average hours?

Mr. PFAHLER. Just on the average hours. We have nothing that would indicate how many have worked any particular number of hours.

Mr. FRIEDEL. Do you do that only where there has been a violation and they work more than 16 hours?

Mr. PFAHLER. Those we have knowledge of, all of those.

Mr. FRIEDEL. And you always have knowledge of the average hours too?

Mr. PFAHLER. Of the average hours that have been worked by employees through working out some other reports which have been made.

Mr. FRIEDEL. Thank you.

Mr. Staggers.

Mr. STAGGERS. Mr. Chairman, I would ask permission to include in the record at this point certain correspondence which I have had earlier this year concerning ICC statistics showing an increase in train accidents, and commenting on the cost of these accidents, with the ICC and with the railroads. And I would ask permission at this time to have those included in the record.

Mr. FRIEDEL. Without objection they will be included at this point in the record. I believe those will be revealing both to the committee and the ICC as to the cause of accidents.

(The correspondence referred to follows:)

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., March 8, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Rayburn House Office Building,
Washington, D.C.

DEAR MR. CONGRESSMAN: I have your letter of March 7, with respect to the recent annual report of the Interstate Commerce Commission in connection with accident statistics.

While much is available here with respect to questions involving the removal of firemen in yard and freight service, in the interest of insuring that you receive full information I am asking Mr. J. E. Wolfe, Chairman of the National Railway Labor

Conference, to reply directly to you since he has been deeply involved in this matter and quite likely can give you a more accurate reply.

With all best wishes,

Sincerely,

DANIEL P. LOOMIS,
President

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., March 14, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: This is in reply to your letter of March 8, 1966, concerning the increase in defective locomotives found by our Inspectors and an increse in accidents in Fiscal Year 1965.

During Fiscal Year 1965, our District Inspectors inspected a total of 76,044 locomotive units of which 9,391, or 12.3%, were found to have defects which were in violation of the Commission's regulations as compared to 11.1% found defective in Fiscal Year 1964.

Of the total number of locomotive units inspected in Fiscal Year 1965, 646 units, 67 units more than in Fiscal Year 1964, were found to have defects which warranted their being ordered out of service.

In Fiscal Year 1965, 87 accidents were caused by the existence of defects on locomotives which were in operation as compared to 76 accidents in Fiscal Year 1964.

We believe that the following factors are involved in this undesirable trend:

The average age of the Nation's locomotive fleet is increasing and approximately 85% of the locomotive units currently in service were built prior to 1958. It may reasonably be expected that increased maintenance is necessitated by the increased age.

During the last several years, there has been an appreciable increase in the number of miles operated daily by locomotives and they are now hauling more cars containing heavier loads and at higher speeds.

During the last several years, there has been a trend on the part of the carriers to centralize locomotive maintenance facilities. Consequently, there are not fewer facilities and fewer inspection and maintenance personnel than were available in the past.

We believe that on some railroads the quality of inspection and repair procedures used by carrier personnel has deteriorated. This belief is supported in part by the fact that the majority of locomotive units found defective and/or ordered out of service by our District Inspectors had previously been inspected by carrier personnel and were ready for service.

It is our further belief that accident potential, and consequently the number of accidents, increase as the operation of defective locomotives increase.

If any further information is desired, we will be pleased to furnish it.

Sincerely,

JOHN W. BUSH, *Chairman.*

NATIONAL RAILWAY LABOR CONFERENCE,
Chicago, Ill., March 18, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: Mr. Loomis has asked me to reply to your letter of March 7, 1966 in which reference is made to certain statistics showing an increase in train and train-service accidents in 1964 over 1963, referred to in the recent report of the Interstate Commerce Commission to the Congress covering the fiscal year ended June 30, 1965.

Your inquire whether these statistics have been analyzed, and particularly whether available data indicate the extent to which the increase in accidents may be the result of removing firemen. I am delighted to have this opportunity to

report to you on that subject because a great deal of misinformation has been circulated by some interests, apparently with the design of creating an entirely erroneous conception of the content and significance of the ICC statistical analyses.

The Interstate Commerce Commission states at page 73 of its annual report to which you refer that the "major portion" of the increases in train and train-service accidents was due to three causes:

1. "derailments caused primarily by faulty equipment"
2. "track conditions" and
3. "highway grade crossings"

There is nothing in the Commission's analysis of its own statistics to indicate any relationship between accident trends and the presence or absence of firemen.

Because of your interest, I attach a series of statistical tables, divided into five groups, which have been compiled from the latest available Interstate Commerce Commission data. Each group of tables is preceded by an explanatory textual analysis.

The ICC statistics confirm the absence of any causal relationship between accident and casualty trends and the removal of firemen. You will note that the increases in casualties and accidents between 1963 and 1964 were, in general, of lesser magnitude than the increases between 1962 and 1963, despite the fact that approximately 20.1 percent of all freight and yard operations were conducted without firemen in 1964, whereas firemen were employed on practically all freight and yard locomotives in both 1963 and 1962. Thus, the removal of firemen was accompanied by an improvement in the trend of casualties and accidents.

A comparison of the 1965 results (based on preliminary data just published by the Interstate Commerce Commission) with those for 1964, reflects a substantially lower rate of increase in train accidents than occurred between 1963 and 1964. More important, these preliminary data indicate that there will be a substantial decline in the number of casualties from 1964 to 1965. In 1965 approximately 47.7 percent of railroad operations in freight and yard service were conducted without firemen, an increase of almost two and one-half times the magnitude of the 1964 operations without firemen. Therefore, the increase in the percentage of operations conducted without firemen has coincided with a reduction in casualties.

The 1965 accident data to which I refer (with the exception of January and February) are based on the preliminary reports of the Interstate Commerce Commission. These data are subject to upward adjustment because of late reporting and corrections. However, differences between the preliminary reports and the final reports in the past have been greater with respect to the train accident data than the casualty data. This is primarily because of the fact that final determination of whether or not a train accident is reportable depends upon an arbitrary amount of damage to railroad property. In 1964 the difference between the preliminary and final number of reported train accidents amounted to 3.3 percent, the difference in total casualties was 2.3 percent, and the difference in casualties to employees on duty was 1.9 percent. Adjustments of this magnitude in the 1965 preliminary figures would not appreciably change the percentage relationships or trends, and would not impair the validity of the conclusion that there is a downtrend in the number and rate of casualties.

For several reasons, the casualty statistics (fatalities and injuries) to which I have referred are a more important and significant measure of changes in relative safety than train accident statistics. Many train accidents occur without any personal injuries. While, of course, we are concerned with damage to equipment and property, our first concern is with the personal safety of individuals. The reportability of a train accident is determined solely by the amount of damage to railroad property. Currently the dividing line is $750. If an accident results in damage of $750 or less it is not a reportable train accident. If the damage is more than $750 it is a reportable train accident. The increasing cost of railroad equipment and the increasing cost of repairs because of higher costs of materials and supplies and increased wages could, without regard to any other factor, result in an increase in reportable train accidents without any change in the over-all frequency of accidents, fatalities, or injuries in the railroad industry. The changing composition of railroad service, resulting from a decline in the volume of passenger service and the increase in the volume of freight and yard services has contributed to the increase in train accident frequencies over the past several years. This is explained in somewhat more detail in the attachments.

The question of the impact, if any, of the removal of firemen in freight and yard service, commencing in May of 1964, on the safety of operations of the American railroads was thoroughly aired during the hearings before the Senate Committee on Interstate Commerce in the summer of 1965. It was also given considerable atten-

tion in the January 1966 report of the National Joint Board. This Board was created and functioned pursuant to the Award of Arbitration Board No. 282, which, as you know, was established by Public Law 88–108. The four-man National Joint Board was composed of one member each from the Engineers' and Firemen's Unions and two members from the carriers. The evidence adduced at the Senate hearings and the facts included in the Joint Board Report, which are corroborated by the recently available 1965 preliminary statistics included in the attached compilation, strongly indicate that there is no relationship between increases (or decreases) in casualty and accident frequencies and the removal of firemen in freight and yard service.

In conclusion, I wish to express my appreciation for your interest in this very important subject. It has given me an opportunity to present to you what we consider to be a comprehensive review of the casualty experience of the railroad industry. If you desire additional information, or there is anything in this presentation that requires clarification, do not hesitate to call upon me, because it is my sincere desire to make it absolutely clear that we have found, and the available data confirms, that railroad accidents and casualties are not attributable to the absence of firemen.

Very truly yours,

J. E. WOLFE, *Chairman.*

ANALYSIS OF CURRENT SAFETY STATISTICS

A. EFFECT OF THE CHANGES IN THE LEVELS OF COSTS IN REPORTING OF TRAIN ACCIDENTS

A factor which has contributed to the higher train accident rates reported by the Interstate Commerce Commission during the last several years is the increase in the cost of labor, materials and equipment. The Interstate Commerce Commission defines a train accident as one in which damage to property or equipment exceeds $750. In computing such damages the railroads take into consideration the cost of equipment damaged and the cost of repairs. Due to higher wage rates and increases in the cost of materials and equipment, many accidents which were formerly unreportable, because the damage involved was less than $750, are now reportable accidents. Train accident rates reported by the ICC may thus be increased without any increase in the actual number of such accidents.

The following table (A–1) contains significant cost statistics for the Class I Line-Haul Railroads for the years 1961 through 1964.

Repairs to right-of-way and equipment are made by the maintenance of way and shop employees. From 1961 to 1964 there was a 7.8 percent increase in the average straight time hourly rates of pay of maintenance of way employees and a 6.0 percent increase in the hourly rates of pay of employees engaged in the maintenance and repair of equipment. In September of 1965 the average straight time hourly earnings of maintenance of way employees stood at $2.579, 8.0 percent above 1963 levels; and those of maintenance of equipment employees were $2.867, 7.1 percent above 1963 levels. In 1963 the average cost of freight cars purchased by the American railroads exceeded their average cost in 1961 by 23.9 percent. Equipment costs are known to have increased in 1964 and 1965, although published data is as yet unavailable for these years. The effect of these increases in costs upon the number of train accidents reported to the Interstate Commerce Commission are reflected in the fact that while the number of reported train accidents on all United States railroads increased 28.1 percent during the period 1961 to 1964, the number of casualties in train and train-service accidents increased only 4.6 percent.

TABLE A–1.—*Cost statistics—Class I line haul railroads*

Item	By years				Percent increase over year 1961		
	1961	1962	1963	1964	1962	1963	1964
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Average straight time hourly rates of pay:							
Maintenance of way	$2.279	$2.359	$2.389	$2.456	3.5	4.8	7.8
Maintenance of equipment	2.569	2.648	2.676	2.723	3.1	4.2	6.0
Average costs of new units:							
Diesel units	189,012	199,090	199,584	(1)	5.8	5.6	(1)
General service boxcars	10,715	11,469	14,625	(1)	7.0	36.5	(1)
Special service boxcars	13,000	14,803	15,679	(1)	13.9	30.6	(1)
Caboose cars	16,191	17,787	19,588	(1)	9.9	21.0	(1)
All freight train cars	11,392	11,793	14,111	(1)	3.5	23.9	(1)

[1] Not available.

Source: Interstate Commerce Commission statements M–300 and statements of railways.

B. EFFECT OF REDISTRIBUTION OF OPERATIONS AMONG THE SEVERAL CLASSES OF SERVICE

Since 1961, as during prior years, there has been a decline in the volume of passenger service and a concomitant increase in the volume of freight and yard services. This redistribution of the operations among the several classes of services is shown on the following table (B–1). Passenger gross ton-miles declined by 9.3 percent over the period 1961 to 1964, while gross freight ton-miles increased by 12.4 percent; and net freight ton-miles increased by 16.2 percent.

The effect of these changes in the redistribution of service on total accident and casualty levels may be judged from the accident and casualty rates shown in the second following table (B–2). Train accident rates in freight and yard service are from three to four times as high as in passenger service. Casualty rates in freight service are three times as high as in passenger service, and casualty rates in yard service are nearly seven times as high as in passenger service. With no change in the hazards of any of the three classes of service, levels of total accident and casualty frequencies would have increased merely as a result of the redistribution of the service that has occurred since 1961.

TABLE B–1.—*Operating statistics—Class I line-haul railroads*

Item	By years				Percent increase over year 1961		
	1961	1962	1963	1964	1962	1963	1964
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(7)
Passenger train-miles (thousands)	198,497	193,211	189,360	183,557	−2.7	−4.6	−7.5
Passenger gross ton-miles (millions)[1]	138,489	133,912	128,917	125,668	−3.3	−6.9	−9.3
Revenue passenger miles (millions)	20,283	19,902	18,494	18,245	−1.9	−8.8	−10.1
Freight train-miles (thousands)	386,332	393,257	399,897	414,930	1.8	3.5	7.4
Freight gross ton-miles (millions)[1]	1,274,535	1,326,022	1,370,733	1,432,105	4.0	7.5	12.4
Freight net ton-miles (millions)	577,398	607,217	635,986	670,682	5.2	10.1	16.2
Yard locomotive miles (thousands)	211,874	213,928	214,068	219,119	1.0	1.0	3.4
Total gross ton-miles (millions)[1]	1,413,024	1,459,934	1,499,650	1,557,773	3.3	6.1	10.2
Total traffic units [2]	617,964	647,021	672,974	707,172	4.7	8.9	14.4

[1] Cars and contents.
[2] Twice revenue passenger miles plus freight ton miles.

Source: Interstate Commerce Commission statistics of railways.

TABLE B–2.—*Train accident rates and casualty rates to train and engine service employees in train and train-service accidents per million locomotive and motor-train miles, by classes of service*

Item	Frequency rates			
	1961	1962	1963	1964
(1)	(2)	(3)	(4)	(5)
Train accident rates: [1]				
Passenger service	1.59	1.62	1.54	[2]
Freight service	6.52	6.62	6.84	[2]
Yard service	5.08	5.75	5.55	[2]
All services	4.70	4.89	5.36	5.79
Casualty rates to train- and engine-service employees in train and train-service accidents: [3]				
Passenger service	3.36	3.32	3.44	[2]
Freight service	9.24	8.47	9.04	[2]
Yard service	22.67	2.36	22.09	[2]
All services	11.26	10.82	11.10	11.94

[1] Rates by class of service computed by dividing accidents on all railroads by train-miles for class I line-haul railroads. Rates for all services computed by dividing accidents on all railroads by train-miles on all railroads.
[2] Not available.
[3] Class I line-haul railroads, except 1964 for all services is for all railroads.

Source: Interstate Commerce Commission Annual Accident Bulletins, Statements M–400, and Statistics of Railroads.

C. CASUALTIES TO ALL CLASSES OF PERSONS AND TO EMPLOYEES ON DUTY

Because of the factors discussed in Part A, casualty statistics (fatalities and injuries) are a more significant measure of changes in relative safety than train accident statistics.

The four tables in this series summarize the casualty experience of the United States railroads for the years 1961 through 1965, and for the eight months period May to December inclusive for the same years. For the years 1961 through 1964 casualties are segregated between those occurring in train and train-service and in nontrain accidents. The only statistics presently available showing 1965 casualties (except for January and February) are reported on ICC Statements M–450 entitled "Preliminary Report of Railroad Accidents and Resulting Casualties". This statement does not segregate casualties between train, train-service and nontrain accidents (except for casualties occurring to passengers on trains). Therefore, for 1965 only casualties in train, train-service, and nontrain accidents combined are available.

The first two tables show casualties to persons of all classes. This includes casualties to employees on duty, passengers on trains, all classes of persons in highway-grade crossing accidents, and other classes of persons. Casualties to persons of all classes in train and train-service accidents during the year 1963 were 3.3 percent higher than in 1962; in 1964 these casualties were only 1.6 percent higher than in 1963, although in 1964 20.1 percent of the freight and yard operations were conducted without firemen (Table C–1).

For the eight months May to December inclusive, casualties to all classes of persons in train and train-service accidents in 1963 were 5.8 percent higher than in 1962, whereas in 1964 these casualties were only 5.1 percent higher than in 1963. During the 1964 period, 31.4 percent of the freight and yard service was operated without firemen, whereas in 1963 practically all of the freight and yard locomotives were manned with firemen (Table C–2).

As heretofore indicated, 1965 data is available only for all types of accidents (train, train-service, and nontrain accidents). Casualties to all classes of persons in all types of accidents were 2.1 percent higher in 1963 than in 1962. 1964 was only 1.5 percent higher than 1963, but 1965 was 7.6 percent lower than 1964, although 47.7 percent of the freight and yard locomotives in the latter year were operated without firemen. The 1965 preliminary total of 27,751 casualties to all classes of persons is lower than the final total for any of the years 1961 through 1964 (Table C–1).

Total casualties to persons of all classes in accidents of all types for the eight months May through December for each of the years 1961 through 1965 are shown

on Table C–2. The increase between 1963 and 1964 was less than the increase between 1962 and 1963, and the preliminary figure for 1965 reflects a decline of 9.3 percent, although 51.3 percent of the freight and yard service was operated without firemen.

The last two tables in this series (C–3 and C–4) are identical to the preceding tables except that they cover only casualties to employees on duty. In all substantial respects, they reflect the same reversal or standoff in the comparative increases in casualties in the years 1962 to 1963 and the years 1963 to 1964, and the same decrease in the years 1964 to 1965. For the entire year 1965 these preliminary data reflect a decrease in casualties to employees on duty under 1964 of 8.3 percent, and for the eight months May to December a decrease of 10.1 percent.

1965 preliminary casualty figures included on the tables in this series are subject to upward adjustment because of late reporting or corrections. In 1964 differences between the preliminary and the final figures amounted to 2.3 percent in total casualties and to 1.9 percent in casualties to employees on duty. Changes of a similar magnitude in the final 1965 results would not affect the conclusions which are self evident from an examination of these four tables.

It is clear that the removal of freight and yard firemen commencing in May of 1964 did not have an adverse effect on the casualty record of the United States railroads. Increases between 1963 and 1964 were less than the increases between 1962 and 1963. The available data for 1965, the first full calendar year of substantial operations without firemen, show a substantial improvement over 1964, which should not be substantially altered when the final 1965 figures are compiled by the Interstate Commerce Commission.

TABLE C–1.—*Casualties to persons of all classes—U.S. railroads, years 1961–65*

Year	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
1961	19,779	----------	9,466	----------	29,245	----------	----------
1962	19,711	−0.4	9,275	−2.0	28,986	−0.9	----------
1963	20,365	+3.3	9,231	−.5	29,596	+2.1	----------
1964	20,689	+1.6	9,348	+1.3	30,037	+1.5	20.1
1965	[2]	[2]	[2]	[2]	[3] 27,751	−7.6	[3] 47.7

[1] Class I line-haul railroads.
[2] Not available.
[3] Preliminary.

Source: ICC statements M–300, M–400, and M–450.

TABLE C–2.—*Casualties to persons of all classes—U.S. railroads, May to December, inclusive, 1961–65*

8 Months May-December	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
1961	13,165	----------	6,206	----------	19,371	----------	----------
1962	12,807	−2.7	6,035	−2.8	18,842	−2.7	----------
1963	13,550	+5.8	6,161	+2.1	19,711	+4.6	----------
1964	14,235	+5.1	6,286	+2.0	20,521	+4.1	31.4
1965	[2]	[2]	[2]	[2]	[3] 18,615	−9.3	[3] 51.3

[1] Class I line-haul railroads.
[2] Not available.
[3] Preliminary.

Source: ICC statements M–300, M–400, and M–450.

TABLE C–3.—*Casualties to employees on duty—U.S. railroads, years 1961–65*

Year	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
1961	11,492	----------	8,327	----------	19,819	----------	----------
1962	11,368	−1.1	7,973	−4.3	19,341	−2.4	----------
1963	11,731	+3.2	7,832	−1.4	19,593	+1.3	----------
1964	12,120	+3.3	8,036	+2.2	20,156	+2.9	20.1
1965	(2)	(2)	(2)	(2)	[3] 18,493	−8.3	[3] 47.7

[1] Class I line-haul railroads.
[2] Not available.
[3] Preliminary.

Source: ICC statements M–300, M–400, and M–450.

TABLE C–4.—*Casualties to employees on duty—U.S. railroads, May to December, inclusive, 1961–65*

8 months May–December	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
1961	7,850	----------	5,498	----------	13,348	----------	----------
1962	7,386	−5.9	5,215	−5.2	12,601	−5.6	----------
1963	7,930	+7.4	5,311	+1.8	13,241	+5.1	----------
1964	8,409	+6.0	5,445	+2.5	13,854	+4.6	31.4
1965	(2)	(2)	(2)	(2)	[3] 12,453	−10.1	[3] 51.3

[1] Class I line-haul railroads.
[2] Not available.
[3] Preliminary.

Source: ICC statements M–300, M–400, and M–450.

D. CASUALTY RATES OF TRAIN AND ENGINE SERVICE EMPLOYEES IN TRAIN OPERATIONS

The quarterly casualty frequency rates tabulated on Table D–1 show no relationship between increases in rates and the elimination of firemen's jobs in freight and yard service. The increases in such rates generally were no greater in 1964 than in 1963 or in 1962. Notwithstanding rising traffic levels and the redistribution of the service (see Table B–1), the increases in the majority of the casualty rates were smaller for the year 1964 than for the preceding two years.

That there is no ascertainable relationship between casualty rates and freight and yard operations without firemen is apparent when these data are examined. For example, the frequency rate during the second half of the year 1964, when 35.1 percent of all freight and yard operations were conducted without firemen was at substantially the same level as during the same period of the preceding year, and was somewhat under the second half of 1961. There were 6.55 casualties per billion gross ton-miles during the second half of 1961; 6.40 during the last half of 1963; and 6.41 during the same months of 1964.

Casualty frequencies during the third quarter of 1964, when 34.0 percent of the service was operated without firemen, were lower than during the same quarter of the year 1961. The casualty rate during the fourth quarter of 1964 was lower than during the fourth quarter of each of the years 1961 and 1963. Although the proportion of the service operated without firemen increased from 34.0 percent during the third quarter of 1964 to 36.2 percent during the fourth quarter of the same year, the casualty rate declined from 6.51 to 6.32. With the exception of the second quarter, all of the 1964 frequency rates show little

or no change or declines as the percentage of the service operated without firemen has increased.

As of the present time, figures are not available to permit the calculation of frequency rates for 1965, but the preliminary data now available indicate a continuation of the results reflected on Table D–1, and a probable decline in casualty frequencies in 1965.

TABLE D–1.—*Casualty rates per billion gross ton-miles in train operation to train and engine service employees, U.S. railroads*

Period	Frequency rates [1]				Percent change over preceding year			Percent freight and yard operations without firemen 1964
	1961	1962	1963	1964	1962	1963	1964	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1st quarter	6.68	6.97	6.50	5.77	+4.3	−6.8	−11.2	1.5
2d quarter	5.84	5.61	5.41	5.96	−3.9	−3.6	+10.2	14.3
3d quarter	6.59	5.68	6.42	6.51	−13.8	+13.0	+1.4	34.0
4th quarter	6.51	6.10	6.38	6.32	−6.3	+4.6	−1.0	36.2
2d half	6.55	5.89	6.40	6.41	−10.1	+8.7	+0.2	35.1
Year	6.40	6.07	6.16	6.14	−5.2	+1.5	−0.3	20.1

[1] Accident data for all railroads; gross ton-mile data for class I line-haul railroads.

Source: ICC Statements M-400 and OS reports.

E. TRAIN ACCIDENTS AND TRAIN ACCIDENT FREQUENCIES

As described in Part A, the number of train accidents reported to the ICC are affected by changes in the levels of costs. Because of higher wage rates and increases in the costs of materials and equipment many accidents which were formerly unreportable, because damage involved was less than $750, are now reportable train accidents. As discussed in Part B, the effect of the redistribution of operations among the several classes of employees no doubt has contributed to the increase in train accident frequencies. Notwithstanding these factors, the increases in train accident frequencies from 1963 to 1964 were less than the increases from 1962 to 1963. (As shown on Table E–1 for the calendar years 1961 to 1965, and on Table E–2 for eight-month periods, May to December, for the same years.)

Preliminary data for the year 1965 on Tables E–1 and E–2 indicate little or no change in the rate of increase in frequency of train accidents in 1965 over 1964, and a considerable reduction in the rate of increase for the period May to December 1964 to 1965 compared with increases between 1962 and 1963 and between 1963 and 1964. The 1965 preliminary train accident figures shown on all of the tables in this series are subject to upward adjustment because of late reporting or corrections. In 1964 the difference between the preliminary and final train accident totals amounted to 3.3 percent. A change of this size in the 1965 preliminary figures would result in a slightly higher rate of increase between 1964 and 1965 than between 1963 and 1964, but the rate of increase in the eight-month period May to December 1964 to 1965 would still be substantially lower than for the comparable period of 1963 to 1964.

Although since 1961 there has been an upward trend in the frequency of train accidents, there appears to be no relationship between these increases and the amount of service that has been operated without firemen since the Award of Arbitration Board 282 became effective. This is evident from an examination of the data appearing on the following tables.

The data appearing on Table E–3 was derived from figures reported on ICC Statements M–400 for the years 1964, 1963, and 1962. Comparable data for the year 1965 is not yet available. The study covers 76 Class I Line-Haul Railroads, representing a substantial majority of all of the Class I Railroads parties to the Arbitration Award. These 76 carriers were grouped into two categories, those that conducted 35 percent or more of their freight and yard service without firemen during the last six months of the year 1964, and those that conducted less than 35 percent of their freight and yard service without firemen during the same period. There were 33 carriers in the first group and 43 carriers in the second group.

The operations of each of the two groups produced approximately the same locomotive and motor train-miles.

The first group of 33 carriers conducted 49.1 percent of their operations without firemen during the last six months of the year 1964. The second group of 43 carriers conducted only 25 percent of their operations without firemen during that period.

The data show that prior to the effective date of the Arbitration Award the 33 carriers in the first group experienced greater increases in their train accident rates than the 43 carriers in the second group. However, following the effective date of the Award the 33 carriers, which conducted nearly 50 percent of their freight and yard operations without firemen, had lesser increases in their train accident rates than the 43 carriers which conducted only 25 percent of their train operations without firemen. The significance of the comparisons on Table E–3 is that they show no relationship between the extent of operations without firemen and changes in train accident frequency rates. This lack of relationship is further illustrated by the quarterly frequency rates shown on the following table.

Train accident frequency rates for each of the four quarters, as well as the annual rates, for the years 1961 through 1965 are shown on Table E–4.

Accident and casualty frequencies during the first quarter of each calendar year are largely determined by weather conditions, and such data are of limited usefulness in evaluating the effect of other factors. By way of illustration, as shown by the United States Weather Bureau data presented by the carriers in September of 1965 before the Committee on Commerce, United States Senate, weather conditions during the first three months of the year 1964 were relatively and unusually dry and mild. Operating conditions were good throughout the country, and accident and casualty frequencies were abnormally low. Weather conditions were more adverse during the first quarter of 1965, operating conditions were severe in certain parts of the country, and the train accident frequency rate increased by 23.3 percent.

However, in each of the second, third, and fourth quarters of 1965 the increase in train accident frequency rates was less than in the corresponding quarters of 1964 or 1963, although the percent of freight and yard operations without firemen in each of the quarters in 1965 was considerably greater than in the corresponding quarters of 1964, and firemen were employed on practically all freight and yard locomotives in 1963.

The fact that there is no relationship between the extent of operations without firemen and increases in train accident frequencies is further illustrated by an examination of the figures for the third quarter. By the third quarter of 1964, 34 percent of the firemen in freight and yard operations had been eliminated. The percentage increase in the train accident frequency rate was 7.1 percent over the third quarter of the year 1963. In the third quarter of 1963 (prior to the effective date of the Arbitration Award) the percentage increase in train accident frequency over the corresponding quarter of 1962 was 15.5 percent. The same type disparity prevails in the second and fourth quarter rates, with the sole exception of the increase in second quarter of 1964 over the corresponding quarter of 1963.

As previously indicated, the 1965 train accident data and frequency rates are preliminary, and are subject to some upward adjustment. An adjustment of 3.3 percent (the size of the 1964 adjustment) would of course increase the 1965 frequency rates, but not sufficiently to affect the conclusion that there is no relationship between train accident frequency rates and the volume of freight and yard operations operated without firemen.

TABLE E–1.—*Train accidents and train accident frequencies, U.S. railroads, years 1961–65*

Year	Train accidents		Train accident frequency		Percent of freight and yard operations without firemen [2]
	Number	Percent change over preceding year	Rate per million miles [1]	Percent change over preceding year	
1961	4,149		4.70		
1962	4,378	+5.5	4.89	+4.0	
1963	4,820	+10.1	5.36	+9.6	
1964	5,316	+10.3	5.79	+8.0	20.1
1965	[3] 5,809	+9.3	[3] 6.28	+8.5	[3] 47.7

[1] Locomotive and motor train-miles.
[2] Class I line-haul railroads.
[3] Preliminary.

Source: ICC Statements M-300, M-400, and M-450.

TABLE E–2.—*Train accidents and train accident frequencies, U.S. railroads, May–December, inclusive, 1961–65*

8 months, May–December	Train accidents		Train accident frequency		Percent of freight and yard operations without firemen [2]
	Number	Percent change over preceding year	Rate per million miles [1]	Percent change over preceding year	
1961	2,828		4.73		
1962	2,799	−1.0	4.69	−0.9	
1963	3,223	+15.1	5.31	+13.2	
1964	3,653	+13.3	5.93	+11.7	31.4
1965	[3] 3,789	+3.7	[3] 6.11	+3.0	[3] 51.3

[1] Locomotive and motor train-miles.
[2] Class I line-haul railroads.
[3] Preliminary.

Source: ICC Statements M-300, M-400, and M-450.

TABLE E–3.—*Train accident rates (per million locomotive and motor train-miles), class I line-haul railroads*

Item	33 carriers [1]	43 carriers [2]	76 carriers
Percent of total locomotive and motor train-miles, July–December 1964	48.8	51.2	100.0
Percent freight and yard service operated without firemen, July–December 1964	49.1	25.0	35.9
Accident rates for year:			
1962	4.55	5.10	4.83
1963	5.21	5.42	5.32
1964	5.60	6.02	5.81
Accident rates for period July–December:			
1962	4.38	5.05	4.73
1963	5.55	5.39	5.47
1964	5.81	6.09	5.96
Percent increase in accident rates for years:			
1962 to 1963	14.5	6.3	10.1
1963 to 1964	7.5	11.1	9.2
Percent increase in accident rates for periods July–December:			
1962 to 1963	26.7	6.7	15.6
1963 to 1964	4.7	13.0	9.0

[1] Carriers operating 35 percent or more of their freight and yard service without firemen, July–December 1964.
[2] Carriers operating less than 35 percent of their freight and yard service without firemen, July–December 1964.

Sources: ICC Statements M-400, ICC Operating Statistics and Annual Transport Statistics.

TABLE E–4.—*Train accidents per billion gross ton-miles, U.S. railroads*

Period	Frequency rates [1]					Percent change over preceding year				Percent of freight and yard operations without firemen	
	1961	1962	1963	1964	1965	1962	1963	1964	1965	1964	1965
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1st quarter	2.68	3.00	3.06	2.92	3.60	+11.9	+2.0	−4.6	+23.3	1.5	39.0
2d quarter	2.41	2.42	2.49	2.88	2.80	+.4	+2.9	+15.7	−2.8	14.3	47.6
3d quarter	2.50	2.32	2.68	2.87	3.06	−7.2	+15.5	+7.1	+6.6	34.0	52.1
4th quarter	2.61	2.71	3.00	3.24	3.29	+3.8	+10.7	+8.0	+1.5	36.2	[1] 52.0
Year	2.55	2.61	2.80	2.98	3.18	+2.4	+7.3	+6.4	+6.7	20.1	[2] 47.7

[1] Accident data for all railraods; gross ton-mile data for class I line-haul railroads; 1965 accident data and frequency rates are preliminary.
[2] Preliminary.

Source: ICC Statements M–400, M–450, and OS Reports.

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., March 28, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN STAGGERS: Thank you for your letter of March 16 and the enclosed copy of a letter, dated March 14, addressed to you by Chairman Bush of the Interstate Commerce Commission. I appreciate the opportunity you have thus given us to comment upon it.

That letter is limited to the subject of locomotives and is largely a summary of portions of the 54th Annual Report of the Commission's Section of Locomotive Inspection for the fiscal year ended June 30, 1965 (but not published until March 7, 1966).

At the outset, I should inform you that the significance of certain facts stated in the letter and the validity of certain conclusions drawn from them have been directly challenged by this Association in litigation now pending before the Commission. This litigation, involving proposed amendments to the rules under which non-steam locomotives are inspected and known as Ex Parte 243, was begun in May 1964. Hearings were held before Commission Examiners during the period June 15 to December 15, 1965, and briefs to the Examiners were filed on March 15, 1966, the day before your letter was written.

Obviously it would be improper for me to comment here on the details of this litigation or the specific issues it involves while it remains undecided. It is appropriate, however, for me to respond to some of the statements in the letter, and I will do so partly on the basis of what we believe to be fully proved in the record of the case.

1. The letter cites an increase in defects found in locomotive units and an increase in units ordered out of service because of defects during the latest period as compared with the preceding period. It is demonstrable, however, that there is no necessary relation between defects found and casualties experienced. This is in part because many so-called "defects" have little or no relation to hazards, actual or potential.

2. The letter also cites an increase in the number of accidents in the latest period; but, it fails to mention that the number of casualties in this period is lower than in the preceding period and, in fact, is the lowest of the last three years.

3. As one of the causes of what is called "this undesirable trend"—though we cannot regard a trend toward fewer casualties as undesirable—the letter assigns the increasing average age of the locomotive fleet. But during the post-war period casualty rates have *fallen* as the average age of the fleet has *risen*. To ignore this fact—which is demonstrated by the Commission's own published figures—is to overlook the effectiveness of the railroads' extensive program of rebuilding and renovating older locomotives. Reference to original building dates does not take this program into account, though it is a matter of major significance as respects both the safety and the efficiency of the present fleet.

4. Also referred to are increases in average miles operated by locomotives with longer, heavier trains at higher speeds. The implication seems to be that older locomotives are being utilized to an extent that strains their capacity. The fact is, however, that these increases in the averages in recent years are attributable to the use of new and rebuilt locomotives, which are more powerful and efficient and are capable of providing this added service without strain or hazard. This capability, indeed, has been a major justification for the greater capital expenditure required to obtain the more modern units.

5. A slighting reference is made in the letter to railroad inspection facilities and practices, with the assertion that "a majority" of the units found defective and ordered out of service had "previously" been inspected by railroad employees. Each unit, however, must by law receive a general inspection by railroad employees at least once each day it is in service, to say nothing of various periodic inspections of particular appurtenances. Assuming that the approximately 30,000 non-steam units in the fleet are in service on an average of 350 days each in a year, it follows that well over 10 million general daily inspections are given them each year. The number of instances referred to is infinitesimal by comparison with this total. We believe our employees are entitled to be proud that only this tiny proportion of the inspections they have made has been asserted to be ineffective. In this connection, I should like to point out that there is no relationship between the inspections referred to and the presence or absence of a fireman, as necessary inspections are made by other railroad personnel.

6. The best index of locomotive safety is one not mentioned in the letter. This is the casualty rate, a statistical comparison between casualties said to have been caused by defective locomotive units and the exposure to hazard caused by operation of the units. This can be determined from the Commission's published statistics. For non-steam locomotives during the post-war period it can be summarized in the following four-year averages:

Casualties per 100,000,000 unit miles

Years:	
1946–49	9.75
1950–53	6.37
1954–57	6.98
1958–61	4.21
1962–65	4.17

In our opinion this is a magnificent safety record.

Sincerely,

DANIEL P. LOOMIS,
President.

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., April 1, 1966.

Hon. HARLEY O. STAGGERS,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN STAGGERS: Further reference is made to your letter of March 8, 1966, regarding our Section of Locomotive Inspection's Report for Fiscal Year 1965, our reply of March 14, 1966, and your recent transmittal dated March 25, 1966, wherein you enclosed a letter from National Railway Labor Conference Chairman J. E. Wolfe, dated March 18, 1966.

In accordance with your suggestion, we wish to make the following comments on Mr. Wolfe's letter. First, let us point out that Mr. Wolfe has raised the issue of relationship between accident trends occasioned by the presence or absence of firemen, to which we made no reference in our Locomotive Inspection Report or in our letter to you dated March 14, 1966. Mr. Wolfe apparently overlooked your request for specific information regarding the increase in the number of defective locomotives and in train-service accidents shown in our report for the fiscal year ended June 30, 1965.

Secondly, Mr. Wolfe extracts a partial summary from the Commission's 79th Annual Report—1965 with regard to the causes of the "major portion" of train accident increases. However, a more accurate statement is as follows:

"There was a 10.3 percent rise in the number of train accidents reported, with the major portion of the increase due to derailments caused primarily by faulty equipment, track conditions, and by highway-grade crossings. In the past 4 years, accidents have shown a continued increase after having been substantially reduced in the fifties."

Third, the statistical tables submitted by Mr. Wolfe were extracted from testimony presented by Mr. H. E. Greer, Director of Research, National Railway Labor Conference, before the U.S. Senate Committee on Commerce on September 24, 1965, during its hearings held on the Railroad Work Rules Dispute in connection with Public Law 88–108.

I also appeared as a witness before the same committee and presented testimony on August 30, 1965, while serving as Acting Chairman in the absence of then Chairman Charles A. Webb. At that time, we advised the Committee of our activities under the authority of the Accident Reports Act, which requires that monthly reports of all railroad accidents are to be made by carriers, directs the Interstate Commerce Commission to prescribe the method and form of reporting, and authorizes the Commission to investigate all collisions, derailments, or other accidents resulting in serious injury to persons or property.

The information received from the carriers is compiled, analyzed, and published to provide comprehensive information, so that maximum benefits can be derived from the reports by the Commission, railroads, labor organizations, and other parties interested in the promotion of railroad safety. The data received in the accident reports is published in four publications. They are—

(1) Statement M–450—Preliminary Report of Railroad Accidents and Resulting Casualties,
(2) Statement M–400—Summary of Accidents Reported,
(3) Accident Bulletin,
(4) Rail-Highway Grade-Crossing Bulletin.

The aforenamed Commission publications have been cited as sources of information in Mr. Wolfe's statistical tables. This is correct to the extent that data was taken from the aforesaid publications.

The carrier accident reports submitted in accordance with current Commission reporting rules do not distinguish between accidents involving trains operating with or without firemen. Therefore, from the information available to us, we are unable to relate the rise in accidents to the absence of firemen.

We are aware of and have been concerned with the annual rise in train accidents. While there are variations which probably are affected by seasonal and climatic conditions, there have been an increase in total train accidents from a monthly average of 341 in 1961 to 443 in 1964. The preliminary figures for 1965 indicate a monthly average of 483. While there has been some increase in other train accidents from 41 to 57 and collisions from 82 to 102, the greatest increase has occurred in derailments, which have increased from an average of 221 per month to 283 per month. Crew consist may have some bearing in accidents involving collisions and other train accidents. Derailments are most often the result of defects or failure of equipment or roadbed. It is impossible, without detailed knowledge of each individual case, to determine whether another pair of eyes might have detected the potential of a derailment prior to the time of its occurrence.

In the same period, railroad employment has declined, so that there are fewer train and engine service employees, but more train accidents. However, during this period the total number of hours worked by train and engine service employees has remained about constant, and locomotive and motor train miles have increased. This trend indicates that fewer people are working about the same number of hours, resulting in extended tours of duty for the affected employees, and also indicates that in the same number of hours additional mileage is being covered.

We are concerned with the continued rise in train accidents and regret that we are unable to give you more specific information as to factors responsible for this increase.

Sincerely,

JOHN W. BUSH, *Chairman.*

Mr. STAGGERS. That is the only comment I have.

Mr. FRIEDEL. Any other questions?

Mr. Bush, I want to thank you.

Mr. BUSH. Thank you, Mr. Chairman.

Mr. FRIEDEL. Our next witness will be Mr. R. J. Woodman, vice president, Transportation-Communications Employees Union, Washington, D.C.

STATEMENT OF R. J. WOODMAN, VICE PRESIDENT, TRANSPORTATION-COMMUNICATIONS EMPLOYEES UNION; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY

Mr. WOODMAN. Mr. Chairman and members of your honorable committee, my name is Russel J. Woodman. I am vice president of the Transportation-Communications Union, formerly called the Order of Railroad Telegraphers.

Our headquarters is at 3860 Lindell Boulevard, in St. Louis. I am the vice president here in Washington. I am located at 400 First Street NW.

I am speaking on behalf of the president of our organization, Mr. G. E. Leighty, who was not able to be here today.

I do not have anything to read, but I have a statement to present to the group here explaining the background of our organization and the feeling for this bill which we heartily support.

As you know, we have been covered by this legislation since the bill was enacted in 1907. I have worked under it for a good many years. And I think it is a very fine law.

At this time I would like, if I may, Mr. Chairman, to present a statement to be included in the record.

Mr. FREIDEL. Your full statement will be included in the record.

(Mr. Woodman's prepared statement follows:)

STATEMENT OF R. J. WOODMAN, VICE PRESIDENT, TRANSPORTATION-COMMUNICATION EMPLOYEES UNION

A section of H.R. 8476 governs the hours of service of train dispatchers, telegraphers, telephoners, agent-telegraphers, agent-telephoners, block operators, telegrapher towermen, and others. These employees are represented for collective bargaining purposes by the American Train Dispatchers Association and the Order of Railroad Telegraphers. They are covered by the present law.

The principal change proposed by H.R. 8476 is contained in section 3(a)(2) wherein the number of hours in a 24-hour period, which those employees on duty in any tower, office, station, or place where only one shift is employed may work, is reduced from 13 (as allowed by the present law) to 11. The 11 hours may either be consecutive ones or aggregate ones in a 24-hour period.

The permissible number of working hours for employees on duty in any tower, office, station, or place where two or more shifts are employed remains in section 3(a)(1) at the 9 hours in any 24-hour period provided by the present law. It is again made clear that the 9 hours may be consecutive or in the aggregate. We have not been able to discover any office in which there are less than two shifts of train dispatchers, so that H.R. 8476 would not in fact bring about a change in their working hours.

The changes proposed by H.R. 8476, other than the principal one I have just mentioned, and will later discuss more fully, are designed to clarify the present law in conformity with the interpretations placed upon it by the Interstate Commerce Commission, and to bring up to date certain of the more or less antiquated language.

You will note that the language of section 3(a) more fully describes the duties of the employees involved than does the first proviso clause of section 2 of the present law. Since the present law was enacted, in addition to telegraph and telephone, radio and other electrical and mechanical devices have been adopted by railroads for the use of employees who participate in the direction and control of trains or handle orders concerning the movement of trains. We feel that the use of those present-day devices should be recognized in the Act; and also feel that the phrase "other mobile equipment" is necessary to cover movements on the rails of equipment which may not technically be a train or trains but which nevertheless must be considered for operational safety.

The hours of service which these classes of employees may work both under the present law and under H.R. 8476, you will note, depend upon the working

set-up at the location where they are employed. H.R. 8476 changes the language describing the working set-up so as to remove any vagueness or uncertainty as to what is meant by the descriptions. The present law provides that an employee may not be on duty for more than 9 hours at sites "continuously operated night and day." H.R. 8476 would change the language "continuously operated night and day" to "Where two or more shifts are employed." The present law limits to 13 hours the permissible time on duty in places "operated only during the daytime." H.R. 8476 would change the language "operated only during the daytime" to "where only one shift is employed." In a conference ruling dated March 16, 1908, the Interstate Commerce Commission interpreted the phrase "continuously operated night and day" as applying to "all offices, places, and stations operated during a portion of the day and a portion of the night, a total of more than 13 hours;" and held that "the phrase 'operated only during the daytime' refers to stations which are operated not to exceed 13 hours in a 24-hour period, and is not considered as meaning that the operator thereat may be employed only during the daytime.

In the year 1918, the court in *Grand Rapids & I. Ry. Co.* v. *United States*, 249 F. 646, had this to say about the language of the Act:

"Little reflection is required to convince that this statute (sections 61–64 of this title) may not be literally construed and enforced. It cannot be indispensable to the existence of a night and day office that it shall be continuously operated every hour of the night and every hour of the day, nor can it be indispensable to the existence of the daytime office that it shall never be operated in the nighttime. An enforcement of the statute as it literally reads would render its terms contradictory, would cause the daytime and the night and daytime to overlap each other, and would make the enactment absurd and its enforcement impracticable."

As this quotation indicates, the language of the law was so ambiguous that it might never have been applied were it not for the ruling of the Commission. We believe that the law should be made understandable and workable in and of itself without necessity for administrative interpretation, which is, of course, subject to change. Further, the language used should as accurately as possible reflect the objectives of the law in the light of the factual conditions currently existing.

By use of the language "where two or more shifts are employed" and "where only one shift is employed", H.R. 8476 sets up definite provisions which cannot be misunderstood. The word "shift" is a common term, established many years ago in the railroad industry. The United States Labor Board in 1924 defined a shift as a tour of duty constituting a day's work for one or more employees performing the same class of work covered by the Telegraphers' Schedule at the same station who begin work and quit work at the same time, and illustrated that definition by setting up examples which further definitely settled the question as to what constitutes a shift or shifts.

The present law provides that in the event of an emergency these employees may work an additional four hours in a 24-hour period on not exceeding three days in any week. This provision remains the same in H.R. 8476 except that the language is altered to more clearly reflect the intent of the provision and to conform it to today's working practices. The Interstate Commerce Commission conference ruling of March 16, 1908, which I have already mentioned, interpreted the phrase "in any week" to mean in any calendar week, beginning with Sunday. H.R. 8476 changes the language "in any week" to read, "in any period of seven consecutive days." The latter language is more in keeping with the working conditions as they now exist. The employees involved here have since 1949 been on a work week of seven consecutive days consisting of five work days and two rest days. The calendar week is no longer applicable to their actual working conditions. Sundays, as such, were eliminated in 1949. Under the administrative interpretation I have cited it would be possible to work an employee excessively six days in succession. We do not believe that that was ever the intent of the law, and suggest that the proposed language will clarify the point as well as reflect the working circumstances as they now actually exist.

You will also note that H.R. 8476 also makes it clear that the 24-hour period is one of 24 consecutive hours. This change is one of clarification only.

Let us return now to section 3(a)(2) of H.R. 8476 which proposes the reduction of permissible consecutive or aggregate duty hours of employees who work at locations where only one shift is employed from 13 hours to 11 hours in any 24-hour period. In order to fully appreciate the desirability and necessity in the interests of safety to bring about the reduction in working hours, it would be helpful for you to know in a general way the type of work these employees perform.

Telegraphers, telephoners, agent-telegraphers, agent-telephoners, block operators, telegrapher towermen, and relay telegraphers are all employees who utilize telegraph, telephone, radio, and other electrical and mechanical devices in connection with the control of train movements. They are important and vital links in the communications system through which railroad managements exercise control over actual train operation. In addition to their work as train order employees, these men are called upon to handle administrative messages and reports.

In their relationship to other employees in connection with the handling of train movements, they serve as the intermediaries through whom the train dispatcher conveys to train and engine crews the orders and instructions concerning the movement of trains. Such directions may be issued by telegraph, telephone, or radio and are transmitted, in turn, to the train and engine crews by means of written communications, verbal instructions, or signal indications. These employees are directly responsible for the safety of the traveling public and fellow employees, for the protection of the property of their managements and of the shippers, and for the prompt rendition of transportation service. Failure to properly discharge their duties and responsibilities could result in train collisions or derailments with consequent loss of life, personal injury and damage to equipment and cargo. Mistakes that they make cannot be erased but are engraved indelibly in accident records.

In many instances these employees work under continuous pressure virtually every minute of their tour of duty. In congested areas, in territories of high traffic density, a multiplicity of duties devolve upon them. Railroad managements promulgate extensive and comprehensive bodies of rules under which such employees work and which are exacting in their nature and require a maximum of study, attention, and alertness to insure strict compliance.

Employees charged with the duty and responsibility of handling train orders must be thoroughly familiar with and strictly observe the mandates of several scores of rules and instructions. From time to time additional rules are issued by bulletin and by timetable with which these employees must also be familiar and conform to. Their knowledge of these important, frequently added instructions is tested by oral examinations. This constant schooling and checking is necessary to safeguard life and property and is indicative of the fact that these people compose a responsible segment of the railroad industry whose duty it is to insure safe operation.

Many of the employees classified as towermen and tower directors (parenthetically, on some railroads the term "signalman" or the term "telegrapher-signalman" is used, and where so used it means the same as "towerman" or "towerman-telegrapher") are located at terminals, in yards and at other strategic points where a number of railroads converge, diverge or intersect one another; and where the traffic is very dense and where there are a large number of tracks and secondary tracks. The duties of these employees include the control of interlocked signals and switches from a central point governing train movements within a defined territory; and in many cases the maintaining of contact with other offices or towers. All of these duties, of course, pertain to the safe movement of trains at all times.

In the larger and more important towers are tower directors or train directors, who issue the instructions to the towermen, who in turn handle the levers that throw the switches and govern the signal indications. Here the safety of the traveling public and that of other employees, the proper protection of railroad equipment and the prompt and efficient handling of train movements, depend upon the accuracy and conscientiousness with which these men perform their duties. Mental alertness must always be present if accidents and complications are to be avoided. The rules and regulations of the carriers pertaining to the duties and responsibilities of these employees are voluminous and require a high degree of concentration and alertness on the part of said employees. The standing rules and regulations are subject to change or addition through the use of bulletins or special instructions contained in current timetables which are flexible and which may be modified at any time.

Then there are the relay department employees whose duties and responsibilities I should like to briefly describe. These employees are the wire chiefs, managers, relay telegraphers, and printer machine operators. On practically every railroad in the country there are offices designated as relay offices, and many railroads in addition to relay offices have general telegraph offices. The relay or general telegraph offices are usually located at the headquarters city of the railroad or at division points. Their primary purpose is to gather information from all stations on the division for the division officials; to handle inter-divisional communications;

and to provide instant means of communication between the superintendent of the division's office and the general offices of the railroad. Division headquarters and district headquarters are usually connected by trunk telegraph circuits to enable the several divisions to cooperate in the handling of trains in the most efficient manner. The calibre of personnel of these telegraph offices must be such as to insure the proficiency required for the highest standard of communication service.

I think that is perfectly evident from even the brief description of the duties and responsibilities of these employees which I have given you that the manner in which those duties are performed is vital to the safety of the traveling public and to the safety of other railroad employees. To properly perform their duties they have need of perceptive capacity which can be assured only by constant mental alertness. Mental alertness cannot be maintained, of course, if a man is fatigued by excessive hours of work. The present Hours of Service law recognizes this truth and limits the permissible duty hours. The present law, however, has been in effect for almost 50 years. There have been many and radical changes in methods of railroad operation and the communications systems which facilitate the operation. To be sure, many of the changes have improved the lot of these employees by lessening the physical burdens associated with their jobs and have enhanced the efficiency of operations. On the other hand, the new methods and devices, which were accompanied by increased magnitude of operations, have not lessened the need for alertness on the part of these employees. As a matter of fact, in many instances, the strain upon the employees of the type which causes mental fatigue has been increased. Newer devices and methods have brought about greater capacities and more functions, and frequently the attention and alertness of the communication employee is taxed to a greater extent than in prior decades

Other changes have also taken place since the enactment of the present Hours of Service law in 1907. I have heretofore mentioned the fact that since 1949 the employees we are immediately discussing have been on a five-day, 40-hour week. Their assignments under their collective bargaining agreements are for eight hours' work in a day. Actually they are assigned eight within nine hours.

Another change that has taken place is an obvious one. At the time the Hours of Service law was first enacted and 13 hours was set as the limit of permissible working hours for locations where only one shift was employed, we were in the horse and buggy age. Ordinarily then, as now, when a one-shift office exists at a certain location there was, or will be, no other employee at that location; and the securing of relief is a matter of time. If, in 1907, train service was not available to the point where an employee to be relieved was located, a distance of 15 or 20 miles meant possible two or three hours elapsing before an employee at a location that distance away could be secured. I think it is reasonable to surmise that the enactors of the 1907 legislation had that factor in mind in determining a reasonable tour of duty. With our present highways and modern motor vehicles 15 or 20 miles is only a matter of 30 or 40 minutes in travel time and the inability to quickly secure relief for such an employee is no longer a valid reason for permitting an employee to work for 13 hours.

Mr. FRIEDEL. Do you want to summarize it?

Mr. WOODMAN. I thought I might be open for questions, and that would be the way to move along.

But in summary of the statement, it just covers what our organization feels about the bill, and the fact that we have been covered by this legislation since 1907.

If there are any questions, I think that might be appropriate to move along here.

Mr. FRIEDEL. Would section 3(a) apply to a telegrapher copying a train order, an emergency telegram or a radio message, would it prohibit the telegrapher from working longer hours?

Mr. WOODMAN. No.

Mr. FRIEDEL. It would not?

Mr. WOODMAN. No.

Mr. FRIEDEL. In other words, under section 3 he would have to be limited to 9 hours instead of 12?

Mr. WOODMAN. Well, our telegraphers would be limited to the 9 hours, but not the train service employee. With the advent of radio

these people are working with train dispatchers, and it does have an effect that we think that the law should cover.

Mr. FRIEDEL. Here is what section 3(a) of the bill says:

> No employee, who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device, directs or controls the movement of a train or trains, or other mobile equipment operated on the rails of carriers, or who by the use of any such means, dispatches, reports, transmits, receives, or delivers orders, pertaining to or affecting the movement of a train or trains, or other mobile equipment——

Mr. WOODMAN. Under this proposed legislation now, they would be covered by that, that is true.

Mr. FRIEDEL. They would be covered, and limited to 9 hours?

Mr. WOODMAN. Yes, that is the purpose of it.

You see, all the people we represent don't come under the hours of service. But those who have anything to do with the movement of trains, such as copying train orders or directing the movement of trains in interlocking statement, those people are covered by the hours of service law, the people that we represent.

Mr. FRIEDEL. Another question. How would section 3(a) apply to a maintenance-of-way man communicating with an engineer by radio and telling him that the traffic was clear and he could proceed, would the maintenance-of-way man be limited to 9 hours under this bill?

Mr. WOODMAN. I will have to ask my attorney.

I knew about all our people, but when you bring in some of these other groups, I am not familiar with it.

Mr. FRIEDEL. There are certain things in the bill——

Mr. WOODMAN. So far as our group is concerned. But these other people you speak about don't come under our organization.

Mr. FRIEDEL. This is where a maintenance-of-way man communicating with the engineer by radio that the track is all clear, would he be limited to 9 hours?

Mr. BENNETT. Sir, it is my understanding that that type of a situation is not now covered by the hours of service law, and would not be covered under the proposed legislation.

Mr. FRIEDEL. It would not?

Mr. BENNETT. No sir, because they are not issuing orders as such.

Mr. FRIEDEL. Well, the way the bill reads, it is:

> Transmits, receives, or delivers orders pertaining to or affecting the movement of the train or trains, or other mobile equipment.

Mr. BENNETT. My answer is based upon this understanding, that if a member of a traincrew is out on a train and occasionally receives orders over the telephone out on the road someplace, he is not then subject to it or 13 hours restrictions of the present Hours of Service Act. That, I think, would be the same circumstance.

Mr. FRIEDEL. Under the present law. But under section 3 of this bill there is a doubt whether he would be covered or not.

Mr. BENNETT. I think this same language is in the present law, sir, a man who dispatches, reports, transmits, receives, or delivers orders.

Mr. FRIEDEL. I understand "or other mobile equipment," that is not in the present law.

Mr. BENNETT. That is not.

Mr. FRIEDEL. And they will be limited to 9 hours?

Mr. BENNETT. I would not think so, sir.

Mr. FRIEDEL. If you could clarify the intent, maybe we could get the proper language.

Mr. BENNETT. As I understand the intent of this change in section 3(a) of the bill is first to expand the scope of it to include radio, or other electrical or mechanical means of transmitting orders.

If I may, we could prepare and submit later our suggested language for section 3(a).

(The following document was subsequently submitted:)

SUGGESTED REVISION FOR SECTION 3(a) OF H.R. 8476

SEC. 3 (a) No operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio or any other electrical or mechanical device directs or controls the movement of any train or who by the use of any such means dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements—

(1) shall be required or permitted to be or remain on duty for more than nine hours, whether consecutive or in the aggregate, in any twenty-four-hour period in any tower, office, station, or place where two or more shifts are employed; and

(2) shall be required or permitted to be or remain on duty for more than eleven hours, whether consecutive or in the aggregate, in any twenty-four-hour period in any tower, office, station, or place where only one shift is employed.

Mr. DEVINE. Will the gentleman yield?

Mr. FRIEDEL. Yes.

Mr. DEVINE. Would you define what is meant in section 3 by "other mobile equipment"?

Mr. BENNETT. Yes. That refers to what are called in the railroad industry track motor cars, small 4-wheeled vehicles that are not normally classified or considered by a railroad as a train.

Mr. DEVINE. Will you cite some examples?

Mr. BENNETT. Well, sir, they are small 4-wheeled vehicles about 4 feet long which are used by signalmen, by maintenance-of-way employees who go out by themselves or in groups of two or three or larger groups——

Mr. DEVINE. Like the old handcar motorized?

Mr. BENNETT. Yes sir; the old hand car motorized.

And there are trailers that may be attached to them, and there are such things as automobiles which can not be equipped to operate on the rails, and operate as mobile equipment.

Mr. DEVINE. Are you talking about small yard engines?

Mr. BENNETT. No sir, that would be a locomotive.

So under this section, then, the purpose, as I understand it, of including other mobile equipment is also to insure that the people who send out the orders to this mobile equipment are also covered by the 9- and 11-hour provisions of the bill.

Mr. FRIEDEL. Mr. Pickle, any questions?

Mr. PICKLE. Mr. Woodman, can you give me an estimate of the length of hours that people work now on the average who are involved with communications in connection with the railroad which would be covered by section 3(a)?

Mr. WOODMAN. Yes sir; 8 hours a day, 5 days a week. If there is a 7-day position and there is no extra man to cover the 2 rest days, which would be the sixth and seventh days, then they may work that man.

But normally our people work 8-hour shifts. That is what we look at as a shift.

Mr. PICKLE. What are you asking for, then?

Mr. WOODMAN. We are asking just for one thing, Mr. Congressman. At the present time where there is a one shift office, an 8-hour office, it is possible for the carrier, the railroads to work a man 13 hours. Now, the only proposal in this bill that would change anything in our working conditions would be to reduce that 13 to 11 hours, on a one-shift job.

Mr. PICKLE. Where do the 9 hours come in?

Mr. WOODMAN. The 9 hours—a lot of our positions work around the clock. In other words, in an interlocking signal station there are three 8-hour shifts covering the 24-hour period. In other words, there is always somebody on duty. On some occasions there is only a two-shift operation, from 7 to 3 and 3 to 11 with no night work. This is a two-shift office, and those men come under the 9-hour provision, but most of them work only 8.

Mr. PICKLE. Your answer to my question as to how many hours they work on the average, you said 8 hours a day.

Mr. WOODMAN. Yes.

Mr. PICKLE. And then you followed that statement, with the additional statement that it is permissible for a carrier to work a man as much as 13 hours. This must be the exception, if you said on the average they work 8 hours.

Mr. WOODMAN. The difference, Congressman, is this: between a one-shift office and a two or more shift office. In a one-shift office they can work that man 13 hours, because there is only one man at that time. But at another office there may be two shifts.

Mr. PICKLE. You object to the possibility that a man may have to work as long as 13 hours?

Mr. WOODMAN. Yes, sir.

Mr. PICKLE. That this fatigues him and tires him and therefore his actions might be something that causes an accident?

Mr. WOODMAN. That is our general feeling. We would like that reduced to not working more than 11 hours on that one-shift job.

Mr. PICKLE. If he worked at a train station or a post somewhere in excess of 11 hours, do you think that man is tired and fatigued? He has been at that little signal post working in his station in the yard and doing various things, I assume, over a period of an 8-hour day. Do you think that man is fatigued and exhausted to such a point that he might cause an accident up and down the road and miss a signal?

Mr. WOODMAN. I do sincerely feel that, for the reason, that in this day and age with the exacting work and the handling of the movement of trains, and train orders and so on, a man could easily become tired over 8 hours, even. But in certain cases we are saying that there would be no violation if they worked a man 11 under our proposal.

Mr. PICKLE. I want to ask again if you have any idea of how many of these men are actually worked over or in excess of 78 hours?

Mr. WOODMAN. I would say very few, actually. It is only on few occasions where they are worked over 8 hours.

Mr. PICKLE. Are you asking for inclusion in this bill, although the number involved would be relatively small in number?

Mr. WOODMAN. Yes.

Mr. PICKLE. Do you think the cost would be excessive to the railroads?

Mr. WOODMAN. I hardly think so. I don't know. After all, if they work a man 13 hours they are paying more money than if they worked him 11 hours so far as the overtime.

Mr. PICKLE. But it this is true, why do engineers stand in line to take the route where they have to work 12 to 16 hours, and then complain they are hurt?

Mr. WOODMAN. You know, the efficiency of the railroads today with the manpower being what it is, it is more of a tense operation, very exacting work. And that is the reason we feel that some consideration should be given to the hours that a man can work. It is for the good of the traveling public. I know I worked in New York City most of my life where we handled 300 trains in 8 hours, and you really had to know your stuff.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. Following through on your previous comment on the operation of 300 trains today, aren't there less trains today than years ago?

Mr. WOODMAN. No, there are not. Most of my experience has been in the commuting operation in Grand Central Terminal. You are right as far as passenger trains are concerned. But there are more freight trains, and they are twice as long. And that is what it concerns, the movement of these long trains.

Mr. DEVINE. But so far as freight trains are concerned, a lot of it is moving by truck, and now by air cargo.

Mr. WOODMAN. True enough.

Mr. DEVINE. Let's get back to section 3(a) of the bill, the area in which our chairman was discussing. Who are these employees that use radios as a method of communication?

Mr. WOODMAN. We have a radio telephone, and a teletype, all the communications devices. Of course, radio is becoming a very common thing now, we will say, from a central point where an operator is employed right to the head end of a train or to the rear end of a train, or to the the train dispatchers.

Mr. DEVINE. We are talking about the number across the Nation. Your are an international organization, are you not?

Mr. WOODMAN. Well, we used to have 80,000 members. We have about 40,000 now. And most of those people are handling communications.

Mr. DEVINE. Radio operators?

Mr. WOODMAN. Yes, radio and teletype as well as telephone.

Mr. DEVINE. Does the use of the radio or teletype cause undue fatigue?

Mr. WOODMAN. It is rather exacting work. You have to identify who you are talking about and make sure—it is really a very highly, I would say—well, the pressure on the person, the responsibility, is what I mean, is greater.

Mr. DEVINE. Is it your impression that this section of the bill, section 3(a), appearing on page 4, does that apply to members of train crews such as engineers and conductors?

Mr. WOODMAN. Well, up to this time it has only applied to our employees.

I would like to ask the attorney, Mr. Bennett here, what his comment is here as to whether this applies to employees.

Mr. DEVINE. As to 3(a).

Mr. BENNETT. Again I will say that it is our understanding that the intent in section 3(a) is to expand the coverage of that section, not to include people other than those presently included under the hours of service law, but to include the new means by which these same people are now issuing train orders and controlling the movement of trains.

Mr. DEVINE. Wouldn't the same people be covered under two sections of the law, under sections 2 and 3, one under the 9- to 11-hour minimum and the other the 12-hour minimum?

Mr. BENNETT. No, not the same people, two distinctly different groups of people. To answer your question directly, it is not our intent to cover under section 3(a) an engineer with a radio in the cab of his locomotive.

Mr. DEVINE. That is one reason why we have these hearings so that we can spell out intent as to the legislation.

Do either of you people have any knowledge as to rail accidents being caused by virtue of a radio operator being worked too long and fatigued so that he made an error, can you cite a specific example?

Mr. WOODMAN. I very rarely have anything to do with that. I know the ICC would know, and would have records, it would seem to me, on things such as that. But so far as my personal knowledge is, I couldn't give you an example.

Mr. DEVINE. I think a few moments ago you said that these maintenance crews used radios with respect to mobile equipment, is that correct?

Mr. BENNETT. Yes. And I might add, Mr. Devine, that there have been some recent accidents investigated by the Interstate Commerce Commission in which they have commented upon the use of radio communications. One a year or so ago involved a motor car for maintenance-of-way operations, and one within the last few months, involved, I believe, two regular trains and locomotives. I could not show you with the numbers at the moment, but I could provide that for the committee.

Mr. DEVINE. Could you supply it for the record?

Mr. BENNETT. Yes sir.

(The following reports were subsequently supplied for the record:)

[Railroad Accident Investigation Report No. 3904]

TEXAS & NEW ORLEANS RAILROAD CO., SUGAR LAND, TEX., DECEMBER 28, 1960

SUMMARY

Date: December 28, 1960.
Railroad: Texas and New Orleans.
Location: Sugar Land, Texas.
Kind of accident: Collision.
Trains involved: Freight; freight.
Train numbers: Extra 352 East; extra 619 West.
Locomotive numbers: Diesel-electric units 352, 8076, 717, 723, 621; diesel-electric units 619, 950, 547, 722, 634.
Consists: 116 cars, caboose; 164 cars, caboose.
Speeds: Standing; 27 m.p.h.
Operation: Signal indications.
Track: Single; tangent; level.
Weather: Misty.

Time: 6:35 p.m.
Casualties: 3 injured.
Cause: Improperly routing a train to an occupied siding, and failure to control properly the speed of this train on the siding.

REPORT OF THE COMMISSION [1]

Safety and Service Board No. 1: On December 28, 1960, at Sugar Land, Texas, there was a collision between a freight train and the rear portion of another freight train, which resulted in the injury of 3 train-service employees.

Location of accident and method of operation

This accident occurred on that part of the Houston Division extending between Englewood and Glidden, Texas, 92 miles. In the vicinity of the point of accident this is a single-track line over which trains are operated by signal indications of a traffic control system. At Sugar Land, 29.3 miles west of Englewood, a siding 1.5 miles in length parallels the main track on the north. The east switch of the siding of the siding is 923 feet west of the station. At a point 1,597 feet east of the station the main track is crossed at grade by a line of the Missouri Pacific Railroad (MP). East of the MP crossing, an auxiliary track designated as transfer track No. 1, 1,635 feet in length, parallels the main track on the north. The east switch of this track is 3,915 feet east of the station. An auxiliary track designated as transfer track No. 2, 1,221 feet in length, parallels transfer track No. 1 on the north. The east switch of this track is 227 feet west of the east switch of transfer track No. 1.

The accident occurred on the siding at Sugar Land, at a point 1,730 feet west of the station and 807 feet west of the east siding-switch. From the east on the main track there are, in succession, a tangent of considerable length, a 1°30′ curve to the left 640 feet, a tangent 562 feet, a 2°00′ curve to the left 340 feet, and a tangent 338 feet to the east switch of the siding. The east turnout of the siding is 325 feet in length. From the west end of this turnout the siding is tangent 482 feet westward to the point of accident and a considerable distance beyond. In this vicinity the grade is practically level.

The east and west switches of transfer track No. 1 are hand operated and are provided with electric locking. The switches of the siding are dual controlled. Each siding-switch is equipped with a selector lever and a hand-throw lever. When the selector lever is in normal position, the switch is under control of the train dispatcher at Houston, 25.6 miles east of Sugar Land, and can be power-operated from the traffic control machine located in his office. If the selector lever is in reverse position, the switch cannot be power-operated from the traffic control machine, but can be manually operated by means of the hand-throw lever. During the sequence of events involved in the accident, the selector levers of the siding-switches were in normal position, and these switches were under control of the train dispatcher.

Controlled home signal 24RA, automatic home signals 205 and 223, semi-automatic signal 243, and controlled home signal 28R, governing westbound movements, are located, respectively, 6.4 miles, 4.5 miles, 2.6 miles, 3,597 feet, and 818 feet, east of the point of accident. These signals are of the color-light type and are approach lighted. The aspects applicable to this investigation, and the corresponding indications and names are as follows:

Signal	Aspect	Indication	Name
28R	Red-over-red	Stop	Home signal red.
	Red-over-yellow	Proceed on diverging route at restricted speed.	Home signal yellow for diverging route.
	Green-over-extinguished lamp of lower unit.	Proceed except on diverging route.	Block signal green.
243	Yellow	Proceed not exceeding medium speed, prepared to stop short of next home signal.	Approach signal yellow.
223	Red	Stop	Home signal red.
205, 24RA	Green	Proceed	Block signal green.

[1] Under authority of section 17(2) of the *Interstate Commerce Act* the above-entitled proceeding was referred by the Commission to Safety and Service Board No. 1 for consideration and disposition.

These signals form part of a traffic control system, which extends between Rosenberg and Harrisburg, 11.5 miles west and 22.7 miles east of Sugar Land, respectively, and are controlled from the traffic control machine located in the office of the train dispatcher at Houston. The controlling circuits are so arranged that when the route is established for a westward movement to enter the Sugar Land siding at the east switch and such movement is occupying the approach circuits, signal 243 displays a yellow aspect and signal 28R displays a red-over-yellow aspect. No track circuits are provided for the siding between the clearance points. Consequently, the route may be established for a train or engine to enter the siding regardless of whether the siding is occupied. In the event that the block of signal 223 becomes occupied by a westward movement, signals 223, 205 and 24RA indicate "Stop."

The traffic control machine is equipped with a track diagram. Route, indication, and time locking are provided. Indicator lights on the panel indicate track occupancy, whether each controlled home signal is displaying a Stop aspect or an aspect less restrictive than Stop, the position of each power-operated switch, and whether time locking is preventing the operation of a power-operated switch. The machine is also provided with graph equipment to record the times when a controlled home signal displays a Stop aspect or an aspect less restrictive than Stop, and when a train passes a controlled home signal.

The signal and the switch levers of the traffic control machine are of the 3-position and the 2-position types, respectively A set of three indicator lights, consisting of one red light with a green light on each side, is associated with each signal lever. A set of two indicator lights, consisting of a green light and an amber light, is associated with each switch lever. A pushbutton is located below each set of switch and signal levers. When depressed, this pushbutton initiates a code (electrical impulse) to actuate the signal and the switch in accordance with the positions of their corresponding levers on the traffic control machine. Signal lever 28 controls signal 28R. The normal position of signal lever 28 is vertical, and when this lever is in vertical position, and the pushbutton has been depressed to initiate the code, signal 28R will indicate "Stop" when its approach circuit is occupied. If signal 28R has been actuated to indicate "Stop" when its approach circuit is occupied, the red indicator light associated with signal lever 28 is illuminated. Signal lever 28 must be placed in "right" position and the pushbutton depressed to cause signal 28R to display an aspect less restrictive than Stop when its approach circuit is occupied. If it has been so actuated, the "right" green indicator light associated with signal lever 28 is illuminated. However, none of the indicator lights associated with signal lever 28 will become illuminated if a time relay set for five minutes is in operation. When all these lights are extinguished, it indicates that the time relay is in operation, and that time locking will prevent a change in the position of the east switch of the siding at Sugar Land until the time relay stops operating.

Switch lever 27 of the traffic control machine controls the east switch of the siding at Sugar Land. The normal position of this switch lever is that position which causes the east siding-switch to be lined and locked in normal position for movements on the main track after the pushbutton has been depressed to initiate the code which actuates the switch. When the responding code from the field station associated with the east siding-switch indicates that the switch is lined and locked in normal position, the green indicator light associated with switch lever 27 is illuminated. When switch lever 27 is in reverse position and the code has been initiated by depressing the pushbutton, and the responding code indicates that the switch is lined and locked in reverse position, the amber indicator light associated with switch lever 27 is illuminated.

In the event that the route has been established for a westward movement to enter the siding at the east switch and the route has not been traversed, and it is desired to change the route to permit a westward movement to proceed on the main track beyond signal 28R and the east siding-switch, signal lever 28 must first be moved to vertical position and the pushbutton depressed to actuate the signal. This action will cause signal 28R to indicate "Stop" if a train or locomotive occupies its approach circuit and, in addition, it causes operation of the time relay set for five minutes. During this operation of the time relay, the indicator lights associated with signal lever 28 are extinguished, the east siding-switch remains lined and locked in reverse position, and the amber indicator light associated with switch lever 27 remains illuminated. After the time relay has stopped operating, switch lever 27 must then be restored to normal position and signal lever 28 moved to "right" position, after which the pushbutton must be depressed to initiate the code which actuates signal 28R and the east siding-switch. If the responding code

indicates that the switch has been restored to normal position for movements on the main track and that signal 28R has been actuated to display an aspect less restrictive than Stop when its approach circuit is occupied, the "right" green indicator light associated with signal lever 28, and the green indicator light associated with switch lever 27, are illuminated. Signal lever 28 may be moved to "right" position when the time relay is in operation and while switch lever 27 and the east siding-switch are in reverse position. In such case, if the pushbutton is depressed to initiate the code which actuates signal 28R, the route is immediately re-established for a westward movement to enter the siding at the east switch. Switch lever 27 may be restored to normal position during operation of the time relay. This action, however, will not cause the east siding-switch to return to normal position until the time relay has stopped operating.

This carrier's operating rules read in part as follows:

"DEFINITIONS

"Controlled Siding: A siding within CTC which may, or may not, have block signal control between fouling points on siding.

"Restricted Speed: Proceed prepared to stop short of train, obstruction, or switch not properly lined and to look out for broken rail, not exceeding twenty miles per hour.

"With Caution: To run at reduced speed, according to conditions, prepared to stop short of a train, engine, car, * * * or other obstruction, or before reaching a stop signal. * * *

"TIMETABLES

"4–B. Special instructions in a timetable supersede any rule or regulation of the book of rules with which they conflict.

* * * * * * *

"769. * * *

"All movements on controlled sidings must be made with caution."

Special instructions in the timetable read in part as follows:

"Movements through centralized traffic control sidings and turnouts at * * * Sugar Land * * * must not exceed 25 MPH."

The maximum authorized speeds for freight trains in the vicinity of the point of accident is 60 miles per hour; however, it is restricted to 40 miles per hour at Sugar Land.

Description of accident

Extra 352 East, an eastbound freight train, consisting of diesel-electric units 352, 8076, 717, 723 and 621, coupled in multiple-unit control, 116 cars and a caboose, departed from Glidden at 4:30 p.m. When this train passed Rosenberg, the members of the crew received a message informing them that there were 21 cars on the transfer tracks at Sugar Land to be added to their train. About 5:50 p.m., the train entered the siding at Sugar Land and stopped with the front end of the first car at a point 807 feet west of the east siding-switch, after which the locomotive was detached from the train. The locomotive then entered the main track at the east siding-switch and proceeded eastward to the east switch of transfer track No. 1, where it entered the transfer tracks and became engaged in switching operations required for assembling the 21 cars to be added to the train. These switching operations involved use of the main track. About 6:20 p.m., the locomotive entered transfer track No. 2 and cleared the main track for Extra 619 West. Approximately 15 minutes later, the front end of the portion of the train that was standing on the siding was struck by Extra 619 West at a point 1,730 feet west of the station and 807 feet west of the east siding-switch.

Extra 619 West, a westbound freight train, consisting of diesel-electric units 619, 950, 547, 722 and 634, coupled in multiple-unit control, 164 cars and a caboose, departed from Englewood at 5:00 p.m., and about 6.20 p.m. it stopped short of signal 24RA which indicated "Stop." About 6:24 p.m., after the indication of this signal changed to "Proceed," the train proceeded westward, passed signals 205 and 223 which indicated "Proceed," passed signal 243 which displayed a yellow aspect, passed signal 28R which indicated "Proceed-On-Diverging-Route-At-Restricted-Speed," was diverted onto the siding at Sugar Land at the east switch, and while moving at a speed of 27 miles per hour, as indicated by the tape of the speed-recording device, it struck the front end of the rear portion of Extra 352 East.

The 1st to the 5th cars, inclusive, of Extra 352 East were derailed, and these cars stopped in various positions on or near the structures of the siding and the main track. Two of the derailed cars were destroyed, and 3 were slightly damaged.

Extra 619 West stopped with the front end 141 feet west of the point of accident. The five units of the locomotive, and the 1st to the 5th cars, inclusive, were derailed. The units of the locomotive stopped upright on and in line with the structure of the siding, and the derailed cars stopped in various positions on or near the structures of the siding and the main track. The 1st unit of the locomotive was somewhat damaged and the other 4 units were slightly damaged. Two of the derailed cars were destroyed, 1 was heavily damaged, and 2 were slightly damaged.

The engineer, the fireman, and the front brakeman of Extra 619 West were injured.

The weather was misty at the time of the accident, which occurred about 6:35 p.m.

The locomotives and the cabooses of both trains, and the office of the train dispatcher, were provided with radio equipment.

Discussion

When Extra 352 East passed Rosenberg, the members of the crew received instructions to remove 21 cars from the transfer tracks at Sugar Land and add them to their train. The train dispatcher routed this train onto the siding at Sugar Land, and about the time it was entering the siding he communicated by radio with members of the crew and instructed them that the locomotive should be detached from the train after stopping on the siding, and that it should then proceed to the transfer tracks to pick up the 21 cars. In addition, he informed them that Extra 619 West would soon be approaching Sugar Land, and that it might be necessary for their locomotive to clear the main track at the transfer tracks for this westbound train before returning to the siding with the 21 cars. The train dispatcher established the route for the locomotive to enter the main track at the east siding-switch, and about 5:59 p.m. it entered this switch and proceeded eastward on the main track to the east switch of transfer track No. 1, which is within the block of signal 223. Switching operations were then performed which required movements over the east switch of transfer track No. 1 and use of the main track. About 6:10 p.m., the engineer informed the train dispatcher by means of the radio that he thought the switching operations were about completed and, at 6:12 p.m., according to a statement of the train dispatcher, and the graph of the traffic control machine, the train dispatcher established the route for the locomotive to return to the siding with the 21 cars. Soon afterward, the engineer informed the dispatcher that the return movement would be delayed and the locomotive would clear the main track for Extra 619 West at the east end of the transfer tracks. When the locomotive cleared the main track shortly before 6:20 p.m., the engineer overheard the conductor of Extra 619 West use the radio to inform the train dispatcher that his train was stopped short of signal 24RA which indicated "Stop." The engineer advised the dispatcher that his locomotive had cleared the main track, and that the conductor was then in the process of restoring the east switch of transfer track No. 1 to normal position. He later overheard a member of the crew of Extra 619 West announce over the radio that signal 24RA was indicating "Proceed" and that the train was proceeding westward. He said that soon afterward he observed Extra 619 West approaching, and that as it was passing the transfer tracks he heard its brakes become applied in emergency. He said he was unaware that an accident had occurred until sometime later. At the time of the accident the fireman of Extra 352 East was in the control comparment of the locomotive with the engineer, the conductor and the front brakeman were standing in the vicinity of the east ends of the transfer tracks, observing Extra 619 West, and the flagman was in the caboose. None of these employees was aware of the accident until sometime after it had occurred.

As Extra 619 West was approaching Sugar Land the enginemen and the front brakeman were in the control compartment at the front of the locomotive, and the conductor and the flagman were in the caboose. The brakes had been tested and had functioned properly. The headlight was lighted. While en route the members of the crew overheard the radio conversation between the engineer of Extra 352 East and the dispatcher, and they were aware that the locomotive of this train was engaged in switching operations on the transfer tracks at Sugar Land. The engineer of Extra 619 West said that he had difficulty in understanding the train dispatcher's portions of the conversations with the engineer of Extra 352 East, and he was unaware that the rear portion of Extra 352 East had been left standing on the siding.

About 6:17 p.m., Extra 619 West stopped short of signal 24RA which indicated "Stop." At 6:22 p.m., as indicated by the graph of the traffic control machine, the indication of signal 24RA changed to "Proceed" and at 6:24 p.m., the train passed the signal and proceeded westward. The front brakeman and the engineer said that signals 205 and 223 indicated "Proceed," and that as their locomotive was passing the transfer tracks at Sugar Land they observed the locomotive of Extra 352 East standing clear of the main track. They said that the speed of their train was about 35 miles per hour at this time, and that as they were approaching signal 243 at a distance of about ¾ mile they observed that this signal was displaying a yellow aspect. The engineer said that he then closed the throttle and applied the independent brake to reduce the speed. Both the engineer and the front brakeman said that after passing signal 243, and when the train reached a point immediately west of the MP crossing, 2,509 feet east of signal 28R, the fireman observed that signal 28R was indicating "Proceed-On-Diverging-Route-At-Restricted-Speed," and he called the indication. They then observed signal 28R displaying this indication and they repeated the fireman's call. The engineer said that he assumed from this indication that the rear portion of Extra 352 East was occupying the main track between the clearance points of the siding, and that the dispatcher had routed his train onto the siding to permit it to pass. He said that he continued to apply the independent brake as the train entered the east switch of the siding, and that as the train entered the siding the speed indicator indicated that the speed was reduced to 27 miles per hour. He said that he was unaware that the siding was occupied until after the locomotive had traversed the turnout. When the beam of the headlight became directed westward along the siding he saw the cars at a distance of about 350 feet, and he immediately initiated an emergency application of the brakes. The collision occurred before the speed was materially reduced. The fireman and the front brakeman alighted from the locomotive immediately before the accident occurred, and the fireman was injured to the extent that he could not be questioned at the time of the investigation. The conductor and the flagman were unaware of anything being wrong until they felt the brakes become applied in emergency.

The train dispatcher said that after Extra 352 East entered the siding at Sugar Land he established the route for the locomotive to enter the main track at the east siding-switch and proceed eastward to the transfer tracks. He said that when the engineer of the locomotive of Extra 352 East informed him that the switching operations on the transfer tracks were about completed, he immediately established the route for the locomotive to proceed westward on the main track with the 21 cars and re-enter the siding at the east switch. To establish this route, he moved signal lever 28 from "left" position to "right" position, and then depressed the pushbutton to initiate the code which caused signal 28R to indicate "Proceed-On-Diverging-Route-At-Restricted-Speed." It was not necessary for him to operate switch lever 27 as this lever and the east siding-switch were still in reverse position. He said that shortly after establishing this route, the engineer of Extra 352 East informed him by radio that there would be a delay in the return movement, and that his locomotive would clear the main track for Extra 619 West at the east end of the transfer tracks. The dispatcher said that upon receipt of this information he immediately began to line the route for a westward movement on the main track instead of for westward movement onto the siding. He said that he moved signal lever 28 to vertical position and then depressed the pushbutton to initiate the code which actuates the signal to indicate "Stop," after which he observed that all the indicator lights associated with signal lever 28 were extinguished. This indicated that signal 28R was actuated to indicate "Stop" upon occupancy of its approach circuit, that the time relay set for five minutes was in operation, and that the east siding-switch was locked in reverse position while the time realy was operating. He said that, in addition, he also moved switch lever 27 to normal position, and that he observed its amber indicator light was illuminated, indicating that although the switch lever was in normal position, it did not cause the east siding-switch to return to normal position during operation of the time relay. During the interval in which the time relay was in operation, the engineer of Extra 352 East informed the train dispatcher by radio that the locomotive had entered transfer track No. 2 and had cleared the main track for Extra 619 West. At 6:22 p.m., after receiving this information, the dispatcher established the route for Extra 619 West to pass signal 24RA and proceed to signal 28R, and immediately thereafter he cleared the next two westward controlled home signals beyond signal 28R so that Extra 619 West would be able to continue westward after the route became established for it to proceed beyond signal 28R.

According to the graph of the traffic control machine, the time relay set for five minutes began operating at 6:20 p.m., when the dispatcher placed signal lever 28 in vertical position and depressed the pushbutton to initiate the code which actuates the signal to indicate "Stop." Under these circumstances, he could not establish the route for Extra 619 West to proceed westward on the main track beyond signal 28R before 6:25 p.m., at which time the time relay would stop operating and the east siding-switch would automatically be restored to normal position, provided the switch lever was properly positioned, and at which time the train dispatcher could then move signal lever 28 to "right" position and depress the pushbutton to initiate the code which actuates signal 28R to display a proceed aspect.

The train dispatcher said that he had not operated either signal lever 28 or switch lever 27 after the time relay set for five minutes commenced operating. This would indicate that the train dispatcher made no further attempt to establish the intended route for Extra 619 West after the time relay stopped operating at 6:25 p.m., 10 minutes before the accident occurred, although, under these circumstances, signal 28R should have indicated "Stop."

After the accident occurred an inspection of the portion of the signal system involved, including the traffic control machine, disclosed no defect which could have contributed to or caused the accident.

Analysis of the graph of the traffic control machine disclosed that signal 28R was caused to display a proceed aspect at 6:12 p.m., apparently for the return of the locomotive of Extra 352 East to the siding with 21 cars after completion of switching operations. It also disclosed that at 6:20 p.m., after the dispatcher had been informed that the locomotive would clear the main track for Extra 619 West at the transfer tracks, instead of the siding, signal 28R was caused to indicate "Stop." Apparently, at this time the dispatcher prepared to change the route so that Extra 619 West could proceed westward on the main track beyond signal 28R. The graph does not record the positions of switches. It is evident, however, that throughout the five-minute period beginning at 6:20 p.m., when signal 28R was caused to indicate "Stop" and the time relay set for five minutes was caused to start operating, the east siding-switch was locked in reverse position. The graph indicated that at 6:28 p.m., three minutes after the time relay should have stopped operating, signal 28R was caused to display a proceed aspect. In addition, the graph indicated that signal 28R continued to display a proceed aspect until 6:35 p.m., at which time the graph indicated the locomotive of Extra 619 West passed the signal and entered the siding. Since signal 28R authorized the train to proceed it is apparent that the train dispatcher inadvertently re-establish the route for westward movement onto the siding instead of on the main tack while the east switch was locked in reverse position.

By timetable special instruction this carrier modified signal Rule 288 to permit trains to enter the siding at this point at 25 miles per hour, which is higher than the maximum permitted under restricted speed. In the instant case the train involved passed the signal at a speed of 27 miles per hour and it was then required, under the rules, to be operated in such manner that it could be stopped short of cars standing at any point on the siding.

In the instant case, it is apparent that at 6:28 p.m. the train dispatcher inadvertently established the route for Extra 619 West to enter the east switch of the siding at Sugar Land, instead of to proceed on the main track beyond signal 28R, and that he overlooked the fact that the route was so established during the approach of Extra 619 West to the siding. It is also apparent the engineer of Extra 619 West was under the impression that the siding was unoccupied and that his train was being routed onto the siding to permit it to pass the rear portion of Extra 352 East, which he assumed was occupying the main track.

Cause

This accident was caused by improperly outing a train to an occupied siding, and failure to control properly the speed of this train on the siding.

Dated at Washington, D.C., this eleventh day of April, 1961.

By the Commission, Safety and Service Board No. 1.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[Railroad Accident Investigation Report No. 4072]

THE TEXAS & PACIFIC RAILWAY CO., ARGYLE, TEX., DECEMBER 24, 1965

SUMMARY

Date: December 24, 1965.
Railroad: Texas and Pacific.
Location: Argyle, Texas.
Kind of accident: Collision.
Trains involved: Freight; freight.
Train numbers: Extra 526 North; extra MKT 84C North.
Locomotive numbers: Diesel-electric units MP 526, MP 538, MP 511, MP 481; diesel-electric units 84C, 75B, 75D, 78F, 69C.
Consists: 126 cars, caboose; 91 cars, caboose.
Speeds: 35 m.p.h.; 27 m.p.h.
Operation: Timetable, train orders, automatic block-signal system.
Track: Single; tangent 1.21 percent descending grade northward.
Weather: Cloudy.
Time: 4:53 a.m.
Casualties: 4 killed; 2 injured.
Cause: Failure of the T&P train dispatcher and T&P conductor to provide protection for the reverse movement of the T&P train.
Recommendation: It is recommended that the Texas and Pacific Railway Company take immediate measures to enforce its operating rules.

SYNOPSIS

On December 24, 1965, a collision occurred between two freight trains on the Texas and Pacific Railway near Argyle, Texas. Four train-service employees were killed and two were injured.

The accident was caused by failure of the T&P train dispatcher and T&P conductor to provide protection for the reverse movement of the T&P train.

Location and method of operation

The accident occurred on that part of the Red River Division of the Texas and Pacific Railway extending between Fort Worth and Whitesboro, Texas, a distance of 71.3 miles. In the accident area this is a single-track line over which trains of the Texas and Pacific Railway Company (T&P) and the Missouri-Kansas-Texas Railroad Company of Texas (MKT) operate jointly by T&P operating rules, timetable, train orders, and an automatic block-signal system.

The collision occurred on the main track, 31.0 miles north of Fort Worth and 2.9 miles north of Argyle.

Automatic signals 2142 and 2124, governing northbound movements on the main track, are 3,726 feet south and 4,814 feet north of the accident point, respectively. Automatic signal 2125, governing southbound movements on the main track, is opposite signal 2124.

A yard is at Denton, 7.2 miles north of Argyle. The south yard-limit sign for Denton is 810 feet south of signal 2124.

T&P and MKT radio-telephone facilities operate on different frequencies. Thus, there is no direct radio-telephone communication between these carriers. The locomotives and cabooses of the T&P and MKT trains involved in the accident had radio-telephone equipment. However, the radio equipment on the first diesel-electric unit of the MKT train was inoperative.

Details concerning the track signals, T&P operating rules, Red River Division General Order No. 5, T&P rules governing the operation of railroad radio communication system, trains, damages, and other factors are set forth in the appendix.

Description and discussion

Extra 526 North, a northbound T&P freight train consisting of 4 diesel-electric units, 126 cars and a caboose, left Lancaster Yard, Fort Worth, at 2:55 a.m. on the day of the accident and entered the T&P single-track line involved at FW Tower, 0.5 miles north of the Fort Worth station. It passed FW Tower, the last open train order office, at 3:11 a.m. and passed Argyle approximately 1 hour 10 minutes later. As the train continued northward, it entered the block of signal 2142 and moved onto an ascending grade known as Denton Hill. Soon thereafter, it passed the south yard-limit sign for Denton and signal 2124. About 4:35 a.m., the train stalled on Denton Hill, due to inoperative sanding apparatus on the diesel-electric units, and stopped in the block of signal 2124 with the rear end approximately 4,600 feet north of that signal. The engineer then began to

inspect the sanding apparatus and other equipment on the diesel-electric units. He found that the sanding apparatus of the three rear diesel-electric units would function properly if operated from the control compartment of the second unit. Soon afterward, the front brakeman radio-telephoned the caboose and informed the conductor of the situation. He stated during the investigation that it was usual practice under such circumstances for a stalled train to back up and make another attempt to surmount the grade.

Since its tonnage prevented the train from starting forward from the point where it had stalled, the front brakeman and conductor discussed means by which their train could negotiate Denton Hill, including backing it a sufficient distance for another attempt to reach the summit of the ascending grade. After this discussion, the front brakeman overhead the conductor inform the T & P train dispatcher by radio-telephone that Extra 526 North had stalled on Denton Hill and suggest to the dispatcher that the train might negotiate the ascending grade if it moved back on the main track a sufficient distance for a running start on the grade. The front brakeman said he could not hear the dispatcher's responses to the conductor. Meanwhile, the engineer reboarded the first diesel-electric unit, and the front brakeman informed him about his conversation with the conductor. Two or three minutes later, the conductor radio-telephoned the engineer and instructed him to back the train on the main track whenever he was ready. Immediately thereafter, about 4:50 a.m., Extra 526 North started to back southward on Denton Hill without either the engineer or front brakeman having any knowledge as to what arrangements had been made for protection of this reverse movement against northbound trains. According to the engineer and front brakeman, they did not receive continuous radio-telephone transmission from the conductor or flagman, as required by rule, while the train moved in reverse on Denton Hill.

The rear of Extra 526 North passed southward signal 2125, which displayed a Stop-and-Proceed aspect, and backed into the block of northward signal 2142. After passing the south yard-limit sign at Denton, it reached the bottom of Denton Hill and entered an ascending grade southward. The engineer and front brakeman heard the conductor announce over the radio-telephone that the caboose had moved onto the ascending grade, and they estimated that the train was backing southward at 15 to 20 miles per hour at this time. They said that the brakes applied in emergency soon thereafter and that the train stopped with the front end a few hundred feet north of signal 2124. The engineer stated the front brakeman then radio-telephoned the caboose from the control compartment of the second diesel-electric unit to determine the cause of the emergency brake application, but received no response. The engineer further stated he assumed that the flagman had proceeded to the rear after the train stalled on Denton Hill and that the conductor had applied the brakes in emergency to pick up the flagman. According to the engineer's statements, the brakes were released approximately three or four minutes later. He said that he then started the train forward, or northward, on Denton Hill without having received any radio-telephone communication, or signal to proceed, from the conductor or flagman. He further said that after attaining a speed of approximately 11 miles per hour, the brakes again became applied in emergency and the train stopped with the front end about 990 feet north of signal 2124.

The front brakeman said he was in the control compartment of the second diesel-electric unit, operating the sanding apparatus of the three rear diesel-electric units, when the second emergency brake application occurred. He stated that after determining that the train brake-pipe pressure was not being restored and making an unsuccessful attempt to communicate by radio-telephone with the conductor, he went to the rear of the train to ascertain the cause of the second emergency brake application. According to his statement, then he found that the rear of his train had been struck by Extra MKT 84C North. The engineer stated that he did not know that an accident had occurred until about one hour after the train was stopped by the second emergency brake application.

The conductor and flagman of Extra 526 North, apparently on the caboose at the time of the accident, were killed. The engineer and front brakeman of Extra MKT 84C North were also killed, and the fireman and conductor of that train were injured.

Extra MKT 84C North, a northbound MKT freight train consisting of 5 diesel-electric units, 91 cars and a caboose, left Ney Yard, Forth Worth, at 3:20 a.m. and entered the T&P single-track line at FW Tower about 3:47 a.m. It passed Argyle about one hour later and approached signal 2142 at 24 miles per hour, as indicated by the speed-recording tape. According to the fireman, he

and the engineer, as well as the front brakeman, saw that signal 2142 was displaying an Approach aspect as the locomotive approached and passed it. About this time, the engineer shut off power and as the train proceeded on the descending grade immediately south of Denton Hill, its speed increased to between 27 and 29 miles per hour. The fireman said he did not see any lighted fuses or hear the explosion of any torpedoes while approaching the accident point, and that he was unaware of anything being wrong until he saw a small white light a few hundred feet ahead. He thought at first this was a light on a track motorcar and called it to the attention of the engineer, who promptly applied the train brakes in emergency. A few moments later, the front brakeman saw the rear end of Extra 526 North approaching and called a warning to the fireman and engineer. Both the front brakeman and fireman then jumped from the locomotive. Shortly thereafter, while moving in the block of signal 2142 at 27 miles per hour, the locomotive of Extra MKT 84C North collided with the rear of Extra 526 North, 2.9 miles north of the Argyle station. According to his statements, the fireman saw that Extra 526 North was moving in reverse between 35 and 40 miles per hour just before the collision. He did not see the marker lamp at the rear of the caboose of Extra 526 North, or any light on the caboose other than the small white light, before the accident.

The conductor of Extra MKT 84C North stated that as the train moved in the vicinity of Argyle, someone at Ney Yard called him by radio-telephone and inquired as to the location of his train. The conductor stated that he replied "Argyle." He stated that he heard the same person speak again but, due to radio interference could not understand what was said. Soon thereafter, while looking forward from the bay window of the caboose, the conductor saw that signal 2142 was displaying an Approach aspect. The collision occurred a short time after Extra MKT 84C North entered the block of signal 2142, and neither the conductor nor flagman was aware of anything being wrong before that time.

When the conductor of Extra 526 North radio-telephoned the T&P train dispatcher and reported the stalling of his train on Denton Hill, he also told the dispatcher that the train could probably negotiate the hill if it moved back on the main track for another running start on the ascending grade. The dispatcher replied that Extra 526 North could not make a reverse movement at this time because Extra MKT 84C North was approaching from the rear. After further discussion, the dispatcher said he would determine the whereabouts of the MKT train. He then telephoned the MKT operator at Ney Yard, Fort Worth, and requested him to radio-telephone Extra MKT 84C North and ascertain its location. About one minute later, after being informed by the MKT operator that Extra MKT 84C North was approaching Argyle, the T&P dispatcher told the MKT operator to instruct Extra MKT 84C North to stop immediately as Extra 526 North had stalled on Denton Hill and would back up for another attempt at negotiating the hill. The T&P dispatcher stated he also told the MKT operator to advise him as to whether the crew members of the MKT train acknowledged receipt and understanding of these instructions.

The T&P dispatcher said the MKT operator telephoned him soon afterward and advised that the conductor of Extra MKT 84C North had been instructed to stop his train immediately. According to the dispatcher, the MKT operator also advised that the MKT conductor had acknowledged receipt of these instructions by replying "OK." The dispatcher stated he then radio-telephoned the conductor of Extra 526 North and informed him that Extra MKT 84C North had been instructed to stop at Argyle. He said the conductor replied "OK." The dispatcher further stated that he did not verbally, or by train order, authorize Extra 526 North to move in reverse on Denton Hill, and that he had not known what action the T&P conductor would take after being informed that Extra MKT 84C North had been instructed to stop at Argyle.

The MKT operator at Ney Yard said that when the T&P dispatcher inquired as to the whereabouts of Extra MKT 84C North, he called that train by radio-telephone and was informed by the conductor that it was in the vicinity of Argyle. He promptly relayed this information to the T&P dispatcher, who then requested him to radio-telephone Extra MKT 84C North again and inform the crew members that Extra 526 North had stalled on Denton Hill. The MKT operator stated that, in addition, the T&P dispatcher told him to instruct Extra MKT 84C North North to stop at Argyle and wait there for further instructions. According to the MKT operator, he radio-telephoned the conductor of Extra MKT 84C North again and repeated to him the instructions from the T&P dispatcher. The MKT operator said the radio-telephone became noisy about this time, then became silent, and he was unable to communicate with the conductor further. He said he

promptly telephoned the T&P dispatcher and informed him that his instructions had been transmitted to the MKT conductor, but it was not known whether the MKT conductor understood them. He further said that in reply to an inquiry from the T&P dispatcher, he reiterated that he did not know whether the MKT conductor had understood or acknowledged the instructions to stop at Argyle.

Shortly after the accident, MKT officials, the conductor and flagman of Extra MKT 84C North, and members of the Denton police department discussed the accident circumstances with the front brakeman of Extra 526 North. It is the consensus of their statements the front brakeman told them that Extra 526 North had stalled on Denton Hill and was backing down the hill at a relatively high rate of speed when the collision occurred.

Examination of the locomotive of Extra 526 North after the accident revealed the sanding apparatus of all four diesel-electric units was inoperative from the sander control valve of the first unit, due to the main reservoir air supply valve of the sander relays of the first unit being in closed position. The investigation disclosed that the sanding apparatus of the locomotive was not tested, as required by the Commission's rules and instructions, before departure from Fort Worth, and that the locomotive left Fort Worth without the sanding apparatus being in proper operating condition as required by the Locomotive Inspection Law.

Because the caboose of Extra 526 North was destroyed, the position of the switches for the electric marker light and sealbeam track light at the south end of the caboose could not be determined.

Findings

After Extra 526 North stalled on Denton Hill, it moved backward without required flag protection or train order authority. Soon thereafter, it moved out of the Denton yard limits and, without stopping as required, passed southward signal 2125, which displayed a Stop-and-Proceed aspect. The engineer and front brakeman apparently were mistaken in their statements as to when the train stopped after the rear portion passed signal 2125. From all indications, Extra 526 North was moving backward in the block between southward signal 2125 and northward signal 2142 at about 35 miles per hour, considerably in excess of the speed authorized by the restrictive aspect displayed by signal 2125, when the rear end was struck by Extra MKT 84C North. Since the conductor and flagman were killed, it could not be determined whether they saw Extra MKT 84C North approaching, or whether they took any action to apply the brakes of their train, before the accident.

Interference over the radio-telephone system prevented the conductor of Extra MKT 84C North from hearing or understanding the T&P train dispatcher's instruction to stop at Argyle, as relayed by the MKT operator at Ney Yard. Because of this and the inoperative radio-telephone apparatus on the locomotive, none of the crew members of Extra MKT 84C North was aware of the reverse movement of Extra 526 North until that train was seen approaching just before the accident.

Although the T&P train dispatcher stated he did not know what action the conductor of Extra 526 North would take after being informed that Extra MKT 84C North had been instructed to stop at Argyle, it is evident that he made arrangements with the T&P conductor for Extra 526 North to back down Denton Hill without train order authority, and that he gave tacit consent to this reverse movement. Had the T&P train dispatcher not consented to the reverse movement of Extra 526 North, or had Extra 526 North not moved in reverse without flag protection or train order authority, as required, the accident would have been averted.

It is evident in the instant case that improper use of the radio contributed to the cause of the accident and violation of the carrier's operating rules. Under the existing circumstances the safe course would have been to double the stalled train to the siding in advance. Apparently to minimize delay the train dispatcher made an unsuccessful effort to restrict the following MKT train and after he conversed with the conductor of the preceding train its crew members gained the impression they had received permission for a southward movement on the grade and this train then moved in reverse until it collided with the following train which had not been restricted at Argyle, as was intended. The use of radio should be surrounded with the necessary safeguards to preclude employees acting on partial or faulty receipt of radio-issued instructions, or instructions contravening operating rules.

Cause

This accident was caused by failure of the T&P train dispatcher and T&P conductor to provide protection for the reverse movement of the T&P train.

Recommendation

It is recommended that the Texas and Pacific Railway Company take immediate measures to enforce its operating rules.

Dated at Washington, D.C. this 12th *day of* May 1966.

By the Commission, Railroad Safety and Service Board.

[SEAL] H. NEIL GARSON,
Secretary.

APPENDIX

Track

From the south on the main track there are, in succession, a long tangent, a 0°20′ curve to the left 530 feet, and a tangent 357 feet to the accident point and 46 feet northward. From the north there are, successively a series of tangents and curves, then a tangent 2,062 feet, 1°57′ curve to the left 1,301 feet, and the tangent on which the collision occurred.

From the south, the average grade is 0.77 percent descending throughout a considerable distance to the collision point and 2,000 feet northward, then an average of 0.90 percent ascending 2.4 miles to the summit of Denton Hill. In the immediate vicinity of the accident point, the grade is 1.21 percent descending northward.

Signals

Automatic signals 2142, 2124 and 2125 are of the searchlight color-light type and are approach lighted. They are permissive signals with their control circuits arranged on the absolute-permissive block principle. The absolute block involved extends between Denton and Roanoke, 4.3 miles north and 12.0 miles south of the accident point, respectively. The aspects applicable to this investigation and the corresponding indications and names are as follows:

Signal	Aspect	Indication	Name
2142	Yellow	Proceed immediately reducing to 40 m.p.h. or slower if necessary, prepared to stop before reaching next signal.	Approach.
2124 2142 2125	Red	Stop, then proceed at low speed through the entire block.	Stop and proceed.

The circuits are so arranged that when the block of signal 2124 is occupied by a northbound train and the block of signal 2142 is unoccupied, signals 2142 and 2124 display Approach and Stop-and-Proceed aspects, respectively. Under these circumstances, all the southward permissive signals, including signal 2125, within the absolute block extending between Denton and Roanoke display Stop-and-Proceed aspects. If the northbound train occupying the block of signal 2124 makes a reverse movement and reenters the block of signal 2142, the latter signal displays a Stop-and-Proceed aspect.

T&P Uniform Code of Operating Rules

Low Speed: A speed that will permit stopping short of trains, engine, obstruction or switch not properly lined * * * but not exceeding 15 miles per hour.

35. Flagging Signals: The following signals will be used by flagmen:

* * * * * * *

Night Signals: A white light. Not less than 10 torpedoes and 6 red fuses.

80. Communication Concerning Train Movement: When a member of train * * * crew communicates with train dispatcher * * * or operator, he will give his name, occupation, location and train * * * number, and will repeat back the instructions received.

99. Flagging Rule. * * *

When a train stops under circumstances in which it may be overtaken by another train, the flagman must go back immediately with flagman's signals a sufficient distance to insure full protection, placing two torpedoes and, when necessary, in addition, displaying lighted red fuses. * * *

99(c). Conductors must not permit other duties to interfere with the proper protection of their train, and must require the flagman to act promptly and in accordance with the rules.

101(a). Trainmen must know by speed of train, grade or caboose air gauge, that train is being handled safely and under control, and, when necessary, take immediate action to get train under safe control.

RULES APPLICABLE TO * * * BLOCK * * * SIGNALS

327. Where Stop Must Be Made: A train or engine must stop before the leading wheels pass a Stop, or Stop, Then Proceed at Low Speed, indication. * * *

354. Reverse Movements: Unless modified by rules governing movement of trains and engines by block signals, a train or engine having passed beyond the limits of a block must not back into that block without flag protection against opposing trains or engines, except as follows:

(1) On train order authority permitting reverse movement and a clear signal indication * * * is displayed to re-enter the block.

* * * * * * *

T&P rules governing the operation of a railroad communication system

RADIO RULES

12.1 Except as herein authorized, these radio regulations and rules do not modify or supersede any rule of the Uniform Code of Operating Rules, * * *

12.2 The Railroad Radio Communication system must not be used in any manner which would cause a violation of any Uniform Code of Operating Rule * * *

17.(a). When movement of a train or cut of cars is being made with the engine on trailing end, * * * and the movement is being controlled by radio communication * * * the employee transmitting the instructions for the movement must transmit continuously and the failure of engineer to receive continuous transmission must be construed as a STOP signal.

Red River Division General Order No. 5, dated January 1, 1965

* * * * * * * *

Radio communication may be used:

* * * * * * *

(b). By an operator to relay a train order * * * to another operator, or to relay direct to a conductor or engineer, or both, a train order addressed to their train at a location not a train order office or at which the office is closed.

* * * * * * *

Trains

Extra 526 North consisted of road-switcher type diesel-electric units MP 526, MP 538, MP 511 and MP 481, coupled in multiple-unit control, 126 cars and a caboose. The train brakes had been tested and had functioned properly. As the train backed on the main track toward the accident point, the engineer and front brakeman, the only crew members on the locomotive, were in the control compartment near the front of the first diesel-electric unit. The conductor and flagman were on the caboose.

The caboose of Extra 526 North was equipped with three 25-gallon drums of liquid propane gas, which was used as fuel for a gas operated refrigerator and heater. The rear end of the caboose was provided with an electric marker light having red lens. It was mounted just below the roof, midway between the sides of the caboose with the red lens facing to the rear. The rear of the caboose was also provided with a small seal beam electric track light having white lens facing to the rear. This light was mounted on a bracket 48 inches above the floor of the platform, directly below the marker light. Both the track light and marker light were operated from switches inside the caboose. The rear end of the caboose also had an A–2 caboose valve, for applying train brakes from the rear of trains.

Extra MKT 84C North consisted of car-body type diesel-electric units 84C, 75B, 75D, 78F and 69C, coupled in multiple-unit control, 91 cars and a caboose. It was manned by MKT employees. The train brakes had been tested and had functioned properly when used en route. The headlight was lighted. As the train approached the accident point, the engineer, fireman and front brakeman were in the control compartment at the front of the locomotive. The conductor and flagman were in the caboose.

Damages

The liquid propane gas in the caboose of Extra 526 North ignited as a result of the accident, and flames spread over derailed equipment of both trains.

The caboose and the 101st to 126th cars, inclusive of Extra 526 North were derailed and stopped in various positions on or near the track structure as shown in

a photograph appended to this report. Of the derailed equipment, the caboose and 16 cars were destroyed, and 10 cars were heavily damaged.

Extra MKT 84C North stopped with the front end 167 feet north of the collision point. All five diesel-electric units were derailed. The 36th to 40th cars and the 55th to 60th cars, inclusive, also derailed when the train buckled due to the impact. The first diesel-electric unit overturned onto its right side and stopped on the east side of the track structure at a 45-degree angle to the track and with the front end on the east side of the track structure. The second unit stopped upright, in reverse position, alongside the underframe of the first unit. The third, fourth and fifth units stopped upright on and in line with the track structure immediately to the rear of the second unit. The derailed cars stopped in various positions on or near the track structure. The first, second and third diesel-electric units were destroyed, the fourth unit was heavily damaged, and the fifth unit was undamaged.

Of the derailed and damaged cars, six were heavily damaged and seven were somewhat damaged.

Other factors

The accident occurred at 4:55 a.m., in cloudy weather.

The maximum authorized speed for freight trains in the territory involved is 60 miles per hour. However, it is restricted to 25 miles per hour when locomotives are shoving trains in reverse movements.

A line of the Atchison, Topeka and Santa Fe Railway crosses the T&P main track by means of an overpass 1.0 mile north of the accident. In the accident area, there are several trees adjacent to the west side of the track structure. On the day involved, there were four highway stock piles of gravel and asphaltic mix in the immediate vicinity of the accident point. These piles, which were of considerable height, width and length, were on the east side of the railroad about 50 to 100 feet from the track. Because of these piles, trees and track curvature, and the AT&SF overpass, the view between opposing movements approaching the accident point was materially restricted.

Mr. DEVINE. Finally, in a different vein I believe that these hours of service laws have been on the books for nearly 60 years.

Mr. WOODMAN. Yes; since 1907.

Mr. DEVINE. Have there been any attempts to change this law?

Mr. WOODMAN. We did through collective bargaining negotiations to get the 40-hour, 5-day week, in other words. Prior to that time it was not an uncommon thing for telegraphers, which is our old organization's name, to work 6 and 7 days a week without any overtime. So by collective bargaining negotiations when we got the 40-hour week or the 5-day week, we more or less cut down the amount of hours we work.

Mr. DEVINE. You are talking about the communications workers?

Mr. WOODMAN. Yes. The nonoperating organizations in general got the 40-hour week.

Mr. DEVINE. Do you know whether this "hours of service" issue has been the subject of collective bargaining during the 60-year period.

Maybe someone else could answer it.

Mr. BENNETT. Let me answer that question, please.

I do not believe that it has been the subject of collective bargaining since the statute has been in existence over that period of time.

Congressman, might I direct your attention to a statement which was presented here last Friday. The first witness on behalf of the Brotherhood of Locomotive Firemen & Enginemen, Mr. Gilbert, traced the history of that organization's interest in the hours of service law, the various bills that were introduced in an attempt to get the Hours of Service Act changed. There had been a continuing attempt to get the Hours of Service Act changed through the legislative process.

Mr. PICKLE. Would the gentleman yield?

Mr. DEVINE. Yes.

Mr. PICKLE. I thought Mr. Gilbert's testimony was excellent and very well prepared. Are you saying that no collective bargaining efforts have been made to get these——

Mr. BENNETT. On that point, sir, I don't know. I might defer to Mr. Gilbert. I do not know.

Mr. PICKLE. You are bound to have a pretty good idea in the many years that you have represented these people. It seems to me that that would have been one of the efforts to be made. You haven't just blanked out on this, have you?

Mr. BENNETT. No sir; I have not. I just do not know, sir, if there has been an effort through collective bargaining——

Mr. WOODMAN. Excuse me, Mr. Pickle. The firemen work the same hours as we do. They have through collective bargaining brought their work week down to 5 days a week.

Mr. PICKLE. You have your 5-day week established?

Mr. WOODMAN. Yes.

Mr. PICKLE. And thus for that 9, 10, 11, or 12 hours you get time and a half?

Mr. WOODMAN. Anything over 8 hours.

Mr. PICKLE. And that has been established by collective bargaining?

Mr. WOODMAN. Yes.

Mr. PICKLE. But you haven't made any major effort to reduce the total number of hours?

Mr. WOODMAN. No; that management could work a man, other than maybe a penalty of time and a half, so that they think twice whether they will work the man excessive hours. Of course, in our case if a man is working on a job covered by the Hours of Service Act, they cannot work him, except in an emergency, over the prescribed time.

Mr. PICKLE. I find it a little bit difficult to understand how it is that you don't know any instances where wrecks or accidents have occurred because of the possible excess hours in this particular field. You said possibly the ICC had some record. The Chairman of that Commission testified a few minutes ago that they had no such records, and no such compilation of figures. It seems to me that what you are saying is that it might possibly, perhaps cause an accident. If you have got anything factual on it you should give it to this committee.

Mr. WOODMAN. I do not personally have anything more to add, Mr. Pickle. If I did I would surely present it.

Mr. DEVINE. I have no further questions, Mr. Chairman.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman.

Mr. Woodman, how long have you been with your organization?

Mr. WOODMAN. I became vice president in 1950. I have been vice president for 16 years.

Mr. WATSON. And do we understand that in the past 16 years that you have been in an official capacity with your organization you have not attempted to rectify the situation which now presents itself through collective bargaining?

Mr. WOODMAN. No, sir, nothing that would affect the law.

Mr. WATSON. Maybe I am cast in a little unusual role here. But I am concerned about the pay or income of your members. And I am sure you are too.

Mr. WOODMAN. Naturally.

Mr. WATSON. And if we are going to reduce the number of hours from 13 to 11 on the one-shift operation, and from 11 to 9, or something like that, on the two shifts——

Mr. WOODMAN. We are not changing the one or two shifts, it is just the 13 to 11.

Mr. WATSON. You say that will only affect a limited number of employees, and you actually can't give us the number, can you?

Mr. WOODMAN. There are not too many that work more than 8 hours any more.

Mr. WATSON. I should rather think that with the cost of living today that your members would be rather anxious to get as much overtime as possible. Is that a correct assumption?

Mr. WOODMAN. Well, human nature being what it is, Mr. Watson, some people, as somebody said, are a little bit money hungry; they like that time and a half. Others prefer to work their 8 hours. And I find them in the majority. And those are the people that we more or less try to take care of.

Mr. WATSON. Those that restrict themselves to the 8 hours, do they have any other source of income?

Mr. WOODMAN. I couldn't say, really. Maybe some do. In the larger cities I think they do.

Mr. WATSON. They have additional jobs?

Mr. WOODMAN. Some do, I am afraid.

Mr. WATSON. Of course, if you had an additional job, that might contribute to the fatigue factor in the long hours of working, might it not, sir?

Mr. WOODMAN. It very well could.

Mr. WATSON. Now, really, the complaint at this time is probably precipitated by those who are not getting the extra overtime rather than those who are getting the extra overtime?

Mr. WOODMAN. Well, Congressman, actually, so far as the group I represent—and I can speak for them—of that group very few work overtime, to speak of. Because under this law, which has been with us since 1907, in a two-trick office, in other words, 16 hours out of 24, with two men working those men would only be working 9 hours. That is the most, except in an emergency situation where they might need a man to work an hour. And so far as the overtime is concerned, they don't get very much of that.

Mr. WATSON. Really, this is not too much of a problem to you in your organization, is it?

Mr. WOODMAN. No, it isn't.

Mr. FRIEDEL. Any other questions?

(No response.)

Mr. FRIEDEL. I want to thank you.

The next witness is Mr. Miles H. Holloway, locomotive engineer, Norfolk & Western Railway.

Mr. BENNETT. Mr. Chairman, in connection with Mr. Holloway's testimony, Mr. Gilbert has prepared a two-page document explaining the relationship between hours on duty under the Hours of Service Act in relation to pay for hours worked. It is directed to a number of questions which I believe you and the other members of the subcommittee had on Friday. If we might start with this, I think that it might clear up a couple of points.

Mr. FRIEDEL. All right.

Will Mr. Holloway make his statement?

Mr. BENNETT. I think it might be more proper if we did this first.

Mr. FRIEDEL. Mr. Gilbert, you have the floor.

STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN & ENGINEMEN; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY—Resumed

Mr. GILBERT. Mr. Chairman, this preparation came as a result of what appears to be a misunderstanding about the hours on duty and the miles per hour. And the thing that we wanted to make clear is in two areas, that the basic day as such has no relationship to the miles paid unless they exceed a certain number of hours. We have prepared this—and I will read it, as it is short, and if there are any questions I can answer them.

Overtime—pay at time and one-half—in freight service begins when the time on duty exceeds the miles run divided by 12½.

For example, on a 100-mile run overtime begins after 8 hours. On a 125-mile run overtime begins after 10 hours.

Overtime pay in passenger service begins when the time on duty exceeds the miles run divided by 20.

For example, on a 100-mile run, overtime begins after 5 hours. On a 150-mile run, overtime begins after 7 hours and 30 minutes.

The overtime hourly rate in passenger service is less than the straight time hourly rate, as overtime is paid at one-eighth of the daily rate per hour.

For example, on a 150-mile run, 8½ hours on duty, the pay would be 7 hours 30 minutes at straight time rate—7½ times 20 equals 150 miles—plus 1 hour at overtime rate—1 times 12½—equals 162 miles. The 7½ hours at 20 miles per hour, which would be the 150, and the 1 hour at 12½ miles per hour, which is the overtime, would make it 162 miles paid for on the 160-mile run.

Now, on page 2, which I think is the important clarification, the captions are: miles run, hours on duty, time paid for straight-time rate, and Hours of Service Act, which shows the actual hours on duty in relation to the limit set forth under the Hours of Service Act. The first example shows 100-mile run; the hours on duty, 4 hours; and the time paid for at straight-time rate, 8 hours.

I want to emphasize that there are only 4 hours of service under the Hours of Service Act, not 8. And that goes on throughout the table.

We will drop down to the 100 miles, 16 hours on duty. And in the computation of the pay, the individual gets paid for 20 hours straight-time rate, but there is only 16 hours that are calculated on the Hours of Service Act, because that is the actual time on duty.

One hundred twenty-five miles, if he is 4 hours on duty, he is paid for 10 hours, and yet, under the hours-of-service law, only 4 hours count.

And at the bottom of that particular segment, 125 miles, he is on duty 16 hours, and he gets paid the straight-time rate for 19 hours. But under the Hours of Service Act only 16 hours are calculated.

Then——

Mr. FRIEDEL. I notice that you have up there 100 miles, 16 hours on duty, and you have paid straight time 20 hours, and yet you will only be charged for 16 hours under the Hours of Service Act.

Mr. GILBERT. Yes, sir.

Mr. FRIEDEL. Now, the next one, 125 miles, 16 hours on duty, and yet he only gets paid for 19 hours, while on the 100-mile run he got paid for 20 hours.

Mr. GILBERT. That is correct. That is because the overtime portal starts at 8 under the 100-mile run, and it starts at 10 on the 125-mile run. In other words, you work him 10 hours on a 125-mile run. before you reach the portal for overtime. That is the reason for the differential between the number of miles paid for.

I had this table prepared with the thought that it might be helpful to avoid some confusion which was apparent in the questioning.

In the passenger service in the table below, 100 miles, on duty 4 hours. He is actually paid for 5 hours. But under the Hours of Service Act it is only 4 hours.

And 100 miles at the bottom of that first table, he is on duty 16 hours. Well, he is actually paid 11 hours 54 minutes at the straight-time rate, and we have transposed into hours at 20 miles per hour the miles of overtime. which is actually 12½ miles per hour. They reduce their pay when they go on overtime in passenger service.

Now, on the second group, there are 125 miles run, 4 hours on duty, and he gets paid 6 hours 15 minutes, actual straight time paid for. But the hours-of-service calculation is only 4 hours.

And at the bottom of that particular table, 125 miles, 16 hours on duty, and time paid for at the straight time rate would actually be 12 hours and 20 minutes. And here you have a difference in reaching the portal for overtime. We have 16 hours insofar as the hours of service are concerned.

And the 200-mile run, 4 hours, actual time paid for is 10. So far as the tabulation of the Hours of Service Act, it would be 4.

At the bottom of that particular table we have 200 miles run, 16 hours on duty. And the time paid for at the straight time rate is 13 hours and 45 minutes. But actually the time calculated under the Hours of Service Act is 16 hours.

Mr. FRIEDEL. After 10 hours of service or 12 hours of service, when would they start getting paid time and a half?

Mr. GILBERT. It depends on the length of time when they reach the portal. After 5 hours on duty they get paid on 125 miles divided by 20 would be 6 hours and 15 minutes.

Mr. FRIEDEL. On this run of 125 miles, would you be paid 10 hours?

Mr. GILBERT. Not in the passenger service.

Mr. FRIEDEL. That is freight service?

Mr. GILBERT. That is in freight service.

You see, you reach the portal in the different services for overtime at a different point of time.

Mr. FRIEDEL. Now, this one here, passenger service, 125 miles, it takes him 4 hours, and he gets paid for 6 hours and 15 minutes?

Mr. GILBERT. Straight time.

Mr. FRIEDEL. And when he is on duty for 16 hours he gets paid for 12 hours and 20 minutes?

Mr. GILBERT. At the straight time rate. Here again you have a strange element in our pay structure in passenger service, because you

get 20 miles an hour until you reach overtime. When you reach the overtime portal, then you get paid at the rate of 12½ miles per hour. That is a little difficult to understand, but that is the element in the pay structure in passenger service as opposed to that in freight service.

Mr. FRIEDEL. There must be some point where you start paying time and a half, and that is what I am trying to get, on passenger service.

Mr. GILBERT. You would go on overtime, but not at time and one-half pay, after you have been on duty 5 hours on a 100-mile run. And after you have been on duty 6 hours and 15 minutes on a 125-mile run.

Mr. FRIEDEL. You have here a 200-mile passenger run, hours on duty, 4 hours, and you get paid for 10 hours?

Mr. GILBERT. Yes; after 10 hours you would be on overtime on a 200-mile run.

Mr. FRIEDEL. That would be on overtime?

Mr. GILBERT. Yes, sir.

Mr. FRIEDEL. That is the point I am trying to get.

Mr. GILBERT. Take the last example there, Congressman. On the 200-mile run after you have been on duty 10 hours you reach the portal for overtime, and then you would have 6 hours of overtime.

Mr. FRIEDEL. Why is it that you have 13 hours and 45 minutes for the 200-mile run? I am trying to clear this in my mind. The hours of service are 16 hours, but you only get paid for 13 hours 45 minutes, although you have been on duty for 16 hours, and you have gone 200 miles.

Mr. GILBERT. That is true. But again this is that incongruous situation in passenger service where when you go on overtime you reduce the mileage component in your pay structure to 12½ miles per hour. You get paid 20 miles per hour straight time in passenger service, and when you reach the overtime portal in passenger service you go to one-eighth the daily rate. That is the manner in which it is expressed in our collective bargaining agreement. And as a result of that, you get paid 12½ miles per hour in overtime in passenger service, and you get paid 20 miles per hour in straight time.

Mr. FRIEDEL. Now, there is a train that goes from here to New York, it is approximately 200 miles, and it makes it in 5 hours, less than 5 hours. Does he get paid for 10 hours on that?

Mr. GILBERT. No; he gets paid for 200 miles.

Mr. FRIEDEL. Does he get paid for 10 hours after 5 hours on duty?

Mr. GILBERT. That is the equivalent component in hours or miles. It is the same thing.

(The 2-page document entitled "Hours on Duty Under the Hours of Service Act in Relation to Pay for Hours Worked" referred to follows:)

HOURS ON DUTY UNDER THE HOURS OF SERVICE ACT IN RELATION TO PAY FOR HOURS WORKED

Overtime (pay at time and one-half) in freight service begins when the time on duty exceeds the miles run divided by 12½.

Example: 100 mile run—overtime begins after 8 hours (100÷12½=8); 125 miles—overtime begins after 10 hours (125÷12½=10).

Overtime pay in passenger service begins when the time on duty exceeds the miles run divided by 20.

Example: 100 miles run—overtime begins after 5 hours (100÷20=5); 150 miles run—overtime begins after 7 hours and 30 minutes. (150÷20=7½).

Overtime hourly rate in passenger service is less than the straight time hourly rate, as overtime is paid at ⅛ of the daily rate per hour.

Example: 160 miles run—eight and one-half hours on duty, pay would be 7 hours, 30 minutes at straight time rate (7½×20=150 miles) plus one hour at overtime rate (1×12½=162 miles)

Result: 7½ hours at 20 miles per hour; 1 hour at 12½ miles per hour.

Freight service

Miles run	Hours on duty	Time paid for, straight-time rate [1]	Hours of Service Act (hours)
100	4	8 hours	4
100	5	8 hours	5
100	10	11 hours	10
100	16	20 hours	16
125	4	10 hours	4
125	5	10 hours	5
125	10	10 hours	10
125	16	19 hours	16
200	4	16 hours	4
200	5	16 hours	5
200	10	16 hours	10
200	16	16 hours	16

[1] Miles transposed into hours at 12½.

Passenger service

Miles run	Hours on duty	Time paid for, straight-time rate [1]	Hours of Service Act (hours)
100	4	5 hours	4
100	5	5 hours	5
100	10	8 hours, 7 minutes	10
100	16	11 hours, 54 minutes	16
125	4	6 hours, 15 minutes	4
125	5	6 hours, 15 minutes	5
125	10	8 hours, 36 minutes	10
125	16	12 hours, 20 minutes	16
200	4	10 hours	4
200	5	10 hours	5
200	10	10 hours	10
200	16	13 hours, 45 minutes	16

[1] Miles for straight time transposed into hours at 20; miles for overtime at 12½.

Mr. FRIEDEL. Any questions, gentlemen?

Mr. PICKLE. Mr. Gilbert, I am glad you submitted this information showing the difference in the hours of duty and the service in relation to the pay for hours worked. I want to study it, because I think it will shed considerable light on the problem.

Now, this is something that I think each of us will have to try to study and get a better understanding of.

Let me ask you a couple of questions. I would go back to the gentleman who testified Friday, who was the only one who left us a chart about his service. He said his run was from Boston to Watertown. I believe this was Mr. Dunn. And in asking the staff I found out that he goes on duty in Boston at 8:10 a.m., and he leaves Watertown at 7:35 p.m., and then he returns to Boston.

I was thinking that he had a long run, and then he would shift all day in the yard. And I am advised that the difference between Boston and Watertown is about 16 miles. Is that correct?

Mr. GILBERT. It is less than 20 miles.

Mr. PICKLE. In other words, he is working right in his backyard for a long time?

Mr. GILBERT. It is a pretty long backyard, maybe for Texas it is not.

Mr. PICKLE. I drive to work every morning about as far as he travels all day long in a straight or switching line. So, really he is home. Now, he works so many hours, and then he goes on overtime. In the case of that engineer on the freight run where he is primarily doing yard work, can you tell me when does overtime start in yard service?

Mr. GILBERT. Eight hours on the run Mr. Dunn was mentioning, Congressman, it would start after 8 hours on duty.

Mr. PICKLE. Then, in his case would he be working two shifts, or would he be working one shift of 8 hours and the other shift of time and a half?

Mr. GILBERT. Well, after 8 hours he would be getting time and a half for time on duty.

Mr. PICKLE. Where on the chart will I find that? You don't have anything for comparison with the case where a man hardly leaves his backyard.

Mr. GILBERT. Well, the 100-mile run would be one that you could base that on, because that is the minimum miles in a day. After 10 hours—for example, the third one from the top there—after he had been on duty for 10 hours he would be paid for 11.

Mr. PICKLE. Straight time?

Mr. GILBERT. That is straight time. And after he had been on duty for 16 hours he would be paid 20 straight-time hours.

Mr. FRIEDEL. Isn't that time and a half?

Mr. GILBERT. Time and a half after 8 hours; that is correct, sir.

Mr. PICKLE. Well, those are rather long hours. But he would be compensated for it. And he doesn't have to do that; he could get less than that, couldn't he?

Mr. GILBERT. Somebody has to do it. It is a requirement of the run whether Mr. Dunn bids it in or Ed Gilbert bids it in. The railroad requires whoever is on the run to stay out there; they stay there at the direction of the carrier, regardless of who is on the run; they will be required to perform that service until management, or an order comes out, and relieves them and sends them home.

Mr. PICKLE. Can he hire out for 8 hours work?

Mr. GILBERT. Well, that is what we all hired out for, because that is the basic day, and still is. And all of the overtime that is worked, excessive or otherwise, is worked at the direction of the railroads. The men themselves have no control over it, only by virtue of the fact that we have the limit under the hours of service; they are required to quit working you at 16 insofar as the individual employee is concerned. We have no control over that regulation.

Mr. PICKLE. When he bids on that run that means that he will be there 8 hours plus another 8 hours, is that correct?

Mr. GILBERT. When the runs are open for bid they are assigned by choice according to seniority. And Mr. Dunn was the oldest man, or Harold Spence, or somebody else. The oldest bidder gets the job. But he is required to work on the job as long as management keeps him out there. The only control over it is the limit set under

the hours of service. And we believe 16 is too long. We are asking for 12.

Mr. PICKLE. And this is common practice?

Mr. GILBERT. Well, I think Mr. Pfahler made a good response to your question on that. It is not uncommon.

Mr. FRIEDEL. Isn't this an unusual run—or is it unusual—a 16-mile run or a 20-mile run?

Mr. GILBERT. Not necessarily, in this type of service. I think the situation that Mr. Dunn mentioned may have been contributed to by virtue of the fact that under a recent settlement, which we term the "White House settlement," the railroads were permitted to take off what is termed the last yard engine under certain circumstances, and after they do that, then they are permitted to utilize the services of a road train to do the work formerly performed by a yard engine or an engine located at a certain point. And that is one of the contributing factors to some of these longer hours.

Mr. FRIEDEL. Isn't this unusual in this respect? Isn't this a dead-end place? Or could they go on? I imagine that except under unusual circumstances it would be better for the railroad to have an engine up there to switch these cars.

Mr. GILBERT. I share your views about that. But I am not sure whether this is at the end of a branch line or not. I am not that familiar with the geographical setup.

Mr. PICKLE. Just one more question, Mr. Chairman.

Do you know whether in the case of this Boston-to-Watertown run—and again I think this is the only chart we have to go by—do you know whether this engineer has had this run for years? Has this been his place of duty, and has he been involved in this same run for years?

Mr. GILBERT. I am not in a position to give you the correct answer on that.

Mr. PICKLE. I am trying to find out if it is typical or if he has been exercising his seniority for a long time. I wonder if you would supply for the information of the committee the work record of this engineer, say, for a period of 5 years, with some idea how often he is called for, and how much time during 5 years is involved, if this is typical. Would you submit that for the record?

Mr. GILBERT. We will have him do that.

(The information requested follows:)

WORK RECORD OF WALTER P. DUNN FROM JUNE 1961 TO JUNE 1966

From June 1961, until September 1961, Mr. Dunn was performing service for the Brotherhood of Locomotive Firemen and Enginemen and on leave of absence from the Boston and Maine Corporation.

From September 1961, until March 11, 1962, Mr. Dunn was in engine service with his railroad. His detailed work record for this period is no longer available to Mr. Dunn.

From March 11, 1962, until February 15, 1965, Mr. Dunn was in the service of the Brotherhood of Locomotive Firemen and Enginemen, on leave of absence from the railroad, serving in the capacity of either Special General Organizer or member of the Board of Directors.

On February 15, 1965, Mr. Dunn returned to active railroad service as locomotive engineer. The enclosed two page survey shows for 1965 the dates worked, train assignment and hours on duty for the days worked in 1965. Any breaks in the continuity of the 1965 railroad service were occasioned by short periods of service for the Brotherhood of Locomotive Firemen and Enginemen.

From January 3, 1966, until February 18, 1966, Mr. Dunn was in railroad service. The detailed information concerning hours on duty for these dates was

presented with Mr. Dunn's testimony at the hearing on June 24, 1966. Since February 18, 1966, Mr. Dunn has been in the service of the Brotherhood of Locomotive Firemen and Enginemen.

Date	Train	Hours on duty	Date	Train	Hours on duty
1965			*1965*		
Feb. 26	B-9-10	14 hours 25 minutes.	Nov. 1	B-3-4	14 hours 50 minutes.
Mar. 1	B-9-10	15 hours 15 minutes.	Nov. 2	B-3-4	14 hours 40 minutes.
Mar. 2	B-9-10	8 hours 20 minutes.	Nov. 3	B-3-4	13 hours 05 minutes.
Mar. 3	B-9-10	11 hours 10 minutes.	Nov. 4	B-3-4	14 hours 25 minutes.
Mar. 4	B-9-10	11 hours 45 minutes.	Nov. 5	B-3-4	15 hours 00 minutes.
Mar. 5	B-9-10	14 hours 10 minutes.	Nov. 8	B-3-4	15 hours 45 minutes.
Mar. 18	B-9-10	14 hours 10 minutes.	Nov. 9	B-3-4	Record missing.
June 28	B-3-4	14 hours 35 minutes.	Nov. 10	B-3-4	14 hours 55 minutes.
June 29	B-3-4	12 hours 20 minutes.	Nov. 11	B-3-4	Record missing.
June 30	B-3-4	14 hours 05 minutes.	Nov. 12	B-3-4	15 hours 55 minutes.
July 1	B-3-4	12 hours 00 minutes.	Nov. 15	B-3-4	15 hours 25 minutes.
July 2	B-3-4	12 hours 00 minutes.	Nov. 16	B-3-4	12 hours 05 minutes.
July 6	B-5-6	15 hours 50 minutes.	Nov. 17	B-3-4	15 hours 50 minutes.
July 7	B-5-6	11 hours 50 minutes.	Nov. 18	B-3-4	13 hours 40 minutes.
July 8	B-5-6	13 hours 55 minutes.	Nov. 22	B-3-4	15 hours 20 minutes.
July 9	B-5-6	11 hours 55 minutes.	Nov. 23	B-3-4	14 hours 00 minutes.
July 10	B-5-6	10 hours 10 minutes.	Nov. 24	B-3-4	15 hours 10 minutes.
Aug. 26	B-5-6	13 hours 05 minutes.	Nov. 25	B-3-4	Record missing.
Aug. 27	B-5-6	11 hours 50 minutes.	Nov. 26	B-3-4	14 hours 30 minutes.
Aug. 30	B-3-4	15 hours 59 minutes.	Nov. 29	B-3-4	14 hours 40 minutes.
Aug. 31	B-3-4	15 hours 59 minutes.	Nov. 30	B-3-4	13 hours 45 minutes.
Sept. 1	B-3-4	15 hours 59 minutes.	Dec. 1	B-3-4	13 hours 20 minutes.
Sept. 2	B-3-4	15 hours 59 minutes.	Dec. 2	B-3-4	13 hours 15 minutes.
Sept. 3	B-3-4	15 hours 59 minutes.	Dec. 3	B-3-4	Record missing.
Sept. 7	B-3-4	15 hours 50 minutes.	Dec. 20	B-3-4	15 hours 30 minutes.
Oct. 4	B-3-4	15 hours 30 minutes.	Dec. 21	B-3-4	14 hours 20 minutes.
Oct. 5	B-3-4	12 hours 10 minutes.	Dec. 22	B-3-4	14 hours 55 minutes.
Oct. 6	B-3-4	13 hours 15 minutes.	Dec. 23	B-3-4	14 hours 00 minutes.
Oct. 7	B-3-4	13 hours 00 minutes.	Dec. 24	B-3-4	8 hours 00 minutes.
Oct. 8	B-3-4	12 hours 10 minutes.	Dec. 27	B-3-4	14 hours 35 minutes.
Oct. 11	B-3-4	15 hours 55 minutes.	Dec. 28	B-3-4	14 hours 25 minutes.
Oct. 12	B-3-4	No record.	Dec. 29	B-3-4	13 hours 40 minutes.
Oct. 13	B-3-4	15 hours 20 minutes.	Dec. 30	B-3-4	15 hours 15 minutes.
Oct. 14	B-3-4	13 hours 00 minutes.	Dec. 31	B-3-4	8 hours 00 minutes.
Oct. 15	B-3-4	Record missing.			

Mr. PICKLE. That information, and any other information as to whether this run would be typical, in a similar vein.

Mr. GILBERT. I want to correct the statement that I made the other day. I found that I was a little too conservative in my estimation after I heard what the representatives of the Interstate Commerce Commission said here this morning. I made the statement that I felt 3 percent of the accidents reported were investigated. But I found out when I listened to representatives of the ICC this morning that I was far too conservative. The fact of the matter is that there is less than 1 percent. There are from 6,000 to 7,000 of these reports that come in to them. And I believe that I heard Mr. Pfahler, or maybe Mr. Bush, say they investigate 50 per year. Well, of course, in that limited investigation they couldn't find anything pinpointed as to whether hours on duty were responsible for this, excessive hours or otherwise. And I think the record ought to have that insofar as my statement is concerned.

Mr. FRIEDEL. You may correct the record right now.

Mr. GILBERT. I want to correct the third example on my first page there. It has 160 miles run. That should be 150 miles, on the first page of that two-page statement.

Mr. FRIEDEL. Mr. Watson.

Mr. WATSON. On this other question, Mr. Gilbert, although you have helped us considerably in your personal discussion, as well as this chart here, I am sure that I can speak for at least myself, and perhaps some of the others, though we are still rather confused as to

what the rate and the pay scale is. But be that as it may, I am sure that as we study this we will become a little more enlightened. Was not this wage scale the result of negotiations between your organization and other organizations and management?

Mr. GILBERT. Well, when you say this——

Mr. WATSON. Pay scales?

Mr. GILBERT. The pay scale, yes, sir, that is correct.

Mr. WATSON. And the next question is, Have you attempted to negotiate this particular problem in the reduction of the number of hours of service?

Mr. GILBERT. Only in relation to the 40-hour week that was mentioned by Mr. Woodman. We have an agreement which was obtained since I have been international president that reduced the hours of service for yardmen to a 40-hour week.

Mr. WATSON. But you have not attempted to negotiate this through collective bargaining?

Mr. GILBERT. No, sir. It is one that we had rather considered to have been preempted by a national legislation.

Mr. WATSON. Now, see if I am correct on one interpretation. On page 2 of your table where you have a 100-mile run and you have 16 hours of duty actually in making that run. As an employee you would be receiving about 3 days pay?

Mr. GILBERT. No, 2½.

Mr. WATSON. 2½ days' pay?

Mr. GILBERT. Twenty hours would be equivalent to 2½.

Mr. WATSON. So he is getting 2½ day's pay now?

If you reduce the number of hours, then it is going to be necessary for that engineer to work an additional day for a 2-week period in order to receive comparable pay?

Mr. GILBERT. Again, Congressman, that would depend somewhat upon the mileage limitation in effect on the particular division. It varies from railroad to railroad. But if he was working, for example, 3,600, and this was a component of 3,600 miles, and the hours of service was reduced, it may require him to make an extra trip to get in his 3,600.

Mr. WATSON. In order to net or gross as much——

Mr. GILBERT. As far as the take-home pay is concerned. But it would have no effect on the basic rate.

Mr. WATSON. That brings me to a very disturbing point. In view of the cost of living that we have now, if you have to work more hours to get the same pay, the actual effect is a reduction in the average hourly rate or mileage rate, isn't that so?

Mr. GILBERT. I think in answer to that that a majority of people desire to work less time for their money. This has been initiated as safety legislation. We are concerned about life and limb. And I think it is the unusual individual in each craft or class of service who is—I think mileage hogs is what we call them on the railroad, and they have been calling them that for 41 years, to my personal knowledge. But they are not predominant in number. There are those who desire to make their living and spend time with their families and perform their work more safely. And while some would argue that it isn't a contributing factor in safety, I have run a locomotive, and I know how small those lights get about 4 or 5 o'clock in the morning after you have been on duty 5 or 6 hours, let alone on duty 10 or 12 hours, when

you are trying to get a signal from these men. And the basis for our request is primarily in the interest of safety. It was initiated in 1907 as an element of safety. And we believe that after 60 years, with all of the other changes, and the speed, and everything else, that these men are required to operate these trains under, that 16 hours is just too long. We believe 12 is enough.

Mr. WATSON. Mr. Gilbert, as I stated earlier, I have nothing but admiration for the engineer, and I had it even in my boyhood. I aspired to be an engineer, but I failed in this, and I ended up in Congress. So I am certainly sympathetic with you in your position.

But at the same time, since you have been an engineer for some 40 years, has the operation of a train become less strenuous or arduous today, or is it still comparable with what it was 40 years ago?

Mr. GILBERT. There are many factors in the operation today that make it more strenuous. There is the fact that you have a longer train, you have more tonnage, you have more units comprising the locomotive today. And there is the fact that many of them, too many of them are required to work alone—I am talking about the engineer. And another factor that is overlooked to some extent is that some years ago when we had these trains some of the railroads had three or four tracks that they operated on. And now they have taken up the spare tracks, they have initiated the CTC, and you have to be more alert, you have to meet these trains on the single track or the passing track. And all of these elements of railroading today are much more intensified than they were in earlier years by virtue of all these additional factors.

Mr. WATSON. In other words, there is greater mental strain today than probably there was 30 or 40 years ago when you had a greater physical strain? I am not playing with semantics, but I should like to think that the transportation industry, especially as it relates to rail, has certainly through the period of years been mechanized to the extent that it has relieved you of some of the physical strain. Is that true, or is it not?

Mr. GILBERT. That is true insofar as it relates to the actual energy required to fire a locomotive as compared to what it was under the coal burners. And I do think that is true in relation to the actual physical strain, the muscular strain that would be involved in the case of the firemen helpers today.

Mr. WATSON. Thank you very much.

Mr. FRIEDEL. Mr. Holloway, you may proceed with your statement.

STATEMENT OF MILES H. HOLLOWAY, LOCOMOTIVE ENGINEER; ACCOMPANIED BY DONALD W. BENNETT, ATTORNEY

Mr. HOLLOWAY. My name is Miles H. Holloway and I reside at 312 West Main Street, Beach City, Ohio. I am appearing before this committee in support of H.R. 8476 and related bills to amend the Hours of Service Act.

I am a locomotive engineer on the Pittsburgh Division of the Norfolk & Western Railway. I have had over 50 years continuous unbroken service with N. & W. and predecessor railroad companies. I would like to discuss with the committee the conditions of excessive hours on duty of the regular local freight assignment that I have worked on for many years.

The regular assignment that I hold is engineer on a local freight run between Brewster and Zanesville, Ohio. This assignment works 6 days a week, Monday through Saturday. It performs industrial switching between Brewster and Zanesville one day and returns the next day. The starting time at Brewster is 8:45 a.m. It is usual for this assignment to consume 16 hours in operating to Zanesville, arriving there about midnight. The next morning the crew goes on duty at 9:10 a.m. and the train leaves about 9:40 a.m. It is usual for this run to consume 16 hours in the return trip to Brewster. Thus, this assignment normally works about 16 hours 6 days each week.

This assignment is continually faced each day with more work than can possibly be accomplished within 16 hours. The train is a long heavy freight train that performs much station switching; that is, switching and spotting cars for loading and unloading at the various industries in the territory. The territory is train order territory without any block signals. This means that the crew must receive, understand, and comply with written orders for the movement of the train.

Mr. FRIEDEL. You say "This assignment works 6 days a week, Monday through Saturday. It performs industrial switching between Brewster and Zanesville, a distance of about 73 miles. The assignment operates from Brewster to Zanesville one day and returns the next day."

Do they get lodging and so forth?

Mr. HOLLOWAY. Yes. They provide $1.50 meal allowance if they are held over 4 hours from home. And they provide hotel facilities. We get a total of $1.50 for meals for two 16-hour days. That is the way it works out at the present time.

I have worked on various railroads, including the Baltimore & Ohio Railroad Co.; Pennsylvania Railroad Co.; the Wheeling & Lake Erie Railroad Co.; New York, Chicago & St. Louis; and the Norfolk & Western since December 1911. It seems to me that I have never known of so many crews being worked long excessive hours, often in excess of 16 hours, as occur at the present time. Wholesale violations of the spirit and letter of the hours of service law are being made daily on almost all of the local switching runs on the entire Pittsburgh Division of the N. & W. There is confusion as to what the law means and how it is to be applied. It has become the butt of all manner of jokes and comment. The carrier officials involved place their own interpretation and application on the law as to how it is to be applied concerning deadheading, rest, and actual service. It has been necessary in recent months to file complaints with the ICC's Bureau of Railroad Safety and Service. Even with investigations by Safety and Service agents, little or no improvement has been observed regarding the application of the law.

Mr. WATSON. May I interrupt at that point. You say that numerous complaints have been filed with the ICC's Bureau of Railroad Safety and Service, so perhaps I didn't understand the Chairman's position when he testified, because I asked him earlier whether or not complaints of this nature had been filed with him, and as I recall, he stated that none had been filed with the Commission.

Mr. HOLLOWAY. Mr. Congressman, we filed complaints with the international president of our organization regarding these 16-hour violations.

Mr. WATSON. But you do not know whether the organization has filed them with the ICC?

Mr. HOLLOWAY. Yes; they are related—they are referred then to our vice president, national legislative representative, and he complains to the Bureau of Service. And then he sends an inspector to investigate. That is cases where the 16 hours has been exceeded with a crew on duty.

Mr. WATSON. Thank you.

I didn't mean to interrupt you, but as I recall the ICC said none had been filed. And I wanted to explore that a little bit.

Thank you.

Mr. FRIEDEL. You may proceed.

Mr. HOLLOWAY. The railroad officials instruct the operating employees not to show over 15 hours and 59 minutes as total time on duty on their time reports regardless of how long the trip actually takes. It is the daily occurrence to get either written or verbal instructions from the train dispatcher when a crew is nearing 16 hours on duty to be sure to "cut out" at 15 hours and 59 minutes on duty. This means that we should release ourselves from duty at this moment or at least show this on our time reports. This has the effect of denying the crews 10 hours rest after working 16 consecutive hours. Because we are required to show not more than 15 hours and 59 minutes on our time reports, the crew can again be working after only 8 hours rest. Compensation is often held up if the time reports show 16 hours continuous time on duty, or the time reports are changed by the company to prevent penalties for violation of the law.

Threats of discipline and coercion are the order of the day and the principal topic of comment and conversation among engineer and train service employees. For example, recently, on March 10, 1966, the assignment on which I am employed worked 16 hours and 10 minutes on the road; the total time for the assignment including time consumed deadheading was 17 hours and 5 minutes. We were out from 9:10 a.m. to 1:20 a.m. the next day. We were released on the road at 1:20 a.m. and deadheaded to the final terminal and arrived there at 2:15 a.m. When the conductor of the crew received instructions from the train dispatcher to release the crew from duty, there was not sufficient time to inform all the crewmembers before the 16 hours expired. The conductor was 60 car lengths from the engineer. The flagman actually worked 16 hours and 20 minutes because he had to walk 60 car lengths after the other crewmembers were released.

Our pay for this trip was held up without notification. In addition, a formal hearing was held at Brewster, Ohio, on June 6, 1966, by the carrier. I was notified that the purpose of the hearing was "to develop facts and my responsibility, if any, in connection with my failure to comply with dispatcher's instructions which resulted in your exceeding 16 hours on duty as reported on your time slip of May 10, 1966." The hearing lasted about 9 hours. At 6:30 p.m. the hearing was indefinitely recessed and we were told we would be notified when it would be called again. The entire crew attended the hearing with officers from their organizations to represent them. So much confusion and misunderstanding developed at this hearing regarding the application of the 16-hour law that nothing was determined in the way of responsibility for the alleged violation of the law. I have recently been advised that the hearing will reconvene on July 29, 1966.

Thus, our crews are required to work long hours each day. The crews are required to work as near to 16 hours as possible. The carrier requests us to work 15 hours and 59 minutes on duty, but subjects us to disciplinary action if we actually do work 16 hours. Because of the nature of the service that has to be done, it is not always possible to end the work at exactly 15 hours and 59 minutes. For example, our operating rules require that when a crew is relieved we must turn over to the next crew the orders and instructions that apply to our train. Because of the carrier's instructions, this rule must either be disregarded or this work must actually be done after 16 hours on duty.

When a crew is released on the road, because of working 16 consecutive hours, we are returned to the terminal. We are under pay during this time, but are not actually operating the locomotive. Such a movement is called "deadheading." Frequently, after working continuously for 15 hours and 59 minutes and then deadheading to a terminal, a crew will be called to work 8 hours after their arrival at the terminal. On occasion, crews have been called for an assignment 8 hours after being released on the road even though much of this 8-hour period is consumed by the deadheading trip back to the terminal. When we are released, we are often transported by truck from the point on the road where the release occurs to the terminal. This trip is in unheated vehicles and we frequently are unable to obtain meals, because it is after midnight hours.

The Pittsburgh Division also includes the line of railroad from Brewster to Toledo, Ohio. This is approximately 130 miles. Through freight assignments are operated between these two points. On occasion, crews are deadheaded from Brewster to Toledo. They are deadheaded in a caboose of a freight train. This deadheading trip in itself can take an excessive number of hours, up to 16 hours, to get to Toledo. When the crew arrives at Toledo, they are immediately assigned to a freight train which will operate back to Brewster. And this also could be a trip taking an excessive number of hours, up to 16 hours. Thus, the total time working, including deadheading in a freight caboose and operating the train, could consume up to 32 consecutive hours.

Working 16 hours a day is archaic. Railroad employees should not be required to work such excessive hours. On the N. & W. some crews are required to work 16 hours each day, 7 days every week. I refer to the through freight pool which operates freight trains east and west out of Brewster. For the safety of the men, as well as the company, men should not be allowed to work 16 hours a day in this day and age. At a time when the normal workweek is 40 hours per week, 80 hours or 96 hours or more per week should not be permitted in the railroad industry.

A reduction in the maximum hours permitted under the hours of service law may result in a loss of extra earnings from long overtime hours. I, for one, would be willing to accept a loss of some overtime earnings from excessive hours on duty for my own safety. On my present assignment, even with a reduction to 12 hours, I still would be able to earn 4 hours overtime in addition to my normal wage for the basic 8-hour day.

When a person works long hours day after day, he becomes incapable of sharp mental activity. An engineer becomes mentally numbed by long hours of work and short rest periods. Working 16 hours per

per day, day after day, becomes almost too much for an individual to bear. In my own case, I sometimes find it necessary after working 16 hours on Monday, Tuesday, Wednesday, and Thursday, to lay off for the rest of the week and not work. An adequate rest period each day should become a matter of law. In addition, severe penalties should be imposed if the law is not compiled with.

That concludes my formal statement, Mr. Chairman.

Mr. FRIEDEL. Thank you.

Any questions, Mr. Pickle?

Mr. PICKLE. I have no questions, Mr. Chairman.

Mr. FRIEDEL. Mr. Devine?

Mr. DEVINE. No questions.

Mr. FRIEDEL. Mr. Watson?

Mr. WATSON. Thank you, Mr. Chairman. Just two or three questions.

I notice, Mr. Holloway, on the last page of your statement you say that you would be willing to accept a loss of some overtime earnings for excessive hours. And I am sure you would. That is your position, isn't it?

Mr. HOLLOWAY. That is right, Mr. Congressman.

Mr. WATSON. Since you restrict it to some overtime earnings, I assume you would still expect to draw some overtime?

Mr. HOLLOWAY. Well, that is a matter of assignment.

Mr. WATSON. You are, I am sure, very high in seniority. You could pretty well get what you want?

Mr. HOLLOWAY. Yes. I am No. 1 on the seniority list, Mr. Congressman.

Mr. WATSON. In other words, whatever you want you could get, isn't that it?

Mr. HOLLOWAY. That is right.

Mr. WATSON. And I am sure that many of these assignments that you have had for many years are of your own volition?

Mr. HOLLOWAY. That is right.

Mr. WATSON. What concerns me is that if we reduce these hours of service, you know the railroad is going to try to figure out ways to save money, and it costs a little bit more for overtime than it does for regular time. What is going to be your position if the railroad comes up here and says, "We have a 16-hour shift, and we will just divide it into two 8-hour shifts and pay no overtime"? Would you still be happy with the prospect of getting no overtime?

Mr. HOLLOWAY. I wouldn't have any choice, Mr. Congressman. That would be strictly a management prerogative in determining the kind of runs they assign.

Mr. WATSON. I see. But in this time of very high costs of living do you still believe that you could forgo the salary you are getting now?

Mr. HOLLOWAY. Yes.

Mr. WATSON. Do you believe that the younger members in the railroad service might be able to feed their children, and so fourth, and get by without any overtime?

Mr. HOLLOWAY. Well, there are some railroad employees, Mr. Congressman, that work 8 hours a day 5 days a week that I know are moonlighting in order to raise their families. But my family is raised, and I don't have the problem to contend with, sir.

Mr. WATSON. But it could be a problem for some young people, and it might force them into additional twilighting or moonlighting, and increase the fatigue, and defeat your very purpose in trying to improve the safety?

Mr. HOLLOWAY. That is right. That is actually happening. What I am complaining about is the excessive hours. Sixteen hours is just too long for a man to work.

Mr. WATSON. Thank you very much.

Mr. FRIEDEL. Thank you, Mr. Holloway.

Now, Mr. R. W. Guy, do you wish to be heard in the future, or do you want to have your prepared statement inserted in the record?

Mr. BENNETT. There are two gentlemen, Mr. R. W. Guy, and Mr. M. H. Nelsen. With your permission, we would like to have them heard at the next hearing day.

Mr. FRIEDEL. How about W. H. McGuire, local chairman, Division 92, Brotherhood of Locomotive Engineers; does he wish to have his statement included in the record, or does he wish to come back later?

Mr. MCGUIRE. With the chairman's permission, I would like to come back at a later hearing.

Mr. FRIEDEL. Thank you.

The subcommittee is adjourned, subject to the call of the Chair.

(Whereupon, at 12:05 p.m., the subcommittee adjourned, subject to the call of the Chair.)

AMEND HOURS OF SERVICE ACT OF 1907

MONDAY, AUGUST 1, 1966

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. J. Oliva Huot presiding.

Mr. HUOT. The meeting will come to order.

We will resume the hearings this morning on H.R. 5196, a bill to amend the hours of certain railroad employees, and to continue the hearing we are going to first hear a member of the full committee, Dr. Carter, who has a statement he would like to read.

STATEMENT OF HON. TIM LEE CARTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. CARTER. Mr. Chairman, I appreciate the courtesy extended to me in being permitted to testify before your subcommittee on H.R. 8476 and the many similar bills introduced in the House of Representatives, including my own bill, H.R. 10119.

The primary purpose of this bill is to reduce the maximum number of continuous hours of duty for employees actually engaged in the movement of trains from the present outdated 16 hours to the more reasonable and up-to-date 12 hours. This subcommittee has been investigating and holding hearings concerning safety legislation for other modes of transportation. I am sure the members of this committee as well as the Congress are also vitally interested in safety of railroad operations.

Working an employee for 16 consecutive hours or more in this day and age seems unreasonable. Reducing the 16 hours on duty to 12 is still 4 hours beyond what industry considers the normal workday.

I support this legislation for many reasons. In order to be brief, I shall outline a few.

First, I think the safety record of the railroad industry could be improved. Facts and figures presented by the Interstate Commerce Commission bear out this statement.

Second, the health and welfare of the railroad employees should be uppermost in the minds of Congress which has the legitimate and compelling interest in the safety of railroad operations.

Third, fatigue. It is common knowledge that men's reflexes are not nearly as good after being on duty 8 hours as they are working fewer hours. Fatigue includes both physical and emotional weariness both of which are crippling to the body and to the mind. Men must be alert, energetic and contented to be efficient. Otherwise they are of little value.

The hours of service, if too great, might well impair the efficiency of the men. The men have family ties. They are entitled to them and to rest at their homes. The Hours of Service Act applies to employees actually engaged in the dangerous occupation of operating trains. It is highly important that men in such an occupation should be in peak physical and mental condition. After long periods of constant attention, fatigue manifests itself, and with fatigue comes an inability to concentrate as is necessary in the operation of our trains. Mental uncertainty which results from fatigue can lead to dangerous wrecks.

Operating employees are drilled to regard the sacredness of a train order, the strict observance of signals and rules and the great need of caution. It is difficult to understand why men in such important posts are subjected to such inhumane hours. A need for legislation to shorten these hours has never been greater than it is at present.

It seems probable that the alarming accident rate of the railroads could be improved if long hours were shortened. Shorter hours and proper rest, in my opinion, will result in fewer accidents and greater safety.

In conclusion, Mr. Chairman, I join with my many colleagues and request that you and your committee give prompt and favorable consideration to this overdue and progressive legislation.

Mr. HUOT. Thank you very much, Dr. Carter.

Are there any questions by the committee?

Mr. WATSON. I might say I appreciate the gentleman's statement. I am sorry I missed part of it. Certainly he has always made a fine contribution to this committee, but the way I feel right now I would rather talk with you as a doctor rather than as a legislator.

Mr. HUOT. You may have a private conversation after the hearing.

Thank you very much, Dr. Carter.

We have another Member of Congress who wishes to express his views at this time, the Honorable Carlton Sickles. You may proceed, Mr. Sickles.

STATEMENT OF HON. CARLTON R. SICKLES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. SICKLES. Mr. Chairman, I want to take this opportunity to present my views to the subcommittee on H.R. 8476, further limiting the maximum number of consecutive hours which railroad employees can work.

I strongly endorse H.R. 8476 because I believe that safety on our Nation's railroads would be considerably enhanced if the maximum work-hour limitation were reduced.

There has been for many years now a pressing need for such a revision. The present limit of 16 hours does not allow for adequate rest, particularly in view of the complexity of the machinery which railroad employees must operate and of the high speeds which present-day trains travel. A reduction of 4 hours in the limitation—to a 12-hour workday—for most employees is a moderate change, especially when we consider that 8 hours is the "normally" accepted workday for most people.

The present hours and safety law is nearly 60 years old. Since its passage in 1907 nearly every form of industry has reduced the number

of hours which it requires its employees to work in one stretch. Often these reductions have been made in the interest of safety. It is now time for the railroads to follow this precedent.

The need for a reduction in hours is supported by the fact that in recent years railroad accidents have been on the rise, as reported by the Interstate Commerce Commission. There are no doubt many reasons for this rise, but one certain way to check it, and perhaps even reduce it, is to make sure that the alertness of the employees is at a peak during the hours they are on duty. This can be done by the enactment of H.R. 8476 or similar legislation, and therefore I strongly urge the subcommittee to report favorably on this measure in the near future.

Mr. HUOT. Thank you for your presentation, Mr. Sickles.

If there are no questions we shall hear next from our colleague from California, the Honorable George Miller.

STATEMENT OF HON. GEORGE P. MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MILLER. Mr. Chairman, I deeply appreciate the opportunity of testifying on behalf of my bill, H.R. 12902, which is a companion bill to H.R. 8476. I have introduced this bill because I firmly believe in the need for legislation now to protect employees of our railroads, the passengers, and the freight users by limiting the hours of service of employees on this important means of transportation.

The safety record of the railroads is quite excellent but we never can be too cautious in providing means for improving this safety record. The human factor is all important in good railroading. With ever-growing sophistication of equipment and increasing speeds of the trains, we must make certain that employees are not overused in their duties. The space program and the biological studies connected with it have clearly demonstrated the problems connected with human fatigue. That is why I have been so strong for this legislation. I believe a railroad employee who serves over his 8 hours in the performance of the very important duties which he has will bring diminishing returns. These diminishing returns of work performance could well lead to hazards which could imperil the lives of other employees and passengers and the safety of goods being transported.

Before the year is out, we are going to see the beginning of high speed passenger trains. Before this century is over, such trains will be an everyday occurrence throughout our country. So to keep pace with technology, I believe it is imperative for Congress to pass protective legislation as outlined in these bills.

Mr. HUOT. Thank you for your concise statement Mr. Miller. We shall continue next to hear the Honorable Clarence Long, our colleague from Maryland. You may proceed, Mr. Long.

STATEMENT OF HON. CLARENCE D. LONG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. LONG. Mr. Chairman and members of the committee, I am happy to appear before you today in support of my bill, H.R. 9155. It merits the most favorable consideration of this committee.

The need for this legislation is pressing. There has been no legislation dealing with the hours of service of railroad employees since the Adamson Act of 1916, which recognized the 8-hour day as "the measurer of the standard of a day's work for the purpose of recommending the compensation for service" of railroad employees. The Adamson Act did not, however, reduce the number of hours which a railroad operating employee may be required to work continuously without rest. These hours are the same in 1966 as they were in 1907. The hours-of-service law, therefore, is obsolete and in need of revision.

Information in my files indicates that railroad engineers on long interdivisional runs sometimes use "goof balls" to stay awake. It would be a mistake to neglect safety legislation for the railroad industry. A spokesman for the Interstate Commerce Commission has said that he had no figures to prove that the present 16-hour working period caused train accidents. The fact is that he has no figures to prove that it does not. How can a man operate so complex and powerful a mechanism as a train engine with optimum safety after he has been on the job 14 or 15 hours?

Mr. Chairman, we should not be satisfied with a situation in which overlong working hours may or may not be the cause of some accidents. We should be satisfied only when we have passed a law that will eliminate the possibility or normal, human fatigue acting as a cause of property damage, injury, or even death on the Nation's railroads.

H.R. 9155 has the overwhelming support of railroad employees in Maryland, and I know that strong support for this bill is not confined to my State along. The hours-of-service law was originally passed as a safety measure to prevent accidents and injuries to the general public and to the railroad employees as a result of fatigue created by long hours. Therefore, I urge you to give favorable consideration to my bill to shorten the continuous working hours of railroad operating employees.

Mr. HUOT. Thank you Mr. Long. We appreciate your views on this legislation.

Mr. LONG. Thank you for the opportunity Mr. Chairman.

Mr. HUOT. Our next witness will be our colleague from Illinois, the Honorable Melvin Price.

STATEMENT OF HON. MELVIN PRICE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. PRICE. Mr. Chairman, members of the distinguished Subcommittee on Transportation and Aeronautics, I welcome this opportunity to express my views on the pending legislation, including my bill H.R. 15675, amending the 1907 Railroad Hours of Service Act, to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon.

As a longtime sponsor of railroad safety legislation, having introduced railroad communications safety legislation during my 1st term in the 79th Congress, I am heartened by the number of sponsors of this present legislation limiting the number of continuous service hours railroad employees may work. It is my hope that these widespread expressions of interest will result in prompt action.

With the present concern about travel safety, expecially highway safety, it is proper that we focus our attention also on matters concerning railway safety. The proposals before your subcommittee will complement the efforts being made in other areas in which your full committee has been playing such an important role, such as automobile safety. To make travel and work safer on all modes of transportation are obligations we cannot overlook. There is clear responsibility for Federal action in these situations. This is evidenced by previous congressional action in these matters, pursuant to Congress constitutional mandate to regulate interstate commerce. We, of course, cannot do it alone. But with the cooperation of private industry, labor, and State and local officials, we can achieve desired safety levels throughout the transportation field.

One way of achieving greater railroad safety is with the pending legislation. By reducing the maximum number of continous service hours from 16 to 12 for engineers with crews and limiting the maximum to 9 hours continuous service for engineers without crews, we are attempting to further insure the health, welfare, and safety of not only the employee but the passenger as well. By safeguarding against possible physical and mental fatigue from overly long working hours, we are protecting the public as well as the railroader.

Not only would engineers be covered but railroad telegraphers and dispatchers would also be protected by service hours limitations. For those where two or more shifts are employed, they may not work more than 9 hours whether consecutively or in aggregate within any 24-hour period; where one shift is employed, they would not be required to work more than 11 hours in one 24-hour period.

The bill, therefore, would cover all railroad employees who are actually engaged in or connected with the movement of any train. Also, employees handling intrastate traffic would be covered when working on the tracks of interstate carriers.

The proposed reduction in hours is not new. In 1962 the Presidential Railroad Commission recommended such action. We, therefore, have a clear expression and recognition for the desirability and, indeed, necessity for limiting continuous service hours.

H.R. 15675 also insures that employees will have adequate rest. No employee would be required or permitted to continue on duty or go on duty when he has not had at least 8 consecutive hours off duty during the preceding 24-hour period.

While there have been suggestions of some differences of opinion among various railroad unions about this legislation, I am led to believe that, on the basis of the information I have, the overwhelming majority of railroad employees favors these reduced hours of continuous service proposals.

I am confident, therefore, that your subcommittee, Mr. Chairman, in its wisdom, will approve this legislation so that the House will eventually have an opportunity to work its will, which, I am certain, will reflect the board sentiment in favor of the bill.

Mr. HUOT. Thank you, Mr. Price. If there are no questions the next person to appear to testify is Mr. McGuire. Is he here?

Mr. McGuire is the local chairman of Division 92 of the Brotherhood of Locomotive Engineers from Ohio. Mr. McGuire I believe was here before and we were unable to get to him at the last hearing.

We will be delighted to hear your statement, Mr. McGuire.

STATEMENT OF W. S. McGUIRE, LOCAL CHAIRMAN, DIVISION 92, OHIO, BROTHERHOOD OF LOCOMOTIVE ENGINEERS

Mr. McGUIRE. Honorable Chairman, members of this subcommittee, I deem it an honor and pleasure to have the privilege of appearing before you as a representative of my local in support of the proposed legislation designed to reduce the hours of Service Act from 16 hours to 12.

My name is W. S. McGuire, and as local chairman of Division 92 of the Brotherhood of Locomotive Engineers, I represent both engineer and fireman-helper members in the Dennison, Ohio, district, a point on the Buckeye Division of the Pennsylvania Railroad halfway between Columbus, Ohio and Pittsburgh, Pa., said terminals being approximately 200 miles apart. Aside from various types of extra service, the primary assignments accruing to engine and train crews in this district cover the handling of loads and empties for one of the largest coal operations of its kind in the United States.

I have been employed in engine service, including my Army carrier, for over 24 years. During this time I have fired and operated various types of steam and diesel locomotives in both passenger and freight service. Prior to being employed in the railroad industry, I was associated with a trucking firm, in different capacities, and drove heavy interstate highway rigs in eight different States. Thus, I feel qualified to speak on the subject at hand.

The Hours of Service Act, as now constituted, after nearly 60 years, still permits a carrier to work an operating employee for periods upward to 16 hours a day. Moreover, management, acting within the scope of the present law, may require an employee, under the so-called respite proviso, to remain on duty—pay purposes—for periods in excess of the 16-hour limitation.

For instance, a crew could report at point A, the home terminal, at 6 a.m. for a local switching turnaround job. The work schedule may be heavy and at point B, an intermediate yard where food and lodging is available, the crew could be on duty, say 10 hours. It could develop that certain cars may not be ready to move. In view of this, the carrier could properly elect to respite the crew for 3 hours, thus breaking the continuity of the 16-hour law. Under such conditions, the crew, after securing their train, would normally set out to find a restaurant and/or a place to rest; that is, if one would dare think that an individual, in the allotted time, could accomplish such a feat.

However, the crew would be paid for the time in question and after the expiration of the 3 hours (respite) they (crew) could again resume duty; that is, with respect to the 16-hour law. A road crew could be at the point of outlawing (16 hours on duty) and the train may be put in a siding. Management, remaining within the law, could inform the crew to relieve themselves; that is, cease the performance of any duties beyond the 16-hour limitation. Such a crew could find themselves miles from the nearest terminal and possibly have to wait for relief or transportation to a point where food and lodging would be available.

I might interject that these hypothetical examples are based on fact cases. Now it is not our purpose of course to come in here and

put a lot of testimony in here about the violation of the law. That is not at all the point. What we are trying to do is to get across why we feel that the law is inadequate.

For instance, on June 18, 1966, I relieved an engineer on a freight train, one who had reached the 16-hour limitation, on the main track some 120 miles from his home terminal. The train in question was composed of 154 cars (over a mile and one-half) and hauled by 5 diesel-electric units capable of developing 9,000 horsepower. The outlawed crew was instructed to deadhead on the same train, and after reaching their home terminal had consumed nearly 21 hours in a 24-hour period while traveling a distance of approximately 200 miles. When the outlawed engineer marked off duty, with respect to the 16-hour law, a few minutes prior to the expiration of the 16 hours, or at about 7:58 p.m., it made it legally possible for the carrier to call the engineer for work at or about 5:58 a.m. the following morning, or some 4 hours and 30 minutes after said engineer had put in nearly 21 hours.

It is not to be construed by the aforementioned case that the engineer in question resumed duty within 8 hours after marking off, for such was not the case. However, the purpose of this case is to point out that the engineer could have been properly returned to duty after the expiration of 8 hours.

In the instant case, I marked off of actual duty at 1:30 a.m., on June 19, 1966, and subsequently deadheaded back (100 miles) to my home terminal where I marked off duty for pay purposes at 5:45 a.m. on the same date. However, I could have been legally subject to call for work at 9:35 a.m. even though I ceased actual duty at 1:35 a.m., 100 miles from my home terminal.

These examples may help to explain why I believe that the present law is not only full of loopholes but also permits excessive hours beyond the 16-hour limitation. For one to attempt to cover the details of the present 16-hour law as it adversely affects the operating crews would require a considerable amount of oral presentation together with voluminous written data. Nevertheless, one may, in clear conscience, ask the question: Does the 16-hour law, in light of current working standards, fit into the general scheme of labor policies in vogue within the United States today?

The history of labor law is replete with the trend toward reduced hours; that is, the 8-hour day. Public Law 252 (Adamson) passed in 1916, covering employees of common rail carriers, was one of the earlier indications that the Nation's lawmakers were favorably inclined to the reduction of hours in the railroad industry.

The argument that to amend the hours of service to 12 hours would be a hardship on the affected carriers is, in my opinion, completely unjustified as well as without foundation. Likewise, there are, no doubt, some among the rank and file who would advance the theory that to reduce the hours of service to 12 hours would be tantamount to a wage cut for such individuals; that is, the amount of potential overtime would be reduced accordingly or that a crewmember could not double over from one assignment to another.

I might add here that if an operating crewmember has to live out on a railroad to earn a living, then there is something radically wrong with our setup.

Generally speaking, road crews operate on a basis of 8 hours or 100 miles or less equals a day, while most yard assignments are on a

daily 8-hour-or-less basis with the standard overtime provisions applicable. Basically, in passenger service, 100 miles or less or 5 hours or less constitute a day. However, when one realizes that the labor force on the American railroads has fallen from a reported 1,439,000 in 1945 to 690,585 in 1963, or a decline of 748,415 in said period, it is indicative that excessive hours have contributed their share to the loss of job opportunities in the operating field, the pleas of the overtime and/or long hour proponents notwithstanding.

During the transition of the motive power from steam to diesel, the responsibilities and productivity of the train and engine crews rose to unprecedented heights.

For instance, in 1940 (1957–59=100) the output per man-hour (railroad transportation revenue traffic) rose from 50.3 in 1940 to 119.7 in 1961, or an increase of 69.4 covering the aforementioned transition period. This reflects upon the fact that a steam locomotive, which had a two-man crew, has been replaced with the diesel-electric locomotive, manned by one engineer and fireman-helper and in many cases, due to the compulsory arbitration award 282, by one engineer. The diesel locomotive may be comprised of 1 to 10 units that are capable of developing tremendous power.

For example, consider a unit, approximately 60 feet in length with a rating of 1,750 horsepower. By coupling 10 of these units together, one locomotive would be formed that would be nearly 600 feet long (exceeding in length the height of the Washington Monument) and one that would have an overall rating of 17,500 horsepower.

I might add here, gentlemen, that if you have never had the opportunity to have seen 10 or 12 of these locomotives coupled together, it is really hard to picture just what it looks like. It is quite a sight. If you are ever around a railroad and you do get this chance, I think it would pay you to stop and look it over. It is quite something.

This statement is in no way intended to imply that 10 units, coupled in multiple, is standard operating procedure. However, such a locomotive has been operated by one crew. I would offer the opinion that it is not uncommon to see five or more units, composing a single locomotive, moving one train. Such mechanical giants, a marvel of railroad technology, can easily move trains of 3,200 or more cars of upward and in excess of 10,000 tons. Significantly, it is my understanding that new new units are now being manufactured which have a rating of 3,600 horsepower each.

I also understand too that there have been experiments being made with one unit with 6,000 horsepower.

To further emphasize the impact of this revolution and the attending ramifications it has had on the employees, both from a standpoint of lost jobs and added responsibility for those remaining in the operating field, the following information may be of interest:

On the class 1 railroads in 1940 there were 40,041 steam locomotives and 797 diesel units listed in service. In 1960 it was reported that there were 374 steam locomotives remaining while 30,240 diesel units were listed as owned or leased by said carriers. This adds up to a reduction of some 10,224 such units in the motive power fleet.

Further, during the period of 1940–60, the tons (millions) carried 1 mile by the American railroads reportedly rose from 375,369 (1940) to 575,360 (1960), an increase of nearly 200,000.

In the same period, freight revenues increased from a reported $3,584 million in 1940 to $8,152 million in 1960, an increase of $4,568 million.

The net income for said carriers, including lessors, reportedly rose from $243 million in 1940 to $473 million in 1960, or an increase of $230 million for said period.

These few statistics may give a brief insight into the tremendous gains that the Nation's railroads have made during the periods in question. This data should likewise dispel any implications that the carriers would end up in the poorhouse, that their operations would be unduly affected by the reduction of service to 12 hours.

Incidentally, these figures were taken from reliable sources and are intended mainly to cover the changeover periods from steam to diesel.

Our local supports the 12-hour amendment and I have yet to hear one voice in opposition from among men that I have talked to, men whose seniority extends over some 500 miles of railroad.

Further, the delegates (those permitted a seat) to the Grand International Division of the Brotherhood of Locomotive Engineers, in the 1956 and 1962 conventions assembled, adopted a resolution favoring the 12-hour amendment. Having been a delegate at the 1962 convention, I can attest to the fact that there was no opposition to the 12-hour proposal from among the delegates present.

In addition, Division 399 of the B. of L.E., Seattle, Wash., recently polled some 3,000 local officers of the union on the issue of reducing the hours of service. The majority of those responding, as of June 2, 1966, voted in favor of a reduction.

I might add that our local considers this poll to be more in line with the thinking of the men than any other barometer that has been focused on the question to date.

However, it is our understanding that Grand Chief Engineer Heath has voiced opposition to the reduction of the hours of service on the grounds that such a change would disrupt the basic 8-hour day or that an engineer could not double over from one tour of duty to another.

We can see no justification for such a premise, one that suggests to us that the grand chief engineer has put a dollar sign on this needed humanitarian legislation.

Further, we have been informed that there was opposition to the 12-hour/9-hour (without a fireman) proposal among the delegates (those permitted a seat) at the 1966 B. of L.E. Convention. However, we are of the opinion that the action of the 1962 convention endorsing the 12-hour limitation was not rescinded.

It is our understanding that the truckdriver who is subject to the rules and regulations of the ICC is restricted to 10 consecutive hours of driving. Speaking with personal knowledge, there is no question that the handling of a big highway rig is a very tiring and responsible job. However, the duties of the engine crews, by comparison, are astronomical.

For instance, the movement of 100,000 tons of freight between New York and San Francisco by highway is approximately 43,416 days. To move this same tonnage between said points by rail would require some 3,220 days. One five-man crew, during the course of a tour of duty, can easily move 200 or more loaded highway trailers (piggyback) 200 or more miles. To move these same trailers a like distance in the same amount of time would require 200 men or more. This adds up

to a better understanding of the heavy overlay of responsibilities for the crew as well as to serve as an example of how the productivity of said employees has reached unprecedented proportions.

Therefore, in light of what has been said, we earnestly petition this august committee to recommend to the Congress that the hours of service be reduced from the present 16 hours to 12 hours. Sixteen hours or more duty in a 24-hour period is not only unreasonable in this day and age but such hours are also incompatible with the safety, health, and welfare of the locomotive engine crews.

Mr. HUOT. Thank you very much, Mr. McGuire, for your fine statement. I am sure that there have been other bills introduced similar to this bill and we appreciate your comment and support of this legislation.

I do not know if there are any questions, but I assume that you are prepared to answer any questions.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. McGuire, I am sorry that I was not here during the first series of hearings held on this legislation. I was, unfortunately, in the hospital at the time and this is the first testimony that I have heard on the subject.

In reading this bill, it would appear to me that it would stand to reason that the working of an engineer or a fireman for a continuous period of some 16 hours might have the effect of bringing about a compromise with safety.

Is the promotion of safety the primary purpose of this legislation?

Mr. MCGUIRE. Yes, sir; as far as our position is concerned, yes, sir. That is the motivating force behind it. I do not believe that there should be, as I mentioned a moment ago, a dollar sign injected into this humanitarian legislation. I believe that any discussions or implementation pertaining to a 6-hour day, for instance, should find itself related to this particular issue, because we believe, for instance on the 6-hour question, that it is a contractual matter rather than a matter for the Congress, even though I appreciate the fact that the Congress originally passed the Adamson law, and so forth and so on, and gets into the hours of service relating to other departments in other facets of the industry, yes, sir.

Mr. WILLIAMS. Now let me ask you, is the promotion of safety the sole purpose of this legislation?

Mr. MCGUIRE. As far as we are concerned, yes, sir. After all, it is really something.

If I might add, Congressman, I would like to read a remark to you that was made by one of our engineers. It was not one of our engineers but it was an engineer associated with the union with relation to the question that you have raised.

As a matter of fact, I have two of them and with your permission I would like to read it.

Mr. WILLIAMS. That is all right, sir, except that I wanted to try to resolve in my own mind the actual purpose of the legislation, and you have stated that the primary, indeed the sole purpose of this legislation is the promotion of safety.

Now as I read the bill, I must tell you that I have some question in my own mind as to whether this is the proper subject for legislation, but rather a matter which perhaps should be better left to negotiations with respect to the contracts between the brotherhoods and the management.

I remember 2 or 3 years ago we had before the Congress some legislation dealing with a dispute in which the management and the brotherhoods were unable to agree on the matter of work rules. Now is this not in effect the same type of problem, the promulgation of work rules? Why does it require legislative action rather than being the subject of negotiation?

Mr. McGUIRE. Congressman, I think if you were to delve back in your mind, you would recall, pertaining to the railroad operations, first of all we had the Adamson law and then the original 16-hour law, and I think that if you were familiar with the case history surrounding that, for instance, I had an uncle who was a locomotive engineer—this has been some years ago before my time—had 20 hours on duty, and he stopped the engine on the main line and he was totally exhausted, and he just went to sleep on the main line.

Now the point I am getting at, these people are engaged in interstate commerce, of course, and are subject to the interstate commerce rules, and, of course, I do believe that this is a prerogative of the Congress.

I might add also, sir, that when we are speaking of legislation to regulate humanitarian aspects, dealing with human beings, that certainly such an area is not alien to, I would say, even the prerogative of the Congress.

For instance, let's take the handling of livestock. There was a Federal law passed that the carriers were required to rest the stock after so many hours cooped up in one of these cars. In other words it boils down to this: That this matter of the magnitude of it and what it encompasses, certainly at least from our viewpoint, we feel should lend itself to the Congress, and we feel that the Congress should step into this and see to it that these people are protected from these long and excessive hours in the railroad industry.

In other words, in a sense, Congressman, we are governed by the rulings of the Interstate Commerce Commission. The brotherhoods in a sense are in business, and let's be honest about it, largely due to the Railway Labor Act, which is a Federal law, and this business of saying well, we will disregard this because we think that this should be of a contract nature; no, we think the magnitude of it and the seriousness of it is much, much too great to be left up to the individual unions and the carriers to negotiate a contract on this particular thing.

It would be certainly good if something like this could be done. But here we are. We are talking about a bill that is 60 years of age—a law rather—and actually there has been little or no improvement in it, in that area.

Do not get me wrong, Congressman. I think that when the 16-hour law was put on the books, it was a good thing, and certainly according to the history that I have read of it, it was certainly a boon to the affected employees at that time. We are talking now in terms of 1966. We are talking in terms of injection of the humanitarian aspects of it, the safety and so on and so forth which is something.

Now with respect to what you are saying here, I would, with your permission, like to read just this short excerpt of a remark that was made pertaining to this very thing that you have raised.

Mr. WILLIAMS. All right, sir.

Before you do that, let me ask you one question.

Is there anything in the law or otherwise that would prohibit this from becoming a subject of negotiation, of contract negotiation?

Mr. McGUIRE. In my opinion it would not; no, sir.

Mr. WILLIAMS. You mentioned the limitation imposed by the Interstate Commerce Commission on the number of hours, consecutive hours permitted to be driven by truckdrivers.

Mr. McGUIRE. Yes, sir.

Mr. WILLIAMS. Since the Interstate Commerce Commission also has jurisdiction over the railroads, is there anything in the law which would prevent the Interstate Commerce Commission from issuing similar rules or regulations with respect to operating railroad employees?

Mr. McGUIRE. May I answer that candidly, sir?

Mr. WILLIAMS. Certainly; I want you to answer candidly.

Mr. McGUIRE. I would say in my opinion that in this field and in many other fields relating to railroad matters that the ICC has not lived up to the obligations to the people that they are supposed to be looking after. I think they have been woefully short in this area and in other areas. I am not going to get into it, but I believe that they just do not measure up in a lot of respects pertaining to an issue like this.

Mr. WILLIAMS. Do I understand that your answer then is that the Interstate Commerce Commission could do it if the Interstate Commerce Commission was disposed to do it?

Mr. McGUIRE. It is my understanding with relation to the hours of service relating to the truckdriver that it is an Interstate regulation pertaining to the 10 hours in the aggregate of 24. I understand it was an administrative ruling.

I can stand corrected on that, but I know of no law such as the Adamson and the 16-hour law that was passed to cover such a thing.

Incidentally, it was a good thing when they did inject it, I believe.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. HUOT. Mr. McGuire, this 16 hours was not set up by negotiation. It was set up by law, was it not?

Mr. McGUIRE. Are you speaking of the 16-hour law?

Mr. HUOT. The present limitation of 16 hours.

Mr. McGUIRE. It is my understanding it is a Federal law; yes, sir, relating to the hours of service of employees engaged in the railroads before the Interstate Commerce Commission.

Mr. HUOT. It is a law now and you personally feel that the law should be changed rather than negotiations changing it. It would be more permanent, you think?

Mr. McGUIRE. I think it would be more permanent; yes, sir. And I think everybody would then know where they stood.

In other words, if I might add, sir, the Congress has entered into regulating hours, as I said a moment ago, in different aspects of the working people. Take your Fair Labor Standards Act, for instance, 40 hours, et cetera. I mean there are any number of them, and certainly it would appear that the Congress should not exclude consideration for this worthwhile bill.

Mr. HUOT. You think it is very proper to do it in this manner.

Mr. Watson, have you any questions?

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

Mr. McGuire, I want to thank you for your testimony.

In following up on the question of our chairman, the 16-hour limitation is, of course, in the statutory law. However, that does not prevent you from negotiating for a reduction of those hours, does it?

Mr. McGUIRE. You are asking me personally, and of course I am offering a personal opinion based on what I believe to be so.

Mr. WATSON. Yes.

Mr. McGUIRE. I personally think that we would ge no place trying to negotiate a 12-hour law with the carriers because I believe that they feel that they can accomplish much more under the current law.

In other words, I think it is going to be a case where the Congress, as was done in 1916, should step in and settle this thing and do it through legislation as they have done before.

The only thing we are asking here is the modification of an existing law. Certainly I think that the request is reasonable and it is justified.

I might add we believe that it is needed.

Mr. WATSON. I am sure that we are both strong believers in arbitration and in negotiation, are we not?

Mr. McGUIRE. I believe that everyone here present would agree in negotiation; yes, sir.

Mr. WATSON. The disturbing fact to me is that apparently there has been no effort to negotiate these matters of hours of service, and I fail to see any justification for automatically concluding that the operating railroads would not be disposed to negotiating this matter.

You know we have the problem of the airline strike now. We were all so hopeful that it was going to be settled by the participants in negotiation, but apparently it has not been, and now the public interest certainly has to be served in this matter. Again we are going to no doubt see some legislation in that particular field.

It is disturbing to me that at least these people in the airline strike have made an effort to negotiate this matter, but apparently you and others have come in here and asked for legislation on it when none of you have made the effort to negotiate. I am afraid, frankly, that it is going to weaken the bargaining processes. We are going to find this a matter of more and more legislation instead of arbitration.

Would you mind discussing that a little?

Mr. McGUIRE. Yes, sir; I will be glad to.

Let's assume that I am a representative of the carrier and you are the representative of the union.

Mr. WATSON. Yes, sir.

Mr. McGUIRE. You come to me and you say "Here, we would like to negotiate a 12-hour law."

I would look at you and say "Why do you want to negotiate this 12-hour law? Here is a Federal law that says I can work you 16 hours a day."

Now let's carry this a little bit further. What I am about to say has a direct bearing on what you asked. You talk about negotiations under the Railway Labor Act. There is much to be desired here also.

For instance, I represented a locomotive engineer that was fired on a railroad. I am not going to get into the aspects of why he was fired. He was accused of violating a rule.

Now follow me if you will. We handled the case locally. We turned it over to our general committee. We turned it over to our people above them. They formulated and processed the case to the

Railroad Adjustment Board. All the time I am talking, I would appreciate it if you would just, instead of thinking about this engineer just hanging a 16-hour tag on this, the 12-hour amendment. That case is nearly 5 years old. The case has not been gotten in to the board yet.

Where do you think we would get trying to negotiate a law, a 12-hour outlaw if the management saw fit, and believe me they can legally do this. They can keep bypassing this thing and bypassing this thing and what happens? Down here among the rank-and-file, which perhaps you might not know of, this creates dissension and it creates foments and it creates anger, much I might say inasmuch as you have mentioned it, as in the airline strike.

Now, there is certainly something wrong in the airline industry with such a thing, with these people you might say going in opposition to what our President has suggested. Now what I mentioned is this.

Mr. WATSON. Let me interrupt.

I am not passing judgment on the relative merits of the airline strike.

Mr. MCGUIRE. Yes, sir.

Mr. WATSON. I think it is unfortunate that they were unable to resolve their differences and are now coming to the Congress about it.

Mr. MCGUIRE. I think in an issue the magnitude of this, I really believe this, sir, that they should get the barn locked up before the horse gets out, so to speak, and I think that the Congress has this right, I think it has its prerogative, and I humbly say this: I believe they have the responsibility.

Now the law, as I said, we must remember that this law is already on the books. If there was a fact that we were coming out asking for a brandnew law, your questions would have a little bit more weight. But inasmuch as the law is there, and what it is, it is a modification of the law.

Listen, I would not blame the railroad people if I would come up there knocking on their door and I would say "I want to get a 12-hour law." They would look at me like I was not in my right mind. "What are you talking about? We have got a 16-hour law and it is a Federal law." "Goodbye."

That is what it boils down to. I am not saying that they would not. There may be some carriers that would receive the request favorably, but I do believe in order to settle it on a national basis, that the place for it is the Congress; yes, sir.

Mr. WATSON. That is one thing that disturbs me. Apparently there has been no effort to find out the attitude of the industry, but apparently we are prejudging that it would be unfavorable, and perhaps that is on the basis of some unfavorable results that you have gotten in early bargaining.

You mentioned something about the Railway Labor Board. I am sure that this subcommittee headed by the Congressman from Mississippi and this committee has studied some collective legislation in that field, and it certainly should help to break this deadlock, and I strongly support it. It seems tragic and unconscionable that it took so long to resolve the problems that we had over there.

Now earlier the ICC officials, and of course I do not think you put too much credence in what they have to say, but in answer to questions by this subcommittee they said they were unable to relate wrecks to hours of service.

Have you and your local made any effort to conduct a study and give this committee some facts where we can say that X wreck on A Railroad was caused by fatigue or operation in excess of normal working hours?

Mr. McGUIRE. I believe, Congressman, that all would agree that fatigue and excess hours will contribute to accident. I am one of those fellows that believes in trying to ward off something or to get the thing resolved before it gets out of hand or somebody gets hurt or gets killed.

I feel the same way in negotiating with management. I would rather go out and negotiate locally with management and settle a thing when I see it coming rather than waiting until it becomes a festering sore.

Mr. WATSON. I agree with you, that is the way it should be done.

Mr. McGUIRE. Yes, sir, but here again, Congressman, I think that these remarks made by this locomotive engineer—incidentally, this was made on the convention floor of the Locomotive Engineers—that it rather goes along with what you brought out and your colleague here mentioned a moment ago. I would like to read this because it may give you an insight into how some of these people think.

Mr. WATSON. Yes, sir; you go right ahead. I do not want to presume upon the committee, but I think we should have as much information as possible in trying to find out what is right.

Mr. McGUIRE. Yes, sir.

This is an excerpt from a remark by a delegate by the name of Robb, from Division 287 of the Brotherhood of Locomotive Engineers. This was presented at the convention here which was in session at Cleveland, Ohio:

> Brother Robb, 287: I want to speak in favor of the motion. I do not know how much good it is going to do by the applause I hear

he is referring to something else.

> I must say this. I do not want to sound like a sissy to you boys but apparently no consideration has been given to anything regarding your health. Now I know how I feel. I have watched all the men of my division. They have watched each other for 25 years coming off the locomotives fatigued, tired, eyes bloodshot. There is not a man here who does not know what I am talking about. Money is very important to me. I have a 5-year-old son and a 10-year-old daughter to raise, but my health and my life must be more important or I am not going to get these kids raised. Now in the State of Pennsylvania there is a law that you cannot work a mule more than 12 hours in one day. Now I say this to you boys, if you want to consider yourself less than the son of a jackass, you vote for those 16 hours.

Now the reason I wanted to bring this out was because this is a remark from a delegate from my railroad. I do not know the gentleman.

Mr. WATSON. Well, that is a very appealing argument, but what was the ultimate decision of the convention? Did they go along with it?

Mr. McGUIRE. The ultimate decision of the convention was, sir, that when the resolution was brought up and, of course, they had the 9-hour business that was somehow indirectly injected into it, and I want to emphasize the word "indirectly," that the delegates, that is those present, voted against it.

Mr. WATSON. They voted against it notwithstanding this particular argument?

Mr. McGUIRE. Oh, yes; there was quite a discussion here.

Mr. WATSON. You know that further aggravates our problem in trying to resolve this issue. We have one unit that is for it and another that apparently is against it.

Mr. McGUIRE. Well, there is a question too, Congressman.

As I said, I do not know whether you caught that or not, but I mentioned the record about the delegates that were allowed to vote on this. I happened to be a delegate to the Brotherhood of Locomotive Engineers, but I was not allowed to talk on this. That is one reason I am down here. Now perhaps if the other 60 percent of the delegates were permitted a voice in that, maybe the thing would have come out differently.

Mr. WATSON. In other words, your union is the one that took a position against this legislation? That is your union?

Mr. McGUIRE. Yes, sir.

Mr. WATSON. Do you not believe in the majority rule, that the majority side rules?

Mr. McGUIRE. Yes, sir; I do.

Mr. WATSON. But yet this is your individual view that you are expressing here now?

Mr. McGUIRE. No, sir; these are the views of my division.

Mr. WATSON. Of your division?

Mr. McGUIRE. Yes, sir.

Mr. WATSON. Did you try to discuss this matter at the convention, at the time it was held, when this issue was brought out?

Mr. McGUIRE. No; I was not allowed.

Mr. WATSON. You were not allowed?

Mr. McGUIRE. No, sir. You talk about the majority rule and the democratic process, I was not allowed.

Mr. WATSON. You mean to tell me the unit in its convention does not allow any delegate to say anything?

Mr. McGUIRE. Wait a minute.

Mr. WATSON. I would not think that your union would do that. I understand there may be some that would continue to direct the affairs of the union even if they go to prison or not, but I would think that a union would be the greatest democratic process in the world. You are not permitted to discuss this issue?

Mr. McGUIRE. No, sir. We tried to get a word in edgewise, so to speak, but we did not get very far.

Now you spoke of the democratic process. We hear a lot of talk these days emanating from around this district here and rightly so about freedom, the right of expression.

Mr. WATSON. Yes.

Mr. McGUIRE. Listen to this. There are about 864 delegates in the entire union, and do not get me wrong, Congressman, I am not against the union.

Mr. WATSON. I am sure you are not.

Mr. McGUIRE. I am against this kind of stuff. Just a moment, this has a bearing on this 12-hour thing. Out of that number, 864, there were 348 delegates allowed to be seated. That is around 40 percent of the entire union, and the 516 delegates of which I was one of them, I was barred.

Mr. WATSON. Upon what basis? This is disturbing to me. I thought the union was a great democratic process and I believe in

them. Why were you and a majority of the delegates denied seating and denied recognition?

Mr. McGUIRE. It is a "gimmick," and I use that word with a little underlining, it is a gimmick in the constitution. In other words, let us apply this principle to the Congress down here or to the Senate. My division that I represent, and I will represent them as long as I am able to stand on two feet and swing my hands and talk, my division would be permitted to attend this convention once every 12 years directly, three times in a working lifetime, and four times in almost 50 years. Is that democracy?

Mr. WATSON. It is your union.

Mr. McGUIRE. Wait a minute, Congressman. You mentioned a moment ago about the democratic process.

Mr. WATSON. Yes.

Mr. McGUIRE. And the majority rule.

Mr. WATSON. Yes, sir.

Mr. McGUIRE. In my opinion, and I am going to emphasize that, in my opinion the majority did not speak here. I mentioned a moment ago in my testimony here that 3,000 local officers were polled by another division from Seattle, Wash., on the hours of service, and the majority of them that answered that poll voted in favor of the reduction of the hours of service.

The point I am getting at is this. If 40 percent of the entire union can legislate for the majority, what kind of business is this?

Now, this is the reason that I take violent exceptions to this business about what you spoke of about the organization. Now simply because I am getting up here and speaking out, I do not want you to get the idea that I am against the organization. I am against this kind of business. The men fought and died to have the right to speak, the right to participate, the right to help elect officers in that union. We did not have that right, and we do not have that right. And yet we are an organization that in a sense is in business because of the Railway Labor Act. That Railway Labor Act is a Federal law. I cannot participate, and I can back up everything I am telling you.

Mr. HUOT. I think we are probably getting into the procedures of the union.

Mr. McGUIRE. Yes, thank you, Congressman; I appreciate that.

Mr. HUOT. And not the matter of the legislation.

Mr. WATSON. Mr. Chairman, I do not want to prolong this, but as you are well aware, we do have allegedly a conflict in recommendations between unions, and I have heard personally, and no doubt the chairman has, some questions raised about the validity of the positions of the unions, and I thought it might be helpful just to find out how these issues are resolved, how it was resolved in your union.

Mr. McGUIRE. I would like to see this thing put up before a referendum vote among the engineers and see what comes out.

Mr. WATSON. Perhaps that might be helpful. It is still disturbing to me that it has not been attempted through negotiation. But we will pass on to the next thing.

On the second page of your testimony at the bottom of the page you outlined one case that you have which occurred on June 18, 1966.

Mr. McGUIRE. Yes, sir.

Mr. WATSON. Where you say:

This engineer was relieved just under the 16-hour limitation some 120 miles from his home terminal.

Is it customary always in making these runs that you must end up at your home terminal, or do you stay out overnight at times?

Mr. McGUIRE. Sir, I would assume—and I can only speak for the area with which I am acquainted—they could do it we will say in this particular case, they could have done this in two ways. They could have run this train into the nearest terminal and cut the crew off, sent them to a hotel, and rested them so they could get something to eat, and then after the expiration of the rest period recalled them to the job and sent them on their way. But in order to avoid the delay in the reight and keep the trains moving of course—and they do this incidentally, by the way, every once in a while—but in this particular case they relieved the crew. I was the relieving engineer; yes, sir.

Mr. WATSON. I am not quibbling over anything, but as we say at times, we are trying to find the facts. You say that this could have been done, that this man could have been required to go back at 5:58 a.m. Was it done?

Mr. McGUIRE. No. I brought that out, sir, at the top of the next page. My purpose here, sir, was to bring out that this could have been done. Now the reason for that, Congressman, was this. I fired engines back in the days of the steam engine, and it was permissible under the law for instance that you left point A to go to point B and then back to A. Well, if you hand fired a passenger locomotive for 200 miles, it was permissible, if you thought you could stand the gaff, to go get something to eat and climb back on another locomotive and go back the other 200 miles. That is the point I am getting at. In other words, they could legally do it and they are entirely within their rights as far as the law is concerned.

Mr. WATSON. Yes.

Mr. McGuire, you have a number of years of seniority. I imagine that you could pretty well get the hours of service that you would like to have, could you not?

Mr. McGUIRE. What do you mean by that, sir?

Mr. WATSON. With your seniority you should be far enough up on the board that you could attain any assignment that you wished so far as a run is concerned.

Mr. McGUIRE. I do not look at things that way, sir. I look at it from the standpoint of what my men want. I am not out here honing my own ax, so to speak.

Mr. WATSON. You are still an operating engineer, are you not?

Mr. McGUIRE. I am local chairman of the engineers; yes, sir.

Mr. WATSON. You are no longer an actual operating engineer fulltime?

Mr. McGUIRE. No, no. I vary between firing and running. On June 18 I was running this job.

Mr. WATSON. Of course you know any increased costs in the operation of the railroads as a result of the passage of this legislation is ultimately going to be paid by the people. I think we can pretty well agree on that, can we not?

I am sorry it is difficult to understand me, I have such a head cold.

Mr. McGUIRE. No, sir; I did not catch the first part of that.

Mr. WATSON. I think you and I will agree that should this legislation pass and it results in an increase in the operating costs of the railroads, that the cost of that increase will be borne by the passengers and by the freight shippers on the railroad.

Mr. McGUIRE. That is entirely possible; yes, sir. Anything that affects the economics of the railroad system generally certainly reflects on the operating costs.

Mr. WATSON. Yes.

Mr. McGUIRE. I would assume that to be so.

Mr. WATSON. Earlier we have had some testimony by a gentleman, I believe an engineer, who stated he wants some overtime but he does not want this much overtime. Now in your opinion how much overtime would these people like to have, the engineers or firemen or any of them?

Mr. McGUIRE. That is a rather far-reaching question, sir. I will try to answer it this way.

Of course, as you have tried to bring out, this yardstick or rule that we use, mileage versus hours comes into the picture. In other words, you may be talking in terms of mileage on the right hand and may be talking in terms of local switchers or yard service on the left hand, which would bring into play as opposed to the mileage overtime more often than you would get involved with mileage.

Mr. WATSON. But at least we can bring it down to this position, I believe. That if this legislation passes, you certainly would not want to see the result to be that the railroads decide to say, "We will just have two straight 8-hour shifts with no overtime involved at all."

Mr. McGUIRE. We already have it, sir, in yard service.

Mr. WATSON. A great deal of you, so far as the operating personnel on the roads are concerned, get a good bit of overtime, do they not?

Mr. McGUIRE. Sometimes, sir. Of course you understand the mileage components or the mileage aspects of it——

Mr. WATSON. I want to be fair with you. If your answer is they do not get much overtime——

Mr. McGUIRE. I could not answer that, sir.

Mr. WATSON. May I ask what is the need of this legislation? We have no problem, then, if they do not get much overtime.

Mr. McGUIRE. Here, I will put it this way. This again is my opinion. You are talking about injecting this monetary figure in here, and I am talking about the 12-hour law from the humanitarian standpoint. Now, if we are going to inject a monetary value into this thing, I am talking about the 12-hour law now——

Mr. WATSON. Yes, sir.

Mr. McGUIRE. I am wasting my time here. I should not even be here, because I believe that this thing is needed from a safety standpoint and from a humanitarian standpoint, disregarding, discounting the monetary values as they would apply to the crews.

Mr. WATSON. Yes, sir, Mr. McGuire, but you have got to look beyond. In fact I believe that a man making enough to support his wife and family is one of the prime humanitarian considerations, and the Commerce Department has just announced that the cost of living in the first 6 months of this year is the highest it has been or the greatest increase since 1958, and, as I told some of my friends who have been to see me, that we might be caught on the horns of a dilemma, that we are now through this legislation forcing decreases in salaries to some of the operating personnel, and we are going to be the responsible culprits on this thing. I do not want to see it come. I do not believe the people working for the railroads are making enough money that they can afford to take a cut like this.

Mr. McGUIRE. Do not forget, Congressman, we do not want to discount the fact—and again I want to reemphasize if talking in terms of 12 hours, we will say a local switcher involving less than 100 miles—that gentleman can still make 4 hours a day overtime.

Mr. HUOT. Mr. Watson, I think that we will have to cut you off now. We do not want to, but we promised another gentleman that he could testify here this morning.

Mr. WATSON. Thank you.

Mr. HUOT. Thank you very much, Mr. McGuire, for your fine statement.

Mr. McGUIRE. Thank you very much, gentlemen, for the opportunity to appear.

Mr. HUOT. Our chairman, Mr. Friedel.

Mr. FRIEDEL. Our next witness will be Mr. E. L. McCulloch, assistant grand chief and national legislative representative, Brotherhood of Locomotive Engineers.

Mr. McCulloch, you may proceed with your statement.

STATEMENT OF E. L. McCULLOCH, NATIONAL LEGISLATIVE REPRESENTATIVE AND ASSISTANT GRAND CHIEF ENGINEER, BROTHERHOOD OF LOCOMOTIVE ENGINEERS; ACCOMPANIED BY HAROLD L. ROSS, COUNSEL

Mr. McCULLOCH. Thank you, Mr. Chairman and gentlemen.

Members of the subcommittee, accompanying me on my left is Harold Ross, attorney.

Mr. FRIEDEL. I have just come from a helicopter ride, and I am a little hard of hearing, so speak a little louder so I can hear every word that is said. What was the gentleman's name?

Mr. McCULLOCH. Mr. Harold Ross, attorney for the Brotherhood of Locomotive Engineers.

Mr. WATSON. Mr. Ross?

Mr. McCULLOCH. Yes. I would like to join in Congressman Watson's statement to Dr. Carter. I would prefer to be talking to a doctor this morning and get rid of this cold. But I will try to be as clear as I can.

I am E. L. McCulloch, national legislative representative and assistant grand chief engineer of the Brotherhood of Locomotive Engineers. I have been authorized to testify relative to H.R. 8476 and similar pending legislation for Grand Chief Engineer P. S. Heath, chief executive officer of the BLE, and for the 35,000 members of the brotherhood who are currently employed as locomotive engineers and locomotive firemen on the railroads of the United States. As the duly designated bargaining representative for the craft of locomotive engineers on most of the railroads in this Nation, the BLE represents 97 percent of the individuals employed as locomotive engineers. The BLE also holds contracts for locomotive firemen on a substantial number of small railroads. I personally have 19 years' seniority as a locomotive engineer with the Missouri Pacific Railroad.

H.R. 8476 and similar legislation in regard to limitation on the hours of service of railroad employees will have a substantial effect on the craft of employees represented by the BLE. In many cases this legislation, as drafted, will have serious adverse ramifications on the

earning capacities of many of our members and the living conditions of their families.

Although it has been suggested by the officers of another organization that represents a comparatively few locomotive engineers that the BLE opposes reduction in extended work hours for locomotive engineers and other railroad employees, this is a misstatement of our position. We are clearly in favor of the concept of placing the number of work hours of a locomotive engineer in line with those hours worked by most nonoperating employees on the railroads and those worked by the employees in other industries in the United States employed on shifts. In fact, in early 1965, Grand Chief Engineer P. S. Heath wrote a series of articles which were published in booklet form under the title "Crusade for the Sixties." One of the more salient articles in this series concerned his proposal for the 6-hour workday.

However, we are not in favor of the instant legislation, as presently constituted, due to its approach and resulting effects upon locomotive engineers and engine-service employees. These bills in their present form would materially affect the present take-home pay of 12,000 to 15,000 locomotive engineers and countless other railway employees and would cause more frequent and longer layovers at the away-from-home terminals of these employees. In view of these circumstances, it is essential that we obtain the 6-hour basic workday prior to or concurrently with the proposed reductions in hours of service. We, therefore, of necessity must urge the rejection of H.R. 8476 in its present form and similar legislation unless H.R. 8476 is accordingly amended, or concurrent legislation is enacted, to prevent wholesale reduction in pay or longer layovers at the away-from-home terminals, or until the railroad industry negotiates a reduction in hours of service accompanied by changes in the existing pay structure which would in effect be a change in the hours constituting a basic day, the major factor in computing an engineer's rate of pay. This would permit the individual employee who may be working shorter hours to be made monetarily whole. Therefore a reduction in the basic workday, in addition to preventing a reduction in the individual employee's earnings, would cause all overtime to be subjected to the premium scale thereby automatically providing an incentive to the carriers to reduce the work hours of its engine-service employees.

As the members of this committee can see from the cursory glimpse that they have already been given regarding the intricacies of railroad service and the pay structure in the industry, it would be best for all concerned if the intertwined matters of hours of service and the pay structure were dealt with at one time in collective bargaining negotiations rather than through legislation. With all due respect to the Members of Congress, the BLE believes that the responsible leaders in the railroad industry, both labor and management, are best equipped and informed to deal with a matter materially affecting thousands of railroad employees. Most of you may be aware the BLE and other labor organizations have served notices on the various carriers for the purpose of discussing wages. As part of the notices being served by the general chairman of the BLE, a request has been made to negotiate in regard to a 6-hour workday. It was previously noted that a reduction in the basic workday would lead to a restructuring of pay schedules for locomotive engineers which through overtime rates would automatically lead to a reduction in overtime

hours. Therefore, as a necessary adjunct to negotiations on reduction in the basic workday, there would necessarily be discussions on the hours of service. As the Members of Congress know from their experience with maximum hours legislation, extended overtime hours have generally been eliminated at the bargaining table. The role taken by the BLE in recent years establishes our desire to get out from under Government tutelage at the bargaining table. This organization believes that labor and management can reach satisfactory solutions when they want to and that in view of the interrelated problems and influences in this area, we must be given this opportunity.

The above position concerning this bill is positively supported by the overwhelming number of the 35,000 actively working members of the BLE. For example, General Chairman G. R. Bichsel on the Northern Pacific Railway system took a referendum vote concerning the position of the men he represented on that property. Of the 14 local chairmen of the BLE on the Northern Pacific, 11 reported that the members of their local divisions were not in favor of the legislation as presently constituted. Furthermore, on May 6, 1966, the over 150 general chairmen of the BLE, representing the locomotive engineers on all the major railroads, in duly constituted assembly, carried a motion that the BLE be opposed to the proposed amendments to the Hours of Service Act until the bills are modified to include provisions "for no reduction in pay to locomotive engineers."

According to the Interstate Commerce Commission's M–300 report for November 1965, there were 3,816 engineers in passenger service, 9,999 in through freight, 6,058 in local-way freight, and 15,486 in yard service on the class I railroads in the United States. The Interstate Commerce Commission's M–300 report also provides us with a breakdown of the average weekly hours of locomotive engineers. A statement of this information from 1960 through November 1965 is attached hereto as appendix A (see p. 218). It should be noted that these average weekly hours have been broken down into the four service classifications. From this chart it can be seen that the proposed legislation would have the most effect on engineers in local-way freight and yard assignments. For the committee's information, there is also attached hereto as appendix B (see p. 218) a copy of a table prepared by the Presidential Railroad Commission which indicates the average hours on duty of locomotive engineers computed by class of service. This study also indicates that a majority of trips extending over 9 hours are in local and converted local freight assignments.

Mr. Chairman, I assume that these parts will be made a part of the record.

Mr. FRIEDEL. That is correct.

Mr. MCCULLOCH. I will not read them then.

Based upon the above statistics and our experience, it is clear that very few locomotive engineers in passenger service would be affected by passage of H.R. 8476. It is in this class of service where safety of the traveling public would be of primary concern. Those locomotive engineers in passenger service who would be affected by this legislation are those in short or long turnaround service and those in straightaway service who, because of the blocking of their jobs, are presently aggregated out of their away-from-home terminal on short time.

The primary effect of H.R. 8476 on passenger engineers would be a reblocking of their jobs so that they would have longer layovers away from home, which would result in additional out-of-pocket expense and less time at home with their families.

Through-freight engineers work according to mileage regulations in effect on most railroads and earn wages based upon the equivalent of 3,200 to 3,800 miles per month. They would be mostly affected by reblocking of jobs that would eliminate aggregating out of the away-from-home terminal. This would increase the number of hours they would be required to be away from their families, increase their out-of-pocket living expenses, and decrease the number of round trips they would be able to make per month, thus resulting in a decrease also in their earnings.

The group of locomotive engineers upon which the pending legislation would have the greatest adverse effect would be the 6.058 local and way-freight engineers. These engineers also work under the same mileage regulation as through-freight engineers. Due to the nature of their work, however, they are dependent upon overtime to make their normal monthly take-home pay.

Most of these jobs are 5- or 6-day jobs, and the overwhelming majority of jobs are in the 80 to 100 mile per trip category. The irregularity of industrial needs and shipping requirements necessitates that these jobs on occasion work perhaps 14 to 15 hours one day and then only 7 to 8 hours the next day. According to the best estimates available to us, placing into effect a 12-hour (or 9-hour where there are no firemen) limitation would mean an average reduction in their earnings of approximately 25 percent per month. It would mean also a decrease in the caliber and quality of service to shippers, as the carriers would probably reschedule these jobs to skip the switching of selected industries where it would require the crew to be on duty longer than their prescribed hours.

It would be naive to think that the carriers would create new low-paying jobs to comply with this proposed amendment to the Hours of Service Act. This, nevertheless, was the underlying reason of certain proponents of this legislation, for the idea is that passage of the bill would lead to a decrease in earnings of many locomotive engineers and create new jobs with substandard monthly compensation. It is hoped that this would lead to the rejuvenation of the declining membership rolls of the Brotherhood of Locomotive Firemen & Enginemen.

The next group of engineers affected are the yardmen. Of the 15,586, approximately 5,000 are irregular or extra list men. These men have no monthly guaranteed wage. They are on call 24 hours a day and must be available when there is work for them. Once again, the irregularity of work requirements, which fluctuate from day to day, makes it imperative that these men work when jobs are available. This necessitates working two separate shifts on certain calendar days and in some instances doubling over from one shift to another. At periods, they may be marked up on an extra board for 2 or 3 days without getting a call for work.

These men would also probably find their monthly pay substantially reduced on an average of 25 percent. The above statistics establish that it is essential that the 6-hour basic day be obtained, either by legislation or through collective bargaining, before a reduction is made in the maximum permissible hours of service.

The matters of the basic workday and maximum hours of service in the railroad industry have previously been before Congress.

On March 7, 1907, the present Hours of Service Act was placed into law.

On September 3, 1916, Congress passed the present Adamson 8-Hour Act. Since that time the matters of the basic day and its relation to maximum hours of service have been the subject of various administrative proceedings.

On December 6, 1932, the Interstate Commerce Commission rendered its report in *Ex parte 106* relative to its investigation on the effect upon operation, service and expenses of applying the principle of a 6-hour day in the employment of railway employees. In part that report stated:

> Operation—There would be no material effect, adverse or otherwise, upon operation of the several carriers, assuming that revenues will be sufficient to cover any added operating expense and still maintain credit.
>
> Service—There would be no material effect, adverse or othrewise, upon the service of the several carriers, subject to the same qualifications as shown above with respect to operation.
>
> * * * In determining this effect, we have assumed that in general the principle would be applied to each class of employees in substantially the same manner that the principle of the eight-hour day is now applied, using six hours instead of eight as the measure of a day's work for the prupose of reckoning compensation
>
> However, we construe the "principle of a six-hour day" to mean that the number of hours worked per week or per month shall equal the product of the number of work days in the period times six, and not as necesarily limiting each day's actual employment to six hours. Thus, a week may represent 36 hours divided into six days of six hours each, or five days of seven hours and 12 minutes each, or any other arrangement of hours per working day that may be mutually satisfactory to employer and employees. Similarly, a month including Sundays may represent 180 hours, divided into such number of actual tours of duty as will best fit the needs of the work to be accomplished. This view is in accord with present practice in applying the principle of an eight-hour day so far as certain groups of employees are concerned.
>
> The question arises as to whether we should assume, in determining what would be the effect of applying the principle of a six-hour day, (1) a six-hour day at the existing eight-hour or other basic-day, or (2) a six-hour day at pro rata pay; that is, at a rate of pay per hour equivalent to what is now paid. Past negotiations with the employees have convinced the carriers that a six-hour day at the present basic-day pay is contemplated by the resclution. The employees agree, stating that the purpose of a six-hour day is to create employment for more men and not to reduce the compensation or lower the standard of living of those now employed. We think that assumption (1) is correct, but shall make our findings on both bases.

The ICC in its report of December 6, 1932, then went on to state:

> On all such runs, passenger and freight, the effect of a change from a basic eight-hour to a six-hour day would be negligible, and no change in operation, service, or expenses would result.

The matter was also aired before the Presidential Railroad Commission in the recent work-rules controversy. As the PRC stated in its report:

> The methods of compensation of railroad operating employees, and the associated pay rules, are probably the most complicated of any industry in the United States.

After proposing a limitation of 14 hours, the PRC went on to recommend that the maximum hours of service be reduced gradually by collective bargaining. At page 134 of its report, the Commission further urged:

> * * * the parties to continue to study the possibilities of lowering further the daily limit gradually over a period of years to a maximum of 12 hours a day.

It should be noted that the Commission realized the effect that the above proposal would have on wages and therefore included its recommendation in the section of its report on suggested changes in the current wage structure. Although the Commission recognized the problem created by the limitation of hours on computation of compensation, and attempted to incorporate certain changes in the wage structure to alleviate the problem which would arise, the Commission failed to adequately consider the necessary steps to maintain existing levels of compensation.

The gaps in the PRC report and the new inequities which its recommendations would create were the subject of a pointed dissent by this brotherhood's commissioner, A. F. Zimmerman.

At pages 234 and 235 of the report, Commissioner S. C. Phillips, the representative of the Brotherhood of Locomotive Firemen & Enginemen on the Commission, and Vice President of that organization, joined in this portion of the BLE dissent. He stated in pertinent part:

> The evidence and the studies available to the Commission likewise show an evolving development towards shorter working hours in many industries, particularly in other completely organized industries. They show that such reduction for other workers have been accompanied by wage adjustments maintaining earnings. The majority report has recommended some reduction in the 16-hour statutory day for these employees, but only on a very gradual basis. Suggestions for future reductions from 31-day months and 7-day weeks are not accompanied by suggestions for maintenance of take-home pay; in fact such maintenance is negated by the recommendations made. Again the majority has refused to follow the signals the evidence establishes as guides * * * .
>
> I am aware that Commissioner Zimmerman is preparing a report to be submitted directly to the President of the United States analyzing the many ways in which the majority report would, if placed in effect, destroy the pay scales, working conditions, and collective bargaining of the railroad industry. I am in accord with Commissioner Zimmerman's proposition that the report of this Commission should be attacked vigorously for its evil implications, not only for railroad operating employees, but for all labor.

The Commission's report and the dissents are important in that they point out two factors which are materially relevant to your determination.

First, any change in hours of service affect take-home pay which the Commission tried to overcome basically through gradual reduction.

Second, any meaningful changeover in hours of service and the accompanying pay structure must be accomplished, not by legislation, but through collective bargaining.

To understand the BLE's position relative to this legislation and the drastic effects which this bill in its present form would have on operating employees, it is necessary to briefly describe the method of compensation of such employees.

Locomotive engineers, as other operating and train service employees, have their compensation computed under the so-called dual basis of pay, which involves both an hours and a mileage component. This basis of pay may be explained by reference to the standard basic day and overtime rule for engineers in freight engine service. The rule states:

> (a) In all classes of road service, except passenger service, 100 miles or less, 8 hours or less (straight-away or turn-around) shall constitute a day's work; miles in excess of 100 will be paid for at the mileage rates provided, according to class of engine or other power used.

(b) On runs of 100 miles or less, overtime will begin at the expiration of eight hours; on runs of over 100 miles overtime will begin when the time on duty exceeds the miles run divided by 12.½. Overtime shall be paid for on the minute basis, at an hourly rate of 3/16 of the daily rate, according to class of engine or other power used.

A more complete description of the wage structure, its components and determination of earnings may be found in chapter 8 (pp. 79–100) of the report of the Presidential Railroad Commission.

With the above rule in mind, let us turn to several specific examples which were used before the Presidential Railroad Commission in 1961 as to a comparison of present and proposed daily and monthly earnings under the limitations which would be imposed by H.R. 8476. All information available to us indicates that these examples are valid today.

Mr. FRIEDEL. Pages 12, 13, and 14 of your statement will be included in the record.

(The pages referred to follow:)

Local freight service comparison of present and proposed monthly earnings based on actual trips [1]

ENGINEER C. A. BENJAMIN, ERIE-LACKAWANNA RAILROAD

Date	Miles [2]	Time on duty	Time away from home	Current daily pay	Trip earnings current	Proposed with firemen	Proposed without firemen [3]
October 1953		*Hrs. Min.*	*Hrs. Min.*				
1	143	9 30	6 30	$22.95	$32.82	$32.82	$30.98
2	141	15			48.00	36.87	22.95
3	141	9 15	9		32.36	32.36	31.92
5	141	10 35			32.36	32.36	27.77
6	141	9 30	13 25		32.36	32.36	30.52
7	141	14 25			45.52	30.32	22.95
8	141	8 30	9 35		32.36	32.36	32.36
9	141	9 50			32.36	32.36	29.61
10	141	8 05	14 10		32.36	32.36	32.36
12	141	11 05			32.36	32.36	24.79
13	141	10	12 55		32.36	32.36	29.12
14	141	10 45			32.36	32.36	27.08
15	141	10 40	13 15		32.36	32.36	27.28
16	141	12			35.39	35.39	24.33
17	141	11 50	12		34.67	34.67	26.39
19	141	14 40			46.57	30.09	22.95
20	141	14 50	9 20		47.28	29.63	22.95
21	141	11 50			34.67	34.67	26.39
22	141	10	12 10		32.36	32.36	29.12
23	141	9 15			32.36	32.36	31.92
24	141	8 45	14 45	22.95	32.36	32.36	32.36
26	141	8 55			32.36	32.36	32.36
27	141	8 20	15 05		32.36	32.36	32.36
28	141	14 15			47.62	30.55	22.95
29	141	9 10	9 45		32.36	32.36	32.15
30	141	10 50			32.36	32.36	26.85
31	141	10	13 10		32.36	32.36	29.12
Total		292 00	165 05		954.32	850.40	761.86

See footnotes at end of table, p. 215.

Local freight service comparison of present and proposed monthly earnings based on actual trips [1]—Continued

ENGINEER A. C. COOPER, SEABOARD AIR LINE RAILROAD

Date	Miles [2]	Time on duty	Time away from home	Current daily pay	Trip earnings current	Proposed with firemen	Proposed without firemen [3]
May 1959		*Hrs. Min.*	*Hrs. Min.*				
1	108	15		$23.88	$54.27	$38.84	$25.24
5	108	13 35		25.71	51.59	42.06	27.63
6	108	12 20		24.81	43.96	42.61	26.67
7	108	15 55		24.81	60.66	40.62	21.67
8	108	15 55		25.53	62.42	41.82	27.45
12	108	15 35		25.53	60.80	41.82	27.45
13	108	11 40		24.81	40.89	40.89	26.67
14	108	12 30		25.71	46.38	42.83	27.63
15	108	11 15		24.81	28.93	38.93	26.67
17	108	8 20		24.81	26.79	26.79	26.79
19	108	15 50		24.81	60.24	40.62	26.69
20	108	11		24.81	37.77	37.77	26.67
21	108	11 30		24.81	40.10	40.10	26.67
22	108	14 30		24.81	54.05	40.62	26.67
23	108	13 50		24.81	50.94	40.62	26.67
26	108	12		24.81	42.42	42.42	26.67
27	108	12 45		24.81	45.91	41.12	26.67
28	108	16		24.81	61.03	40.62	26.67
29	108	11		24.63	37.50	37.50	26.48
Total		250 30			916.65	758.00	508.71

[1] It should be noted that there has been no adjustment for wage increases. If these had been included, there would be an even more significant decrease in earnings.
[2] Miles run would have to be adjusted for proposed hourly limitation.
[3] This figure does not include the $1.50 received by an engineer on a trip without a fireman. It is not believed that that is includable in this table, because current trip earnings would also have to be adjusted upward.

Mr. Ross. Thank you, Mr. Chairman.

At this point Mr. McCulloch, because his throat is so sore, has requested that I take over and continue the reading.

Mr. McCulloch would like to point out these examples.

For example, on page 12, Engineer C. L. Benjamin on October 19, on an assigned run, his time on duty was 14 hours 40 minutes. His current daily rate of pay was $22.95. On that day he made $46.57 for his run.

Mr. FRIEDEL. Which one are you referring to?

Mr. ROSS. Page 12, Engineer Benjamin on the 19th, sir.

Mr. FRIEDEL. On the 19th?

Mr. ROSS. That is right.

Mr. FRIEDEL. I see.

Mr. ROSS. On that date he earned $46.57. Now with the proposed limitation, if the man works with a fireman he would receive $30.09. If he works without a fireman, he would have made $22.95.

On the following day, the 20th of October, he had the same assignment. He was on duty 14 hours 50 minutes. He earned $47.28 for that day's work. Under the proposed limitations, he would receive $29.–3 if he worked with a fireman, but if he worked without a fireman he would only make his basic daily rate of pay, $22.95.

Mr. WATSON. Mr. Chairman, may I interrupt at that point?

Am I to understand from these figures that under the proposed legislation an engineer would make less when he operated that machine by himself than when he had a fireman with him?

Mr. ROSS. The reason that that works out, Mr. Watson, is this: If he works with a fireman under the proposed H.R. 8476, he can work 12 hours. If he does not work with a fireman he may only work 9

hours, and because of the fact he is working 3 hours less he makes less money.

Mr. WATSON. Oh, I see. But he would be working less time.

Mr. ROSS. Definitely.

Mr. WATSON. All right.

Mr. ROSS. But it is pointed out that under this rule it is based upon a dual component of hours and mileage, that it does affect him very drastically.

Mr. FRIEDEL. On the 29th you point out an example of time on duty—14 hours 15 minutes.

Mr. ROSS. Yes, sir.

Mr. FRIEDEL. He works 9 hours 20 minutes.

Mr. ROSS. He was at his away-from-home terminal that day for 9 hours before he went back into service, as I understand it.

Mr. FRIEDEL. And the day before that he worked 14 hours 40 minutes and he made $46.57, but he was home that night.

Mr. ROSS. Under the information, the best information available to us, he was probably at home that night, yes, sir.

Mr. FRIEDEL. All right.

Mr. ROSS. Then if we turn to page 14, where we have Engineer Cooper, another example which was used before the Presidential Commission, to again show how the limitations which that Commission proposed would affect his take-home pay, and we correlated them again to the hours-of-service amendment.

We will just take one example.

Here is a man on the 20th of May. He has an assignment of 106 miles. He was on duty 16 hours that day, the full time that he could work under the present hours of service. His current daily pay on that assigned run was $24.81. He made $61.03.

Now under the proposed limitations if he worked with the fireman 12 hours in this case, he would receive $40.62. If he worked without a fireman and he was only able to work 9 hours, he would receive $26.67.

Therefore, if H.R. 8476 were enacted, Engineer Benjamin could anticipate a reduction in earnings when working with a fireman, of approximately $104 a month, and when working without a fireman of approximately $192 a month. On a percentage basis he would incur a loss of pay of between 10 and 20 percent per month.

Engineer Cooper, who has a short run at very slow speeds, would have his earnings reduced when working with a fireman by approximately $159 per month. If he were required to work without a fireman, Cooper could anticipate a reduction in earnings for the month of approximately $408. Engineer Cooper, who made approximately $11,000 for the year, would have his annual wages reduced to $6,108 if he worked to the 9-hour limit without a fireman. This would result in a slash in earnings of 44 percent in an era where workmen anticipate at least an increase in their basic salary of 3.2 percent per year.

To have one's standard of living reduced so radically is inconceivable. It is doubtful that, with these wage slashes which would occur, Engineers Benjamin or Cooper would be able to meet their basic daily obligations and the financial commitments which they may have incurred.

The transcripts of the prior hearings on this bill show that certain proponents of the legislation contend that those individuals who mis-

guidedly argue that there will be a reduction in earnings are what they call "overtime hogs." On the basis of these examples it is impossible to portray Engineers Benjamin and Cooper as "overtime hogs." And it is also difficult to believe that they are misguided about their expected losses. If anything, enactment of this legislation would require Engineer Cooper, in order to make up a small portion of the large loss sustained by him, to work every day in the month.

Mr. WATSON. Mr. Chairman, I hate to interrupt, but so that I might get a perspective here, since these two examples you have cited would have their hours of work substantially reduced, they would then be eligible to take other runs, would they not?

Mr. Ross. Yes, sir. However, again you run into the problems of scheduling. The man would come in. He would be placed at the bottom of the list, and he does not know when he is going to get out again.

Mr. WATSON. I see. Thank you.

Mr. Ross. That is why we have throughout here said that the matters are so intricate and intertwined that it is difficult to come in and say that you can solve it just by having an hours-of-service limitation set in.

We think that the matter is so complicated that the study has to be expanded to include all of these facets.

As previously stated, these results could not have been desired by the draftsmen of this legislation.

The benefits to be received under this legislation are illusory indeed. In fact, they are unique in American history.

When the Fair Labor Standards Act of 1938 was put into effect, requiring the payment of overtime after a fixed number of work hours per week, it was expressly contemplated that basic rates would not be decreased and that there would be no loss in compensation. When the Adamson 8-Hour Act (39 Stat. 721) was passed, section 3 of the act provided for continuance of the than applicable standard day's wage to railway employees pending the report of the Commission of three and for a period of 30 days thereafter. It is quite clear that it was never intended when any legislation of this nature was enacted that the compensation of employees would be reduced.

Due to the complicated nature of the subject matter, it has previously been suggested that the issues should be resolved by collective bargaining. If Congress would still see fit to amend the Hours of Service Act in the contemplated fashion, we believe that the Adamson 8-Hour Act should also be amended to provide for the institution of a 6-hour standard workday. A proposed amendment to that act is attached as appendix C (see p. 219). By doing so the compensation of railway employees would not be radically reduced by the amended limitations placed in the Hours of Service Act.

So that there would be no misunderstanding as to the definition of 6-hour standard workday in this industry, it would not mean that a man would only work 6 hours in a day or that he necessarily would receive overtime after the 6th hour.

Let us again return to the example of Engineer Benjamin. At the present time his overtime is computed by using a factor of 12½ miles. This means that on his run or assignment of 141 miles, he receives overtime or premium pay after 11¼ hours. If a 6-hour workday were introduced, the overtime factor would be raised to

16⅔ miles, which is in line with present normal speeds on the railroad. With this new factor for computation of overtime, he would receive premium rates after he was on duty for approximately 8½ hours. This would provide overtime rates comparable with other industries.

As the legislation is presently constituted, it is clearly discriminatory to locomotive engineers and particularly those engineers who work without a fireman. It amounts to class legislation. And unquestionably, it fails to deal with the entire matter.

To handle this matter in a proper fashion through legislation, the present bill should be modified to include amendment of the Adamson Act. With this modification the BLE and its 35,000 members in active service could support and, in fact, would encourage passage of the amended legislation.

(Appendixes A through C referred to follow:)

APPENDIX A

Average weekly hours, locomotive engineers

Year	Passenger	Through freight	Local/way freight	Yard
1960	37.6	37.6	61.7	52.2
1961	37.4	37.4	62.3	52.1
1962	37.5	37.1	63.4	52.4
1963	38.6	38.5	63.2	53.4
1964	38.4	39.4	64.8	54.2
1965:				
January	37.4	39.5	63.6	55.6
February	38.4	40.0	66.8	56.5
March	37.1	39.8	66.8	56.0
April	38.7	39.9	65.5	55.0
May	40.2	40.7	65.7	63.4
June	40.3	41.9	68.2	56.2
July [1]				
August	42.0	41.7	67.2	55.0
September	40.7	40.2	65.8	54.7
October	39.6	40.7	65.2	53.7
November	39.5	39.6	67.1	54.7

[1] Not available.

Source: Interstate Commerce Commission, statement M-300 (Hours: straight time actually worked plus overtime plus constructive allowances, divided by number of employees (midmonth count), divided by average number of weeks in year or month.)

APPENDIX B

Number of trips of engineers by hours on duty per trip and class of service

Hours per trip	Through freight		Converted local freight		Local freight		Yard	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Under 9	1,981	92.8	282	63.2	228	35.0	1,328	88.4
9 and under 12	126	5.9	104	23.3	225	34.6	141	9.4
12 and over	28	1.3	60	13.5	198	30.4	33	2.2
Total	2,135	100.0	446	100.0	651	100.0	1,502	100.0
Average hours on duty	5.6		8.5		10.2		8.3	

Source: Pay structure study, railroad operating employees, p. 10, table 2. App. vol. II to PRC report.

APPENDIX C

TO AMEND THE ADAMSON EIGHT-HOUR ACT IN ORDER TO MAKE SIX HOURS THE DAY'S WORK FOR CERTAIN RAILWAY EMPLOYEES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (1) that the first and second sentences of Sec. 1 of the Adamson Eight-Hour Act, 39 Stat. 721, is amended by striking out "nineteen hundred and seventeen, eight hours" and inserting in place thereof "nineteen hundred sixty-six, six hours"; and (2) said section is further amended by adding at the end thereof the following: "The reduction from eight to six hours will be without decrease in take-home pay existing at the time this amendment becomes effective."

Mr. FRIEDEL. I want to thank you, Mr. McCulloch and Mr. Ross, for your enlightening statement.

You have heard the bell. We have a very important bill on the floor today that requires the members to be there constantly. I am afraid we may proceed for only 5 or 10 more minutes, but would you be available, both of you, for our next meeting on Friday, August 5?

Mr. Ross. Yes, if the committee wishes us to come back, we will be available.

Mr. FRIEDEL. I noticed a couple of times during your statement you mentioned, for example, on page 3, "It would be best for all concerned if the intertwined matters of hours of service and the pay structure were dealt with at one time in collective bargaining negotiations rather than through legislation."

Could you elaborate a little bit more?

Are your hands tied as to collective bargaining? Can you not do that now?

Mr. Ross. Yes, sir. As a matter of fact, as the speech points out, we are presently progressing with such matters, in the present notices which have been served on management for wages and improved conditions for locomotive engineers. As I understand it, the notices have already been circulated to the various railroad managements by the chairman of the BLE on this.

Mr. FRIEDEL. In other words, you are not prohibited by law from collective bargaining or working out new contracts with the railroads?

Mr. Ross. No, sir.

Mr. FRIEDEL. You are not?

Mr. Ross. We do not believe so.

Mr. FRIEDEL. All right, Mr. Huot.

Mr. HUOT. I have no questions, Mr. Chairman.

Mr. FRIEDEL. Mr. Watson.

Mr. WATSON. Thank you, Mr. Chairman. I have a couple of questions. I do not know whether we will be able to get to them. But I might start and at least establish this much, Mr. McCulloch.

You have a cold and I have a cold, and I have seen a number of men involved with or interested in this legislation, but I do not recall having seen you; have I?

Mr. MCCULLOCH. No, sir.

Mr. WATSON. So since you have a cold you cannot say that you caught it from me.

You say that you represent 97 percent of the individuals employed as locomotive engineers?

Mr. MCCULLOCH. Yes.

Mr. WATSON. And that is 35,000.

On page 4 of your statement you say the "actively working members of the Brotherhood of Locomotive Engineers." Is your entire membership actual working members, operating personnel on the railroad?

What I am driving at is, what is the composition of your membership so far as active and retired? If you have those figures I think it might be helpful.

Mr. Ross. Mr. Watson, if I may answer the question.

Mr. WATSON. Yes.

Mr. Ross. If the brotherhood took into consideration its retired members, inactive members and all that, we could come up with a total of 80,000.

Mr. WATSON. 80,000?

Mr. Ross. Yes, sir. But we feel that in regard to this legislation the people who are primarily interested are those who are working today, and the figure that we have is close to 35,000. It is off several hundred.

Mr. WATSON. They are actively working?

Mr. Ross. Yes, sir; they are working today.

Mr. WATSON. This is very impressive to me that you categorically state 97 percent, but as a country boy I would figure that 97 percent is pretty well a majority of the engineers.

Mr. Ross. Yes, sir.

Mr. WATSON. Earlier I have heard statements that perhaps you did not represent the majority of engineers. That is why I was asking you these specific questions.

Mr. Ross. We do.

Now, representation does not necessarily mean that they are members.

As you fully understand, the way that the present Railway Labor Act is consitituted, section 211, an individual on a property who may be a locomotive engineer could be a member of the BLE or the B.L.F. & E. That is the ebb and flow doctrine in the union shop clause. But where we are designated or certified as the bargaining representative for the craft, we do represent that man. We have to represent him. So we cover that whole group.

Mr. WATSON. And on page 3 you say that the enactment of this legislation would result in "wholesale reduction in pay and longer layovers at the away-from-home terminals."

Mr. Ross. Yes, sir.

Mr. WATSON. Is that your conclusion as a result of the study of this legislation?

Mr. Ross. That is correct; yes, sir.

Mr. WATSON. I believe you state further that this matter is in the process of being negotiated now?

Mr. Ross. That is correct.

Well, let's put it this way: We have started under the Railway Labor Act. As you know, the procedures are very involved. Notices have been served, however.

Mr. WATSON. Yes, sir. In other words, you are seeking to resolve this problem by way of arbitration rather than legislation?

Mr. Ross. Well, before you get to arbitration, sir, there is negotiation.

Mr. WATSON. Negotiations?

Mr. Ross. That is correct.

Mr. WATSON. Then arbitration.

Now on page 4 you state that on—

May 6, this year, the over 150 general chairmen of the BLE representing the locomotive engineers of all the major railroads in duly constituted assembly—

now was that assembly duly constituted according to your bylaws?

I believe I recall testimony earlier that it may have been some "gimmick," I believe was the word.

Mr. Ross. I will get to both of those problems.

Mr. WATSON. All right, sir.

Mr. Ross. Under the constitution the general chairmen are called into association for meeting, and all of them attend. The meeting that we are referring to was held in Cleveland, Ohio, at the Engineers' Building, and this matter came before them.

Now, the general chairman is the head of the group on all the properties. He is the step before you get to the grand international, in other words. He has jurisdiction over the contracts and so on and so forth on those properties.

For example, the Missouri Pacific, or the Louisville & Nashville Railroad, and so on and so forth. There are approximately 150 or better of these individuals, and they voted on this matter. They discussed it at their meeting.

Now the situation that you are talking about is the first quadrennial convention, which is presently going on in Cleveland, Ohio, that is the convention of the international.

Mr. WATSON. You have that every 12 years?

Mr. Ross. No, sir. It used to be every 3, but they extended it to every 4 years.

Mr. WATSON. Every 4 years, excuse me.

Mr. Ross. This is the first 4-year convention that we have had. That is being held in Cleveland right now. It started on June 25. It has been going on for 6 weeks. Many of the delegates who are on committees were in 2 weeks before that. We think that this will probably go on for at least another week or two, so they have been there almost 8 weeks already in convention.

That is why when Mr. McGuire contended that it is undemocratic, we cannot see a convention which costs that much money and they are there for 8 weeks at present to talk about these things could be undemocratic. They cover the whole ball field including the constitution of the organization, the amendments to it, and so on and so forth, election of officers.

Mr. McCulloch was recently elected at that convention. It costs a lot of money, as I said.

Now, the constitution of that convention has set up the manner in which delegates are elected, and every division, and there are approximately 800 and some divisions of the brotherhood represented there. There are 378 delegates.

You see, the basis of the voting is on a basis of 100, approximately 100 members in a division. If a man has more than 100, he gets another vote, and so on and so forth.

There is a routine set up but it is basically a pro rata vote set on 100.

The reason there are only 378 delegates and there are 800 divisions is this: Many of the divisions have only 15 or 20 members, and to pay the expenses of an individual from each of these divisions would be

prohibitive. I have not quoted the figure but it runs well over $1.5 million just to have this convention for 8 weeks, so you have to in some aspects keep the costs down.

Now these divisions who do not have their own delegate—that is, not a delegate from the division—do have a vote at the convention, because here is how it works. They will take 3 divisions or 2 divisions and try and come as close as possible to the 100 figure. These divisions are located as close as territorywise for a combination. The division who does not have the delegate for that year will instruct the man who goes to Cleveland how to vote, and certain other things such as that.

Now at the convention the individual who represents 2 or 3 divisions to make up this 100 will have 2 or 3 votes, depending on how many divisions he represents. That is what Mr. McGuire is talking about. He feels that it is not fair that you do not have a delegate from a 14- or a 20-man division in attendance every 4 years. Mr. McGuire was the delegate in 1962, and his division will be allowed to elect a delegate at a future convention. They will go forward. They will have their own individual there from that division. But they are represented in this present convention and the man who represents them has a vote for their division and he has been instructed by them, or we understand that he has, to vote a certain way and bring up certain matters before the convention.

Mr. WATSON. Mr. Chairman, I know it has been rather time consuming. I do not think that this is beyond the scope of legitimate inquiry on this committee, because an earlier witness—and I do not believe my good and dear friend from Baltimore was here at the time—but he indicated the process of his own union.

Mr. FRIEDEL. I am not questioning their right.

Mr. WATSON. I have always had the highest regard for the Brotherhood of Locomotive Engineers & Firemen, too. I think that you are in the elite class of organizations, and I thought that these gentlemen should have the opportunity to explain that, since earlier the democratic process was questioned so far as the conduct of the business of this union, and I am sure it has been helpful.

Mr. FRIEDEL. I do not say the question is out of order.

I do want to adjourn the meeting now until Friday morning at 10 o'clock.

Mr. Ross. Mr. Chairman, do I understand that you will want us to return on that morning?

Mr. FRIEDEL. Be available. There might be some questions that the other members would like to ask in following through on your statement.

Mr. Ross. Thank you, sir.

Mr. FRIEDEL. I want to thank you very much.

(Whereupon, at 12:15 p.m., the subcommittee adjourned, to reconvene Friday, August 5, 1966, at 10 a.m.)

AMEND HOURS OF SERVICE ACT OF 1907

FRIDAY, AUGUST 19, 1966

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

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

Mr. DINGELL. The subcommittee on Transportation and Aeronautics will come to order. The committee is continuing hearings on H.R. 5196 to amend the act of March 4, 1907, to provide that the 16-hour limitation upon continuous duty for certain railroad employees shall apply to employees for installing, repairing, maintaining signal systems and for other purposes and H.R. 8476 and similar bills to amend the act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon."

Our first witness this morning will be Mr. Rex Manion, vice president, Operations and Maintenance Department, Association of American Railroads, Transportation Building, Washington, D.C.

Mr. Manion, we welcome you for whatever statement you choose to give this morning.

STATEMENT OF REX MANION, VICE PRESIDENT, OPERATIONS AND MAINTENANCE DEPARTMENT, ASSOCIATION OF AMERICAN RAILROADS

Mr. MANION. Thank you, sir.

Congressman Dingell, my name is R. R. Manion. I am vice president, Operations and Maintenance Department, Association of American Railroads, which is a voluntary association composed principally of class I railroads, with headquarters in Washington, D.C. The members of this association operate about 96 percent of the mileage of all railroads in the United States and their annual revenues amount to about 96 percent of the total annual revenues of all railroads. Their employees represent approximately 95 percent of all railroad employees. I appear on behalf of our member railroads in opposition to H.R. 8476 and the other pending bills to amend the hours of service law.

I have been continuously in railroad service since 1934, except for a period of military service during World War II, with the Pennsylvania Railroad, the Great Northern Railway, the New York Central system, and the Association of American Railroads. I held assignments in the engineering, maintenance of way and operating departments, including assignments as trainmaster. From November

1957 to July 1961, I was assistant vice president—operations, New York Central system; from July 1961 until December 1963, I was assistant to president, New York Central System; and, between December 1963 and August 1964, I was vice president, New York Central system, Washington, D.C. I became vice president, Operations and Maintenance Department, of the Association of American Railroads, September 1, 1964.

My testimony will consist of two main parts. The first, or introductory part will be a discussion of factual aspects of the railroad industry and its operations that will be helpful to a correct understanding of the proposals to amend the hours of service law. The purpose of this information will be to provide a background or context for a consideration of the proposals before the committee. The second part of my testimony will take up the specific proposals that have been made and will provide the response of the railroad industry to them on the merits. I should like to add that my testimony will constitute a general or summarized statement of the railroad industry's position and that many of the points that I will deal with in a general fashion will be covered in detail by later witnesses who will present more specific evidence.

I. INTRODUCTORY DISCUSSION

A. Nature of the railroad industry

While I am sure you are all familiar with the principal elements of railroad operations, may I briefly outline these elements and define certain terms so that my remarks may be considered in full focus.

Railroad operations are not physically limited to confined locations at fixed places as is true of manufacturing operations and all other businesses except those in the transportation and communications industries, but are extended over geographical space or distance through every State in the continental United States. Railroad lines reach, and serve, innumerable cities, towns, and localities that are separated from each other by distances of varying extent. In 1965, there were approximately 212,000 miles of railroad lines on line-haul railroads. This did not include the mileage of yards and sidings nor reflect the fact that the mileage of a railroad may include two, three, or more parallel tracks. In 1965, the total trackage in the United States, including multiple main tracks, yard tracks and sidings, were estimated at 345,000 miles. Railroad lines traverse every kind of terrain that is found in this country. While there are many independent railroad companies, all of the railroads in the United States constitute a single connected network or system of railroad lines, and cars and trains move freely from railroad to railroad.

Railroad operations are moving operations rather than stationary operations such as those conducted at fixed locations by other industries and businesses. Speaking most broadly, the operations consist primarily of the cross-country movement of trains between points that are separated by distance and require the ultimate return of such trains and their train crews to their points of origin. In the course of these movements, the transportation of persons and property is performed. In 1965, freight trains moved a total of 421 million miles on class I railroads, and the passenger trains moved a total of 172 million miles. This was a total of 593 million train-miles.

The equipment used in performing this transportation consisted in 1965 of 21,364 passenger train cars and approximately 1,800,000 freight train cars. Class I railroads had approximately 28,000 locomotives at the end of 1965, of which more than 98 percent were diesel-electric units. The average freight train operated by class I railroads in 1965 consisted of 70 cars and a caboose and in that year carried an average of 1,685 tons of freight. All class I freight trains averaged 20 miles per hour between origin and final terminals. This average of course was far below actual running speeds of through trains, since it included time spent picking up and setting out cars at intermediate stations, local train switching, meeting opposing trains, and other operating requirements.

Your committee should know that there are different kinds of railroad operations and different kinds of service in which railroad employees work, and these will be worth describing.

The main types of service are train and yard service. The main kinds of train service are freight and passenger service. Freight service is broken down into through and local freight and there are in addition such forms as converted-through-freight, mine run freight, and switcher freight service. In these different types of service, crews may operate trains from their home terminal to an away-from-home terminal and after a brief layover operate back to their home terminal, or they may remain at the away-from-home terminal for substantial periods of 8 hours or more before coming back. When the layover at the away-from-home point is less than 8 hours, the combination of the outward and return trips is described—for purposes of the present hours of service law—as "aggregating." If the crew has 8 or more hours off duty at the away-from-home terminal, it is said to have had "full rest" for hours of service purposes, and has thereby started a new 24-hour period under the hours of service law.

Through freight service consists of the operation of freight trains over a line of railroad between major terminals or division points, moving the train intact between those points without setting out or picking up cars except as might be dictated by operating requirements.

A division is a major operating segment on a line of railroad with headquarters at a division point. A railroad system includes a number of such divisions ordinarily. Not uncommonly, through freight trains operate over a railroad system according to a schedule or timetable fixing approximate times of departure and arrival. These schedules do not always have the precision and regularity of passenger train schedules, which are well known to the general public. Certain types of trains do not operate on schedules or timetables at all.

Train crews in through freight service operate typically between fixed points. Their assigned headquarters is the home terminal. The point at the other end of the line is the away-from-home terminal. Normally, a through freight train is operated by a succession of crews each of which operates the train between a regular pair of terminals and turns the train over to a new crew at the end of the run. The new crew takes the train on between its pair of terminals and so on to the final destination.

Trains operate over a railroad system in both directions, though the volume of traffic may be greater in one direction than in the other. In a typical system of operations, the crews that work a train out in one direction work another train back in the reverse direction to the

home terminal, after a layover of at least 2 to 3 hours and less than 8 hours at the away-from-home terminal. The trip outward is aggregated with the return trip. Through freight crews are often assigned to a pool of such crews at the home terminal. Crews in the pool may be rotated on the basis of first-in first-out both at the home and away-from-home terminal. Some crews in through freight service are assigned to specific trains that operate on fixed schedules in both directions. There are many kinds of arrangements. These are only examples.

The duration of a run depends on the distance between points, the amount of traffic on the line, the weather, terrain, and many other factors. On many roads, the distance between freight terminals in through freight service is 100 to 175 miles. In a typical operation, through freight trains work the outward run in from 3 to 7 hours more or less. The length of time is variable. Crews stay at the away-from-home terminal for a period which also varies in length, depending on the number of other crews in the pool and the number of schedule of trains coming through that point in the home direction. In this kind of operation, as mentioned, the crew may be at the away-from-home terminal from 2 to 3 hours up to 8 hours or possibly more.

The return train may be slower or faster than the outward train, traffic on the line may be different; weather and other factors enter in. There is no certainty that the return run will be the same as the outward run. There may not be a fixed layover period.

Another kind of freight service is local freight, which is sometimes referred to as "way" freight. It consists of the operation of freight trains that stop at numerous points along the line, drop off cars for delivery, and pick up cars for transportation elsewhere. Local freight trains usually work out from terminals or central points where cars are dropped off by through freight trains for ultimate delivery by the local freight trains to consignees. Local trains also bring cars into such central points to be picked up for line-haul transportation by the through freights. These trains take longer than through freight trains because of the number of stops that must be made and amount of switching to be done. Local trains make way for passenger trains and through freight trains. The amount of business to be handled at local industries may add to the workload from time to time. Much time is spent by local freight crews waiting for cars to become available at industrial sidings for movement elsewhere. The number of such trains varies from railroad to railroad. Usually a local freight is assigned to a specific run between fixed points. The length of the run is likely to be less than the length of a division. In fact, a division may be broken down into segments for local freight purposes, with a local train assigned to each segment. Local freight trains often operate over branch lines of railroad that serve small towns and localities rather than over the main line of the railroad that connects the larger cities. Many of the localities served by local freight trains are agricultural centers and in some territories industrial centers. Local freight crews are paid at a higher rate than passenger and through freight crews.

Local freight trains may operate out from a headquarters at a point at the end of the run in 1 day and operate back in the reverse direction on the next day, in which case the crew takes their rest at the away-from-home point. Or they may go out and back in 1 day.

Hours on duty in local freight service vary considerably. Local freights often work long hours in harvest seasons when cars carrying crops must be picked up around the countryside. Also, heavy business activity of industries along the line that have cars to be switched may require local freights to work longer hours.

Another form of freight service is converted-through-freight, which may be described as essentially through service with a limited amount of intermediate stops to set out or pick up cars.

Another form of freight service that is fairly common in certain areas is known as mine-run freight service, a specialized freight service that consists of the movement of empty cars to mining areas, the switching of cars within such areas, and the hauling of loaded trains of the products of mines, that is, coal, iron ore, potash, back to terminals.

You are, of course, familiar with the service of passenger trains. These are usually faster than freight trains and the runs of passenger crews are longer than those of freight crews. Runs in one direction of 150–300 miles are not uncommon. Because of the speed of passenger trains, these longer runs often take less time than shorter freight runs. On some railroads, passenger crews are assigned to specific pairs of trains operating in opposite directions, instead of working out of pools at the home terminal and at away-from-home points. This is referred to as "assigned" service. Passenger trains operate with greater regularity and precision of scheduling than freight trains. Their crews often aggregate passenger runs. A concrete illustration of passenger service with which you are probably familiar is the Pennsylvania Railroad service between Washington and New York. Crews now work up and back on the same day. Typically, they may be on duty approximately 6 hours going up and 6 hours coming back, with a release in New York of around 3 hours. I should perhaps point out here that the 6 hours include not only actual traveltime over the road, but a certain amount of preliminary time on duty that employees have to spend before the actual trip begins and a certain amount of time at destination after the actual trip has been concluded before the employees are relieved from duty.

A specialized form of passenger service is commuter, or suburban, service, which consists of the operation of short-haul passenger trains to and from metropolitan centers for distances not usually in excess of 80 miles in one direction.

The other major category of railroad service, besides train service, is yard service. A yard may be described as an area within defined limits where outgoing trains are made up, incoming trains are broken up, cars are classified and sometimes stored.

Within a yard, the variety of operations is performed principally by yard crews, consisting of engineers, conductors (who are often referred to as "foremen") and brakemen (who are often referrred to as "switchmen," "groundmen," or "helpers"). A yard force, in addition, may include brakemen who are not assigned to specific crews, switchtenders, and yardmasters.

Some yards are operated around the clock in three successive 8-hour shifts. Others are operated for two 8-hour shifts, and others for only one shift. Men who work in yards ordinarily work 8 hours a day, 5 days a week. They are paid on the basis of time worked, not mileage. Usually they work on a regularly assigned shift.

The labor force at a yard normally consists of employees who are regularly assigned to particular shifts and other employees listed on what is known as a yard extra board. Employees on the extra board constitute a reserve or standby force. They are called for duty when regularly assigned personnel are not available. Men move from the extra board to regularly assigned duty on the basis of seniority.

These brief descriptions of the different kinds of railroad service illustrate the diversity and suggest the complexity of the overall operations of a single railroad as well as those of the national railroad system. They point strongly to the fact that the operations of this industry do not permit the observance of narrow limits in the scheduling of the working time of operating employees in the same way that the operations of manufacturing industries, for instance, permit the observance of the 8-hour day as a standard. Railroad operations are unique in this respect.

The cross-country movement of trains, of course, takes time. Railroads operate around the clock, every day in the year. Different kinds of trains move at different rates of speed. Train movements must be scheduled with reference to the availability of segments of the railroad line for the movement of trains in opposing directions. Trains must make connection with other trains on the same line of railroad and also at junction points with other railroads.

The operations of the railroad system are subject to numerous outside influences that affect the amount of time that trains of all kinds will need to get from origin to destination. These include such factors as the weather, equipment problems such as hot boxes, traffic density, and the need to adapt train movements to the loading and unloading requirements at the plants of shippers and the arrival of connections. Railroad operating employees are not distributed along the railroad lines of the country in such a fashion that the men operating trains can be readily relieved by replacements who are always available wherever a train happens to be. Operating forces for replacements are always located at a terminal or supply point of some kind. As I have said, trains take time, often substantial periods of time, to move between the points that they serve. One of the obvious problems in imposing a too-narrow limit on the working time of railroad operating employees is that such limits might well expire when a train crew is out in the country without available replacements. Another problem, which will be discussed later at greater length, is, of course, that limits that are too narrow will restrict and impede efficient transportation operations in a confining straitjacket. The physical plant and operations of the railroads demand a reasonable flexibility in any limits that are fixed for the working time of operating employees. Apropos of the 8-hour day, I might remark that most employees in the railroad industry, except for the operating crafts, are on an 8-hour day. One reason that operating employees are not is that the inherent character of railroad operations makes its standard application to them impracticable. For reasons that will appear, the application to these employees of the various limits proposed by the pending bills would be equally impracticable.

B. General position of railroad operating employees

The second main point that I wish to make in this introductory portion of my testimony has to do with the position of railroad operating employees as compared with other industrial employees in the

United States. Statements by supporters of the pending bills have attempted to suggest that these employees are an oppressed and badly treated class who need to be rescued by the Congress from a woeful predicament. In order that the committee may not have any such erroneous notion, and to establish a proper perspective, I would like to remind the committee just who these employees are and how they have fared in general. The pending bills would apply to employees actually engaged in or connected with the movement of any train.

In the main, these are the operating employees of the railroad industry, made up of engine service employees and train service employees. They are the engineers, the firemen, the conductors, the brakemen, and the switchmen. There were approximately 171,000 such employees in railroad service in 1965. They are represented by five principal labor organizations, the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen & Enginemen, the Brotherhood of Railroad Trainmen, the Order of Railroad Conductors & Brakemen, and the Switchmen's Union of North America. It is a notable fact, as your committee has already learned, that one of these organizations, the Brotherhood of Locomotive Engineers, is opposed to the pending bills, and that of these organizations only the Brotherhood of Locomotive Firemen & Enginemen and the Order of Railroad Conductors & Brakemen have testified in favor of it.

In comparison with other industrial employees in the United States, these men have more than held their own. You will hear detailed testimony about the average amount of time that they work per week and per man in the different classes of service, but I might add that 18 classes of railroad operating employees worked an average of 39.4 hours per week, straight time and overtime, in 1964.

The following table showing their average annual and weekly compensation for the year 1964 may be enlightening:

Employee group	Average compensation per employee	
	Annually	Weekly
Engineers	$10,616.37	$203.60
Firemen	8,376.09	160.64
Conductors	9,377.28	179.84
Brakemen	7,844.41	150.44
Average	8,787.91	168.54

The weekly average compensation of $168.54 compares quite favorably with the 1964 average of $102.97 weekly gross earnings for production workers on the payrolls of nonagricultural establishments, and $112.19 for production workers in durable goods industries.

In 1965, the average annual compensation of 18 classes of railroad operating employees was $9,343, as compared with average annual estimated earnings for full-time manufacturing employees of $6,405.

With respect to other employee benefits—such as vacations, pensions, holidays, health and welfare benefits—railroad operating employees compare most favorably with their nonrailroad counterparts.

II. CONSIDERATION OF THE PROVISIONS OF H.R. 8476

I would like now to consider the specific proposals for changing the Hours of Service Law that are contained in H.R. 8476 and the arguments that have been advanced in support thereof, and to present in condensed form the answer of the railroad industry. Some of the points that I intend to make now will be covered at greater length by later witnesses, and when I deal with such points I will so indicate.

A. Considerations of railroad safety do not require reductions in the allowable working time of railroad operating employees

The present hours of service law was enacted in 1907 to "promote the safety of employees and travelers upon railroads" and the essential purpose of the law has always been recognized as a safety purpose, namely, the prevention of railroad accidents. This was not social or economic legislation, but safety legislation. The proponents of the pending bills—primarily the Brotherhood of Locomotive Firemen & Enginemen—likewise affirm that these proposals are strictly predicated on considerations of safety.

The railroads agree that safety of operations is a prime and proper objective. They deplore the occurrence of railroad accidents; they strive to minimize and, if possible, to eliminate them. They are not complacent or indifferent about the accidents that happen, and for reasons of both humanity and self-interest they favor steps that would genuinely promise to reduce such accidents and are continually taking action to accomplish this.

In this regard, it seems to me, the decisive and controlling question before your committee is this: What factual evidence demonstrates that the hours now worked by railroad operating employees—in excess of the limits proposed by the pending bills—are a substantial or significant cause of the accidents that happen? As Mr. Cunningham of your committee put the question on the hearings on June 24, what figures can be provided to show what accidents are "directly attributable to the hours of service"? As Mr. Cunningham suggested, the rational way to eliminate accidents is first to determine their causes and then to eliminate them. If the accidents that now happen are not "attributable to hours of service," a reduction in such hours has no safety basis.

I strongly urge your committee not to be satisfied with generalized assumptions or speculations that the hours of service are the cause of railroad accidents. It is not enough to say, "It is reasonable to suppose" or "It can fairly be assumed" that the hours now worked cause accidents. Proponents of the legislation should have had at least some evidence that hours of service are causing accidents before having bills introduced on the subject. No such evidence has been produced.

In the discharge of its statutory responsibilities the Interstate Commerce Commission regularly gathers a large amount of information about railroad accidents (including their causes) and railroad safety. The railroads themselves file with the Commission periodic reports covering specified kinds of accidents. With respect to a number of those accidents—those that are considered by the Commission to be most serious or to have great public interest—the Commission conducts special investigations and publishes detailed reports. The Commission also has the duty to enforce the hours of service law and is

well aware of its purpose. If long hours of work are causing accidents, the Commission is certainly in a position to know something about it.

Nevertheless, in the hearing on June 27, when the chairman of this subcommittee asked whether the Commission had "any factual evidence showing that long hours of work by employees are a cause of accidents," the Director of the Bureau of Railroad Safety and Service replied, "No, sir, we have no facts or figures on this." In response to another question, the Chairman of the Commission stated that it has received no complaints relative to the particular factor of fatigue contributing to the cause of wrecks on the part of any of the organized groups. Such groups would certainly include the sponsors of these bills such as the Firemen's organization. It appears that the Commission has never felt impelled to investigate the hours of service of operating employees as a subject relevant to safety, as it has investigated for instance, the subject of grade-crossing accidents, and has never been asked to do so by the persons who now complain to Congress about the existing law.

H.R. 8476 is the bill, first and foremost, of the Brotherhood of Locomotive Firemen and Enginemen. When Mr. H. E. Gilbert, president of that organization, testified before this committee, he was obliged to admit that the firemen have made no investigation into the facts of railroad accidents to determine which of them, if any, are caused by fatigue, going to sleep, or working excessive hours. Mr. Gilbert offered no facts whatever on this all-important issue. He seemed to excuse this total failure, if I understood him correctly, on the ground that the necessary facts are very hard to come by in the first place and then that the railroads are not reporting to the Interstate Commerce Commission all of the accidents that they should report.

Yet Mr. Gilbert has access to all of his members and the information that they can give him. Surely these members know about the accidents that they themselves have been in and the amount of time worked by them before the accidents happened. These members gave Mr. Gilbert information about the length of highly selected work assignments on several railroads about which he testified. He has information from Mr. Dunn of the Boston and Maine and the others who testified about their burdensome hours of work. He has access to thousands of railroad employees to get their signatures on a petition to Congress to have the hours of service law changed but he cannot get from them facts to show that long hours are causing accidents. The charge that the railroads have been guilty of wholesale failure to report accidents that should have been reported to the Commission—he claims a precise percentage of "58 percent" unreported—must itself be based on alleged facts that were reported to Mr. Gilbert by someone. This last contention, I wish to add, is emphatically contradicted by the railroad industry.

Neither the Interstate Commerce Commission nor the firemen's organization has offered any proof that the hours being worked under the existing law are responsible for railroad accidents and neither of them has conducted an investigation to find out what the facts are in this regard.

I may say that a study was conducted by 12 railroads representing approximately one-half of the entire industry, covering a cross-section of railroad accidents occurring on their lines and the relationship

between the time worked by the employees who were on duty when the accidents happened and the limits proposed by the pending bills. The results of that study will be described by a later witness, Mr. Quenton D. Watson of the Association of American Railroads.

Briefly, these 12 roads took all of their train and train service accidents, as defined by the Interstate Commerce Commission, for the months of May and November 1965, determined the identity of the operating employees who were on duty, and then went back to the personnel records to find out how long those employees had worked when the accidents took place. The purpose of the study was, of course, to determine whether there is any connection between hours worked beyond the limits of the pending bills and accidents. The conclusions of the study do not support the pending bills nor the contentions of the proponents.

It was found, first of all, that 97.68 percent of all engineers who were on duty when accidents happened had been on duty less than 12 hours at the time of the accidents, and 91.07 percent had been on duty less than 9 hours. It was found that 97.72 percent of all of the conductors who were on duty when accidents happened had been on duty less than 12 hours at the time of the accident, and 91.09 percent had been on duty less than 9 hours. In other words, the great preponderance of accidents occurred before the principal limits of the pending bills—9 hours and 12 hours—were reached. It is true that some accidents happen when employees have been on duty more than 12 hours. It is also true that some accidents happen when employees have been on duty not more than 3 hours. Surely no one claims that a 2- or 3-hour work period is a cause of accidents that should be reduced by Federal law. The fact is that some hazards are inseparable from any industry—such as the railroads—whose operations involve extensive movements of employees, equipment, and vehicles.

I also call your attention especially to testimony that will be given by a representative of the Baltimore & Ohio about a study conducted of all reportable injuries to train and engine service employees on that railroad during the first 6 months of 1966, the current year. Of 173 reportable injuries, only 1 occurred after more than 12 hours on duty. Employees on duty 8 hours or less had 91.9 percent of all injuries, duty 12 hours or less had 99.5 percent of the injuries. The average time on duty before the injury for the system as a whole was 3 hours and 39 minutes.

Our position is that, within the limits imposed by the existing hours of service law, the number of hours worked has not been a cause of accidents. We do not say that the number of hours worked by employees could never, under any circumstances, affect safety regardless of their duration. It may be that the performance of work for periods of time substantially longer than those allowed by the existing law would cause accidents. We have made no investigation of this question.

Before leaving the subject of safety, I would like to deal with Mr. Gilbert's charge that "The accident picture on the Nation's railroads is in a 'frightening' mess." He made no attempt to relate accident or casualty experience to the working hours of employees other than to say a relationship exists. In fact, there is no data that indicates any such relationship. I would not suppose the Congress would wish to rely on unsupported arguments. On the

other hand, we do not believe you would wish us to ignore the charge that the safety standards of the industry are in a "frightening mess," no matter how remote that assertion may be from the pending bills you have under consideration. Another witness will provide a comprehensive analysis of railroad safety and safety trends which relies entirely on official data published by the Interstate Commerce Commission. I will anticipate this evidence only in a brief way to show at the outset of the industry's presentation that there is no warrant for believing that this proposed legislation, or any other, should be considered against a background of deteriorating railroad safety.

In the first place, the claim of an upward trend in railroad accidents, as made by Mr. Gilbert, is based entirely on what are called train accidents in our industry. They are so called because this is a statistical category established by the ICC accident reporting regulation. A train accident under the ICC rules is not the same thing as may be implied by that term in common parlance. It is a very specific type of occurrence that falls within precise definitions. A train accident for ICC purposes is an accident arising out of the movement of trains or cars that causes more than $750 damage to railroad equipment or property. Injuries to employees or others are not a factor. The key element for present purposes is the arbitrary dollar amount that determines whether an event that otherwise fits the definition is or is not a train accident. I say "arbitrary" not in a sense of criticism, only to make the point that a precise money amount is determinative.

Increases in equipment costs, labor costs, and material costs can result in an increase in train accidents without any increase at all in the actual frequency of accidents, fatalities or injuries. Also, the changing composition of railroad service due to the decline in passenger traffic causes a statistical increase in the frequency of train accidents, although I will leave it to a later witness to explain this statistical phenomenon. Therefore, train accident data, though useful for some purposes, are quite misleading when they are used to the exclusion of other data in an attempt to show trends in railroad safety, particularly over a period of rising costs.

We regard as more important and as more significant the data that shows the trends in casualties to individuals, and, for present purposes, especially the trends in casualties to employees on duty. These statistics show a very definite improvement in the number and in the rate of personal injuries. Indeed, there is a clear downward trend in personal injuries and of particular significance is the diminishing rate of employee casualties per train mile and per gross ton mile. The analysis of safety data that is to be presented later will show, therefore, not a discouraging trend in railroad safety but a marked improvement.

B. The hours worked by railroad operating employees as a whole are not excessive

During the earlier hearings, no evidence was presented about the hours that are actually worked by railroad operating employees as a whole. Members of the subcommittee expressed an interest in having such information, but the evidence that was offered by the Brotherhood of Locomotive Firemen & Enginemen related to selected runs of long duration between certain points on a handful of railroads, which runs were described by the spokesman for the Firemen as

"not uncommon." In order to evaluate the alleged need for reductions in the hours of service, the committee should have a better idea of the time actually worked by operating employees.

Monthly wages and employment statistics are published by the Interstate Commerce Commission. The Commission's reports show the number of railroad employees in the different kinds of service, the total number of hours that they actually work, the number of miles they actually run, the total number of trips for which at least a minimum day's pay was paid, and other information pertaining to employee compensation. From these figures average hours per trip and average hours worked per week have been computed by Mr. Quentin Watson, of the Association of American Railroads, who will present evidence showing such averages for the calendar year 1964, the last full year for which figures are available. These averages cover the different classifications of employees in passenger service, freight service, and yard service.

Without anticipating in detail the testimony that will be given by the later witness, this evidence shows that the average hours worked per week by railroad operating employees varies perceptibly among the different kinds of railroad service that have already been mentioned. The following averages cover both straight time and overtime. In passenger service, train crews averaged 33.5 hours per week; engine crews, 29.5 hours per week. In through freight service, train crews averaged 28.4 hours per week: engine crews, 27.4 hours per week. In local and way freight service, train crews averaged 55.4 hours per week; engine crews, 54.6 per week. In yard service, train crews averaged 40.3 hours per week; engine crews, 45.4 hours per week.

In addition to the averages computed from Interstate Commerce Commission figures, Mr. Watson will also present the results of a railroad industry study made by 21 class I railroads of the length of trips or tours of duty of engineers and conductors during a payroll period in the month of October 1965. This study covered a total of 297,598 trips performed by engineers and 289,835 trips performed by conductors—in passenger, freight, and yard operations. Its purpose was to classify the trips according to the time that they took in intervals running from trips that took less than 3 hours, through single hourly intervals, up to trips that took 16 or more hours.

The largest single group of trips was in the category of trips lasting 8 to 9 hours, which constituted 38 percent for engineers to 40 percent for conductors of the total. Seventy-six percent of all trips performed were completed in less than 9 hours—one of the principal limits of the pending bill—and 90 to 91 percent of all trips were performed in less than 12 hours—the other principal limit. A certain number of trips were performed in every one of the hourly intervals covered by the study.

The figures that will be presented by Mr. Watson indicate at least two things: First, railroad service lasting excessive periods of time—according to the standards proposed by the pending bills—is not widespread and pervasive throughout the operations of the railroad industry. The longest hours appear to occur, according to the study, in local and way freight service. Longer hours are much less common in passenger, through freight, and yard service. Second, railroad service requirements are not uniform. Trips are found in all of the

different hourly brackets from less than 3 hours up to 16. This indicates the great variety of railroad work and the diversity of railroad operations and also indicates a basic difference between railroad operations and those of other industries in which employees generally work the same amount of time, and for which the 8-hour day is standard.

Before leaving this subject, I would like to refer to Mr. Gilbert's examples of "abnormally long hours of work" that he testified about earlier. You may remember that he listed a number of selected assignments of named operating employees on several railroads, showing for each the name of the employee and the date of his assignment. These were all longer runs—in terms of time—and presumably they were offered as being representative or typical.

In actuality, these assignments were not even typical of the very employees who had them for the months in which they occurred. The average hours worked by these men were substantially less than the examples would suggest.

C. The imposition of the hours of service limits advocated by the firemen would result in drastic disruptions and changes in the conduct of railroad transportation operations without furthering railroad safety

Since 1907, the hours of service limits contained in the existing law have constituted a fundamental ground rule of the railroad industry. Operations have been laid out and train movements have been scheduled in contemplation of the maximum allowable working time available. Terminals and crew change points have been established with reference—among other things—to the amount of time crews will have to move between different points. Provisions in collective bargaining agreements have been predicated on the provisions of the hours of service law. As you will see, these arrangements for running the railroads in accordance with the present 16-hour law make sense.

Despite the general averages mentioned above and the figures showing that most trips or tours of duty take less than 9 hours—or 12 hours—there are still many important railroad operations that unavoidably consume periods of time that exceed, or occasionally exceed, a total of 9 hours, or 12 hours, or the other limits proposed by the firemen's bill. I should pause to point out that in all probability the proposed limit that would become most widely effective is the 9-hour limit. If the engineer (operating without a fireman in the locomotive) has to stop at 9 hours, many railroads are likely to find it necessary to stop the whole crew at the same time even though the other members of the crew—that is, the trainmen—are eligible to work for at least 12 hours. Therefore, these bills would probably create a 9-hour law rather than a 12-hour law, although this might vary according to circumstances on different railroads.

To illustrate the acute problems that would be engendered by the proposed limits—either 9 hours or 12 hours—it may be helpful to consider in some detail a simple but thoroughly typical railroad operation of a through freight train crew in service between two points. The operating problems that would arise under these proposals vary widely from railroad to railroad, and you will hear other testimony by operating officers from a number of different railroads who will testify directly about the effect of this bill on their own operations. The illustrations that I give will serve merely as an introduction.

Assume that a through freight crew operates trains between A and B, which are 175 miles apart. Assume that the trip from A to B takes 6½ hours, that the crew is off duty at B for 2½ hours, and that it then relieves the crew of a different freight train—which is being operated from point C, through B, to A—and operates that train back to A in 6 hours and 45 minutes. This operation takes the crew 15 hours and 45 minutes from the time it leaves A until it returns. Such an operation is within the limits allowed by the existing law. Typically, crews that operate in such freight service work every other day or even every third day, having 1 or 2 days off following a tour of duty. Also typically, they may earn 3 or 4 full days' pay for such a round-trip run, depending on the mileage covered and running time. That particular crew would have received 3½ days' pay for a total of 13 hours and 15 minutes actually on duty.

Under the limits of the pending bill, the foregoing tour of duty would not be permissible. Under section 1(b)(3) of H.R. 8476, the 2½-hour stay at B would be considered as time on duty for hours of service purposes because that section provides that the only interim rest periods that shall not be regarded as time on duty are those lasting more than 3 hours. Consequently, the total hours of service for purposes of the statute would be 15 hours and 45 minutes of continuous service, which exceeds the 12-hour maximum for continuous service and, of course, the 9-hour limit for continuous service of the engineer.

One solution to this problem might appear to be to delay the crew at B for 4 hours so that the relief period there would not be considered as time "on duty." If the train then makes the trip back to A in 6 hours and 45 minutes, the total time on duty—exceeding the 4 hours spent at B—would be an aggregate of 13 hours and 15 minutes.

Mr. DINGELL. You mention that 13 hours and 15 minutes would be the aggregate time. Would that constitute a reduction in the day's pay? You mention it would be 3½ days' pay at the bottom of the previous page. You said:

> That particular crew would have received three and one-half days' pay for a total of 13 hours and 15 minutes actually on duty.

Then you go on and say:

> If the train then makes the trip back to A in 6 hours and 45 minutes, the total time on duty would be an aggregate of 13 hours and 15 minutes.

How many days' pay would that be under the times proposed in the bill before the committee?

Mr. MANION. You mean with the difference in the periods?

Mr. DINGELL. Under the proposed bill before the committee.

Mr. MANION. I am not sure that would affect it. There would be no change.

Mr. DINGELL. There would be no change?

Mr. MANION. No.

Mr. DINGELL. The rate of pay received would be substantially the same amount?

Mr. MANION. That is right.

Mr. DINGELL. Thank you.

Mr. MANION. H.R. 8476 contains no specific limit on aggregate on-duty time. Actually, this series of working periods would still not comply with all of the provisions of H.R. 8476 but would violate the law. Another provision of the bill, section 2(a)(2), provides that

it shall be unlawful for a carrier "to require or permit an employee to continue on duty or to go on duty when he has not had at least 8 consecutive hours off duty or to go on duty when he has not had at least 8 consecutive hours off duty during the preceding 24 hours. In this example the 4-hour relief period at B has prevented that. For purposes of section 2(a)(2) of the bill, no credit would be given for the interim relief period of 4 hours at B because that period of time was less than 8 "consecutive" hours. The three periods, 6½ hours (going), 4 hours (rest period at B), and 6 hours and 45 minutes (returning to A), amount to a total of 17 hours and 15 minutes. Looking backward from the moment that the crew arrived back at A, it is impossible in the preceding 24-hour period to find 8 consecutive hours off duty. The precise point at which it became impossible to do this—and the precise point at which the crew entered into a violation of this provision of the law—occurred when the train had traveled 5 hours and 31 minutes of the homeward trip to A, and the rest of the run into A would have been in violation of the law.

A number of solutions to the problem presented by this illustration would have to be considered by the railroad and it is worthwhile to consider them:

(*a*) The train crew could start out from B for A on the return trip and stop at—or just before—the point in time at which it could look back over the preceding 24 hours and find 8 consecutive hours off duty. There might or might not be a station or railroad siding at the point on the line where the train would be when its time expired. The crew would therefore stop short at the last available siding and get word to the dispatcher and a relief crew could be taken (deadheaded) out to relieve the stranded crew and train and to operate the train the remainder of the trip into A. The relief crew would receive a full day's pay for operating the train the short distance into A.

(*b*) Rather than start a crew back which would doubtless die on the road, the crew would remain at B for its full rest. This would require another crew to cover the through train and would be accomplished by adding crews to the pool or setting up crews from the extra list. Depending on traffic flow, the crew resting at B could quite likely remain at that point substantially longer than the 8-hour rest period with additional expense to the railroad and probably the crew for meals and lodging.

(*c*) Where traffic is heavier in one direction than the other, it might be necessary for the purpose of balancing crews or locomotives to deadhead the rested crew home.

(*d*) The railroad might divide the run at a place approximately midway between A and B, that I will refer to as X. The crew that once ran from A to B would then run from A to X and return to A within the working limits now proposed. X would be a crew-change point and the turn-around point for crews from each direction. Trains that started out from A would change crews at X and continue on to B (and beyond). This would entail having twice as many men performing the work that was originally performed by the crew that worked between A and B and would also entail the expense of setting up a new crew-change point. Our studies indicate that the proposed bills would require many changes in crew assignments and the establishment of numerous new crew terminals.

Another illustration of problems that the bill would create is presented by a typical local freight run. This is the kind of run on which long hours are more common.

Suppose that a local freight crew operates 60 miles from X to Y over a branch line. The crew stops at small towns, grain elevators, and industrial plants along the way, dropping loaded cars off for consignees, dropping empty cars off to be loaded, and picking up loaded cars to be hauled on to a point of the main line of the railroad where they will be picked up for further movement. The local freight train is not a high-speed train. The crew spends a good deal of time servicing the patrons; there may be substantial periods of delay. This crew is able to get from X to Y and back to X in the course of a single day's work, let us say, in 13 to 15 hours, depending on the amount of traffic to be handled and other conditions on the line.

Obviously, this crew could not do the same work under the 9- and 12-hour limits of the pending bill that it does now, and that particular local run would have to be revised materially. The possible revisions include the following:

(*a*) Instead of a daily turn at point X, the operation would be changed to go up one day and back the next. The possible consequences of this change would include the following:

(i) Shippers on the line would get railroad services every other day instead of daily.

(ii) The railroad would probably lose business to competing forms of transportation as a result of furnishing less frequent service.

(iii) The railroad would be obliged to furnish food and lodging to the crew every night it stayed at Y.

(iv) The members of the crew would earn less money for a one-way trip each day than they now earn for a round trip each day and they would spend several nights each week away from home instead of being home every night as they now are.

(*b*) The railroad might operate two trains a day instead of one between X and Y, probably one each way. Each of the two crews would perform half of the work that the present single crew performs. Conceivably, this could be done within the limits of the pending bill.

Among the possible consequences of this revision would be the following:

(i) The railroad would have to hire new crews and buy additional locomotives and cabooses for the new train, giving rise to substantial capital costs and increased wage expense.

(ii) The train crews of the two trains, by virtue of getting over the line more rapidly than they do now, would have less opportunity to earn overtime pay. Their total earnings would certainly be reduced.

(*c*) Some branch lines would be abandoned as a result of becoming uneconomic and some local freight runs would cease to be operated. Possible consequences of this revision are as follows:

(i) Shippers located on the branch line would be deprived of rail service.

(ii) The railroad would lose business to other forms of transportation and would lose earnings.

(iii) Railroad employees now operating local trains between branch line points would have to transfer to other places on the railroad to obtain work, and some would be out of work.

These sample situations will show that the proposed reductions in working limits would generate practical problems going to the heart of railroad operations. These problems will vary in refinement and complexity from railroad to railroad, and operating witnesses from individual roads that have investigated these problems exhaustively will appear before you and testify in detail about them. I have merely tried to give you a general idea of the character of some of the operating problems that would be created.

The spokesmen for the firemen attempted to leave you with the impression that the changes in the law would create no problems for the railroads that could not be solved by an imaginative rescheduling of trains. I want you to realize that this is simply not so. You may remember that Mr. Gilbert, and the others, had no practical or constructive suggestions to make about the things the railroads would have to do to observe the proposed limits. The railroads, unfortunately, cannot afford to be so carefree and they have given these bills the most thorough consideration.

I would like to make another general observation about the effect of these bills. Wholly aside from specific kinds of railroad service—such as those illustrated by the few samples that I have just mentioned—the railroad industry in all of its operations has a need for flexibility. This arises from the inherent nature of railroading. Every railroad must allow for obstacles, breakdowns, congestions on the line of road, weather, and many other circumstances that can delay the movement of trains. These circumstances may not occur frequently, but when they do the railroads need leeway and latitude in order to operate within the law and to maintain their service.

Most railroads try to avoid working men for periods that closely approach the 16-hour limit because when they do so they run the risk of violating a Federal statute or tying up trains on line. Under the 16-hour limit, many roads allow themselves a margin of safety of approximately 2 hours. This means that when an employee reaches a point when he has been on duty 14 hours, the railroad takes precautionary steps to relieve him before 16 hours are reached. If the limits are reduced from 16 to 12, railroads would feel free to operate safely for perhaps 10 hours and would then make plans to relieve crews that had worked that long. In practical terms, a 12-hour law would give a railroad approximately 10 safe working hours (including relief periods of less than 8 hours), and a 9-hour law would permit it to operate crews with security for not much more than 7 hours. The occasions on which train and engine crews are relieved out on the line to prevent them from exceeding the 16-hour limit and are deadheaded into a terminal are the exception and not the rule. This sometimes has to be done to avoid violating the law, but it is certainly not a frequent procedure.

D. The operating changes that would be required by the pending bills would be injurious to the railroads, detrimental to shippers and disadvantageous to operating employees while contributing nothing to safety

1. Injurious effect on the railroads.—(*a*) In order to determine as precisely as possible the effect on the industry of the pending bills, 10 representative railroads were requested to conduct detailed and

exhaustive studies. Those 10 railroads, which are a fair cross section by any standard, are:

Atchison, Topeka & Santa Fe,
Atlantic Coast Line,
Baltimore & Ohio,
Illinois Central,
Louisville & Nashville,
Missouri Pacific,
Norfolk & Western,
Pennsylvania Railroad,
Southern Pacific,
Union Pacific.

These railroads were asked to make a comprehensive analysis of selected portions of their operations over a limited period of time directed to problems of aggregating periods of service performed by employees, turnaround runs, rest periods, the costs of complying with the proposed legislation, and other matters. The study was conducted and individual witnesses will present testimony based on the studies conducted on each of these railroads showing the principal findings on each of them.

Some of the studies highlight the problems that would arise in the transportation of coal and other products of mines. Others describe problems peculiar to railroad operations over long distances in sparsely populated areas in the west and through mountainous terrain. Others describe problems in local freight and through freight.

On each of the roads, the study was conducted in the same manner. Each road selected a recent period in its own operations on a representative segment of its system and determined, on an hour-by-hour, 24-hour basis, for that entire sample period the actual facts about the working time and the off-duty time of operating employees. They applied the provisions of H.R. 8476 to the operations covered by the study to determine which of them would have exceeded the proposed limits and which would not. They next made what might be called a constructive rerun or redispatch of the same operations, applying the assumption that the proposed changes in the law had actually been in effect. These studies were conducted by members of the railroad operating departments that have day-to-day responsibility for running the railroads.

The total annual cost for the 10 roads of complying with the provisions of the bill was estimated to be $81,603,407. The main categories of expense for which costs were estimated were additional train-miles resulting from the running of more trains, additional crew expense not connected with additional train-miles, additional locomotive expense, additional rest facilities, additional allowances for meals and lodging, increased deadheading costs, and additional sidings. The gross additional capital investment for the 10 roads was calculated to be $109,057,963.

The operating expenses of the 10 railroads are 47.75 percent of the total operating expenses of all class I line-haul railroads of the United States, and the total annual expense for all of the class I roads that would result from enactment of these bills, arrived at by extrapolating this percentage, would be an estimated $171 million. The estimated gross additional capital investment for all class I roads would be approximately $181 million. This does not include the costs for

railroads other than the class I roads. It does not include the costs that would result from section 3 of H.R. 8476, which would amend the law relating to employees who use telephone, telegraph, radios and other electrical and mechanical devices in connection with the movement of trains and other mobile equipment. The 10-road study excluded the possible effects of that section of the bill for the reason that a special study of it was considered to be necessary. That section would add substantially to railroad costs.

I have attached to my statement a table giving breakdowns of the cost estimates arrived at by the 10 study roads.

This enormous annual outlay would contribute nothing to railroad safety. As we have seen, the firemen have produced no evidence whatever to prove that considerations of safety require reductions in the hours of service limits, and the railroad industry accident study has shown that hours of service are not a part of the safety picture.

(*b*) In addition to increasing operating expenses unjustifiably, and unproductively, the bills would injure the railroads by decreasing the efficiency of their operations and making them less able to compete with other forms of transportation. They would do this primarily by depriving the railroads of essential flexibility. If train and engine crews are forced to operate under a 9-hour time limit, as many of them would be, the effect will be to confine the railroads in a strait-jacket.

A typical injurious effect would be felt in yard service, which I mentioned in my introductory remarks. Yard employees work an 8-hour day and a 40-hour week. The average hours per tour of duty and the average hours of work per week of these employees—8.4 hours per tour of duty, 40.3 hours per week for train crews, and 45.4 hours per week for engine crews—show that long hours are not prevalent in yard service. Nevertheless there are occasions when yard employees work extra, or successive, shifts. This is known as doubling. The principal occasion arises when not enough men are available on the extra board to cover absentees on yard assignments or for additional jobs. During periods of manpower shortage this becomes a serious problem. At such times, men who work one shift have an opportunity to work a second shift at overtime rates.

Doubling can be done under the existing law, but it would be impossible under the limits in the pending bills. This could very well force the blanking of jobs needed to meet transportation requirements. Manpower shortages often occur when the country is engaged in serious military operations as it is today, also during periods of bad weather.

2. Detrimental Effect on Shippers.—Any change in the hours of service limits that hampers or restricts the railroads is bound to result in impaired service to shippers. I have mentioned earlier that shippers on branch lines might be served every other day instead of daily and that some would lose rail service altogether if branch lines are abandoned, as some might be. Freight service in general would probably become slower by reason of the fact that train stops would have to be made more often to change crews.

Any substantial increase in the railroads' cost of doing business must inevitably be covered in their freight rates. Since 1958, railroad average freight charges have been reduced approximately 13 percent in an effort by the railroads to be as competitive as possible with other forms of transportation. These reductions were made during a period when

the Consumer Price Index had risen nearly 12 percent. If operating expenses are increased by reduced hours of service limits—as they would be—the public interest in reduced transportation charges will suffer. Cost and rate reductions will become more difficult to make.

Congress has recently enacted Public Law 89–430 (approved May 26, 1966) intended to insure the adequacy of the national freight car supply. Hearings were held by your committee and by the Senate Committee on Commerce on this legislation. Tight freight car supply, as you know, has been a continuing problem. The railroads are buying as many new cars as possible to help meet this situation and the indications are that this will continue for some time. If the hours of service bills should add $171 million of new annual operating costs, plus an initial capital outlay of over $180 million, Congress might reasonably expect the railroads to be able to buy fewer new freight cars rather than more. The main victims from freight car shortages are the shippers and the commerce of the country.

3. Disadvantages to Railroad Operating Employees.—While the opposition of the railroads is primarily based upon the effect the bills would have on them, they have a legitimate interest also in the effects upon shippers and railroad employees. The investigations disclose that these bills would adversely affect many railroad employees, and the possible results in lowered morale and increased conflict properly concern the carriers.

The studies on 10 railroads and investigations on other roads indicate that many operating employees would lose substantial amounts of pay if these bills were enacted. Employees who do not now work beyond the 9- and 12-hour limits of the pending bills might not lose pay, but many others would. You can easily see why this would be true. An employee who now runs 200 miles from A to B and back in 1 day would probably be unable to run both legs of the trip in 1 day within the proposed time limits. Instead, the railroad would have to rearrange this operation so that he would run 100 miles in one direction on 1 day and 100 miles in the reverse direction on the next day. He would run half as many miles and half as many hours on each day as he runs now. He is paid on the basis of miles or hours, and his miles and hours would both be reduced. Other changes and rearrangements of operating schedules such as I mentioned earlier would result in substantial earnings losses. Some typical cuts or losses will be described by witnesses from individual railroads.

A spokesman for the Firemen has suggested that the maximum mileage provisions of the collective bargaining agreements would prevent these losses from happening. These provisions fix a maximum number of miles that an employee can operate in a month. When he reaches the maximum number of miles, he is not supposed to work any more. This maximum figure is not a guarantee but a ceiling.

One of the standard mileage figures is 3,800 miles per month in freight service. If we apply this maximum to the example I have just given you will see that the employee in freight service on a 200-mile round trip run will reach his maximum mileage in 19 working days under the existing law. If his run is spread over 2 days, however, he will run only 100 miles a day and he cannot accumulate more than 3,100 miles if he works every day in a 31-day month. He will inevitably lose money. There may be other assignments that would permit an employee to reach his mileage maximum within a month,

but he would have to work more days in a month than he now works. The mileage maximum agreements will not protect employees from the adverse effects of these bills.

Our investigations show that in instance after instance the assignments that have long hours have been chosen by the employees who hold them through the exercise of seniority. In railroad parlance, they have "bid the jobs in." While runs in local freight service often require longer days than other assignments these jobs are held to be desirable by many employees because the earnings are higher. Many of the employees who hold local freight assignments stand high on the seniority roster, and many of them could have chosen available assignments involving shorter runs if they had wished to work shorter hours. When such employees "bid in" such jobs, they know perfectly well the character of the assignments and the hours of the work that go with them. The fact that these jobs with longer hours and higher pay are sought by the employees—who could easily obtain assignments with shorter hours—is a good answer to the charge of inhumanity that is made here by the firemen.

Another result that would flow from reduced hours of service would be that many operating employees would spend more time away from home than they now spend. The reasons are clear. On many assignments today, employees operate out from a home terminal to an away-from-home terminal and return on the same day. These round trip runs could not be performed within the reduced hours of service limits, and those assignments would have to be rearranged so that employees would have to spend the night at the away-from-home point and return home the next day. According to the industry's studies, such rearrangements would be quite common.

We believe that most railroad workers would prefer a system of operations that would allow them to spend as much time as possible at home with their families. They might not be grateful for a law that would dislocate their lives as seriously as the proposed law would do. This is certainly the judgment of the Brotherhood of Locomotive Engineers.

4. Effect of bills on provisions of existing labor agreements.—If the hours of service law were amended, the railroads would have to make extensive changes in their operations in order to comply with the amendments. Many of the things that they would be obliged to do are counter to the provisions of existing labor agreements and would require that such agreements be renegotiated. The problems that would arise in this regard will be discussed by Mr. J. E. Wolfe, who will be a witness before your committee.

E. The main result of the pending bills would be to make work by creating new jobs on the railroads

We know that the alleged safety justification for this bill does not stand up. There is a total lack of proof that hours of service have created a safety problem or that reducing them will enhance safety.

We know that the bill would result in reduced earnings for many employees. It would create inconvenience and distress for employees who would be forced to spend more time away from home. It would produce no benefits for the shipping and traveling public and no benefits for the railroads.

Nothing could be gained by discussing the possible motivations or purposes of the proponents of these bills. The important thing to

consider is what the bills would, in fact, accomplish, and there is no doubt about that. They would compel the railroads to hire many more employees than they now have.

This fact is reflected in the estimated operating expenses for additional train-miles and the additional crew expenses developed by the studies of the railroad industry. This result is also obvious from a commonsense analysis. The railroad industry today handles a certain quantity of business with a certain number of employees who work a certain total amount of time. If the total allowable worktime of employees is reduced and the size of the work force remains the same, the railroads will not be able to handle the same amount of business that they handle today. The only way for them to do so would be to increase the work force to the extent necessary, and this is what would happen as a result of changing the law. A larger number of employees would do the same amount of work that is done today by a smaller force.

We all know that H.R. 8476—and the other identical bills in the House and Senate—are the special project of the Brotherhood of Locomotive Firemen & Enginemen. One of the principal limits of H.R. 8476—and perhaps the most important single one—is the 9-hour limit for locomotive engineers when they are the sole crew of a locomotive. If a substantial number of engineers are reduced to 9 hours or less per day, a need would arise for more engineers. The Firemen's Brotherhood has many members who are qualified as engineers and who would be available to fill the newly created jobs. By imposing the 9-hour limit on engineers only when they constitute the sole crew of a locomotive, the bill also puts pressure on the railroads to put firemen back in locomotives from which they have been removed. If a fireman is a member of the crew, the engineer would be able to work 12 hours instead of 9, and so, as a practical matter, would the rest of the traincrew. Railroads might be compelled in some situations to follow this course and to use a fireman in order to be able to operate the rest of the crew up to the 12-hour limit. Whichever choice the railroads make, the Firemen's Brotherhood stands to gain. There will be more jobs for members who are engineers and perhaps more jobs for firemen.

You will recall the controversy over the removal of the firemen from diesel locomotives in yard and freight service. This controversy was disposed of in 1963 by Public Law 88–108 of the 88th Congress, which directed the creation of a Board of Arbitration to decide the issue. As you know, the Board of Arbitration decided that the railroads could discontinue the use of a large majority of the firemen then in service, subject to a provision that appropriate provision be made for those who are discontinued, and that award has since been carried out. The Firemen's Brotherhood is thus in the unhappy position of representing a dwindling class of railroad employees.

The relationship between the pending bill and the prolonged controversy between the railroad industry and the brotherhood over the removal of the firemen from diesel locomotives, including the action of the Presidential Railroad Commission, Public Law 88–108, and the arbitration carried out pursuant to the statute, will be discussed by Mr. J. E. Wolfe of the National Railway Labor Conference, who will testify before your committee.

F. There is no justification for extending the hours of service law to time spent deadheading

In the hearings before the subcommittee on June 24, the Brotherhood of Locomotive Firemen & Enginemen advocated the extension of the hours of service law to what is commonly known as deadheading, and thereafter offered legislative language that would cause "all time involved in deadhead transportation to and from duty assignments" to be counted as time on duty. H.R. 8476 as introduced would not have made the hours of service law applicable to deadhead time, and the first notice the railroad industry had that proponents of the legislation sought such an amendment of the law was given at the hearings in June. The railroads are strongly opposed to any such amendment.

Deadheading may be defined as travel performed by railroad employees at the direction of a railroad. Employees are frequently instructed to go by train or motor vehicle from one place to another to carry out a function of the railroad that has to be performed. They may travel from one point to another to take over a train, as the traincrew, and operate it on a different point. They may go out to relieve another traincrew that has approached, or reached, the legal limits of the hours of service law and is no longer able to operate. Individual employees travel from one point to another to substitute for employees who are sick or incapacitated. Employees at an away-from-home terminal may be deadheaded back to their home terminal because there are no trains that they can work back as a crew and because they are needed at the home terminal. The railroad may direct them to ride a train or bus back to the home terminal. A crew that has reached the maximum limit under the hours of service law and cannot work any longer may be relieved of its duties and directed to deadhead back to the home terminal. Many other occasions arise for travel of this kind. Deadheading is a widely used operating practice.

The first thing to note about such travel is that the employees are riding as passengers in the most suitable means of transportation available. They are not working. They are not discharging any responsibilities to the railroad other than to proceed to their destination. The second thing to note is that they are being paid for all traveltime. Under established interpretations of the existing hours of service law, deadhead time is not considered to be time on duty, and time so spent is not governed by the 16-hour limit.

The firemen desire to overturn the treatment of deadhead travel that has been customary for decades on the basis of a handful of instances of alleged abuse on several different railroads. Investigation discloses that—when all the facts are known—the railroad action in the incidents complained of was understandable and reasonable.

The incidents on the New Haven, one of the railroads mentioned by Mr. Gilbert, were typical. Members of engine crews had reached the maximum limits under the hours of service law and were relieved by the railroad to avoid infractions of the statute. This occurred at a distance from the employees' home terminal and the men were instructed to deadhead home, which they did on passenger trains. The homeward travel consumed time. Under the existing law, they were required to receive a minimum period of off-duty time before they could be permitted or required to return to duty. They were called to report for duty at the expiration of this statutory period, which

was 8 hours in one of the instances complained of and 10 in another. Since deadhead time is considered not to be on-duty time, the 8-hour rest periods, in fact, included some time that was spent traveling back to the home terminal.

According to Mr. Gilbert's own testimony, the New Haven employees declined to report for duty at the end of their off-duty periods and they were allowed to do so. Two of those employees then remained off duty for 33 hours. What Mr. Gilbert failed to disclose was that these employees were entitled under the terms of the applicable collective bargaining agreements to work the assignments that they refused, and the railroad was under a contractual duty to offer them those assignments when it did. If the railroad had not summoned those employees first but had used other employees for those assignments, it would have been liable to the men who were entitled to work for penalties amounting to a full day's pay. What Mr. Gilbert actually complains of is that when the men who were entitled to the work refused it the railroad gave the assignments to other employees, and the men who declined the work thereby lost what they would have earned on those runs. In fact, these employees claimed pay for the assignments they refused to work and were turned down. The only way the railroad could have satisfied Mr. Gilbert in this situation would have been to delay the departure of the trains until these employees were ready to work or to have given them a day's pay for work not done.

The employee on the Louisville & Nashville (about whom Mr. Gilbert testified) who was called at the end of his legal off-duty period was in the same position as the men on the New Haven; that is, he was entitled to be called for that assignment. The railroad was obliged to call him when it did because that was his assignment under the applicable rules and the railroad would have been liable to him for a penalty if the assignment had been given to someone else. There was no injustice in the treatment of any of these employees.

If we consider the purpose of the hours-of-service law, namely, safety, there is no evidence before your committee that the exclusion of deadhead travel from hours of service time has caused accidents, or is likely to do so.

If some employees are aggrieved over railroad practices in regard to deadheading, their obvious recourse is to seek a remedy through collective bargaining. Employee grievances are a classic subject for bargaining and negotiation. Deadhead travel has been the subject of collective bargaining in the past and is covered by provisions in many existing labor agreements. There is no need for Congress to intervene in connection with deadheading and no factual basis for its doing so on the basis of the flimsy evidence presented by the firemen.

Finally, the proposed amendment would be extremely hurtful to railroad operations and railroad safety, as a few illustrations will show.

Suppose that a crew reaches the maximum limit of the hours of service law at a point 70 miles from its home terminal. The train might have been delayed for many reasons that could not have been foreseen or prevented and for which no one was at fault. The train would stop. Under existing law, the railroad can act promptly to get the train and crew back to the home terminal by deadheading. A new crew could operate the train back or it could be towed back by

another train or locomotive. The crew that is relieved may return in the caboose, or the locomotive, or in some other form of transportation that is provided, but in any event they are brought home.

If deadheading is considered as time on duty, the crew cannot be transported at all in any direction upon the expiration of the maximum time limit. The railroad cannot move them until they accumulate either 8 or 10 hours off duty. It will have to leave them precisely where they are, perhaps in open country, perhaps in bad weather. It will be prohibited by Federal law from doing anything else. The railroad would be able to bring the train into the terminal but not the crew. Under many collective bargaining agreements, the railroad has a contractual duty to transport such a crew into the terminal. This obligation would be in direct conflict with the duty to obey the hours of service law as amended. If the railroad complied with the law, it might be subject to penalty payments under the collective bargaining agreement. The crewmembers would be able to get home on their own without help from the railroad, for example, by renting an automobile, but it would be legally impossible for the railroad to transport them. This example demonstrates the absurdity of the proposed deadhead amendment and shows how it would work against the welfare of employees.

Suppose (as another example) that a traincrew is directed to travel in a passenger train to relieve a freight train crew at point A and to operate the freight train to point B. Suppose that the trip by passenger train takes 6 hours and that the trip from A to B, in the operation of the freight train, would ordinarily take 7 hours. On the assumption that the maximum hours of service limit is 12 hours, when the relief crew arrives at A it will be unable to begin the job it was sent out to do because the trip from A to B—combined with the deadhead time of 6 hours—will take 13 hours and will exceed the maximum limit. What would the railroad be able, as a practical matter, to do in this situation? About the only solution would be to tie the freight train up at A for 8 hours while the relief crew takes 8 hours off duty—after its 6-hour ride in the passenger train—in order to be qualified to operate the train to B. You can easily imagine what this amendment would do to the operation of the country's railroads in the way of tying up trains that would otherwise be in busy operation hauling freight and passengers. You can also imagine what it would do to their ability to compete for business with other forms of transportation. I cannot begin to indicate to your committee the many, many situations in which this deadhead amendment would disrupt and disorganize efficient, synchronized operations of the railroads.

G. Observance of the existing hours of service law by the railroad industry has been satisfactory

Spokesmen for the firemen's organization attempted to leave your subcommittee with the impression that the railroads operate in careless disregard of the existing hours-of-service law and that its sanctions have no deterrent effect on them. On behalf of the railroad industry. I would like to say that this testimony was quite misleading.

The hours-of-service law that is now on the books is considered to impose a most serious obligation on the railroads of the United States. They are mindful of it every day that they operate and in all of their operations. They make the most serious effort to see that it is not violated, and violations are not treated lightly by any of them.

On every railroad someone in the railroad operating department is always aware of the facts with respect to the number of hours that every operating man who is on duty has worked and how much time he has to go before he will reach the maximum time allowable under the law. Employees themselves are carefully instructed about the hours of service law and are directed not to exceed its limits. Operating witnesses who testify later will describe some of the steps that are taken to assure regular compliance with the law. Under normal operating procedures, when it appears that an operating employee or crew may get close to the maximum time limits, steps are taken—well in advance of the deadline—to relieve them. Normal operations are scheduled in such a way that they will be completed before hours of service limits will be reached, and the instances in which crews have to be relieved before they can complete their trips are unusual and a very small minority of all of the trips that are run on the railroads. On most of the trips on which employees are relieved before the trips are completed, the relief is successfully carried out before the legal time limits have been passed. In a very small number of cases—those in which the preventive system fails for one reason or another—the time limits are exceeded in circumstances in which the law is violated.

The railroads do not condone or excuse any violations of this law. Such violations should not happen. Your committee should know, however, that the number of violations is really minute in relation to the total number of possible or potential violations, and that the record of the industry is actually very satisfactory.

You should know in the first place that the railroads themselves are the primary source of information to the Interstate Commerce Commission about all hours of service violations. They are required to report each month every instance in which the limits of the law are exceeded by any railroad operating employee. Not every instance in which the limits are exceeded is a "violation" in the legal sense because a proviso in section 3 makes the law inapplicable in cases of casualty, unavoidable accident, acts of God, the operation of wrecking or relief trains, or cases where a delay was the result of a cause not known to a carrier at the time an employee left a terminal and which could not have been foreseen. Every time a single employee exceeds the legal limits is a separate instance, and every instance is reported to the Commission whether the exonerations contained in the proviso apply or not. Failure to report such instances is subject to sanctions, but we have found no cases in modern times in which railroads have been penalized for failure to report under the Hours of Service Act, and we understand that the Interstate Commerce Commission has no complaint about the railroad performance in this regard.

According to the report of the Section of Railroad Safety of the Commission's Bureau of Railroad Safety and Service for the fiscal year ended June 30, 1965, these reports from the railroads covered 792 instances of excess service performed by train and engine employees subject to the 16-hour provisions of the law, and 2,327 instances of excess service by operators, train dispatchers, and other employees subject to the 9- and 13-hour provisions of the law, for a total of 3,119 instances. These were not, as Mr. Gilbert stated, "violations" of the law but "instances" of excess service. The great majority of these were considered by the Commission not to be violations.

The causes for excess service that are listed in the Commission's report for train and engine crews are: Collisions and derailments, weather conditions, track defects, floods, obstructions, congestion of traffic, mechanical defects of engines and cars, wrecking and relief service, and miscellaneous causes, The causes of instances of excess service by operators, train dispatchers, and like employees are listed as follows: Train accidents, weather conditions, floods, fires, landslides, "delayed trains and held to handle train orders," misunderstanding of instructions or arrangements, station or clerical work, sickness, death, or personal injury, "relief operator arrived late," labor shortage, and miscellaneous causes.

According to the report of the Section of Railroad Safety, out of the total of 3,119 instances of excess service reported during fiscal 1965, and out of a total of 1,543 of them that were investigated, the Bureau of Railroad Safety and Service transmitted 388 cases for prosecution. (The term "prosecution" in this context does not mean a "criminal action" but a civil action brought by the United States against a railroad to recover a civil fine or penalty.) This means that the Bureau considered that there were 388 cases of violation, which it sent to the lawyers for the Interstate Commerce Commission with a recommendation that legal action be taken. It does not mean that there were in fact 388 violations of the law.

Of the total of 388 cases that were considered by the Bureau to be violations, the Commission itself—presumably on the basis of determination by Commission lawyers—transmitted only 77 cases, comprising 286 counts, to U.S. attorneys for appropriate action. Each count represents an instance in which a single employee allegedly exceeded the hours of service limits without a good legal excuse. How many of the 77 cases (and 286 counts) of alleged violations transmitted to U.S. attorneys in 1965 were actually filed as lawsuits and how many of them resulted in judgments by courts that the railroads had violated the law is impossible to ascertain from the Commission reports.

Therefore, we will assume that all of the 286 counts that were transmitted in fiscal 1965 related to actual legal violations by train and engine employees. It is most unlikely that all 286 counts related solely to train and engine employees because approximately three-fourths of the total number of instances of excess service reported by the railroads—or 2,327 instances—involved operators, train dispatchers, and like employees subject to the 9- and 13-hour limits. We will nevertheless assume that all 286 counts were violations by train and engine service employees.

In fiscal 1965, the number of trips for which not less than a minimum day was paid to train and engine service employees was 46,456,959. The number of counts per 100,000 trips was 0.62, and the number of trips per count was 162,437. This overstates the actual incidence of violations for train and engine crews, but even the overstated incidence indicates the minute number of violations in relation to the total number that was possible. Two hundred eighty-six counts is roughly equivalent to 72 instances in which trains with 4-man crews violated the hours of service law.

The counts that represent violations by operators, train dispatchers, et cetera, cannot be isolated and distinguished from the counts that pertain to train and engine crews. Moreover, these counts cannot be related to a total possible number of trips because these employees

do not work on a trip basis. We will assume that all 286 counts were for violations by the operators and dispatchers under the 9- and 13-hour limits, pointing out that this will overstate the case as to those employees, and we will relate those counts to the total employment represented by this particular group.

The average number of employees covered by the 9- and 13-hour limits was 29,674 in fiscal 1965. The number of counts was 286. The number of counts per man-year was 0.0096. The figures for both groups of employees show the railroads faithfully observe the hours of service limits, and that there is no need for increased fines as a deterrent against violations.

One of the witnesses for the Firemen stated that: "All too often we find that the carriers deliberately violate the law because it is more convenient to do so, rather than give their employees needed rest." The Firemen offered no evidence whatever to substantiate this statement and the records of the Interstate Commerce Commission do not support it. I would recommend that the committee disregard it as frivolous and irresponsible.

H. Section 3 of H.R. 8476 is unclear and unjustified

Section 3 of H.R. 8476 would revise and expand the provisions of existing law prescribing special hours of service limits for operators, train dispatchers, or other employees who by the use of telegraph or telephone dispatch, report, transmit, receive, or deliver orders pertaining to or affecting train movements. Such employees are now limited to 9 hours in any 24-hour period in towers, offices, places, or stations continuously operated day or night, and to 13 hours in towers, offices, places, and stations operated only during the daytime, except in case of emergency, when the named employees may be on duty 4 additional hours in a 24-hour period or not exceeding 3 days in any week.

Section 3(a) of the pending bill provides that "No employee, who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device, directs or controls the movement of a train or trains, or other mobile equipment operated on the rails of carriers, or why by the use of any such means, dispatches, reports, transmits, receives, or delivers orders, pertaining to or affecting the movement of a train or trains, or other mobile equipment" shall be on duty in excess of newly prescribed limits. Such employees would be limited to 9 hours, whether consecutive or in the aggregate, in any 24-hour period in any tower, office, station, or place where two or more shifts are employed, and to 11 hours, whether consecutive or in the aggregate, in any 24-hour period in any tower, office, station or place where only one shift is employed. The 9-hour limit would apply to installations where two or more shifts are operated, instead of two installations continuously operated night and day, as under the existing law. The 11-hour limit would apply to installations where only one shift is employed instead of to installations operated only during the daytime, as under existing law. Section 3(c) repeats the present emergency provisions.

I have underscored the language in the pending bill that would be added to the existing law.

This bill would make the following principal changes:

1. The hours of service limits proposed by section 3 would apply to employees who "direct or control the movement of a train or trains or

other mobile equipment on the rails of carriers" by using the various means that are enumerated. This function; that is, controlling or directing train movements, has never been covered by the hours of service law and is new to it.

2. The hours of service law would apply to the work of employees who use "radio, or any other electrical or mechanical device," (a) to direct or control train movements, or (b) to handle train orders that are now covered by the provisions of existing law relating only to telegraph and telephone. The use of radio and other electrical or mechanical devices for such purposes is not covered by existing law.

3. The hours of service law would apply to employees who (by the use of the enumerated means) direct or control the movement of "mobile equipment operated on the rails of carriers," or (by the use of such means) handle train orders pertaining to or affecting the movements of mobile equipment. Activities of employees relating to the movement of mobile equipment have been outside the scope of the existing hours of service law. The law would be extended to certain of those activities.

4. The present 9- and 13-hour limits would become 9- and 11-hour limits. The installations to which they would apply would be differently defined.

The railroad industry opposes the provisions of section 3, first of all, because there is no evidence whatever that the proposed changes are required by railroad safety. No accidents have been attributed to long hours of work of employees who are covered by the provisions of the existing law or of the new classes of employees who would be covered by the proposed law. The employees who are covered by the existing law, primarily telegraph operators and train dispatchers, normally work an 8-hour day and a 40-hour week. No evidence has been presented to Congress that they work excessive hours. These employees work beyond the present limits in emergency situations when their extended services are needed for the safety of operations.

Second, the language containing the proposed changes is vague and uncertain, and its effect is unclear. A principal source of vagueness is the provision referring to an employee who "directs or controls the movement of a train or trains, or other mobile equipment operated on the rails of carriers" by the use of various named devices. This language is all-inclusive; the limits of the groups of employees to which it applies cannot be determined with certainty. Many railroad employees besides telegraphers and dispatchers could be said to direct or control the movements of trains and mobile equipment. The language could conceivably apply to the president of a railroad, the vice president in charge of operations, division superintendents, transportation superintendents, yardmasters, trainmasters, stationmasters, and many other supervisory officials not covered by the existing law who in a literal sense direct and control train movements. There is no safety justification for limiting the working time of this large and loosely defined group. Occasions often arise when many such employees work very long hours indeed, but there is no evidence that safety has been imparied. On the contrary, safety—as well as efficiency—would be threatened if the people responsible for running a railroad were subject to 9- and 11-hour daily limits.

Another source of vagueness is the phrase "any other electrical or mechanical device" which is used (*a*) to direct or control train move-

ments, or (*b*) to handle orders pertaining to or affecting train movements. What are these devices? What, for example, is a mechanical device that is used to dispatch, report, transmit, receive, or deliver orders pertaining or affecting train movements? What is an electrical device that is used to direct or control the movement of a train?

These are not merely rhetorical or argumentative questions. If section 3 were enacted, the railroads would have the responsibility for complying with it, and in order to do so they would be obliged to try to answer many similar questions. They did not draft or propose this legislation and they are entitled to know what it means. No explanation of the meaning or purpose of section 3 has been presented to this committee and the railroads object to it as inherently unclear.

Another uncertain effect of section 3 relates to employees who use various means of communication in connection with the movement of mobile equipment. This term is not defined, but presumably it includes track motor cars used to carry maintenance-of-way crews and equipment to work sites. These cars are often equipped with radios which are used by their crews to transmit and receive instructions regarding the movement of those cars. Maintenance-of-way crews upon occasion also use radios to communicate information to trains regarding track work or conditions. A literal application of section 3 presumably would subject such employees to the hours of service law. They have never been covered by it in the past. No reason has been given why they should be now.

The language of section 3 would apply literally to members of train crews—that is, the engineer and the conductor in the caboose—who use radio for communications concerned with the direction or control of the train movements. By hypothesis, such employees would already be covered by section 2, prescribing a 12-hour limit (and possibly a 9-hour limit for the engineer). Under possible interpretations of section 3, these same employees might come under the 9- and 11-hour limits of that section. Which of the two sections of the bill would apply to these employees? Why should the fact that members of train crews use radios in their work require a further restriction on their working time?

Employees who use various named devices—telegraph, telephone, radio, or any other electrical or mechanical device—either to direct or control train movements, or to communicate orders pertaining to or affecting train movements, would be subject to section 3 by virtue of performing such acts. It is possible that such acts would be performed rarely or infrequently by many employees, and more frequently or regularly by others. The question would arise, how often should an employee use a radio or an electrical device or any other means before the 9- and 11-hole limits would apply to him?

I have attempted briefly to indicate that the enactment of section 3 would give rise to serious questions relating to its meaning and construction. These questions would have to be answered in a long and tedious process of litigation. The present law, which is limited in its meaning and application, is reasonably well understood. We are informed by the different railroads that the proposed changes in the law would add substantially to railroad operating costs over and above the annual increase of $171 million estimated to result from section 2 of the bill and would require more employees to be hired.

Representatives of the Brotherhood of Locomotive Firemen & Enginemen have proffered an amendment of section 3 for the purpose

of meeting objections to it. The only change proposed by them is the removal of the language referring to "mobile equipment operated on the rails of carriers." This would eliminate some of the uncertainty inherent in the section, but not the major part of it, which arises from the language "direct or control the movement of a train or trains" and from the other defects that I have mentioned.

I. There is no need to extend the hours of service law to signal employees

A separate bill before your committee, H.R. 5196, would extend the hours of service law to employees engaged in installing, repairing, and maintaining signal systems.

The railroad industry is opposed to this bill because no justification for it exists and because its enactment would be harmful rather than helpful to the cause of safety.

The employees covered by this bill now work an 8-hour day and a 40-hour week except in emergency situations when they work uninterruptedly to restore railroad signal systems to operation. If they were prevented by the application of the hours of service law from completing such emergency work, signal systems would continue out of operation for longer periods of time and the railroad affected might have to cease operations temporarily.

No accidents have been attributed to long hours of work by signal employees. No witness for the Brotherhood of Railroad Signalmen even appeared before your committee to answer questions on this bill.

Mr. H. C. Stratton, general signal engineer of the Union Pacific Railroad, will present a detailed statement on behalf of all railroads in opposition to this bill and will discuss it fully.

I thank you very much for the opportunity to appear before your committee. I am confident that the testimony of the railroad industry will convince you that the pending bills are unsound and ill advised and that your committee should recommend against their enactment. This conclusion applies not only to the main bills to amend the hours of service law, such as H.R. 8476, but also to the proposals to extend the hours of service law to signal employees.

(The summary of systemwide cost estimates accompanying Mr. Manion's statement follows:)

Summary of systemwide cost estimates under the provisions of H.R. 8476, as pertaining to train and engine employees

Item	10 study roads	All class I line-haul railroads [1]
Annual operating expense:		
Additional train-miles	$21,682,322	$45,486,000
Additional crew expense not requiring additional train-miles	30,498,101	63,954,000
Additional locomotive expense (including amortized investment in additional locomotives)	22,919,294	48,051,000
Additional rest facilities	910,007	1,881,000
Additional meal and/or lodging allowances	3,483,909	7,182,000
Other cost items	2,109,774	4,446,000
Total	81,603,407	171,000,000
Gross additional investment:		
Locomotives	102,670,295	170,321,000
Cabooses	6,387,668	10,679,000
Total	109,057,963	181,000,000

[1] Annual operating expense items extrapolated on basis of 1965 actual operating expenses of the 10 study roads to all class I line-haul railroads. Gross additional investment items extrapolated on basis of 1965 actual gross expenditures for additions and betterments—equipment of the 10 study roads to all class I line-haul railroads.

Mr. DINGELL. Thank you, sir. The Chair is grateful to you for your very helpful and comprehensive statement this morning.

The Chair recognizes the gentleman from Texas, Mr. Pickle.

Mr. PICKLE. Thank you. The hour is growing a little late here. I am not going to prolong the hearing at this point. I would like a chance to talk to you later in the day or some other day when the hearing resumes. You are available here in Washington if we call you back later, is that correct?

Mr. MANION. Yes, sir; I will be available later today.

Mr. PICKLE. I regret I had to be out of the room during a good portion of the testimony because of a long-distance call that had come in. So I missed part of the testimony. I don't want to repeat but let me ask you, I am concerned about costs. The very last part of your statement I think you said it would add possibly $171 million if this bill was enacted?

Mr. MANION. Yes, there is a statement attached, the very last sheet, that shows the total for the 10 study roads, the total of $81,603,000. That is additional and new operating expense for the 10 roads studied. Then this figure is extrapolated to the industry on the whole, to $171 million.

Mr. PICKLE. I think it would be helpful to the committee if you could translate, or transpose the dollars into the number of employees which would have to be added, if you could do that.

Mr. MANION. No, I don't believe that that would be directly possible, because we have several employee costs involved in there. Some of it is additional employees. Some of it is additional train-miles.

Mr. PICKLE. Does your chart show how you arrive at your increased costs?

Mr. MANION. Well this, for example, is a compilation of the figures for each of the railroads studied.

Mr. PICKLE. I see it. You have the "in crew expense," "locomotive expense," "rest facilities," "miles," and so on?

Mr. MANION. Yes, sir.

(See p. 511 for breakdown of cost estimate submitted by Mr. Manion.)

Mr. PICKLE. During the earlier testimony, one of the witnesses for one of the brotherhoods said that this could be handled if they used an up-to-date rescheduling system, that this would basically cure the problem. What is your feeling on that?

Mr. MANION. Well, part of the testimony that I presented here possibly while you were out, did treat with this point. It is not that simple. It just can't be done that way. A great amount of rescheduling would have to be done and this rescheduling would involve a great deal of additional expense some of which you see in this table here and also expense to the employees involved.

In addition to disrupting their lives in requiring them to be away from home.

Mr. PICKLE. One of the statements also made was, in giving examples of where an employee worked 15¾ hours, I think the statement was that this was not uncommon, or the inference was that this was what happened in the majority of cases. Did your testimony touch on that?

Mr. MANION. Yes, sir; it does touch on it. In fact, it shows what the average hours of work are for employees in engines and train and yard service. It shows that on the average, as a matter of fact, many of these fellows work less—many of these classes of employees work less than 40 hours a week. This is their average. My testimony does show that in certain classes of service, such as local and mine run service, longer hours are the order of things.

Mr. PICKLE. You say in your conclusion on page 58 of your testimony that the employees covered by this bill now work an 8-hour day and a 40-hour week except in emergency situations. Are you saying when they go over the 40 hours in just regular freight work or through freight or local freight, that this is an emergency situation?

Mr. MANION. Congressman, on that last page you will note we are talking about a different bill, and we are talking about a different class of employees than the train and engine men, that the earlier part of the testimony covers.

Mr. PICKLE. I see.

Well, Mr. Chairman, I am trying to arrive at some kind of conclusion in my own mind and I would like very much to talk to either Mr. Manion or other witnesses later, assuming we will have hearings at a later time.

Mr. DINGELL. The Chair will advise my good friend that I cannot prophesy the future course of the hearings, but Mr. Manion, I believe, in view of the fact that members of this subcommittee had commitments elsewhere, it may be well for you to be available to the subcommittee at a future time. I am satisfied that other members of the committee may very well have questions in the context of your statement. If the question is placed to the present occupant of the chair, I would stress to the chairman of the subcommittee that you be back.

Mr. MANION. I am sure we can work out a time next week. I understand I am already lined up to testify on Monday over at the Senate, and I do know that Friday of next week I am tied up all day, but outside of that I am pretty free.

Mr. PICKLE. Are you testifying on this measure in the Senate?

Mr. MANION. Yes, sir.

Mr. PICKLE. That is all, Mr. Chairman.

Mr. DINGELL. The Chair would like to thank you, Mr. Manion, for your helpful statement, and the Chair wishes to express particular appreciation to the gentleman from Texas for his presence this morning.

The meeting will stand adjourned, subject to the call of the Chair.

(Whereupon, at 12:26 p.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.)

AMEND HOURS OF SERVICE ACT OF 1907

FRIDAY, AUGUST 26, 1966

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

The subcommittee met at 10 a.m., pursuant to call, in room 2123, Rayburn House Office Building, Hon. John D. Dingell presiding.

Mr. DINGELL. The subcommittee will come to order.

The Chair wishes to express its thanks to my good friend and colleague, Mr. Springer, who is with us this morning.

The Chair is continuing hearings on H.R. 5196, to amend the act of March 4, 1907, to provide that the 16-hour limitation on continuous duty for certain railroad employees shall apply to employees installing, repairing, and maintaining signal systems, and for other purposes, and H.R. 8476 and similar bills, to amend the act entitled "An Act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907.

Our first witness will be Mr. John Barriger, superintendent of transportation of the Atchison, Topeka & Santa Fe Railway Co.

We are glad to welcome you to the committee and appreciate the testimony you are going to give this committee.

STATEMENT OF JOHN BARRIGER, SUPERINTENDENT OF TRANSPORTATION, ATCHISON, TOPEKA & SANTA FE RAILWAY CO., CHICAGO, ILL.

Mr. BARRIGER. Thank you, Mr. Chairman.

If it is proper to do so, may I ask that I read part of my statement and paraphrase part of it, to perhaps save time of the committee.

My name is John W. Barriger. I am presently employed as superintendent of transportation for the Santa Fe Railroad with offices at 80 East Jackson Boulevard, Chicago, Ill. I was educated in the public grade schools of Washington, D.C.; graduated from Landon Preparatory School, Bethesda, Md., in 1944; Massachusetts Institute of Technology in 1949; and Yale University Graduate School in 1950. I have been employed by the Santa Fe Railroad since 1950 with the following assignments. I won't read those.

I have been active in the American Association of Railroad Superintendents——

Mr. SPRINGER. Mr. Chairman, I am wondering in view of the fact that this is 31 pages long, this is pretty hard reading. I have looked through here. Could you explain 1, 2, 3, 4, 5, and 6, what your position is so I can understand just exactly your position? Can you do that? There certainly ought to be some fundamentals which I

could get without going through this statement. I am trying to get fundamentals so this subcommittee can get something in mind.

Mr. BARRIGER. Are you asking that I not read the statement?

Mr. SPRINGER. That is up to you. I am hoping that we can get 1, 2, 3, 4, 5, and 6, what your position is in this thing if we could. Use your own judgment. You are the witness. If you want to make any impression on this committee, use the telescopic method rather than just reading a long statement of 31 pages.

Mr. BARRIGER. I don't plan to read 31 pages, Mr. Springer, but I think in order to lay the proper groundwork for the point that I make I will have to go into some detail.

If I may, I would like to give some of the background which I think is necessary to develop the points that I would like to make.

Mr. SPRINGER. The only reason I ask, I can not be here all this time. I may not even be here to hear 31 pages, but I am hoping in 15 minutes you can tell us what this is all about. It is up to you. I mean I am not trying to infringe on your rights but I am trying to get an understanding of this.

Mr. BARRIGER. I would like to cover some of my testimony in detail; however, I can summarize the points that I would like to make. May I therefore make those points and then return and develop some of them a little more fully?

Mr. SPRINGER. You are the witness.

Mr. BARRIGER. I think basically this law is going to affect the railroads in five ways: (1) It is going to affect the men by inconveniencing them, by causing them to work more hours and to be away from home more hours than they now are and to be at home less hours than they now are. (2) I think it is going to make railroad employment less desirable for the men involved. (3) I think that there is some question whether the company can comply with the law as it is proposed without a reduction in service. (4) There is certain to be an increase in wage costs and there will be a cost for additional locomotives. (5) Very possibly there will be a deterioration of service which would result from difficulty in securing the manpower necessary to comply with the law.

Finally, the bill is presented as a safety measure and I do not feel from my personal experience that it will have any effect whatsoever on safety.

These basically are the points that I would like to make in my further testimony.

Mr. SPRINGER. Well, those are good points if I got them all down.

Do you wish to continue?

Mr. Chairman, he set up five points here and it would be in order to ask questions.

Mr. DINGELL. The Chair is willing to defer to the wishes of the subcommittee on this matter. Of course the Chair knows we have two witnesses scheduled this morning.

The Chair would naturally satisfy the wishes of the membership and then proceed to questions. Would that be your wish?

Mr. SPRINGER. It would be my wish. It is a suggestion.

Mr. DINGELL. The Chairman agrees with that. I am sure that would be agreeable with you.

Mr. HUOT. Unless the witness has something he wishes to add.

Mr. DINGELL. Is there something you wish to add?

Mr. BARRIGER. Yes, there is. I would like to develop this testimony a little further because I think I can make these points that I have outlined make a very telling case for them. While this is covered in my prepared testimony, I perhaps could continue without reading from my statement and make these points to you.

Mr. DINGELL. The gentleman from Illinois has expressed a desire and the Chair would recognize him.

Mr. SPRINGER. Maybe you could develop this if questions were asked and I think you would get right to the point.

As I understood your first point, it is that this legislation would give more hours to the employee rather than less, as is contended by the legislation. Now, can you expand on that?

Mr. BARRIGER. Yes. This will occur in two ways. First of all, on the Santa Fe and on many railroads, the majority of our service is handled by assigned crews or by pool freight crews. Now these crews go on duty, work from their home terminal toward an objective away from home terminal, then they spend from a few minutes to a few hours at the away-from-home terminal and then make a return trip to their home terminal.

Under the present law a great many of these assignments are operated using somewhere in the neighborhood of 5, 6, 7, 8 hours on duty. The men receive from a few minutes to a few hours off duty and then they return to their home terminal and they are off, in some cases, for a couple of days.

Let me illustrate this a little further. We have an assignment that operates from Amarillo, Tex., to Belen, N. Mex. on train No. 1, the San Francisco Chief. The train crew members are on duty roughly 7 hours. They arrive at Belen, N. Mex., and are there about 4 hours. They return on a mail train which takes again about 7 hours, roughly. In other words, they have been on duty about 14 hours in the 24-hour period. They have been away from home less than 24 hours. Then they are off the following 2 days. They make this run every third day. This assignment was put into effect at the request of the local chairmen of the Brotherhood of Trainmen and Order of Railroad Conductors. We will not be able to have this assignment under the proposed law. There will be no additional cost to the company in this particular case if this assignment is broken and the men are given 8 hours or more at their away-from-home terminal, but I am sure the men won't be very happy with whatever change is made.

Now this is one example——

Mr. SPRINGER. Let me see if I understand you. You would leave Amarillo, and you would arrive in New Mexico and then you would be off for a certain length of time away from home. After you are off a certain length of time, then you would return? Under the present law it is possible for you to go from Amarillo to this point in New Mexico and to return on the next train?

Mr. BARRIGER. Yes.

Mr. SPRINGER. Under this legislation you would not be able to do that?

Mr. BARRIGER. That is correct.

Mr. SPRINGER. I think I see what you mean when you are saying they would be away from home more than they are under the present law. I think I have that.

Now could you take the second point? I presume your second point is less desirable to the employee as a result of what you talked about in No. 1?

Mr. BARRIGER. That is only one way that the jobs would be less desirable. There would be many others.

Mr. SPRINGER. Could you expand on that?

Mr. BARRIGER. Yes.

In order to reschedule the jobs to meet with the proposed hours of service we will have to establish jobs at a number of outlying points. These are jobs that go on duty at a point other than the point where the men live. We have a number of these jobs now. We will have to have a great many more.

These are undesirable jobs, the men don't like them because it requires them to be away from home. My testimony covers this point in some detail.

Mr. SPRINGER. All right.

Now I take it that what you are saying in essence here is that you would have to establish intermediate points in many of these instances where these men would get off and would be stuck there. Is that correct?

Mr. BARRIGER. That is correct.

Mr. SPRINGER. There would be no other job for them at that point; is that right?

Mr. BARRIGER. No; not necessarily. Let me illustrate it this way: We now have assignments that operate between, we will say, points A and B. I have an illustration in my testimony between Emporia, Kans., and Superior, Nebr. Under the proposed law that run will not be able to be made and it will be necessary to break the one assignment into two and to establish a point intermediate between Emporia and Superior as a new terminal and assign crews there.

Futhermore, in that particular case the crews will have to work 6 days a week instead of 4 days per week, as they now do.

Mr. SPRINGER. Is that allowed under the law, they can work any number of days in any week?

Mr. BARRIGER. This is a matter that is covered by the contracts with various brotherhoods.

Mr. SPRINGER. I see.

Mr. BARRIGER. Normally most of the train service employees' schedules require that the men work 6 days a week, that is the minimum, except in yard service, 5 days a week. There was a special agreement that was negotiated, and in fact it was negotiated at the request of the brotherhoods, that permits men to work 4 days on this particular assignment between Emporia and Superior. This will no longer be possible under the proposed law.

I think I could explain this more clearly as a principle. Railroadmen in train service prefer to condense their work into as few trips as possible and to work the fewest number of days possible and to have the maximum amount of time off. Now, under the proposed legislation as it will affect the men, it will tend in the ways that I have cited so far and in many other ways to require the men to be on duty more times per week, to be away from home more times per week and to be at home less time per week.

Mr. SPRINGER. From your explanation I know what you are talking about as far as making sense. I can see why some of them would

rather take the long stretch and be off 2 or 3 days rather than be on duty 8 hours each day.

Now can we go to the question of cost? As I understood, that is your third item. It was my understanding that your third point here was increased cost. That would affect you, I take it. Is that correct?

Mr. BARRIGER. Yes.

Mr. SPRINGER. All right. That is your third point. Would you expand on what this would do in the way of cost?

Mr. BARRIGER. Yes. I have included in my testimony an exhibit which shows costs on two divisions on which we made a very intensive in depth study of the effect of the proposed hours of service law on the operations of those divisions. Then we have calculated the costs on a system basis which is exhibit No. 2 of my prepared testimony.

Mr. SPRINGER. How much is that?

Mr. BARRIGER. $6,235,000 increased cost.

That cost is broken down into $1,700,000 for additional train-miles, $3,600,000 for additional crew expense not requiring additional train-miles, $390,000 for additional locomotive expense, $75,000 for additional rest facilities, $330,000 for additional meal and lodging allowances and $120,000 for other cost items which are principally deadheading; that is, pay for travel while not on duty.

Mr. SPRINGER. What percentage would that be, 6 million? What percentage of increased cost would that be, just roughly? Is this 1 percent, 2 percent, 3 percent, 5 percent?

Mr. BARRIGER. The question is in a field I am not intimately familiar with but I think I may have statistics with me that will permit me to answer.

Mr. SPRINGER. What I am trying to find out, in short, Mr. Barriger, the committee would understand that it is going to increase the cost that you give us in dollars and cents but how much increase this would mean percentagewise.

If you can't find that, would you give us a rough estimate?

Mr. BARRIGER. I am sorry to say I cannot find it.

Mr. SPRINGER. This would be the four fields: the engineers, the firemen, the trainmen, and conductors. Are these the four fields, the four operating brotherhoods?

Mr. BARRIGER. No, the costs would include the costs for additional locomotives and additional rest facilities, so it is more than a wage cost.

Mr. SPRINGER. Well, if you cannot give us the percentage, that is all right. If it is easier for you to give me a percentage I can have it in my head.

Mr. BARRIGER. I can give you this sort of a figure. I am not sure what the total wages are of train operating employees and that was the figure I was looking for. I can tell you that $6,235,000 would be just a fraction under 1 percent of our gross income.

Mr. SPRINGER. Your gross income, but can you then supply for the record a little later the percentage of increased costs that it would be in this area of the operation itself?

Not today, but can you supply this for the record?

Mr. BARRIGER. Oh, yes, indeed I can.

(The information requested, when supplied, will be found in the committee's files.)

Mr. SPRINGER. All right.

Now there was a fourth point as I understood it. You feel there would be a deterioration of service and you are wondering whether or not you can get the manpower to serve that.

Mr. BARRIGER. Yes. The reason for this is that we are having difficulty right now finding enough men, hiring enough men to fill the jobs that we have to fill to maintain service at its present levels. There are spot labor shortages, principally at our larger terminals.

This law will require us to hire a substantial number of additional men, hire and train them. This is difficult to do and in some places I am certain it will be impossible to do. As a result, there will certainly be a deterioration of service where we cannot man the jobs that we presently operate and need.

Furthermore, the changes in this hours of service law will affect the higher paying jobs. These are the jobs that senior men wish to have and these are the jobs that the junior men when they hire out, when they go to work for us, look forward to having some day. So in a very real sense we make railroad employment less attractive by getting rid of the higher paying jobs and in so doing we make it even more difficult to hire men.

Mr. SPRINGER. On your system approximately how many new employees would you require if this service were put into effect?

Mr. BARRIGER. We made that study covering two divisions and for certain classes of men. I did not make it for the entire railroad. I cannot furnish that figure for the entire railroad. I picked two divisions which are typical divisions but these divisions are the ones which will have the maximum and the minimum impact as a result of this law. This is explained in my testimony. The Middle Division, which is a division in Kansas, and will have the maximum impact from this proposed hours of service legislation. It will require 65 instead of 57 conductors, or an increase of 8. It will require 81 instead of 63 enginemen. Incidentally, this is exhibit 1, sheets 1 and 2 of my testimony.

Mr. SPRINGER. Then in percentages on one system it looks to me like 15 percent and on the other one about 25 percent.

Mr. BARRIGER. No, no. The first I gave was conductors, the second one was enginemen on the same division.

Mr. SPRINGER On the same division.

Mr. BARRIGER. Now on the Albuquerque Division, which is the division that would have the least impact, for conductors there would be an increase of one and for enginemen there would be an increase of two. That is shown in exhibit 1, sheets 3 and 4. I did not figure this increase for brakemen but it would be roughly twice the number as is reported for conductors.

Mr. SPRINGER. Now, would there be a difference from the 12-hour limitation and the 9-hour limitation on engineers?

Mr. BARRIGER. I am sorry, I don't understand the question.

Mr. SPRINGER. Can you separate between the 12-hour limitation and the 9-hour limitation on engineers?

Mr. BARRIGER. No, I can't because my testimony was prepared on the basis of 9 hours, and I feel that for the Santa Fe and I think most railroads, if the law were passed to restrict the hours of service of enginemen to 9 hours it would be, in effect, the hours of service for all men.

Mr. SPRINGER. Can you estimate what would happen from the 12-hour limitation on engineers?

Mr. BARRIGER. Well, those studies were prepared.

Mr. SPRINGER. Your testimony is with reference to the 9- or the 12-hour limitation?

Mr. BARRIGER. This is the 9-hour limitation. I can give you the figures for the 12-hour limitation that we prepared on the same basis.

Mr. SPRINGER. Mr. Barriger, it is not that important. I just thought you had it. That is all right.

Mr. BARRIGER. I am sorry, I didn't prepare the testimony on that basis.

Mr. SPRINGER. I want to close, I don't want to take all the time of this committee.

Your fifth point was safety. Now it is your contention that there would not be any and it is my understanding that the brotherhoods are contending that one of their biggest contentions is that this would make their employment safer.

Now, do you have a statement on the safety feature?

Mr. BARRIGER. Yes, I have been in charge of territories of the Santa Fe including major yards, major main line territories, branch line territories, train order operation territories. Every type of territory the Santa Fe has, I have been in charge of one time or another.

I can say from my own personal experience that no accident and no personal injury that has occurred on my territory has been the result of long hours on duty. As a matter of fact, the times that men are on duty a long time is really relatively small in proportion to the total amount of time that is worked by trainmen.

Mr. SPRINGER. You say no accident? Or did you say a few accidents?

Mr. BARRIGER. I say that I know of no accident that occurred to a man having been on duty over 12 hours on the territory that I have been on.

Mr. SPRINGER. There have been no accidents that have occurred as a result of excessive duty in the areas that you have had charge of, is that right, because of, let us say excessive hours or beyond the 12 hours?

Mr. BARRIGER. Yes. If I described excessive duty, which I don't necessarily subscribe to, as duty in excess of 12 hours, I remember no case where a man has been involved in an injury or an accident that has been on duty over 12 hours.

Mr. SPRINGER. Mr. Chairman, that is all I have.

Mr. DINGELL. Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. BARRIGER. I have not had a chance to read your testimony or to hear your testimony here this morning because I saw a special film of the aircraft, but I want to pursue a point just a moment and the point that Mr. Springer has made with you.

One of the men who testified last week here was Mr. R. R. Manion, vice president of operation of the maintenance department of the Association of American Railroads. He said, on page 22 of his testimony, that 90 to 91 percent of all trips were performed in less than the 12-hour limit and just previous to that he said 76 percent of all trips performed in less than 9 hours.

Now he also had testimony to show with respect to safety. On page 18 he said, "Of the 170 reporting injury, only one occurred after more than 12 hours on duty."

Now I assume that these figures would point out that there are not excessive hours being worked by the trainmen and that 90 percent of them were performed in less than 12 hours—first of all are those approximately the figures of your division, are they somewhere near the percentage, would you think?

Mr. BARRIGER. I am sure they are.

Mr. PICKLE. They came in from associations and your organization would be reflected in that.

That would seem to me to point out that it makes the claim that only 10 percent, roughly, perhaps a little more, were actually engaged in working hours over the 12 or what you call excessive hours. But at the same time he made a statement that if this bill were to pass in this form that it would increase the cost of the railroads in terms of something like $181 million.

Now to me those two positions seem to be incongruous. I can't put them together. If those people worked excessive hours, what do you mean by that?

Mr. BARRIGER. I can speak in terms of my experience on the Santa Fe. The answer is that the cost will be increased substantially, tremendously, in our case by over $6 million, because a great many more than those 10 percent, will be affected. They are not the only ones that will be affected because in rescheduling operations you have a kind of a wave action and in effect it will increase costs of other operations which right now would comply with the proposed law, were it in effect, but they will have to be rescheduled too. I have an example in my testimony that covers that point.

Mr. PICKLE. Mr. Manion's testimony included a cost-of-estimate statement about his own testimony which shows that the expenses would be shown in operating expenses, crew expense, locomotive expense, meals, and other costs. It seems to me, if you are only talking in terms of 10 or 12 percent, then why $181 million cost? You are one of the principal railroads in the country and yet you said there would be a $6 million cost to your company. It just seems to me like there is an inconsistency there.

Mr. BARRIGER. I really can't answer about any apparent inconsistency but I can tell you that the figures that I have given for the Santa Fe are some that I have worked up myself and I am certain that they are as accurate as is possible with the kinds of studies that we made. I think the answer to your question as far as the Santa Fe is concerned is that a great deal more than 10 percent of the men that are now working these longer hours will be affected.

As a matter of fact, all railroad men will be affected.

Mr. PICKLE. Sir, did you just tell Mr. Springer that approximately—10 percent, I thought was your statement.

Mr. BARRIGER. No, I don't believe it was my statement but I agreed that probably something in the neighborhood of 10 percent of the trips that are made are in the range of 12 hours or more. I am sure that is not far from being correct. I am saying that the law as it is proposed will affect a great deal more than those 10 percent.

Mr. PICKLE. One of the men who had testified for the bill previously had said that this was a matter of schedule, if we just had modern,

up-to-date effective computer type scheduling that this would not be a problem, that most of this would be solved by just an up-to-date schedule. What are your views on that?

Mr. BARRIGER. Well, I wish it were that easy. I have personally with the officers of two divisions rescheduled assignments on those two divisions, the ones that are covered in my testimony, to see how we could handle the work under the proposed law. I wish it were as easy as the gentleman that you referred to says. I don't think it is.

Mr. PICKLE. Give me a specific answer. You disagree with that statement strongly?

Mr. BARRIGER. Yes, sir, I do.

Mr. PICKLE. If we reduce the hours, would it follow that we would have to put on more people?

Mr. BARRIGER. Yes.

Mr. PICKLE. You have not given us yet an estimate how many more you think would be put on.

Mr. BARRIGER. I have not given you a total figure. I have given you a figure on two divisions. Since Mr. Springer asked me the question earlier I have found the figures that I referred to.

Mr. PICKLE. Do you want to submit those for the record now?

Mr. BARRIGER. Yes, I can.

Under the present operation, on the middle division we have 63 enginemen in service. On the basis of the——

Mr. PICKLE. Would it be more helpful if you actually submitted it for the record?

Mr. BARRIGER. Yes. My figures are not actually in shape to provide them for the record now.

(The information requested, when supplied, will be found in the committee's files.)

Mr. PICKLE. That is all, Mr. Chairman.

Mr. DINGELL. Mr. Huot.

Mr. HUOT. I just would like to ask one question.

Your cost estimate, item C, you have $390,000 invested in additional locomotives. I could see that. If you cut out to increase manpower, how would this require more for locomotives?

Mr. BARRIGER. Well, first of all let me explain that this cost is a cost that will result from having to have additional units at outlying points. In previous testimony here I mentioned this Emporia-Superior run. In order to man the new run that will result from breaking the present run, it will be necessary to put an additional unit on to be used by the new crew that will be required. Now this will occur in a number of cases. Generally, the additional locomotive expense will result from that kind of a situation. In other words, we will have to place a unit out at an outlying point where we do not now have a crew or a locomotive.

Mr. HUOT. If you had a locomotive going from point A to point B, you are saying it is a long run, you would somewhere have to add a crew or change a crew, but that would not necessarily change the train, you would not have to have another train waiting, it would be the same train going through. You would have to, undoubtedly, add a new crew.

Mr. BARRIGER. That is quite true. Let me illustrate my point with another example that may be a little clearer. In a number of

places we now have turnaround locals. These are locals that go on duty at the home terminal. They go to some distant terminal, do the work in between and then they come back and tie up at the home terminal. There are probably a hundred or so jobs like this on the Santa Fe.

Many of these are working up around 12, 13, 14 hours, not necessarily every day of the week but enough days that, in order to handle the work, it will be necessary to make two assignments and to have service that works about like this: they will go over to the objective terminal one day and come back the next, go over on Monday, Wednesday, and Friday, come back on Tuesday, Thursday, and Saturday.

A second crew will come back on Monday, Wednesday, and Friday and go over on Tuesday, Thursday, and Saturday.

Now that kind of an assignment will require a second crew, more men. It will require that instead of being home every night the crew that is now home every night will be away from home 3 nights a week.

Finally, it will require a second unit. There is simply no other way to schedule that kind of an assignment with two crews unless you have two units.

Mr. HUOT. That is all, Mr. Chairman.

Mr. DINGELL. Mr. Barriger, in your reports to the Interstate Commerce Commission, from December 1965 through May 1966, you show 21 instances of excess service hours between the 16 hours indication, of which there were 17 in December and 4 in February.

Do you want to comment on the occasions of these hours, rather on the instances of excessive service hours?

Mr. BARRIGER. Well, I am not familiar with that form. However, I could comment this way: In the years that I have been trainmaster I have had some cases of excess hours of service on my territory. I think every case has been some sort of a misunderstanding of the law. As a trainmaster, I hired new men, and I explained the law to them, but sometimes they do not understand it completely. I think maybe I could answer the question by citing the kind of a violation that I had very recently that was typical of the two or three violations that I had in the 10 years I was a trainmaster.

In this particular case, a man that I hired and instructed on the hours-of-service law myself, went to work on an 11 o'clock switch engine. He worked until 7 o'clock in the morning or, that is, he was scheduled to work from 11 to 7. He bid in an assignment on an afternoon switch engine and was a successful bidder and that job went to work at 3 o'clock in the afternoon and worked until 11 o'clock at night. If things had worked just that way, there would have been no hours of service violation, but his job worked 30 minutes overtime, that is, he went to work at 11 o'clock on a particular night and instead of tying up at 7 o'clock the following morning, he tied up at 7:30 a.m., Then he came back to work at 3 o'clock that afternoon on a new assignment and worked through until 11 o'clock that night and he violated the law by 30 minutes. He worked 16 hours and 30 minutes.

I handled that case with him on a corrective basis. He was a brandnew man and I didn't give him any discipline in that case but I did give him a severe talking to about it. That is the kind of a violation that I have been involved in.

Mr. DINGELL. Perhaps you would want to look into that and give us the comments for the record.

Mr. BARRIGER. Pardon?

Mr. DINGELL. I said perhaps you would like to look into the instances suggested and give the committee the facts. Would you do that for us?

Mr. BARRIGER. Yes, sir.

(The information requested, when supplied, will be found in the committee's files.)

Mr. DINGELL. Good.

In response to a suggestion from our colleague, Mr. Springer, since it is now 11 o'clock, unless there is objection from the members of the committee your statement will be inserted in the record, Mr. Barriger, and we will read that.

(Mr. Barriger's prepared statement follows:)

STATEMENT OF JOHN W. BARRIGER, SUPERINTENDENT OF TRANSPORTATION, ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

My name is John W. Barriger. I am presently employed as Superintendent of Transportation for the Santa Fe Railroad, with offices at 80 East Jackson Boulevard, Chicago, Illinois. I was educated in the Public Grade Schools of Washington, D.C.; graduated from Landon Preparatory School, Bethesda, Maryland, in 1944; Massachusetts Institute of Technology in 1949; and Yale University Graduate School in 1950. I have been employed by the Santa Fe Railroad since 1950 on the following assignments:

July 1950–Feb. 1952: Traveling Car Agent, Chicago, Ill.
Mar. 1952–Jan. 1953: Transportation Inspector, Amarillo, Tex.
Feb. 1953–June 1954: Trainmaster, Carlsbad, N. Mex.
July 1954–Jan. 1956: Trainmaster, El Paso, Tex.
Feb. 1956–Mar. 1958: Trainmaster, Winslow, Ariz.
Apr. 1958–July 1965: Trainmaster, Los Angeles, Calif.
Aug. 1965–Present: Supt. of Transportation, Chicago, Ill.

I have been active in the American Association of Railroad Superintendents, serving as Director from 1958 through 1965, and have belonged to various other professional associations, including the American Railway Engineering Association and the Railway Systems and Management Association.

For the twelve and one-half years that I was Trainmaster at the locations I have mentioned, I had charge of train, engine and yard crews. Each of the territories in which I have served has different physical and traffic characteristics. As a result, I have had responsibility for and supervision over train, engine and yard operations and crews on every type of line operated by Santa Fe, including light duty branch line, heavy duty branch line, heavy duty main line and important terminal.

A number of roads, including Santa Fe, have made a detailed study of sample portions of their operations for a selected period. The purpose of this—which can be referred to as an "in depth" study, was to find out as best we could within the limits of practicality what enactment of the proposed amendments to the Hours of Service Act would mean in terms of required changes in our methods of operation, the impact of such changes on employees, the effect (if any) the changes would have on service, and the added costs, if any, that would be involved for the company.

Before describing how this "in depth" study was made, I believe it would be helpful if I were to explain briefly the basic categories into which rail operations are customarily separated. Basically, these are divided between road and yard service. Road service involves movement of cars and trains between terminals and stations, and is sub-divided into (1) passenger, (2) through freight, (3) local freight, and (4) road switcher service. Yard service involves disposing cars that arrive in inbound trains and assembling cars to be forwarded in outbound trains. Industry switching is handled by road or yard crews, depending upon whether the industry is within or without the defined yard area. Generally, the crafts that perform road service are separate from the crafts that perform yard service, although there appears to be a tendency today towards eliminating this distinction.

The assignments or jobs required to man the equipment used in these operations are, in turn, divided into three categories. First, there are "assigned" crews. These are the men who man passenger and freight trains which operate on established schedules. They also man switch engines operated regularly.

Next are the "pool" crews. The men in these crews fill jobs in irregular operations. While the jobs they work on are irregular, the men in "pool" service enjoy steady employment. The principal difference between their work and that of "assigned" crews is that the latter work more or less regular hours on specified days, but men in a "pool" work different hours on different days with little or no pattern.

Finally, there are men who work on what are known as "extra boards." They are called to fill temporary vacancies in "assigned" or "pool" service. This is, therefore, even more irregular than "pool" service but it is nonetheless reasonably steady work for the men on the "extra board" because the number on the board is adjusted regularly in accordance with the volume of work then available. For the most junior men, the "extra board" may be a more or less dependable source of employment, depending on location and volume of business (which may, and often does, vary seasonably).

As you might expect, the type of service in which a man can work depends, first, on his seniority, and, second, on his choice. The more seniority a man has, the wider the choice of assignments open to him. Not unnaturally, the men by and large tend to "bid in"—that is, select—the highest paying job to which their seniority entitles them.

This leads to another unique aspect of employment in railroad operating work which I believe I should outline as concisely as possible—our "dual basis of pay" system for men who work on trains and switch engines. Unlike most employees in industry generally who calculate their working day or week in terms of hours, the railroad operating man is paid on the basis of miles. This is not to say that hours are of no consequence because the basic day is 100 miles or eight hours, with earnings predicated on a daily rate of dollars and cents per 100 miles. However, even in yard service where actual mileage run is low, hours are converted to a mileage basis with 12½ miles credited for each hour on duty (12½ being average miles per hour in a basic day of 100 miles per 8 hours). On the other hand, miles are more significant to the man in road service. I know of no road assignment which involves a trip of exactly 100 miles. These assignments are always more or less than 100 miles, and the longer ones are, as a rule, the most popular because they pay the most.

With the hope that I am not complicating the matter unduly, let me give some examples. Assume a through freight assignment from A to B of 150 miles. Each time a crew makes that trip its members will get 1½ day's pay because the miles covered are half again the 100 miles of the basic day. And they will receive or be paid this amount no matter how few or how many hours it takes them to make the run up to 12 hours. This latter 12-hour figure is not arbitrary but is derived by dividing the miles of the run by 12½, the miles per hour of the basic day of 100 miles in 8 hours. This 12-hour figure will vary as the lengths of runs in excess of 100 miles vary—in each case being the distance covered by the assignment divided by 12½.

The importance of this figure is that it establishes the point in terms of time at which the crew goes on overtime. Thus, in the hypothetical 150-mile assignment the crew will go on overtime after the twelfth hour on duty. On a shorter run but one exceeding 100 miles, they would go on overtime sooner. For example, a crew on a 125-mile assignment would become entitled to compensation at overtime rates after 10 hours on duty (125÷12½); the crew with an unlikely 100-mile assignment would become entitled to overtime after 8 hours on duty (100÷12½).

Men working road assignments less than 100 miles are treated a little differently. They are paid as though their assignments were 100 miles no matter how short they might actually be. Thus, on a 75-mile assignment, the crew would be paid for 100 miles. However, on an assignment or trip like this the crew would not go on overtime after 6 hours (75÷12½). Rather, they would have to be on duty the basic day of 8 hours before they became entitled to compensation at overtime rates.

Pay for yard jobs is still different. Men engaged in this work have as their norm the 8-hour (100-mile) day and a 40-hour (500-mile) week. They are paid at overtime rates for hours in excess of 8 for any given day and for hours in excess of 40 in any one week.

Overtime compensation, whether for road or yard service, is at the rate of 1½ times the regular rate. But because the basic unit remains miles rather than

hours, it is necessary to convert overtime hours into miles for pay purposes. This is done by multiplying overtime hours by 18.75, the latter factor representing 1½×12½—with 12½, of course, being the standard miles worked per hour under the basic 100-mile 8-hour day.

In this outline of operations, assignments, and compensation, I have sketched only the very basic elements of the system under which we run our railroad. In a sense—and despite appearances to the contrary—I have oversimplified the picture by not going into many refinements added on top of the ground rules I have mentioned. The essentials which I have recounted are necessary to the understanding and appraisal of our system in its present form which is required for an evaluation of the merits of the changes proposed by H.R. 8476.

In one sense, perhaps, our system might be said to have grown like Topsy. But it is important to bear in mind that it developed the way it has, and has been refined to the extent it has, because of the peculiar and varying needs of the public demand for rail transportation service we try to meet. It is in part an inevitable result of the territory we serve, with main lines connecting major metropolitan centers but traversing miles of sparsely settled areas and with branch lines extending to serve important cities and rural communities. No less important are fluctuations in volume and nature of traffic from month to month and year to year. Our system also reflects the general and natural desires of men in our operating crafts to maximize their earnings and minimize the time they must spend away from home.

All of this is a product of the fact that running a railroad is a unique business. The service we provide cannot be stockpiled or long postponed. As a result, we cannot operate one or two regular shifts a day, five or six days a week. We must operate around the clock 365 days a year, and we must be prepared to meet as best we can demands for service which, as I have indicated, fluctuate widely in some areas on a seasonal basis.

The very nature of our business manifests our need for flexibility and that flexibility is built into our system of operations, assignments, and compensation. An important factor underlying this system is the Hours of Service Act in its present form. Any changes in that Act will necessarily have repercussions throughout the system.

Without having made any studies I can, on the basis of my personal experience, report a number of foreseeable consequences of adoption of the changes embodied in H.R. 8476.

The first question which came to my mind was the impact on employees and their earnings—and how they would react. In relation to our total operations, not many crews would operate more than 12 hours a day. But the number that do—as a regular proposition or irregularly with regional seasonal fluctuations in traffic volume—is not insignificant. As a general proposition, the assignments worked by these crews are not regarded as arduous or unduly burdensome. On the contrary, they are generally sought after assignments held down by men with high or relatively high seniority. To the extent that these assignments are cut back the earnings of the men will be reduced. Due to their seniority, they may be able to move to other assignments and minimize this reduction, but the result of such a move would spread the adverse impact of a change in the assignment throughout the men in the entire craft or class.

In many instances, where men are presently working from one terminal to another and back again in one day in order to be home every evening, I can foresee that the changes we would have to make to adjust to the proposed amendments to the Hours of Service Act would be such as to require these men to spend more time—sometimes overnight—at their away-from-home terminals. This brings to mind instances in which the men, through their unions, have requested existing arrangements which mean fairly long hours on duty on a particular trip but reduced time away from home. For example, we used to run crews working our Trains 1–4 from Amarillo, Texas to Belen, New Mexico, a matter of about 7 hours on duty. We held the crews at Belen overnight, and ran them back to Amarillo the next day—the return trip taking about 8 hours. At the request of the Order of Railroad Conductors and the Brotherhood of Railroad Trainmen, which wanted to avoid having their people held overnight at Belen, we changed this so as to hold the man at Belen only about 4 hours before starting them on their return trip to Amarillo. If H.R. 8476 becomes law, we will have to revert to the old arrangement, increasing the away-from-home time of the men on this assignment by some 14 hours and reducing their home terminal time a like amount. A number of other assignments across our system would be similarly affected.

Another major problem would involve handling of the seasonal fluctuations in traffic I have referred to. I have in mind as examples the seasonal movements of wheat from Kansas and potatoes from California. As an example, during the month of June each year, we move 21,000 to 23,000 carloads of wheat from country points to terminal elevators. In a ten week period beginning May 1st each year, we move 10,000 to 14,000 carloads of potatoes from Kern County, California, to nationwide markets. Other seasonal movements include lettuce from Blythe, California, Phoenix, Arizona, and Hereford, Texas; cantaloupes, sugar beets, etc. Many of these movements occur at places where in other seasons traffic is limited or non-existent. The crews like these movements because of the opportunities they afford for long hours, many miles, and high pay. If we cannot use our present forces as we now do, we will have to hire qualified temporary help to do what existing personnel will be precluded from doing—or we will not be able to give the service required. The problem here is that it is unlikely that we could find qualified temporary employees to work during seasonal peak traffic periods. Such men are not to be located by a call to the nearest employment office. Qualified men in most operating crafts are currently in short supply even on a permanent employment basis. I apprehend, therefore, that the unavoidable result in such situations would be curtailment of a vital service.

We would be confronted with a similar problem in a different context. Where hours worked on present assignments not related to seasonal fluctuations in traffic would exceed the limits of the proposed amendments to the Hours of Service Act, it would surely be necessary or desirable to attempt to employ more crews to take over some of the work so as to ease the volume of present crews. But where would we get employees to serve on such new crews? Already we are experiencing difficulty attracting men to fill out present requirements. Again, if we could not hire additional men to maintain service at today's level, we could comply with reduction in permissible maximum hours only through reductions in the quality of service.

So much for general observations. Not content with these, we made an "in depth" study, the results of which I want to recount for you.

One could evaluate very precisely the impact of any proposed changes in the Hours of Service Act if he were to go back for a period of a year and ascertain on the basis of operations actually conducted what would have had to be done under different restrictions. Such an analysis would be too time-consuming to be practical. We determined, therefore, that we would have to proceed on a sample basis.

What kind of a sample was also a problem? There were many different approaches available, but we decided that a study of one week's road freight operations on two operating divisions and of one week's yard operations in two terminals would give a reasonably accurate picture and still be within the bounds of practicality.

In selecting the two operating divisions to be studied, we undertook to pick one as close to typical as possible in terms of geography and traffic and in which the number of employees making more than one trip without an intervening rest of 8 hours is relatively large. The other was also to be as typical as possible but one where the number of employees making more than one trip without an intervening rest of 8 hours is relatively small or non-existent. The two yards or terminals to be studied were to be similarly selected.

On the basis of my experience with Santa Fe and its operations, I decided that for road freight operations we should study what we call the Middle and the Albuquerque Divisions. For yard and terminal operations, I selected the Los Angeles Terminal and the Chicago Terminal Divisions.

I chose the Middle Division to represent a territory on which the impact of proposed changes in the law would be great. This territory covers Central and Western Kansas and North Central Oklahoma with a network of lines totaling 1694.1 miles. All transcontinental passenger trains operate 226.1 miles over this Division from Emporia to Dodge City, Kansas. Texas passenger trains operate 134.1 miles from Emporia to Wellington or 151.3 miles to Arkansas City, Kansas via Newton. Transcontinental freight trains operate 113.2 miles from Emporia to Wellington via a separate route and Texas freight trains operate 117.6 miles from Emporia to Arkansas City, partly via another separate route. In addition, there are twelve branch line districts varying from 30.5 miles to 153.8 miles in length. Generally, the country served is used for farming and cattle grazing. Grades and curves are easy. The major cities served include Wichita, Hutchinson, Emporia and Dodge City, Kansas and Enid, Oklahoma City and Ponca City, Oklahoma. The territory originates great quantities of wheat and petroleum products.

I chose the territory from Albuquerque, New Mexico to Seligman, Arizona to represent the type of road operation which would be least affected by the proposed laws. This section includes three districts of Santa Fe heavy duty double track transcontinental main lines. Transcontinental passenger trains operate from Albuquerque, New Mexico 27.4 miles to Dalies over a single track line; freight trains and some passenger trains operate from Belen, New Mexico 10.1 miles to Dalies. Both passenger and freight trains use the same route from Dalies to Seligman—403.2 miles. Between Albuquerque—Belen and Gallup, New Mexico, the lines traverse arid plateau country which is sparsely settled—mostly by Navajo and Laguna Indians. In this area it crosses the continental divide. There is some uranium mining and farming near Grants and some petroleum products production near Gallup. Between Gallup, New Mexico and Winslow, Arizona, 127.2 miles, the country is open and the population sparse. There is some mining for coal and clay and a few sawmills that use logs trucked in from nearby mountains. From Winslow to Seligman, 142.7 miles, the line crosses the Arizona Divide. In ascending and descending this high plateau, the railroad transverses some difficult country. However, a recent 44.9 mile line change eliminated the most difficult part of the line. There is an important distribution center at Flagstaff and some lumber production there and at Williams. A branch line serves the Grand Canyon and Williams. While there is local service on each district, the principal work on this territory is the movement of through freight and passenger trains.

Santa Fe has four large terminal operations at Chicago, Kansas City, Los Angeles and San Francisco. The two functions of a terminal division are (1) train-yard switching—making up, breaking up and relaying trains, and (2) industry switching—spotting and pulling loads and empties. Chicago and Kansas have the largest industry operation. Principally, because of the technicalities of the agreements with Operating Brotherhoods, Chicago has the least number of people working more than 8 hours in a 24-hour period and Los Angeles has the greatest incidence of this condition. Therefore, Chicago—a major trainyard—and Los Angeles—a major industrial yard—were chosen.

Selecting these divisions was only the beginning. The real work was yet to come. First, it was necessary to ascertain precisely what is being done now—what men in which operating crafts are working how many hours, how often and how long are they at home, and how often and how long are they required to be away from home. Then, in order to assess the effects of possible changes in the Hours of Service Act, we had to go back and see how we would have had to operate these same parts of the railroad in the same period as though the changes in the law had been in effect. In other words, we had to "redispatch" the parts of the railroad involved for the same period covered by the study of present operations

The results of our study are reflected in two exhibits which I am furnishing the Committee. Exhibit 1 containing 4 sheets, is in columnar form and is intended to give a breakdown of the duty and off-duty time during the test week of engineers and conductors in road freight service on the operating divisions studied—first, as actually transpired during the test week, then in parentheses next to the actual figures, as redispatched as if the law were changed. Exhibit 2 is a restatement of estimated additional annual expenses to Santa Fe if the Hours of Service Act is amended by adoption of H.R. 8476.

Our analysis indicates that railroad operating men are by no means overworked. On the average, their hours on duty are not only comparable to but less than the average weekly hours of production employees in manufacturing. U.S. Bureau of the Census, *Statistical Abstract of the United States 1965*, 237. Thus, conductors in road freight service on Santa Fe's Middle Division for the week of January 24–30, 1966, averaged 38 hours and 48 minutes on duty—and this included periods during which they were actually released for 3 hours or less. Engineers on the same Division averaged 36 hours on duty for the week. On the Albuquerque Division, conductors averaged 28 hours and 20 minutes for the week and engineers 23 hours and 10 minutes. These figures are to be compared with the 40.7 hours a week for the production worker in manufacturing in the year 1964.

On a system-wide basis, Santa Fe engineers averaged *5.40* hours per trip and *29'19"* per week in 1965. Our conductors in the same year averaged *5.58* hours per trip and *35'23"* per week. These figures are arrived at on the basis of Santa Fe reports to the Interstate Commerce Commission.

Perhaps at this point, I should explain that no separate study was made for brakemen. Such a study was and is not necessary because, with a few exceptions, brakemen work the same or less than conductors on the same territory.

These figures I have mentioned are, of course, averages. We know on the basis of experience and the study we made that within the areas from which they

are derived further examination would show a great many men working substantially less than the average, with a smaller number working more than the average, some twelve and more hours per trip resulting in weekly hours in excess of the average. While the number of men spending these relatively long hours on duty is comparatively small in relation to the group, it is not—as I have noted before—insignificant. These men play an essential role in our operations.

Let me illustrate the effect of the proposed hours of service law with another example. Train 73–74–85–86 operating between Emporia, Kansas, and Superior, Nebraska, is an assignment that has been worked out with representatives of the various Brotherhoods to make the job as attractive as possible. The crews work long hours and cover greater than usual mileage. However, they work only 4 days per week and are away from home only two days per week. Any rearrangement of the jobs to shorten hours in order to comply with the proposed hours of service law will: (1) increase the number of days worked; (2) increase the number of days away from home; and (3) reduce individual earnings.

This assignment is fairly complicated so must be explained. Three crews, all of whom live at Emporia, handle these trains. Crew 1 leaves Mondays and Thursdays and returns Tuesdays and Fridays, and has Wednesdays, Saturdays and Sundays off. Crew 2 leaves on Tuesdays and follows the same cycle as Crew 1 but one day later in the week. Crew 3 leaves on Wednesdays and Sundays, returns Thursdays and Mondays, and has Fridays, Saturdays and Tuesdays off. With this arrangement there is service on the territory every day of the week and in both directions between Emporia and Concordia on Mondays through Fridays.

Crews on these assignments tie-up at Concordia, Kansas, on one of the two going trips each week, and at Superior, Nebraska, on the other. This is done in order to provide service between Concordia and Superior three days per week. On the going trip which ties-up at Concordia, two of the crews make a side trip on another branch line between Manchester and Bernard, Kansas, while the third crew makes the run to Concordia directly. The two crews that make the trip to Bernard, Kansas, actually run 715 miles per week and the third crew, which does not make this side trip, actually runs 628 miles per week.

All three crews do as much work as possible on the going trip so that they can get home as early as possible on the days that they return. The actual times on duty during the week of January 23, 1966, which are normal, were:

Going:	
Emporia to Superior	12′30″, 14′35″, 15′30″.
Emporia to Concordia via Bernard	15′30″, 15′50″.
Emporia to Concordia direct	13′15″.
Return:	
Superior to Emporia	10′25″, 12′30″, 13′15″.
Concordia to Emporia	8′20″, 9′59″, 10′40″.

The three crews were actually on duty 48′44″, 51′40″ and 50′20″ during that week. Conductors earned $184, $186 and $176 and enginemen earned $219, $220 and $207 for the week.

These jobs are neither the most desirable nor the least desirable on the territory. Pool crew assignments have higher earnings and are preferred by most men. However, among men with insufficient seniority to hold pool assignments, these jobs are quite acceptable. They are better, for instance, than those assignments that tie-up every night at an outlying terminal; they are better than those jobs that work 6 or 7 days per week to earn the same amount.

To make these assignments comply with the proposed law, they must be divided up so that crews will work six days per week instead of four; two crews will have to be assigned at outlying points such as Concordia and Superior; and earnings of individuals will be reduced to 600 miles per week, or $140 for conductors and $163 for enginemen. This is a loss of about $40 per week for conductors and about $50 per week for enginemen.

It is to be remembered that this represents only the prospective changes in a single run or trip. On the Santa Fe, we originate approximately 800–1000 freight train trips per day. The potential added expense to us is—on its face at least—very substantial. So likewise are the threatened consequences for present employees.

We could not very well represent to this Committee that we could determine the impact of the amendments to the Hours of Service Act before it on the Santa Fe by multiplying the average daily freight train trips by the results of our analysis of the run between Emporia, Kansas and Superior, Nebraska I have outlined to you. Would that it were that simple, but it is not.

There is an infinite variety of assignments required in the operation of a railroad like ours. That I have reviewed for you at length is not generally typical, although it is representative of one form that is found within various operating divisions. As previously indicated, we studied in detail two entire divisions with the thought that they would be generally representative of operations on the railroad as a whole. The results of that study are shown in my Exhibit 1 (p. 274). It would be an imposition, I think, to attempt to take the Committee through the details of all of the assignments we reviewed on the two divisions involved in our study. I hasten to add, however, that I will gladly discuss any assignment touched on in our study in such detail as the Committee might desire. For the moment, I propose merely to outline the results of our work.

We found—as my general comments indicated I expected—that the greatest impact of the proposed amendments would be on the high-mileage, longer hours assignments which are, as a rule, so popular. The degree or extent of this impact we found to decrease as average time on duty decreased—to the point where the average time on duty of certain—actually, many—runs was sufficiently low that these runs would not, standing alone, be affected by the proposed amendments to the Hours of Service Act. However, in readjusting existing trips which would have to be changed, we found in a number of instances that related or connected trips would have to be readjusted which, considered alone, would otherwise require no changes. In other words, we found that there was a definite "ripple" or "wave" effect extending outwards from operations that would have to be adjusted if changes proposed in the Hours of Service Act were adopted. Moreover, while the H.R. 8476 purports to set two limits on the hours of engineers, as a practical matter because of the elimination of firemen and the impracticality of dividing the work-time of crew members into different periods, the 9 hour limit would likely be applied to all members of most crews.

Overall, we found that we would probably have to purchase a number of new diesel units, we would have to hire more men in each of the operating crafts, it would be necessary in almost all cases to run more train miles, present crew change points would have to be changed in many instances, the present earnings of substantial numbers of employees would be reduced, and our wage and related costs would be significantly increased. Most of these are shown in my Exhibit 2 (p. 275). Santa Fe's additional annual expenses if H.R. 8476 is enacted will be $6,235,000.

Our opposition to the amendments to the Hours of Service Act here in question is based not only on these factors themselves but on the ground that these added items of expense would not be accompanied by any improvement in railroad safety—the prime announced objective of the Act. Nor, as a further fact, would these changes that would have to be made result in any improvement in the quality of railroad transportation service. Indeed, in my judgment, the tendency of the changes that would be required might be to impair slightly the quality of our service. Finally, I should point out that, if our annual expenses are increased to the extent indicated, the necessary funds will have to be diverted from other areas where they are urgently needed.

Our findings indicate that the amendments to the Hours of Service Act this Committee is considering would not result in a broad reduction in the average hours on duty of railroad operating employees. Moreover, time spent away from the employee's home terminal will be greatly increased. For example, on the Middle Division, the average time of conductors away from home increases from 26'19" to 36'27" per week. Engineers on the same division will be away from home 29'57" per week as opposed to 23'46" at present.

Finally, as to yard or terminal service, our study revealed that, on Santa Fe at least, the hours worked by men in this service are such that enactment of the suggested amendments to the Hours of Service Act would have little or no effect.

In his testimony before this subcommittee Mr. H. F. Gilbert, President, of the Brotherhood of Locomotive Firemen and Enginemen alluded to the alleged long hours worked by engineers manning the "Etter switcher" on Santa Fe's Plains Division in Texas during the month of August 1965. What Mr. Gilbert's testimony does not point out is that while the "Etter switcher" does work long hours, the same men do not man the run day in and day out. Mr. Gilbert also failed to indicate the reason why this run necessarily consumes the time involved. The time required by the "Etter switcher" is necessitated largely by the requirements of the American Zinc smelter at Machovec, Texas. At that location, it is necessary to weigh each loaded and empty car as it is handled into and out of the plant. Switching is, therefore, slow and time consuming. Except for the work done at American Zinc, however, the run is uncomplicated and not at all difficult.

With respect to the time put in by individual members of the crew, a study of the engineers' time on duty for the entire month reveals that the hours of the "Etter switcher" are not reflective of the average hours on duty of the engineers who man it. For example, Engineer J. T. Luke operated the move the first 6 days of August, 1965. Those 6 days were the only days in that month which Engineer Luke worked. He voluntarily laid off from August 8th to the 15th, and was on vacation August 16th to the 29th. For the month he earned $710.52. Engineer E. F. Green worked the "Etter switcher" August 23 through August 28. However, for the entire month, he worked 192'35" and was on duty only 23 days. His average time on duty per day, therefore, was approximately 8.3 hours. In the month, Engineer Green earned $1100.17. I am attaching to my statement, as Exhibit 3 (p. 276), a breakdown of the days and hours worked and the earnings of engineers who manned the "Etter switcher" during the month cited by Mr. Gilbert.

In closing, I should like to respond to a question which may occur to all members of the Committee. If only long mileage—long hours assignments in road freight service will be substantially affected by the measures in question, why are we opposed to these changes? Is it merely a matter of dollars?

I hasten, in closing, to say that the question of money is important not in terms of dollars as such but only in terms of what these added dollars would produce, if anything. As we see the picture, they would produce nothing in the way of a safer or more efficient operation and would result in no perceptible benefits to present employees. We are not disposed to spend millions of dollars for such a result if we can help it, particularly when those dollars are so urgently needed elsewhere.

EXHIBIT 1

SANTA FE RAILWAY CO.

Analysis of effect of H.R. 8476—Study of present experience and effect of proposed changes in law [1]

MIDDLE DIVISION (JAN. 24 TO 30, 1966, INCLUSIVE)

	Totals	Per man per week	Per trip
CONDUCTORS			
(1) Number of men	57 (65)		
(2) Number of trips	383 (438)	6.72 (6.74)	
(3) Number of times tied-up at home terminal.	203 (254)	3.56 (3.91)	0.53 (0.58).
(4) Elapsed time tied-up at home terminal.	5,695'43" (5,737'3")	99'15" (88'16")	14'52" (13'6").
(5) Number of times tied-up at other than home terminal.	180 (192)	3.2 (2.95)	0.48 (0.44).
(6) Elapsed time tied-up at other than home terminal.	1,499'36" (2,369'16")	26'19" (36'27")	3'55" (5'25").
(7) Elapsed time on duty (including release periods).	2,211'21" (2,496'24")	38'48" (38'25")	5'46" (5'42").
(8) Number of times released during a tour of duty paid for as a single trip.	2	0.04	0.006.
(9) Elapsed release time	7'30"	1"	0.3".
ENGINEERS			
(1) Number of men	63 (81)		
(2) Number of trips	382 (445)	6.10 (5.49)	
(3) Number of times tied-up at home terminal.	198 (246)	3.1 (3.04)	0.51 (0.55).
(4) Elapsed time tied-up at home terminal.	6,987'36" (7,002'56")	110'55" (86'28")	18'3" (15'45").
(5) Number of times tied-up at other than home terminal.	184 (199)	2.9 (2.46)	0.48 (0.45).
(6) Elapsed time tied-up at other than home terminal.	1,496'51" (2,425'16")	23'46" (29'57")	3'54" (5'28").
(7) Elapsed time on duty (including release periods).	2,266'9" (2,551'15")	35'58" (31'30")	5'54" (5'45").
(8) Number of times released during a tour of duty paid for as a single trip.	3	0.05	0.008.
(9) Elapsed release time	11'20"	1'80"	0.3".

See footnotes at end of table, p. 275.

Analysis of effect of H.R. 8476—Study of present experience and effect of proposed changes in law [1]—Continued

ALBUQUERQUE DIVISION (JAN. 24 TO 30, 1966, INCLUSIVE)

	Totals	Per man per week	Per trip
CONDUCTORS			
(1) Number of men	77 (78)		
(2) Number of trips	519 (526)	6.7 (6.74)	
(3) Number of times tied-up at home terminal.	277 (277)	3.6 (3.55)	(0.53).
(4) Elapsed time tied-up at home terminal.	5,836'20" (5,865'50")	75'48" (75'12")	21'03" (11'09").
(5) Number of times tied-up at other than home terminal.	243 (250)	3.2 (3.21)	(0.48).
(6) Elapsed time tied-up at other than home terminal.	2,055'25" (2,179'05")	26'42" (27'56")	4'48" (4'09").
(7) Elapsed time on duty (including release periods).	2,179'53" (2,211'58")	28'20" (28'22")	4'13" (4'12").
(8) Number of times released during a tour of duty paid for as a single trip.			
(9) Elapsed release time			
ENGINEERS			
(1) Number of men	90 (92)		
(2) Number of trips	491 (504)	5.5 (5.48)	
(3) Number of times tied-up at home terminal.	261 (261)	2.9 (2.84)	(0.52).
(4) Elapsed time tied-up at home terminal.	6,792'15" (6,732'48")	75'27" (73'11")	26'01" (13'22").
(5) Number of times tied-up at other than home terminal.	229 (236)	2.5 (2.57)	(0.47).
(6) Elapsed time tied-up at other than home terminal.	1,951'05" (2,181'46")	21'40" (23'43")	4'40" (4'20").
(7) Elapsed time on duty (including release periods).	2,086'50" (2,125'30")	23'10" (23'06")	4'15" (4'13").
(8) Number of times released during a tour of duty paid for as a single trip.			
(9) Elapsed release time			

[1] Present experience shown in regular form with changes caused by the proposed amendments in H.R. 8476 in parentheses.

EXHIBIT 2

SANTA FE RAILWAY CO.

Overall cost estimates of the impact of H.R. 8476

	All operating employees
(a) Additional train-miles	$1, 720, 000
(b) Additional crew expense not requiring additional train-miles	3, 600, 000
(c) Additional locomotive expense (including investment in additional locomotives)	390, 000
(d) Additional rest facilities	75, 000
(e) Additional meal and/or lodging allowances	330, 000
(f) Other cost items (itemize)	[1] 120, 000
Total	6, 235, 000

[1] Deadhead.

EXHIBIT 3

SANTA FE RAILWAY CO.

"Etter Switcher" August 1965.

Name	Total hours on duty, August 1965	Number days worked during August 1965	Earnings during August 1965
J. T. Luke	[1] 91'39"	[1] 6	[2] $710.52
C. E. Galloway	178'19"	23	1,113.53
J. B. McCroan	[3] 159'30"	[3] 21	945.44
L. P. Landos	[4] 146'25"	[4] 16	742.82
H. R. Brown	236'34"	27	1,203.56
W. H. Weaver	183'14"	21	1,128.30
D. T. Curry	128'57"	14	862.79
T. H. Armstrong	206'21"	21	1,099.46
E. F. Green	192'35"	23	[5] 1,100.17
A. R. Mayberry	[6] 86'59"	[6] 12	[7] 1,012.99

[1] Performed service Aug. 2 through 7, 1965, laid off Aug. 8 through 15 and on vacation Aug. 16 through 29, 1965; not included.
[2] Includes $322.50 vacation allowance and $14.97 time claim adjustment for Apr. 29, 1965.
[3] Does not include 1 day (2'50") in which only service performed was deadhead.
[4] Does not include 1 day (8 hours) on which only service performed was deadhead.
[5] Less July adjustment $1.02, or $1,099.15.
[6] Does not include vacation Aug. 16 through 29, 1965.
[7] Includes $574.43 vacation allowance.

Mr. DINGELL. The Chair will call for the next witness, Mr. Sam Burton, who is assistant general manager of the Southern Pacific Co., San Francisco, Calif.

STATEMENT OF SAM BURTON, ASSISTANT GENERAL MANAGER, SOUTHERN PACIFIC CO., SAN FRANCISCO, CALIF.; ACCOMPANIED BY WILLIAM R. DENTON, COUNSEL; AND LONNIE M. FOX, ASSISTANT MANAGER OF PERSONNEL

Mr. BURTON. Mr. Chairman, I have with me Mr. Denton on my left, an attorney for Southern Pacific, and Mr. Fox of Southern Pacific.

Mr. DINGELL. Do you have a prepared statement, sir?

Mr. BURTON. I do but I assume, like Mr. Barriger, you would want me to summarize.

Mr. DINGELL. It will be much appreciated.

Mr. BURTON. Very well.

Mr. DINGELL. Without objection, your full statement will be inserted in the record.

Mr. BURTON. This is fine, Mr. Chairman. Thank you.

(Mr. Burton's prepared statement follows:)

STATEMENT OF SAM B. BURTON, ASSISTANT GENERAL MANAGER, SOUTHERN PACIFIC CO.

My name is Sam B. Burton. I am Assistant General Manager for the Southern Pacific Company. My office is at 65 Market Street, San Francisco, California.

My experience in the railroad industry began as a telegraph operator with the Southern Pacific Company in 1940 and I have been with this Company ever since, In the course of my work with Southern Pacific I have been a Telegraph Operator. Train Dispatcher, Assistant Chief Dispatcher, Assistant Trainmaster, Trainmaster, Assistant Superintendent, and as Superintendent on two different operating divisions. I have occupied my present position since April 1964.

During the time I served as Telegraph Operator, Train Dispatcher, Assistant Chief Dispatcher, Assistant Trainmaster and Trainmaster I worked closely with the men engaged in operating our trains. As Assistant Chief Dispatcher my

primary responsibility was the handling of crews and power and supervising the movement of trains. The dispatcher's job is to coordinate the crews and engines with the need to make up and move trains. As Assistant Trainmaster, Trainmaster and Assistant Superintendent I was responsible for the assignment of conductors, brakemen, yardmen, engineers and firemen in through freight, local freight, yard, and passenger service. Thus both before and after becoming an officer of the Company, I have been intimately involved with the assignments of crews and planning their tours of duty.

I have frequently dealt with the operating labor organizations on the subject of balancing crews. In my present position I deal with the General Chairmen of the organizations and many times I have been concerned with their complaints that crews were being held away from home terminal too long.

Overall, my experience has given me, I think, a realistic view of railroad operating practices and problems not only from the position of management but also from the standpoint of the men who actually run the trains. Shortly I will illustrate and apply the various specific points which are important to the Subcommittee's consideration of the proposed amendments to the Hours of Service Act. I will illustrate these points with specific reference to the location and train operations on Southern Pacific's Oregon Division which were discussed at some length with you by Mr. R. W. Guy, First Vice Chairman of the General Grievance Committee of the Firemen's organization on Southern Pacific. Before turning to the details which demonstrate why the law should not be amended, I would like to make some general points.

First, it is important to recognize the key factor in railroad employment, namely, mobility, and tripartite division of hours inherent in the movement of the employes.

Within the railroad industry, the terms that are used in speaking of assignments of operating employes, particularly when referring to hours worked on a particular assignment, are misleading. In this respect we are not comparable to an industrial plant where the employes actually spend their on-duty hours stationary and in productivity, as also would be true of the crafts such as electricians, carpenters and others. Because of the nature of railroading the men travel, and their pay structure is complex, and the terms are confusing. The Subcommittee already has a basic understanding of this aspect of our industry, but it may overlook the fact that in considering the hours of service of the employes there are three periods of time which must be distinguished to clearly understand the impact of the law and its relation to safety.

The time of our employes cannot be divided simply into either on-duty or off-duty time. Instead, there are three clearly separate categories of time.

First, there is on-duty time that is paid for and is primarily spent performing duties related to the movement of the train. Most of the duties of the train and engine crews are not at all laborious.

Second, there is off-duty time which is their leisure time and it is not compensated.

Third, there is the hybrid waiting or idle time for which the men are paid. This can be waiting time which the men begin to accrue after being held at away-from-home terminals over a certain number of hours. It can also be deadheading time for which the men are compensated while going to a place of duty, but they have no responsibilities enroute.

This third type of time is generally neither on-duty nor off-duty time under the law although under certain circumstances it may be either. For example, a crew may be called too early for a train and spend a considerable amount of time waiting for the movement to begin. This we consider on-duty time under the Act and it is compensated time. On the other hand, at an away-from-home terminal, such as Gerber, California, if the men must wait over three hours before returning to Dunsmuir that waiting period is not on-duty time. Waiting time is not compensated unless it exceeds 16 hours.

Deadheading is another good example. If a man is ordered to deadhead and can obtain rest, it would be considered off-duty time under the Act. Deadheading time required by the Company is always compensated time. Normally it is not considered as either off-duty time or on-duty time under the law. As an illustration of this, Mr. Guy testified that he ran out of time under the 16-hour law and had to be relieved when returning from Gerber to Dunsmuir on May 14, 1966. He was taken off duty, i.e., relieved of the responsibility for his train, and deadheaded the rest of the way to Dunsmuir by taxi. He got his day's pay for the trip he worked, and in addition he got paid one-half day's pay for the 40-minute deadhead. His rest, for purposes of the Act, did not commence until he completed his

deadheading taxi ride to Dunsmuir. A copy of his time returns for his round trip that day are attached as Exhibit "A".

In short, time for purposes of the law is not merely black or white. There is a gray area also.

The next point I want to make is directly related to the ability of the enginemen to obtain rest. It is simply that enginemen, themselves, control their own schedule of rest. They can rest at the end of any run. They can even rest after deadheading if they want by taking either eight, ten, or twelve hours undisturbed rest. The Company cannot interfere with their right to rest even if it needs crews very critically.

The first rule on the railroad is safety-first. And I might add that Southern Pacific has one of the finest safety records of all of the railroads in the Nation year in and year out. This is borne out by the Interstate Commerce Commission's statistics.

This rule of safety-first has been enhanced through collective bargaining to the extent that the adequate rest of crews contributes to safety. When I say the men control their own rest, I mean that there is a collectively-bargained rule in each of their agreements which gives them the right to rest. If they feel they need rest we want them to take it. A copy of these rules is attached to my testimony as Exhibit "B."

As a practical matter, we have never found a correlation between time on duty or time off duty and accidents.

Not only do the enginemen control their own rest, but they also control the size of their respective pool working lists. That is, they control the number of men available for work. They can expand the lists, thus sharing the available work among more men or contract them to have the opposite effect. The size of a list has an important bearing on the frequency of work and attendant earnings, of course. It also has a direct bearing on the amount of rest and layover time they can anticipate at their home terminals. Our experience is that the board is usually kept trim to maximize the earnings at about 3800 miles per month.

I call your attention to the complete picture of the Dunsmuir to Gerber district about which Mr. Guy testified for the proponents. It is found in my Exhibit "C", to which I shall refer in a moment. I have also attached as Exhibits "D" and "E" a summary similar to that in Exhibit "C" of the runs between Dunsmuir and Klamath Falls and Ashland, Oregon, respectively. These are shown because Mr. Guy presented an exhibit on these runs. He also referred to local run number 310 out of Dunsmuir and this is depicted in my Exhibit "F".

On the basis of these exhibits and the experience I have gained in more than 25 years with Southern Pacific, I should like to advance several specific observations and conclusions. My experience has played a dominant part in these because of my intimate participation in our train operations. I have, I believe, acquired an understanding of these problems which few, if any, studies could develop.

First, I have trouble believing that the objectives of the amendments to the Hours of Service Act proposed in this bill represent a spontaneous reaction on the part of the men directly involved. I will go further and say that I do not believe these proposed changes even represent any consensus of the employes. If they did we certainly would have been made aware of the feelings of our employes. I would anticipate a sharp negative reaction if we have to change assignments and shorten their time on duty because of the proposed amendments.

Railroaders, like men everywhere, are interested for the most part in maximizing their income. For this reason, they have always favored assignments on which they can earn the most miles and, thus, the most dollars in the shortest time. For the employes who work on the trains, they can often earn a week's pay in less than 20 hours (part of it being pay for time off-duty) and then they can be free for 3 or 4 days and repeat the cycle. This is what the men want because of the impact on their pay checks and it minimizes their time away from home. They want to work out and then work right back to spend their idle time at home.

The men prefer as a rule those assignments which, while opening the way to the best income through the most consecutive miles and hours, still permit them to be at home as much as possible. This interest of the men in spending as little time as possible away from home is understandable, of course.

Informal discussions take place every day between the people operating our trains and Company officers. On a formal basis (Local Chairman-Superintendent) not that often, but certainly of such frequency that a Superintendent gives the objective of efficiently balancing crews a great deal of thought and attention. One fireman, for instance, used to call me at frequent intervals, sometimes 3:00

A.M. in the morning, when I was Superintendent at Dunsmuir, to discuss his dissatisfaction with the layover away-from-home terminal at Crescent Lake. I found that the men were very attentive to operations and not hesitant about bringing to my attention possible changes that could be made which would not reduce income but would reduce time away from home. The problem of balancing crews is really just a problem of minimizing the away-from-home time of the crews. It is the problem of having sufficient crews at a given terminal to operate the trains on time, but of not having too many at away-from-home terminals such that they have long layovers. The men and the Company for the most part pull together on crew scheduling arrangements because accommodating the desire of the men to be at home as much as possible also minimizes the expenses of the Company, maximizes train efficiency, and provides the crews at the major terminals when and where they are most needed.

I am sure that neither the men nor their families would take kindly to any change in the law which would entail a rescheduling of railroad operations that would require them to spend more time away from home and have less monthly income in most cases. The basic effect of the proposed amendments would be to force the men to remain at the away-from-home terminal an additional period of time off duty before returning home. It would also cut their earnings.

For example, the Dunsmuir to Gerber district which Mr. Guy spent considerable time discussing is one preferred by the men. It is 101 miles each way and the enginemen are paid 140 miles each way. The run takes from 3½ to 4½ hours normally, and the engineers receive more than $40 each way. Their total on-duty time each way is between 5 to 6 hours. They almost always double, i.e., make the round trip in one day. They are then off at home in Dunsmuir 24 hours or more. The amendments, if enacted, would virtually eliminate the possibility of their making the round trip each day. They would have to lay over at Gerber eight or more hours. This increases their personal expenses, the Company's expenses and it takes away from their leisure time at their homes in Dunsmuir.

The phenomenon of railroad employment that should be readily understandable, and which is also commendable, is that the assignments which have the most continuous mileage or hours for which the men are paid, regardless of whether they are on-duty, off-duty, or deadheading hours or mileage, are the most desirable assignments. The assignments which maximize pay for a given tour of duty or run are held by the most senior men. The proposed amendments would have a heavy impact on these high paying assignments by reducing the mileage, reducing the hours, reducing deadheading, or increasing uncompensated time away from home, or by having any combination of these effects. The senior men would leave these assignments. I will illustrate this point shortly. The earnings of the men are closely correlated with seniority. It is not like a factory job where all get the specified rate of pay for the job for a fixed number of hours. Railroading is more comparable to piecework. Thus, there is a wide range in earnings and time off between the junior and the senior employes. They would all have the same earnings and amount of time off if they worked the same assignments, but they don't. It is the variety of assignments that enables senior men to continually hold more desirable assignments the greater their seniority, and, thus, they increase their earnings significantly without regard to negotiated increases in rates of pay.

The amendments by fragmentizing the hours of work would sharply tend to equalize assignments and prevent the men from having their income and time off grow with their seniority. Seniority to a railroad operating employe is much more important from an earning and time off standpoint than it is to the factory worker. This is not because of acquired skills, but because of the ability to hold the high mileage assignments. The amendments, to the extent the men could arrange it, would not reduce their hours on duty per week or month, but they would spread them more inconveniently into many more, shorter tours of duty. The irregularity of the work of the operating employes would be increased by the amendments.

I am personally satisfied that a part of the success we have had in attracting and keeping intelligent and capable employes has been the lure of the substantial incomes to be had in our operating crafts when one acquires sufficient seniority to bid in and hold a high-mileage or long-hour assignment. If these assignments were eliminated in order to comply with changes in the law, it is reasonable to expect that the interest of present employes in continued railroad work will falter, complaints and dissatisfaction will increase, and one of the inducements to bring new men into the industry will be eliminated. Thus, we find ourselves not only decreasing the value of the employes' place on their assignments or even losing

employes we already have, but also unable to replace them. Even without a change in the law we are continually looking for good men to hire. To this shortage would have to be added our demand for additional employes required to meet changes in the law in addition to maintaining our present forces intact. Since we do not run trains without crews, the possible potential impact on our service and the national transportation plant is clear.

One of the advantages of the diesel over the steam locomotive is that it enables us to get trains over the road faster. Over the years we have been able to reduce our terminal-to-terminal time. For the month of May 1966, I had a study made of our terminal-to-terminal times in through freight service for all principal crew districts. The longest time averaged 8′ 10″ and the next longest was 7½ hours. Many were less than four hours and the shortest average was less than three hours. I am speaking of road trip time. The overall on-duty time of the employes operating the trains would average from one to three hours longer with terminal delay time included. The average total on-duty time for each trip would be less than 8 hours. This study is attached as Exhibit "G".

I have, to this point, emphasized primarily what I see as the adverse impacts on railroad employes and their families because of the changes in the Hours of Service Act as proposed by this bill. This was not intended to discount the impact on Southern Pacific itself or the railroad industry.

From the Company's point of view, we are opposed to the suggested changes in the law because it would seriously—and without any valid reason—disrupt an operating system carefully constructed after years of experience with the existing law. If the cause of safety would truly be served by such changes, we would not think of opposing them, for we are always striving to make our operations as safe as possible. Safety is maximized under our present system and its arrangement of assignments, together with the rest provisions of our collective bargaining agreements.

Where changes called for require it—and many will—we will have to purchase and operate additional motive power and other equipment, thereby increasing not only our capital investment but our day-to-day operating expenses as well. Where we must hold crews away from home overnight at points where this is not now done regularly, we will have to provide or pay for lodging and meals for crews detained there.

The cost brought about by this bill would be measured by money which could only be spent once and it could not be spent for new rolling stock, motive power, improved communications, and other improvements to keep pace with the demands of our shippers and the competition of other modes of transport. Moreover, it would not improve the safety of our operations and that presumably is the only justification for a change in the law.

The Subcommittee is perhaps aware that seniority is one of the most zealously guarded provisions of the agreements in effect between the employes and management and it is the exercise of seniority that permits them to hold the most desirable assignments. If any of these men with high seniority felt that the assignment is long, working 13 or 14 hours, and was detrimental, they certainly have seniority enough to move to another assignment with shorter hours.

Before turning to my exhibit of the run between Dunsmuir and Gerber, I would like to bring out one more point. We do occasionally have an employe on duty more than the 16 hours, to which he is limited by law. When an employe has been on duty in excess of the 16-hour limitation a report is made to the Interstate Commerce Commission. The mere fact that an employe was on duty more than 16 hours does not necessarily mean that the law was violated. Nevertheless a report is made. The law permits an employe to remain on duty an excessive number of hours in a particular situation for which good cause can be shown. Excessive hours may be incurred for any number of reasons ranging from a mistake on the crew dispatcher's part in calculating the time already served by the employe to emergency conditions caused by heavy storms in our mountain territories. The former, of course, is plain human error, and we expect the men, themselves, to police their availability for service and to question a call if they doubt that they have sufficient time remaining to complete the run.

By the same token, if the normal time expected for a run about to be called is less than the hours of service an employe has left within the 16 hours, the dispatcher must exercise judgment in calling that employe or he can put in a wage claim for work not performed. One of a dispatcher's jobs is to anticipate the time it will take to run between terminals in order to know whether or not an employe with some remaining eligibility for service that day can be called for that train. In other words, the dispatcher must know the prior service of each

employe each day, and if he makes a mistake, an employe may incur excessive time unless the mistake is caught in time to relieve the employe short of 16 hours of duty.

I looked into the violations of Southern Pacific for 1962 through 1966, to date, and find that we had 51 violations in that period, or approximately 10 per year. Most of the violations were in the range of 15 to 30 minutes beyond the 16-hour limit. Forty percent of the violations occurred in the winter months, and this I would attribute to the heavy storms which interrupt our operations and delay trains in the Cascade Mountains and in the Sierra Nevada Mountains. Slightly over half of the violations were on the division which operates through the Cascade and Siskiyou Mountain Ranges.

While the instances of service in excess of 16 hours are very few and far between, they are usually expensive to the Company in that the relief of an employe who has exceeded the hours of service, or who is about to exceed the hours of service, normally permits him to get his full day's pay regardless of the amount of the trip he has completed, and in addition, he gets extra pay for deadheading into the terminal without his train. I will illustrate this when we look at the Dunsmuir to Gerber exhibit (Exhibit "C"), to which I would like to turn now.

I'll briefly state what each column and the symbols on the exhibit signify to make sure that everyone understands what we have done here. We have taken the same period in the first 10 days of May that Mr. Guy used when he testified in a similar, though less comprehensive, exhibit previously submitted to the Subcommittee. We not only took the same days that he took but we also took the same through freight runs between Dunsmuir and Gerber. We have shown all of the through freight runs during this period, whereas Mr. Guy showed only those persons whom we have marked with an asterisk. We have also added quite a bit of information that Mr. Guy did not show on his exhibit. To identify the columns across the top—first, of course, is the name of the employe and whether the crew included a fireman. Whether or not the crew had a fireman is immaterial. A brakeman rode in the cab with the engineer on these runs.

Column 2 is the hours the men had off duty before they were called at Dunsmuir Where the hours are fairly substantial, such as for the first man named on page 1, Mr. Smith, who had almost 71 hours off duty, it is safe to presume that he had laid off a part of that time and then marked up. We did not distinguish between the layoffs and the normal off-duty time. The next man, Mr. Robinson, was off 35 hours. This is a normal layover time. By the same token, you will probably find some very short times, such as the second man on page 2, Mr. Grant, was just over 9 hours. He was called from the extra board for service, and, therefore, did not have the normal layover of a man in this pool.

Column 3 is self-explanatory—it's the date and time the men went on duty.

Column 4 is the road trip time from Dunsmuir to Gerber. It is the time that the men handled their train en route. It does not include delay at either terminal.

Column 5 is self-explanatory—it's the off-duty time and date.

Column 6 is the period of time between the times in columns 3 and 5. You will note that it is longer in time than column 4, because column 4, as I stated, was merely the over-the-road time, whereas column 6 includes all their terminal delay time.

Column 7 is the number of hours that the men had off duty at Gerber before returning to Dunsmuir. You will notice where the time is short, such as again Mr. Smith, the first man who had 2 hours and 40 minutes at Gerber, or Mr. Robinson, where he turned right back from Gerber, and the entry in column 7 is None. For Mr. Smith and Mr. Robinson in column 13 on the right there is a small *c* after their total times. This *c* indicates that we considered the man to be on continuous time, that is, for purposes of the Hours of Service Act their time was not interrupted at Gerber. Where a man had more than about 3 hours of rest at Gerber such rest time is subtracted from his on-duty time, and we show for him in column 13 a small *a* meaning that his time was aggregate, that is, his aggregate time is the total time of columns 6 and 11, whereas his continuous time under column 13 is the total of columns 6, 7 and 11.

Columns 8, 9 and 10 are the counterparts of columns 3, 4 and 5, for the return trip from Gerber to Dunsmuir.

Column 12 is the total road time en route for the round trip; that is, it is the totals of column 4 and column 9.

Column 13 I have already mentioned. It is the total time on duty for both trips, and column 14 is the earnings for each trip.

The asterisks opposite the names of the individuals indicate that those individuals appeared on Mr. Guy's exhibit. In the first footnote on page 1 of the

exhibit we indicate that while the mileage from Dunsmuir to Gerber is 101 miles, for pay purposes the crews receive an additional 39 miles as an arbitrary, thereby being paid for 140 miles. Overtime, however, is computed on the basis of the 101 miles; that is, overtime commences after 8 hours and 5 minutes on this run. In the second footnote we also show the average road trip time in through freight service between these points for the entire month of May. These figures are also on my Exhibit "G". The Dunsmuir to Gerber time of 3 hours, 48 minutes and the figure of 4 hours, 29 minutes from Gerber to Dunsmuir are very close to the averages which we found in the 10-day period as shown in columns 4 and 9.

The vertical line drawn through the chart between columns 6 and 7 indicates the end of the one-way run, that is, all figures to the left of the vertical line are Dunsmuir to Gerber, and the figures to the right are Gerber back to Dunsmuir, and then on the far right are the totals. Our first entry in the columns across the top is the average of all the figures in that column.

The general picture of this district is shown on the top line in the average run which the men named on this exhibit made in the 10-day period to May 10th. You can see that they normally have a substantial layover at their home terminal, then operate very expeditiously over the road. The longest time on page 1 of the road trip in column 4 was only 6½ hours, and the shortest on that page was less than 3 hours, for one day's work and more than one day's pay. Column 6 indicates how quickly the men get out of Gerber to return to their homes at Dunsmuir. From the average of slightly over 5 hours' time at Gerber you can see that the men do not choose to take additional rest there. Also, still looking at the averages, in column 13 with an average of just under 13 hours' time on duty, we could not let the men make the return trip in one day under normal circumstances if the amendments were passed. Although their average time on the road is slightly more than 8 hours in the round trip, their total average on-duty time is 12 hours and 37 minutes. This total average time, as I mentioned, includes off-duty periods at Gerber of less than 3 hours. They could not return to their home terminal without a minimum of 8 hours at Gerber if this law is amended as proposed. The enginemen already have the right to stay at Gerber and take rest if they want to, and you can see that none of them seem to want to. If the law is passed, they won't have a choice, they will be required to stay at Gerber for additional rest before returning to Dunsmuir. This, in turn, will increase the time which is shown in column 7 at the expense of the time at home shown in column 2.

You will note that if you add the particular columns 4 and 7 you do not get the total found in column 12. This is because in some instances here the employes worked one way, such as Dunsmuir to Gerber, and deadheaded back. Only round trips without deadheading in one direction are included in column 12, but one-way trips are included in columns 4 and 7. The top line shows the average of the figures beneath it.

The average in column 13 is inflated beyond the total of columns 6 and 11 because column 13 includes column 7 when the time at Gerber did not constitute a proper period of rest. These instances are those figures in column 13 identified as continuous time.

This one exhibit illustrates practically everything that I have been talking about heretofore. For instance, it shows that the road trip is very short in mileage, being 101 miles, but these employes get, because of an arbitrary, 140 miles of pay; in other words, 1.4 days' pay, approximately $40 one way. The road trip time is very short, from 3½ to 4½ hours normally. Their on-duty time, of course, is slightly longer than the road trip time. They come on duty and under pay in advance of departure, and usually are delayed a short time before departure. Then, at the end of their trip they consume some time in going off duty. Thus, their on-duty time is more than their actual time moving the train over the road. In any event, it is very short and their total on-duty time each trip averages about 6 hours.

The pay, as I mentioned, is high, regardless of how you calculate it, whether per hour or per trip. It's a lot of money for a short tour of duty.

These men, as I mentioned earlier, control their own rest and have the right to remain off duty at Gerber for 8, 10, or 12 hours if they wish. You will note that they do not wish to do this, and almost invariably double right back as soon as possible to Dunsmuir. This is shown by the average layover time at Gerber being only 5 hours and 6 minutes. In fact, the men object rather strongly if they are required to lay over at Gerber too long. They want to get back as soon as possible.

Coincidentally I am able to illustrate my point that the men strongly object to long layovers at Gerber. I said earlier that the men and the Superintendent try to work together to get the crews back to Dunsmuir as soon as possible, and the men complain quickly when they think the layover is excessive.

If you will look at my Exhibit "H", you will see a very recent letter from the local Chairman of the Conductors' Union addressed to our Superintendent at Dunsmuir asking for a mutual effort to overcome the "numerous complaints from my men about the long layovers at Gerber." This demonstrates what I said earlier. The objectives of the proposed amendments do not have the support of the operating employes as distinguished from some of the unions representing such employes.

If you will again look at the Dunsmuir-Gerber exhibit, you will note in column 2 the long rest periods off duty the men have before their calls. This was also shown in Mr. Guy's exhibit in that inquiry was made of him as to why a man only showed up every second or third day. This is explained by the fact that they make the round trip Dunsmuir to Gerber and back in one day and earn approximately $80, and then they lay over for 1 or 2 days before making the trip again. Thus, they work 2 or 3 days a week to earn their wages. So, the long rest should not be overlooked prior to the road trip out of Dunsmuir. It is particularly important since this rest time at home is time which the proposed amendments would decrease in that the men would be required to lay over longer at Gerber. Thus, the time at their home terminal would be lowered and the time that they are away from home terminal increased. The two would be more balanced than they are now, and this, I am sure, is contrary to the wishes of the men.

Next, you should note that the men are paid in both directions whether they work in both directions or work one way and deadhead the other. If you will look on page 7 near the middle of the page, you will see Mr. Guy's trip. This is the only trip Mr. Guy worked during this period. If you compare this trip of Mr. Guy's on May 6th, for which he earned about $84, with the trip of May 14th, about which he testified and for which trip his time slips are my Exhibit "A", you will note that although he did not exceed the 16-hour limit on the 14th, the fact that he had to be relieved in order to avoid exceeding the limitation gave him total earnings of $104.82 for the round trips. While this was to his financial advantage, it is not in the Comapny's best interest to incur the costs of furnishing 16-hour relief.

As Mr. Guy testified, he had unusual delays on the 14th which caused him to be relieved of duty before he could reach Dunsmuir. We do our best to expedite our traffic and avoid employes even coming close to reaching the 16-hour limit. Our average over-the-road time, whether you take the 10-day period we show on my Exhibit "C" or the monthly period shown at the bottom of page 1 of that Exhibit, is quite short. In these averages, too, are included such trips as that of Mr. Guy when, due to unusual circumstances, he incurred above average hours on duty. While our average trips over this district show a time on duty of less than 16 hours, the unpredictable and unforeseeable events in railroading make it essential that we have flexibility in our operations. In movement of trains, one of the most undesirable things that can happen to a railroad is to have its main line tied up. Whether it be tied up by storms, derailments, or other reasons, we must endeavor to keep it fluid at all times. One reason we endeavor to avoid having crews run out of time between terminals is that the mere act of relieving the crew slows down the operation and tends to cause the congestion which can have a rippling effect with undesirable consequences in related operations. We need the leeway afforded by the 16-hour limit to meet the unforeseeable events encountered in everyday operations.

My whole testimony can be summed up by what the top line of Exhibit "C" shows. Our over-the-road times are usually short, but unusual circumstances do extend those times and we need the flexibility to use our employes to meet the unusual circumstances. It shows that the enginemen at away-from-home terminals, even though they have the right to rest 8, 10, or 12 hours, do not do so. It shows that under the present system the men's maximum rest hours are spent at their home terminal. The proposed amendments would be costly, both to the men and to the company, without any corresponding benefits to either, and the expenditures and the cost would not purchase additional safety. There is no correlation on our railroad between time on duty and safety.

Mr. BURTON. With my statement, I would ask that it be shown that the exhibits depict the operation on our Oregon Division because this is the location that was selected by the proponents, Mr. R. W. Guy, who is first vice chairman of B.L.F. & E. General Committee on the Southern Pacific, in his testimony before the Senate subcommittee and this is the reason that we have used these exhibits that we have here shown on the Oregon Division.

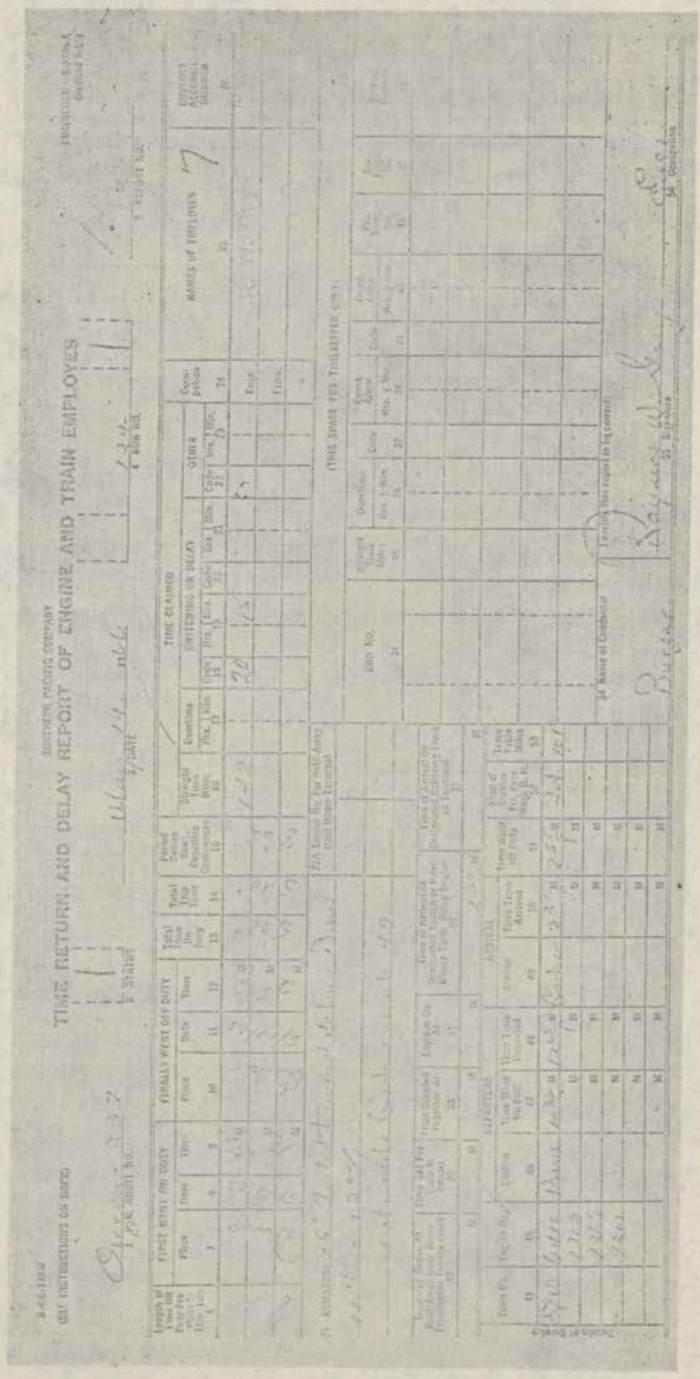
Mr. DINGELL. Do you wish to insert the same exhibits in the record?

Mr. BURTON. Yes, sir.

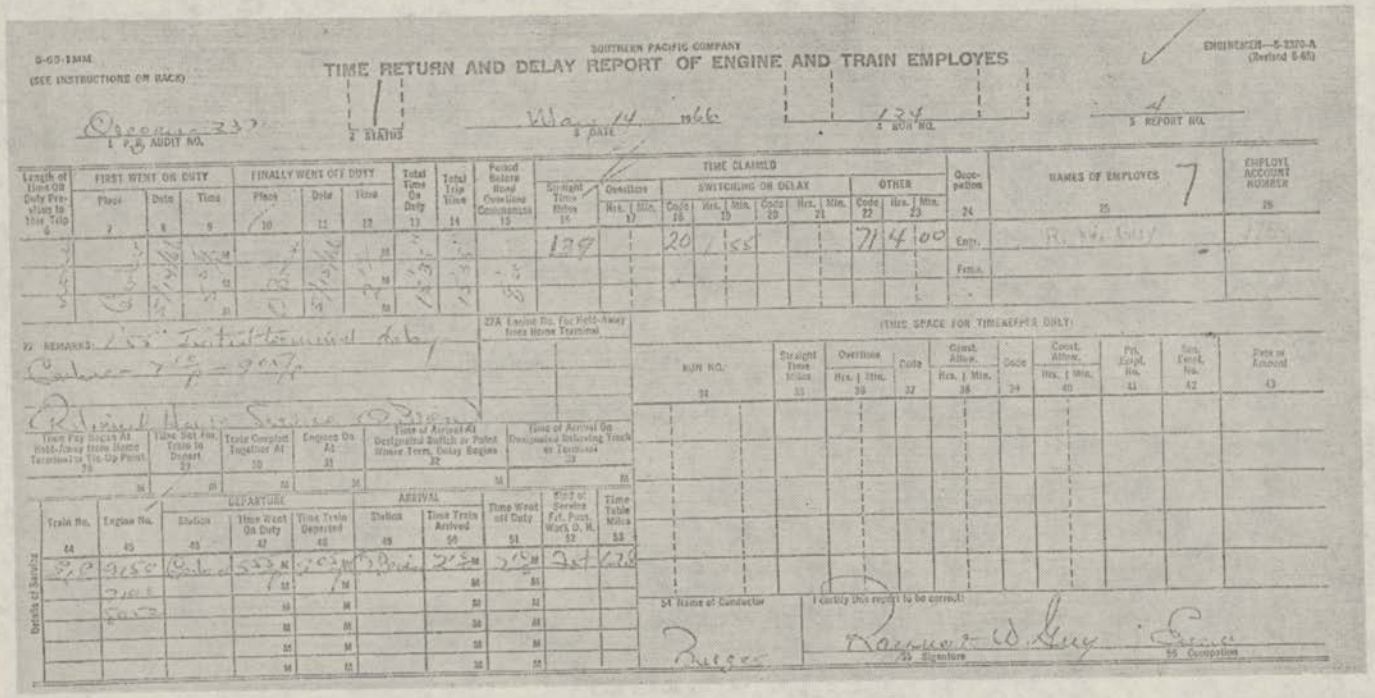
Mr. DINGELL. Without objection that will be so ordered.

(Documents submitted by Mr. Burton follow:)

EXHIBIT A


SOUTHERN PACIFIC COMPANY

TIME RETURN AND DELAY REPORT OF ENGINE AND TRAIN EMPLOYES



S-65-1MM
(SEE INSTRUCTIONS ON BACK)

SOUTHERN PACIFIC COMPANY

TIME RETURN AND DELAY REPORT OF ENGINE AND TRAIN EMPLOYES

ENGINEER—S-2370-A (Revised 5-65)

1 P.S. AUDIT NO. 2 STATUS 3 DATE May 14 1966 4 RUN NO. 134 5 REPORT NO. 4

Length of Time On Duty Previous to This Trip	FIRST WENT ON DUTY: Place	Date	Time	FINALLY WENT OFF DUTY: Place	Date	Time	Total Time On Duty	Total Trip Time	Period Before Hour Overtime Commences	TIME CLAIMED: Straight Time Miles	Overtime Hrs.	Min.	SWITCHING OR DELAY: Code	Hrs.	Min.	Code	Hrs.	Min.	OTHER: Code	Hrs.	Min.	Occupation	NAMES OF EMPLOYES 7	EMPLOYE ACCOUNT NUMBER
6	7	8	9	10	11	12	13	14	15	16	17		18	19		20	21		22	23		24	25	26
										179			20	1	55				71	4	00	Engr.	R. W. Guy	
																						Fireman		

REMARKS: 1 1/2" Intermittent delay
Cadwa 7 1/2 - 90%
Relief Hours Service Only

27A Engine No. for Hold-Away Times Home Terminal

(THIS SPACE FOR TIMEKEEPER ONLY)

Time Pay Begins At Hold-Away Home Terminal or Tie-Up Point 29	Time Set For Train to Depart 30	Train Coupled Together At 31	Engines On At 32	Time of Arrival At Designated Switch or Point Where Term. Delay Begins 33	Time of Arrival On Designated Relieving Track or Terminus 34

Details of Service

Train No. 44	Engine No. 45	DEPARTURE: Station 46	Time Went On Duty 47	Time Train Departed 48	ARRIVAL: Station 49	Time Train Arrived 50	Time Went off Duty 51	Kind of Service Ft. Pass. Work D. H. 52	Time Table Miles 53
FC	9150	Cadwa	7:55 M	8:20 M	Bridg	2:55	3:25 M	Pas	128
	7101		M	M			M		
	5013		M	M			M		
			M	M			M		
			M	M			M		
			M	M			M		

54 Name of Conductor	I certify this report to be correct	55 Signature	56 Occupation
Burgess	Raymond W. Guy		Engr.

S-65-1MM

(SEE INSTRUCTIONS ON BACK)

SOUTHERN PACIFIC COMPANY

TIME RETURN AND DELAY REPORT OF ENGINE AND TRAIN EMPLOYES

Oregon-237 — 1 P. R. AUDIT NO. — 2 STATUS — May 15 1966 — 3 DATE — 231 — 4 RUN NO. — 4/2 — 5 REPORT NO.

Length of Time Off Duty Previous to This Trip 6	FIRST WENT ON DUTY: Place 7	Date 8	Time 9	FINALLY WENT OFF DUTY: Place 10	Date 11	Time 12	Total Time On Duty 13	Total Trip Time 14	Period Before Road Overtime Commences 15	TIME CLAIMED: Straight Time Miles 16	Overtime Hrs. 17	Overtime Min. 17	SWITCHING OR DELAY: Code 18	Hrs. 19	Min. 19	Code 20	Hrs. 21	Min. 21	OTHER: Code 22	Hrs. 23	Min. 23	Occupation 24	NAMES OF EMPLOYES 25	EMPLOYE ACCOUNT NUMBER 26
			14			4[illegible]				50												Engr.	R. W. Guy	
			14			14																Fireman		
			13			14																"		

27 REMARKS: Relieved O'Brien-Hoover at Lovelock — DH Ducey by taxi

27A Engine No. Pro Rata Away From Home Terminal

(THIS SPACE FOR TIMEKEEPER ONLY)

RUN NO. 34	Straight Time Miles 35	Overtime Hrs. 36	Overtime Min. 36	Code 37	Const. Allow. Hrs. 38	Const. Allow. Min. 38	Code 39	Const. Allow. Hrs. 40	Const. Allow. Min. 40	Hrs. Empl. Rec. 41	Sec. Limit Rec. 42	Deferred Payment 43

Time Pay Began At Point Away from Home Terminal or Tie-Up Point 29	Time Set For Train to Depart 30	Trains Coupled Together At 31	Engines On At 32	Time of Arrival At Designated Switch or Point Where Term. Duty Begins 33	Time Is Arrived On Designated Receiving Track or Terminal 34
M	M	M	M	M	M

Details of Service

Trains No. 44	Engine No. 45	DEPARTURE: Station 46	Time Went On Duty 47	Time Train Departed 48	ARRIVAL: Station 49	Time Train Arrived 50	Time Went off Duty 51	Kind of Service Ref. Pass. Work, D. H. 52	Time Table Notes 53
Taxi	DH	O'Brien	M	5[illegible] M	Lovelock	2[illegible] M	M	DH	536
			M	M		M	M		
			M	M		M	M		
			M	M		M	M		
			M	M		M	M		
			M	M		M	M		

54 Name of Conductor: Ducey

I certify this report to be correct: Raymer W. Guy

55 Signature — 56 Occupation

EXHIBIT B

SOUTHERN PACIFIC COMPANY

Rest Rules—Engineers and Firemen

PACIFIC LINES

Article 30, agreement covering engineers

"Section 9. (a) No engineer shall be required to be on duty when he needs rest, nor shall an engineer be permitted to run on the road when his physical ability has been fairly taxed by previous service before he has had needed rest.

"Section 9. (b) When an engineer feels he needs rest he must so indicate in writing on the roundhouse register at the time he registers his arrival, or by wire, if on the road between terminals, giving the number of hours he requires, which must be either eight, ten or twelve hours, but in no case to exceed twelve hours; the hours to be considered from time of registering in until time called. After marking rest the hours as indicated on register will not be changed."

Article 46, agreement covering firemen

"Sec. 1. No fireman shall be required to be on duty when he needs rest, nor shall a fireman be permitted to run on the road when his physical ability has been fairly taxed by previous service before he has had needed rest.

"Sec. 2. When a fireman feels that he needs rest he must so indicate, in writing, on the roundhouse or other register at the time he registers his arrival, giving the number of hours he requires, which must be eight, ten or twelve hours. A fireman requiring rest, and so indicating on roundhouse or other register, shall not be called to report for duty in any service before the expiration of one and one-half (1½) hours after the rest period expires, except when other firemen entitled to the service are not available."

EP&SW

Article 26, agreement covering engineers

"Sec. 1. Engineers will not be required to go out when they need rest. When engineers feel that they need rest, and will be unable to go out, they must report same on roundhouse register on their arrival. Ten (10) hours will be considered sufficient time for rest. The period of rest requested is understood to be exclusive of calling time."

Article 27, agreement covering firemen

"Section 1. Firemen will not be required to go out when they need rest. When firemen feel that they need rest, and will be unable to go out, they must report same on roundhouse register on their arrival. Ten hours will be considered sufficient time for rest. The period of rest requested is understood to be exclusive of calling time.

"Fireman requiring rest, and so indicating on roundhouse or other register, shall not be called to report for duty in any service before the expiration of one and one-half hours after the rest period expires, except when other firemen entitled to the service are not available."

Under all rules quoted above, engineers and firemen may, when they feel they need rest, apply such rules to receive rest when they register arrival, whether at home terminal, away-from-home terminal, and whether they are arriving working or deadheading.

Rest Rules—Train Crews

PACIFIC LINES

Agreement provisions

Article 50, Conductors' Agreement (Article 46 for trainmen is similar):

"Section (a). Conductor, upon arrival at his home terminal after completing the service or deadhead for which called, will not be disturbed for a call for subsequent service, or to deadhead, in less than 8 hours from time he completed previous service or deadhead, the exception being—

(1) When other conductors entitled to the service are not available.
(2) In emergency such as wrecks, washouts, etc.
(3) For service under Articles 30 and 45.

"Section (b). When a conductor has served twelve (12) consecutive hours or more on duty, on arrival at terminal he shall have ten (10) hours off, except in cases of wreck, washouts, etc."

Divisional provisions

San Joaquin Division: Conductors (trainmen) in freight service, after making a divisional trip, Los Angeles-Bakersfield or Bakersfield-Los Angeles, will be given 12 hours off duty at such terminals, except in emergency.

Los Angeles Division: Conductors (trainmen) on crews running first in, first out shall be allowed 12 hours' rest at Los Angeles, except in cases of emergency.

Tucson Division: Conductors (trainmen) in freight service will be required to take eight hours' rest at the end of each divisional trip, except in emergency. (Waived for conductors at Gila.)

EP&SW

Extra conductors and brakemen required to have 8 hours' rest at home terminal.

Conductors and brakemen in pool freight service cannot be used out of home terminal or away-from-home terminal unless they have time to work based on the running time of 12½ miles per hours.

EXHIBIT C

Pool freight assignments operated between Dunsmuir and Gerber—Home terminal, Dunsmuir, Apr. 30 through May 10, 1966 [1]

(1) Engine crew	(2) Hours off duty before call, Dunsmuir	(3) Date and time on duty, Dunsmuir	(4) Road trip time Dunsmuir to Gerber	(5) Date and time off duty, Gerber	(6) Total time on duty, Dunsmuir to Gerber	(7) Hours off duty Gerber	(8) Date and time on duty, Gerber	(9) Road trip time, Gerber to Dunsmuir	(10) Date and time off duty, Dunsmuir	(11) Total time on duty Gerber to Dunsmuir	(12) Total road time en route, round trip	(13) Total time on duty, Dunsmuir to Gerber to Dunsmuir, continuous or aggregate time	(14) Trip earnings	
													Dunsmuir to Gerber	Gerber to Dunsmuir
Average per engine crew for period	38'26"		[2] 3'49"		5'37"	5'06"		[2] 4'26"		6'02"	8'19"	12'37"	$40.79	$44.11
A. Smith, no fireman [3]	70'50"	12:25P 4/30	5'00"	6:25P 4/30	6'00"	2'40"	9:05P 4/30	3'15"	1:05A 5/1	4'00"	8'15"	12'40" (c)	42.88	39.51
B. Robinson, no fireman [3]	35'00"	12:50P 4/30	3'10"	5:20P 4/30	4'30"	None	6:05P 4/30	5'25"	12:05A 5/1	6'00"	8'35"	11'15" (c)	41.57	45.27
J. Chiles, no fireman	22'30"	6:00P 4/30	6'30"	3:00A 5/1	9'00"	4'05"	7:05A 5/1	5'25"	1:25P 5/1	6'20"	11'55"	15'20" (a)	46.89	44.04
J. Grenko, no fireman	23'40"	7:30P 4/30	3'30"	1:25A 5/1	5'55"	None	1:25A 5/1	4'05"	7:35A 5/1	6'10"	7'35"	12'05" (c)	44.60	43.55
R. E. Davis, no fireman [3]	26'30"	8:55P 4/30	2'50"	1:55A 5/1	5'00"	5'45"	7:40A 5/1	4'30"	1:50P 5/1	6'10"	7'20"	11'10" (a)	43.13	41.85
W. Tallman with fireman [3]	27'55"	5:50P 4/30	4'50"	11:50P 4/30	6'00"	None	12:05A 5/1	4'15"	5:55A 5/2	5'50"	9'05"	12'05" (c)	38.14	43.13
F. Davis, no fireman	24'10"	1:35A 5/1	(4)	4:30A 5/1			9:45A 5/1	7'15"	6:30P 5/1	8'45"			23.98	51.67
M. Wagner, no fireman	21'15"	1:35A 5/1	(4)	4:30A 5/1			11:15A 5/1	4'17"	4:40P 5/1	5'25"			23.98	43.42
K. Green, no fireman [3]	28'45"	12:55A 5/1	3'55"	7:35A 5/1	6'40"	6'35"	2:10P 5/1	2'25"	6:00P 5/1	3'50"	5'55"	10'30" (a)	43.86	45.16
A. Whetstone, no fireman	38'35"	1:50A 5/1	5'45"	10:55A 5/1	9'05"	6'25"	5:20P 5/1	5'20"	12:15A 5/2	6'55"	11'05"	16'00" (a)	50.16	41.85
F. McLaughlin, no fireman	17'15"	4:15A 5/1	3'30"	9:30A 5/1	5'15"	8'15"	5:45P 5/1	4'40"	11:50P 5/2	6'05"	8'10"		41.04	43.51
M. Grant, no fireman [3]	9'10"	11:25A 5/1	2'45"	3:20P 5/1	3'55"	3'20"	6:40P 5/1	4'25"	12:35A 5/2	5'55"	7'10"	13'10" (c)	41.27	45.22
W. Smisek, no fireman [3]	41'45"	12:05P 5/1	2'55"	4:25P 5/1	4'20"	4'05"	8:30P 5/1	8'25"	6:15A 5/2	9'45"	11'20"	14'05" (a)	39.51	54.15
P. Getchell, no fireman [3]	37'20"	1:35P 5/1	3'20"	5:30P 5/1	3'55"	4'40"	10:10P 5/1	6'25"	7:25A 5/2	9'15"	9'45"	13'10" (a)	39.77	50.12
J. Hawkins, no fireman	25'25"	2:10P 5/1	5'15"	12:35A 5/2	10'25"	6'50"	7:25A 5/2	3'30"	12:40P 5/2	5'15"	8'45"	15'40" (a)	51.45	43.04
C. Bolan, no fireman	27'50"	5:55P 5/1	3'55"	1:10A 5/2	7'15"		7:25A 5/2	(4)	12:10P 5/2				51.90	25.10
R. Morrell, no fireman	24'45"	7:30P 5/1	3'55"	1:35A 5/2	6'05"	6'15"	7:50A 5/2	3'55"	1:05P 5/2	5'15"	7'50"	11'20" (a)	42.87	44.77
J. McLeod, no fireman	69'05"	9:45P 5/1	3'35"	2:40A 5/2	4'55"	6'40"	9:20A 5/2	5'05"	3:35P 5/2	6'15"	8'40"	11'10" (a)	42.06	44.48
G. Belskey, no fireman [3]	27'00"	9:50P 5/1	3'25"	3:25A 5/2	5'35"	6'30"	9:55A 5/2	9'20"	8:20P 5/2	10'25"	12'45"	16'00" (a)	45.91	54.93
T. Bisagno, no fireman	27'45"	11:45P 5/1	3'10"	4:15A 5/2	4'30"	8'40"	12:55P 5/2	2'30"	4:40P 5/2	3'45"	3'40"		41.57	41.53
G. Marston, no fireman [3]	28'30"	12:30A 5/2	4'35"	8:00A 5/2	7'30"	6'05"	2:05P 5/2	4'45"	7:35P 5/2	5'30"	9'20"	13'00" (a)	48.30	41.54
H. French, no fireman	78'50"	5:00A 5/2	3'55"	12:00N 5/2	7'00"		2:05P 5/2	(4)	7:00P 5/2				49.20	25.10
E. Moore, no fireman	32'50"	8:20A 5/2	3'20"	12:30P 5/2	4'10"		2:05P 5/2	(4)	7:00P 5/2				40.54	25.10
B. Robinson, no fireman	32'40"	9:10A 5/2	2'45"	1:05P 5/2	3'55"	5'05"	6:10P 5/2	4'30"	11:35P 5/2	5'25"	7'15"	9'20" (a)	42.60	44.66
I. Tucker, no fireman [3]	34'00"	9:55A 5/2	3'25"	3:30P 5/2	5'35"	4'05"	7:35P 5/2	4'05"	1:00A 5/3	5'25"	7'30"	11'00" (a)	41.81	42.39
J. Boggs, no fireman [3]	44'45"	10:05A 5/2	3'55"	5:00P 5/2	6'55"	5'15"	10:15P 5/2	4'25"	4:00A 5/3	5'45"	8'20"	12'40" (a)	45.59	43.49
A. Smith, no fireman	35'50"	12:55P 5/2	3'35"	5:30P 5/2	4'35"	8'45"	2:15A 5/3	2'35"	5:35A 5/3	3'20"	6'10"		40.79	45.80
W. Tallman, no fireman	37'20"	7:15P 5/2	4'09"	12:55A 5/3	5'40"	8'15"	9:10A 5/3	3'10"	1:30P 5/3	4'20"	7'19"		41.09	41.80
E. Louelle, with fireman	67'40"	11:20P 5/2	2'31"	3:50A 5/3	4'30"	7'05"	10:55A 5/3	8'20"	9:00P 5/3	10'05"	10'51"	14'35" (a)	40.02	48.66
E. Barry, no fireman	76'45"	11:10P 5/2	2'40"	4:05A 5/3	4'55"	8'40"	1:35P 5/3	4'05"	6:45P 5/3	5'10"	6'45"		45.55	43.40

J. Grenko, no fireman [3]	39′55″	11:30P 5/2	8′25″	10:15A 5/3	10′45″	3′30″	1:45P 5/3	2′28″	5:35P 5/3	3′50″	10′53″	14′35″ (a)	54.25	43.25
C. Lockhart, no fireman	47′25″	6:45A 5/3	3′05″	11:10A 5/3	4′25″	2′40″	1:50P 5/3	3′25″	7:00P 5/3	5′10″	6′30″	12′15″ (c)	40.54	43.69
B. Simpson, no fireman	60′35″	7:55A 5/3	2′55″	11:30A 5/3	3′35″	5′50″	5:20P 5/3	2′15″	9:00P 5/3	3′40″	5′10″	7′15″ (a)	40.80	43.13
J. Chiles, no fireman [3]	43′00″	8:25A 5/3	3′30″	1:10P 5/3	4′45″	4′25″	5:35P 5/3	5′00″	12:25A 5/4	6′50″	8′30″	11′35″ (a)	40.28	43.27
R. Davis, no fireman [3]	43′50″	9:40A 5/3	2′30″	1:25P 5/3	3′45″	4′55″	6:20P 5/3	5′20″	1:00A 5/4	6′40″	7′50″	10′25″ (a)	44.47	44.73
M. Wagner, no fireman [3]	43′35″	12:05P 5/3	4′00″	4:55P 5/3	4′50″	2′40″	7:35P 5/3	5′00″	1:40A 5/4	6′05″	9′00″	13′35″ (c)	44.84	43.81
K. Green, no fireman	44′05″	2:05P 5/3	4′20″	8:00P 5/3	5′55″	2′55″	10:55P 5/3	4′25″	4:30A 5/4	5′35″	8′35″	14′25″ (c)	41.57	45.01
A. Whetstone, with fireman	43′45″	8:00P 5/3	3′15″	12:20A 5/4	4′20″	1′15″	1:35A 5/4	2′55″	6:00A 5/4	4′25″	6′10″	10′00″ (c)	38.91	43.31
F. McLaughlin, no fireman [3]	44′35″	8:25P 5/3	5′00″	2:20A 5/4	5′55″	6′00″	8:20A 5/4	9′10″	6:15P 5/4	9′55″	14′10″	15′50″ (a)	42.39	57.27
C. Ingersoll, no fireman [3]	31′16″	9:15P 5/3	2′55″	1:50A 5/4	4′35″	7′35″	9:25A 5/4	5′00″	4:20P 5/4	6′55″	7′55″	11′30″ (a)	40.28	44.72
W. Smisek, no fireman	39′55″	10:10P 5/3	2′40″	2:15A 5/4	4′05″	9′15″	11:30A 5/4	2′50″	3:35P 5/4	4′05″	5′30″	----------	43.74	41.82
C. Livingston, no fireman	43′35″	1:35A 5/4	(4)	4:25A 5/4	----------	----------	3:05P 5/4	2′35″	6:40P 5/4	3′35″	----------	----------	23.98	43.12
R. Daniels, no fireman	10′31″	1:30A 5/4	2′45″	7:20A 5/4	5′50″	8′15″	3:35P 5/4	5′15″	9:25P 5/4	5′50″	8′00″	----------	46.25	41.82
C. Bolan, no fireman	36′50″	1:50A 5/4	5′35″	10:40A 5/4	8′50″	----------	3:35P 5/4	(4)	6:35P 5/4	----------	----------	----------	47.74	25.10
R. Morrell, no fireman	39′00″	4:05A 5/4	3′05″	8:00A 5/4	3′55″	8′55″	4:55P 5/4	3′40″	9:50P 5/4	4′55″	6′45″	----------	41.57	43.26
L. Birkett, no fireman	11′00″	7:55A 5/4	2′23″	12:05P 5/4	4′10″	5′10″	5:15P 5/4	3′05″	9:55P 5/4	4′40″	5′28″	8′50″ (a)	41.06	44.92
G. Belskey, no fireman [3]	35′50″	8:30A 5/4	2′35″	12:25P 5/4	3′55″	7′45″	8:10P 5/4	6′05″	3:10A 5/5	7′00″	8′40″	10′55″ (a)	42.60	42.59
T. Bisagno, no fireman	40′10″	8:50A 5/4	2′25″	12:50P 5/4	4′00″	9′55″	10:45P 5/4	4′40″	2:30A 5/5	3′45″	7′15″	----------	40.03	45.78
G. Marston, no fireman	38′55″	9:30A 5/4	3′00″	1:25P 5/4	3′55″	10′50″	12:15A 5/5	5′30″	5:30A 5/5	5′15″	7′30″	----------	44.20	44.20
H. French, no fireman	43′10″	2:10P 5/4	3′35″	7:10P 5/4	5′00″	7′00″	2:10A 5/5	2′45″	5:45A 5/5	3′35″	6′20″	8′35″ (a)	41.83	43.89
E. Moore, no fireman [3]	43′25″	2:25P 5/4	4′20″	9:25P 5/4	7′00″	7′20″	4:45A 5/5	5′15″	11:00A 5/5	6′15″	9′35″	13′15″ (a)	44.14	42.88
B. Robinson, no fireman	41′50″	5:25P 5/4	3′55″	10:25P 5/4	5′00″	9′50″	8:15A 5/5	4′50″	1:55P 5/5	5′40″	8′45″	----------	40.54	45.94
I. Tucker, no fireman	41′25″	6:25P 5/4	3′35″	11:05P 5/4	4′40″	10′45″	9:50A 5/5	3′05″	1:49P 5/5	3′55″	6′40″	----------	40.54	39.21
J. Boggs, no fireman	42′40″	10:40P 5/4	2′35″	2:35A 5/5	3′55″	8′20″	10:55A 5/5	4′15″	4:40P 5/5	5′45″	6′50″	----------	40.28	44.33
A. Smith, no fireman [3]	41′25″	11:00P 5/4	6′30″	7:15A 5/5	8′15″	5′55″	1:10P 5/5	4′15″	6:20P 5/5	5′10″	10′45″	13′25″ (a)	44.61	43.13
F. Davis, no fireman	79′05″	1:35A 5/5	(4)	4:30A 5/5	----------	----------	11:25A 5/5	6′15″	8:10P 5/5	8′45″	----------	----------	23.98	43.87
W. Tallman, no fireman	43′05″	8:35A 5/5	3′22″	1:25P 5/5	4′50″	1′40″	3:05P 5/5	2′25″	5:55P 5/5	2′50″	5′47″	9′20″ (c)	40.54	43.13
E. Lovelle, no fireman	36′40″	9:40A 5/5	3′19″	2:05P 5/5	4′25″	2′35″	4:40P 5/5	3′15″	9:25P 5/5	4′45″	6′34″	11′45″ (c)	42.94	41.26
J. Grenko, no fireman [3]	41′00″	10:35A 5/5	3′40″	3:30P 5/5	4′55″	1′50″	5:20P 5/5	4′53″	12:45A 5/6	7′25″	8′33″	14′10″ (c)	42.34	46.00
E. Barry, no fireman [3]	39′40″	10:25A 5/5	4′30″	5:10P 5/5	6′45″	1′25″	6:35P 5/5	5′50″	2:10A 5/6	7′35″	10′20″	15′45″ (c)	41.28	44.94
C. Lockhart, no fireman	43′25″	2:25P 5/5	(4)	6:17P 5/5	----------	----------	7:30P 5/5	2′10″	11:10P 5/5	3′40″	----------	----------	24.39	44.47
B. Simpson, no fireman	41′25″	2:25P 5/5	3′10″	6:35P 5/5	4′10″	6′45″	1:20A 5/6	2′30″	4:55A 5/6	3′35″	5′40″	7′45″ (a)	37.62	40.98
T. Chiles, no fireman [3]	41′50″	6:15P 5/5	1′25″	2:40A 5/6	8′25″	1′25″	4:05A 5/6	3′40″	9:15A 5/6	5′10″	5′05″	15′00″ (c)	51.20	43.58
J. McLeod, no fireman	27′16″	6:15P 5/5	(4)	2:30A 5/6	----------	----------	6:45A 5/6	4′45″	12:55P 5/6	6′10″	----------	----------	25.10	42.15
M. Wagner, with fireman [3]	43′05″	8:45P 5/5	4′40″	1:40A 5/6	4′55″	None	1:45A 5/6	5′20″	8:15A 5/6	6′30″	10′00″	11′30″ (c)	41.22	44.23
K. Green, no fireman [3]	41′15″	9:45P 5/5	2′40″	2:00A 5/6	4′15″	None	2:10A 5/6	4′50″	8:40A 5/6	6′30″	7′30″	10′55″ (c)	41.83	43.56
A. Whetstone, no fireman	39′50″	9:50P 5/5	2′55″	3:50A 5/6	6′00″	6′25″	10:15A 5/6	3′50″	3:20P 5/6	5′05″	6′45″	11′05″ (a)	44.44	42.89
R. Daniels, no fireman	28′10″	1:35A 5/6	(4)	5:00A 5/6	----------	----------	11:55A 5/6	4′55″	6:05P 5/6	6′10″	----------	----------	23.98	41.23
W. Smisek, no fireman	34′00″	1:35A 5/6	(4)	5:00A 5/6	----------	----------	12:50P 5/6	5′10″	8:20P 5/6	7′30″	----------	----------	23.98	43.90
J. Hawkins, no fireman	86′55″	1:35A 5/6	(4)	5:00A 5/6	----------	----------	2:55P 5/6	2′40″	6:45P 5/6	3′50″	----------	----------	23.98	41.53
C. Bolan, no fireman	31′03″	1:35A 5/6	3′15″	7:40A 5/6	6′05″	8′35″	4:15P 5/6	5′10″	11:25P 5/6	7′10″	----------	----------	43.88	41.87
P. Getchell, no fireman [3]	114′50″	2:15A 5/6	5′05″	10:25A 5/6	8′10″	6′00″	4:25P 5/6	5′00″	12:15A 5/7	7′50″	10′05″	16′00″ (a)	46.57	46.21
R. Morrell, no fireman [3]	32′05″	5:55A 5/6	3′30″	10:30A 5/6	4′35″	7′50″	6:20P 5/6	5′05″	12:55A 5/7	6′35″	8′35″	11′10″ (a)	39.77	43.42
G. Belskey, no fireman [3]	28′20″	7:30A 5/6	3′40″	1:25P 5/6	5′55″	5′10″	6:35P 5/6	3′10″	11:05P 5/6	4′30″	6′50″	10′25″ (a)	42.67	40.28
T. Bisagno, no fireman	31′35″	10:05A 5/6	3′20″	2:30P 5/6	4′25″	4′25″	6:55P 5/6	6′30″	3:30A 5/7	8′35″	9′50″	13′00″ (a)	42.34	55.16
G. Marston, no fireman [3]	30′30″	12:00N 5/6	4:05″	5:30P 5/6	5′30″	3′30″	9:00P 5/6	5′25″	3:45A 5/7	6′45″	9′30″	15′45″ (c)	41.80	42.67
H. French, no fireman [3]	31′40	1:25P 5/6	3′25″	6:00P 5/6	4′35″	3′05″	9:05P 5/6	6′25″	5:15A 5/7	8′10″	10′00″	15′50″ (c)	41.80	44.75
E. Moore, no fireman [3]	28′45″	3:45P 5/6	4′55″	10:10P 5/6	6′25″	2′40″	12:50A 5/7	6′00″	7:45A 5/7	6′55″	10′55″	16′00″ (c)	43.81	41.80
F. Davis, no fireman	20′20″	4:30P 5/6	(4)	8:35P	----------	----------	11:40 P 5/6	6′35″	7:25A 5/7	7′45″	----------	----------	24.39	45.15

See footnotes at end of table, p. 293.

Pool freight assignments operated between Dunsmuir and Gerber—Home terminal, Dunsmuir, Apr. 30 through May 10, 1966 [1]—Continued

(1) Engine crew	(2) Hours off duty before call, Dunsmuir	(3) Date and time on duty, Dunsmuir	(4) Road trip time Dunsmuir to Gerber	(5) Date and time off duty, Gerber	(6) Total time on duty, Dunsmuir to Gerber	(7) Hours off duty Gerber	(8) Date and time on duty, Gerber	(9) Road trip time, Gerber to Dunsmuir	(10) Date and time off duty, Dunsmuir	(11) Total time on duty Gerber to Dunsmuir	(12) Total road time en route, round trip	(13) Total time on duty, Dunsmuir to Gerber to Dunsmuir, continuous or aggregate time	(14) Trip earnings	
													Dunsmuir to Gerber	Gerber to Dunsmuir
B. Robinson, no fireman	30'55"	8:40P 5/6	3'10"	12:50A 5/7	4'10"	None	1:25A 5/7	3'00"	5:30A 5/7	4'05"	6'10"	8'50" (c)	$38.95	$42.60
L. Tucker, no fireman [3]	30'50"	8:35P 5/6	5'40"	4:55A 5/7	8'20"	None	5:00A 5/7	3'20"	9:45A 5/7	4'45"	9'00"	13'10" (c)	43.30	41.80
J. Boggs, no fireman [3]	29'40"	10:20P 5/6	5'10"	5:25A 5/7	7'05"	7'40"	1:05P 5/7	4'35"	7:15P 5/7	6'10"	9'45"	13'15" (a)	42.93	42.12
R. Guy, no fireman [3]	153'40"	11:50P 5/6	5'30"	6:50A 5/7	7'00"	6'25"	1:15P 5/7	4'25"	8:05P 5/7	6'50"	9'55"	13'50" (a)	39.77	44.71
R. Behnke, no fireman [3]	17'35"	11:50P 5/6	7'30"	9:55A 5/7	10'05"	4'15"	2:10P 5/7	3'05"	6:45P 5/7	4'35"	10'35"	14'40" (a)	48.27	43.92
W. Tallman, no fireman [3]	31'40"	1:35A 5/7	(4)	4:50A 5/7	------	------	9:50A 5/7	10'15"	10:20P 5/7	12'30"	------	------	23.98	64.37
F. McLaughlin, no fireman	55'20"	1:35A 5/7	(4)	4:50A 5/7	------	------	12:05P 5/7	2'50"	4:00P 5/7	3'55"	------	------	23.98	44.18
E. Lovelle, no fireman [3]	33'20"	6:45A 5/7	3'25"	1:39P 5/7	6'54"	4'01"	5:40P 5/7	3'50"	11:00P 5/7	5'20"	7'15"	12'14" (a)	49.45	44.33
J. Grenko, no fireman	32'25"	9:10A 5/7	2'20"	12:20P 5/7	3'10"	5'35"	5:55P 5/7	5'00"	12:25A 5/8	6'30"	7'20"	9'40" (a)	40.28	45.77
E. Barry, with fireman	32'20"	10:30A 5/7	3'15"	2:15P 5/7	3'45"	4'00"	6:15P 5/7	4'20"	1:30A 5/8	7'15"	7'35"	11'00" (a)	41.44	44.90
C. Lockhart, no fireman	35'40"	10:50A 5/7	2'40"	2:45P 5/7	3'55"	4'50"	7:35P	2'45"	11:50P 5/7	4'15"	5'25"	8'10" (a)	40.02	44.77
B. Simpson, no fireman [3]	31'00"	11:55A 5/7	2'55"	4:20PM 5/7	4'25"	6'45"	11:05P 5/7	11'20"	(5)	11'35"	14'15"	16'00" (a)	40.28	74.63
M. Wagner, no fireman [3]	28'30"	12:45P 5/7	2'24"	5:20P 5/7	4'35"	5'55"	11:15P 5/7	4'40"	5:05A 5/8	5'50"	7'04"	10'25" (a)	40.28	45.47
K. Green, no fireman	30'20"	3:00P 5/7	4'45"	9:05P 5/7	6'05"	4'30"	1:35A 5/8	4'20"	6:50A 5/8	5'15"	9'05"	11'20" (a)	42.60	42.08
J. Chiles, no fireman [3]	35'45"	9:00P 5/7	3'00"	1:55A 5/8	4'55"	None	2:40A 5/8	3'55"	7:15A 5/8	4'35"	6'55"	10'15" (c)	40.37	42.39
J. McLeod, with fireman	11'50"	9:00P 5/7	(4)	1:30A 5/8	------	------	2:05A 5/8	3'40"	8:30A 5/8	6'25"	------	------	31.75	42.64
A. Whetstone, no fireman	31'55"	10:15P 5/7	2'30"	3:05A 5/8	4'50"	1'00"	4:05A 5/8	3'35"	9:25A 5/8	5'20"	6'05"	11'10" (c)	44.98	42.08
W. Smisek, no fireman [3]	27'20"	11:40P 5/7	3'50"	5:30A 5/8	5'50"	3'40"	9:10A 5/8	6'10"	5:00P 5/8	7'50"	10'00"	13'40" (a)	41.22	41.85
J. Hawkins, no fireman	30'50"	1:35A 5/8	(4)	4:50A 5/8	------	------	5:00A 5/8	3'40"	9:55A 5/8	4'55"	------	------	23.98	41.80
C. Bolan, no fireman	26'10"	1:35A 5/8	(4)	4:50A 5/8	------	------	7:00A 5/8	9'35"	7:05P 5/8	12'05"	------	------	23.98	62.13
P. Getchell, no fireman [3]	25'20"	1:35A 5/8	(4)	4:50A 5/8	------	------	8:55A 5/8	8'30"	7:05P 5/8	10'10"	------	------	23.98	52.03
R. Morrell, no fireman [3]	23'40"	1:35A 5/8	5'10"	8:55A 5/8	7'20"	4'00"	12:55P 5/8	5'30"	7:10P 5/8	6'15"	10'40"	13'35"(a)	43.85	44.83
C. Ingersoll, no fireman [3]	43'40"	2:45A 5/8	3'35"	9:00A 5/8	6'15"	5'05"	2:05P 5/8	4'45"	8:20P 5/8	6'15"	8'20"	12'30" (a)	46.18	44.28
G. Belskey, no fireman	32'00"	7:05A 5/8	3'35"	11:40A 5/8	4'35"	4'00"	3:40P 5/8	2'30"	7:50P 5/8	4'10"	6'05"	8'45" (a)	42.86	42.11
J. McLeod, no fireman	1'00"	9:30A 5/8	(6)	------	------	------	------	------	1:10P 5/8	------	------	------	------	------
C. Marston, no fireman [3]	29'45"	9:30A 5/8	3'20"	1:50P 5/8	4'20"	4'15"	6:05P 5/8	5'05"	12:00M 5/9	5'55"	8'25"	10'15" (a)	42.34	43.27
P. Livingston, no fireman [3]	43'00"	10:30A 5/8	4'50"	4:50P 5/8	6'20"	2'45"	7:35P 5/8	4'25"	1:20A 5/9	5'45"	9'15"	14'50" (c)	40.52	42.15
H. French, no fireman	29'40"	10:55A 5/8	4'15"	5:05P 5/8	6'10"	4'35"	9:40P 5/8	3'55"	2:55A 5/9	5'15"	8'10"	11'25" (a)	40.63	44.01
E. Moore, no fireman	30'30"	2:15P 5/8	3'35"	6:35P 5/8	4'20"	6'15"	12:50A 5/9	6'45"	9:00A 5/9	8'10"	10'20"	12'30" (a)	40.28	43.28
B. Robinson, no fireman [3]	37'30"	7:00P 5/8	3'20"	12:05A 5/9	5'05"	1'15"	1:20A 5/9	6'40"	9:30A 5/9	8'10"	10'00"	14'30" (c)	42.69	42.39
F. Davis, no fireman	37'55"	9:20P 5/8	5'41"	5:00A 5/9	7'40"	1'20"	6:20A 5/9	4'35"	12:20P 5/9	6'00"	10'16"	15'00" (c)	41.68	43.42
C. Kaler, no fireman	5'15"	9:25P 5/8	5'25"	5:15A 5/9	7'50"	4'15"	9:30A 5/9	4'00"	2:30P 5/9	5'00"	9'25"	12'50" (a)	45.89	44.56
J. Boggs no fireman	28'25"	11:40P 5/8	4'30"	5:25A 5/9	5'45"	5'30"	10:55A 5/9	5'45"	7:00P 5/9	8'05"	10'15"	13'50" (a)	42.08	43.86
W. Tallman, no fireman	27'15"	1:35A 5/9	(4)	5:15A 5/9	------	------	11:50A 5/9	6'05"	7:10P 5/9	7'20"	------	------	23.98	44.14
J. McLeod, no fireman	13'30"	2:40A 5/9	3'20"	7:20A 5/9	4'40"	5'45"	1:05P 5/9	2'40"	4:45P 5/9	3'40"	6'00"	8'20" (a)	40.02	41.53

I. Tucker, no fireman	40'45"	2:30A 5/9	3'40"	7:50A 5/9	5'20"	10'00"	5:50P 5/9	5'30"	12:30A 5/10	6'40"	9'10"		40. 61	42. 96
E. Lovelle, no fireman [3]	33'40"	8:40A 5/9	2'55"	2:19P 5/9	5'39"	4'11"	6:30P 5/9	3'55"	11:55P 5/9	5'25"	6'50"	11'04" (a)	41. 30	44. 05
R. Davis, no fireman [3]	152'00"	9:00A 5/9	3'35"	2:30P 5/9	5'30"	6'20"	8:50P 5/9	5'15"	3:45A 5/10	6'55"	8'50"	12'25" (a)	42. 13	42. 41
E. Barry, no fireman	34'45"	12:15P 5/9	2'50"	4:25P 5/9	4'10"	8'55"	1:20A 5/10	3'30"	5:05A 5/10	3'45"	6'20"		40. 79	44. 77
C. Lockhart, no fireman	37'20"	1:10P 5/9	3'00"	5:30P 5/9	4'20"	8'40"	2:10A 5/10	4'00"	8:15A 5/10	6'05"	7'00"		41. 57	44. 94
B. Simpson, no fireman	30'10"	5:40P 5/9	3'05"	10:20P 5/9	4'40"	8'15"	6:35A 5/10	7'15"	3:20P 5/10	8'45"	10'20"		40. 28	44. 78
M. Wagner, no fireman	36'25"	5:30P 5/9	4'51"	12:15A 5/10	6'45"	8'50"	9:05A 5/10	2'47"	1:05P 5/10	4'00"	7'38"		37. 65	38. 11
K. Green, no fireman	39'10"	10:00P 5/9	4'05"	3:10A 5/10	5'10"	6'55"	10:05A 5/10	4'55"	5:25P 5/10	7'20"	9'00"	12'30" (a)	41. 06	44. 78
J. Chiles, no fireman	39'15"	11:00P 5/9	8'30"	9:50A 5/10	10'50"	------	2:10P 5/10	(4)	5:40P 5/10	------	------	------	55. 40	25. 10
A. Whetstone, no fireman	41'05"	1:35A 5/10	(4)	4:30A 5/10	------	------	1:40P 5/10	2'45"	6:15P 5/10	4'35"	------	------	23. 98	43. 18
J. Hawkins, no fireman [3]	46'40"	8:35A 5/10	3'00"	12:40P 5/10	4'05"	1'40"	2:20P 5/10	3'35"	7:50P 5/10	5'30"	6'35"	11'15" (c)	40. 28	42. 95
W. Randolph, no fireman	46'25"	9:15A 5/10	4'20"	3:20P 5/10	6'05"	None	4:15P 5/10	2'35"	8:00P 5/10	3'45"	6'55"	10'45" (c)	44. 94	42. 87
C. Bolan, no fireman	38'20"	9:25A 5/10	3'20"	2:10P 5/10	4'45"	4'15"	6:25P 5/10	4'45"	12:10A 5/11	5'45"	8'05"	10'30" (a)	40. 54	43. 42
P. Getchell, no fireman	39'10"	10:15A 5/10	3'25"	3:35P 5/10	5'20"	4'25"	8:00P 5/10	4'30"	2:00A 5/11	6'00"	7'55"	11'20" (a)	42. 20	43. 27
W. Smisek, no fireman	42'50"	10:50A 5/10	2'35"	2:30P 5/10	3'40"	7'25"	9:55P 5/10	4'20"	4:15A 5/11	6'20"	6'55"	10'00" (a)	45. 09	44. 87
A. Smith, no fireman	112'25"	10:45A 5/10	905'55"	5:50P 5/10	7'05"	5'00"	10:50P 5/10	4'40"	5:35A 5/11	6'45"	10'35"	13'50" (a)	40. 99	45. 00

[1] Mileage between Dunsmuir and Gerber is 101 miles. Crews are paid an additional 39 miles as an arbitrary, thus for pay purposes the mileage is 140 miles.

[2] Average road trip time in through freight service for entire month of May 1966: Dunsmuir to Gerber, 3'48"; Gerber to Dunsmuir, 4'29".

[3] Engine crews referred to in statement of Mr. R. W. Guy.

[4] Deadhead.

[5] Tied up Lakehead under 16-hour law at 10:40 A 5/8.

[6] Deadhead to Lakehead for 16-hour relief; on duty Lakehead 10:40 A; arrived Dunsmuir 12:15 P.

EXHIBIT D

Pool freight assignments operated between Dunsmuir and Klamath Falls, 106 miles—Home terminal, Dunsmuir, Apr. 30 through May 10, 1966

(1) Engine crew	(2) Hours off duty before call, Dunsmuir	(3) Date and time on duty, Dunsmuir	(4) Road trip time, Dunsmuir to Klamath Falls	(5) Date and time off duty, Klamath Falls	(6) Total time on duty, Dunsmuir to Klamath Falls	(7) Hours off duty, Klamath Falls	(8) Date and time on duty, Klamath Falls	(9) Road trip time, Klamath Falls to Dunsmuir	(10) Date and time off duty, Dunsmuir	(11) Total time on duty, Klamath Falls to Dunsmuir	(12) Total road time en route, round trip	(13) Total time on duty, Dunsmuir to Klamath Falls to Dunsmuir, continuous or aggregate time	(14) Trip earnings	
													Dunsmuir to Klamath Falls	Klamath Falls to Dunsmuir
Average per engine crew for period.	27'35"		[1] 4'12"		6'1'9	6'51"		[1] 4'18"		6'27"	8'34"	12'47"	$33.93	$33.43
C. Ingersoll, no fireman	46'35"	9:05A 4/30	4'55"	4:50P 4/30	7'45"	12'05"	4:55A 5/1	5'30"	1:05P 5/1	8'10"	10'25"		38.14	39.89
H. Butters, no fireman	21'35"	1:05P 4/30	4'45"	8:05P 4/30	7'00"	11'50"	7:55A 5/1	2'40"	12:20P 5/1	4'25"	7'25"	11'25" (a)	33.50	33.41
F. Spearin, no fireman	22'05"	5:30P 4/30	5'05"	12:55A 5/1	7'25"	6'50"	7:45A 5/1	3'20"	2:20P 5/1	6'35"	8'25"	14'00" (a)	33.86	34.08
V. Osborne, with fireman [2]	16'20"	6:05P 4/30	5'00"	1:15A 5/1	7'10"	6'45"	8:00A 5/1 [3]	6'25"		8'50"	11'25"	16'00" (a)	32.35	43.43
W. Hughes, with fireman	21'40"	6:50P 4/30	3'45"	12:15A 5/1	5'25"	8'55	9:10A 5/1	7'40"	7:10P 5/1	10'00"	11'25"		31.72	35.35
R. Carlberg, no fireman [2 4]	([5])	6:55P 4/30	4'05"	2:20A 5/1	7'25"	7'30"	9:50A 5/1	7'15"		8'30"	11'20"	15'55" (a)	36.61	42.99
H. Clark, no fireman	16'30"	10:35P 4/30	3'35"	4:30A 5/1	5'55"		12:55P 5/1	([6])	3:30P 5/1				36.84	24.39
R. Holdman, no fireman	12'15"	12:30A 5/1	4'10"	6:50A 5/1	6'20"	7'30"	2:20P 5/1	4'15"	8:45P 5/1	6'25"	8'25"	12'45" (a)	33.69	36.44
F. Wintering, no fireman	12'35"	2:00A 5/1	3'50"	7'35A 5/1	5'35"	10'35"	6:10P 5/1	3'05"	11:05P 5/1	4'55"	6'55"		32.32	34.12
A. Dorlaque, no fireman	8'40"	2:45A 5/1	3'30"	8:55A 5/1	6'10"	9'50"	6:45P 5/1	3'55"	1:10A 5/2	6'25"	7'25"		36.58	36.85
W. Welborn, no fireman [7]	11'40"	9:00A 5/1	2'20"	5:50P 5/1	8'50"	None	6:45P 5/1	4'50"		6'15"	7'10"	16'00" (c)	34.24	42.43
J. Robinson, no fireman	17'10"	12:05P 5/1	7'15"	9:50P 5/1	9'45"	8'40"	6:20A 5/2	3'40"	10:30A 5/2	4'10"	10'55"		36.91	35.19
A. Schneberger, no fireman	14'35"	12:35P 5/1	4'55"	11:15P 5/1	10'40"	8'20"	7:35A 5/2	4'40"	2:00P 5/2	6'25"	9'35"		45.11	33.08
J. J. Donovan, with fireman [2]	16'45"	3:45P 5/1	4'25"	10:50P 5/1	7'05"	4'40"	3:30A 5/2	3'30"	9:20A 5/2	5'50"	7'55"	12'55" (a)	37.93	32.04
R. White, no fireman [2 8]	None	3:30P 5/1	([9])						9:30P 5/1					
A. Nelson, no fireman [2]	13'15"	5:00P 5/1	5'10"	12:35A 5/2	7'35"	5'50"	6:25A 5/2	5'05"	1:00P 5/2	6'35"	10'15"	14'10" (a)	33.45	32.20
C. Barrett, no fireman [2]	61'15"	10:35P 5/1	4'25"	4:50A 5/2	6'15"	7'25"	12:15P 5/2	4'30"	6:30P 5/2	6'15"	8'55"	12'30" (a)	34.58	33.34
A. Coffman, no fireman	94'20"	11:15P 5/1	3'40"	5:35A 5/2	6'20"	10'10".	3:45P 5/2	4'50"	11:25P 5/2	7'40"	8'30"		36.14	36.50
C. Carlquist, no fireman	39'30"	12:45A 5/2	([10])						2:50A 5/2					
J. Aders, no fireman [2]	76'55"	3:40A 5/2	4'45"	12:50P 5/2	9'10"	5'25"	6:15P 5/2	4'00"	1:05A 5/3	6'50"	8'45"	16'00" (a)	42.29	36.53
R. Holdman, no fireman	11'35"	8:20A 5/2	4'00"	3:00P 5/2	6'40"	10'05"	1:05A 5/3	4'10"	8:00A 5/3	6'55"	8'10"		34.39	35.34
F. Spearin, with fireman	19'40"	10:00A 5/2	4'45"	5:30P 5/2	7'30"	8'00"	1:30A 5/3	4'05"	8:40A 5/3	7'10"	8'50"		34.36	34.83
W. Hughes, with fireman	17'05"	12:15P 5/2	3'05"	5:40P 5/2	5'25"	9'05"	2:45A 5/3	4'10"	9:30A 5/3	6'45"	8'00"		31.92	34.36
R. Carlberg, with fireman	17'45"	1:45P 5/2	6'05"	9:50P 5/2	8'05"	8'35"	6:25A 5/3	2'55"	10:50A 5/3	4'25"	9'00"		35.77	32.81
H. E. Clark, no fireman	24'05"	3:35P 5/2	2'50"	7:50P 5/2	4'15"	10'25"	6:15A 5/3	4'05"	12:50P 5/3	6'35"	6'55"		32.18	35.05
L. Birkett, with fireman	([5])	11:05P 5/2	4'30"	5:10A 5/3	6'05"	7'35"	12:45P 5/3	6'40"	8:55P 5/3	8'10"	11'10"	14'15" (a)	31.29	31.29
F. Wintering, with fireman	27'20"	2:25A 5/3	4'10"	8:55A 5/3	6'30"	4'50"	1:45P 5/3	5'35"	9:20P 5/3	7'35"	9'45"	14'05" (a)	34.29	33.87
M. Grant, no fireman [2]	14'20"	4:50A 5/3	3'30"	9:25A 5/3	4'35"	6'35"	4:00P 5/3	4'45"	10:50P 5/3	6'50"	8'15"	11'25" (a)	34.62	33.20
C. Carlquist, with fireman [2]	30'25"	9:15A 5/3	3'55"	5:00P 5/3	7'45"	2'00"	7:00P 5/3	2'50"	11:15P 5/3	4'15"	6'45"	14'00" (c)	36.35	32.62
R. Getchell, no fireman	94'35"	10:45A 5/3	8'30"	9:40P 5/3	10'55"	8'05"	5:45A 5/4	2'40"	9:55A 5/4	4'10"	11'10"		43.50	35.26

J. Donovan, with fireman	26′35″	11:55A 5/3	3′55″	5:55P 5/3	6′00″	6′06″	12:01A 5/4	2′15″	4:50A 5/4	4′49″	6′10″	10′49″(a)	31.00	33.21
L. Rea, with fireman	16′35″	4:45P 5/3	2′50″	9:00P 5/3	4′15″	5′45″	2:45A 5/4	4′40″	9:35A 5/4	6′50″	7′30″	11′05″(a)	31.49	31.93
J. Robinson, with fireman [2]	31′40″	6:10P 5/3	4′50″	12:45A 5/4	6′35″	3′00″	3:45A 5/4	3′30″	9:55A 5/4	6′10″	8′20″	12′45″(c)	32.04	33.84
A. Nelson, with fireman	29′20″	6:20P 5/3	5′15″	1:20A 5/4	7′00″	5′10″	6:30A 5/4	3′40″	10:35A 5/4	4′05″	8′55″	11′05″(a)	32.25	32.60
A. Schneberger, with fireman	30′20″	8:20P 5/3	3′05″	12:45A 5/4	4′25″	8′00″	8:45A 5/4	3′50″	3:30P 5/4	6′45″	6′55″	----------	31.77	36.90
N. Butters, with fireman	58′45″	11:05P 5/3	4′15″	5:25A 5/4	6′20″	4′00″	9:35A 5/4	4′00″	3:55P 5/4	6′20″	8′15″	12′40″(a)	31.29	30.71
C. Barrett, with fireman	30′10″	12:40A 5/4	4′30″	7:20A 5/4	6′40″	5′40″	1:00P 5/4	3′50″	6:25P 5/4	5′25″	8′20″	12′05″(a)	34.32	30.94
A. Coffman, no fireman	29′30″	4:55A 5/4	3′25″	9:50A 5/4	4′55″	4′00″	1:50P 5/4	3′55″	7:30P 5/4	5′40″	7′20″	10′35″(a)	34.72	33.86
J. Aders, with fireman [2]	33′10″	10:15A 5/4	5′45″	6:15P 5/4	8′00″	1′10″	7:25P 5/4	3′30″	11:50P 5/4	4′25″	9′15″	13′35″(c)	32.86	30.46
F. Spearin, with fireman	29′15″	1:55P 5/4	2′50″	6:50P 5/4	4′55″	8′10″	3:00A 5/5	4′50″	9:55A 5/5	6′55″	7′40″	----------	31.00	31.17
W. Hughes, with fireman [2]	29′05″	2:35P 5/4	4′40″	9:35P 5/4	7′00″	7′10″	4:45A 5/5	3′30″	10:30A 5/5	5′45″	8′10″	12′45″(a)	30.74	32.23
R. Carlberg, no fireman [2]	29′40″	5:40P 5/4	2′55″	9:55P 5/4	4′15″	7′20″	5:15A 5/5	6′50″	3:15P 5/5	10′00″	9′45″	14′15″(a)	33.41	38.76
H. Clark, with fireman	31′45″	8:35P 5/4	3′30″	1:50A 5/5	5′15″	5′05″	6:55A 5/5	3′20″	12:03N 5/5	5′05″	6′50″	10′20″ (a)	31.56	32.11
D. Morrison, with fireman	200′55″	9:15P 5/4	4′35″	3:30A 5/5	6′15″	6′00″	9:30A 5/5	7′55″	(11)	9′45″	12′30″	16′00″ (a)	31.08	49.35
S. Fischer, no fireman [2]	26′30″	12:45A 5/5	3′20″	6:10A 5/5	5′25″	4′20″	10:30A 5/5	8′35″	(12)	10′35″	11′55″	16′00″ (a)	36.44	54.39
F. Wintering, no fireman [2]	27′55″	1:15A 5/5	4′00″	8:05A 5/5	6′50″	6′25″	2:30P 5/5	6′05″	10:00P 5/5	7′30″	10′05″	14′20″ (a)	36.30	32.71
C. Carlquist, with fireman	29′30″	4:45A 5/5	3′00″	9:10A 5/5	4′25″	6′50″	4:00P 5/5	4′55″	10:45P 5/5	6′45″	7′55″	11′10″ (a)	33.02	32.20
A. Murray, with fireman	(3)	4:50A 5/5	5′05″	11:40A 5/5	6′50″	6′55″	6:35P 5/5	3′10″	11:20P 5/5	4′45″	8′15″	11′35″ (a)	32.60	31.98
J. Robinson, with fireman [2]	26′20″	12:15P 5/5	2′35″	5:20P 5/5	5′05″	7′10″	12:30A 5/6	4′00″	7:05A 5/6	6′35″	6′35″	11′40″ (a)	31.28	31.31
R. Getchell, with fireman [2]	26′40″	12:35P 5/5	4′50″	8:05P 5/5	7′30″	9′10″	5:15A 5/6	9′25″	5:25P 5/6	12′10″	14′15″	----------	36.23	41.98
A. Nelson, no fireman	26′30″	1:05P 5/5	6′45″	11:00P 5/5	9′55″	8′00″	7:00A 5/6	4′45″	1:30P 5/6	6′30″	11′30″	----------	43.34	33.04
J. Donovan, with fireman	34′25″	3;15P 5/5	5′40″	11:15P 5/5	8′30″	8′20″	7:45A 5/6	4′05″	2:15P 5/6	6′30″	9′45″	----------	32.93	32.12
L. Rea, with fireman	31′30″	5:05P 5/5	3′55″	10:10P 5/5	5′05″	8′20″	6:30A 5/6	2′35″	11:05A 5/6	4′35″	6′30″	----------	31.49	32.42
A. Schneberger, with fireman	26′25″	5:55P 5/5	4′30″	12:10A 5/6	6′25″	11′25″	11:35A 5/6	6′00″	6:35P 5/6	7′00″	10′30″	----------	32.14	38.93
C. Ingersoll, with fireman	26′40″	7:00P 5/5	(13)	----------	----------	----------	----------	----------	1:10A 5/6	----------	----------	----------	----------	----------
C. Barrett, with fireman	27′50″	10:15P 5/5	3′25″	2:40A 5/6	4′25″	----------	12:55P 5/6	(5)	3:30P 5/6	----------	----------	----------	32.21	24.39
M. Grant, no fireman	29′45″	11:45P 5/5	4′10″	5:45A 5/6	6′0″	----------	1:15P 5/6	(5)	3:30P 5/6	----------	----------	----------	33.41	24.39
F. Spearin, with fireman [2]	18′25″	4:20A 5/6	3′00″	8:25A 5/6	4′05″	7′20″	3:45P 5/6	5′50″	12:00M 5/6	8′15″	8′50″	12′20″ (a)	32.52	36.21
W. Hughes, with fireman	21′10″	7:40A 5/6	4′25″	1:50P 5/6	6′10″	4′20″	6:10P 5/6	2′35″	9:45P 5/6	3′35″	7′00″	9′45″ (a)	33.72	32.23
R. Carlberg, with fireman [2]	17′00″	8:15A 5/6	3′30″	1:15P 5/6	5′00″	4′45″	6:00P 5/6	5′05″	1:00A 5/7	7′00″	8′35″	12′00″ (a)	30.30	30.58
H. Clark, no fireman [2]	25′15″	1:15P 5/6	5′15″	8:45P 5/6	7′30″	6′40″	3:25A 5/6	4′00″	10:00A 5/7	6′35″	9′15″	14′05″ (a)	39.99	34.55
D. Morrison, with fireman	19′10″	2:25P 5/6	3′50″	7:30P 5/6	5′05″	8′25″	4:15A 5/7	4′40″	12:00N 5/7	7′45″	8′30″	----------	31.08	34.34
S. Fischer, no fireman	18′25″	5:00P 5/6	5′00″	11:25P 5/6	6′25″	6′05″	5:30A 5/7	3′10″	11:40A 5/7	6′10″	8′10″	12′35″ (a)	33.21	38.22
F. Wintering, no fireman	19′55″	5:55P 5/6	2′45″	9:50P 5/6	3′55″	8′20″	6:10A 5/7	3′40″	1:20P 5/7	7′10″	6′25″	----------	31.87	38.94
C. Carlquist, no fireman	23′30″	10:15P 5/6	3′20″	2:55A 5/7	4′40″	5′00″	7:55A 5/7	3′55″	1:45P 5/7	5′50″	7′15″	10′30″ (a)	30.73	32.56
A. Murray, with fireman	23′35″	10:55P 5/6	3′50″	4:35A 5/7	5′40″	5′10″	9:45A 5/7	3′45″	3:55P 5/7	6′10″	7′35″	11′50″ (a)	30.87	35.55
R. E. Shearer, with fireman	32′16″	11:15P 5/6	3′15″	5:20A 5/7	6′05″	5′55″	11:15A 5/7	3′25″	4:35P 5/7	5′20″	6′40″	11′25″ (a)	33.06	32.10
A. Coffman, with fireman	52′10″	11:40P 5/6	4′00″	6:00A 5/7	6′20″	----------	12:55P 5/7	(5)	3:40P 5/7	----------	----------	----------	32.93	24.39
J. McDonald, with fireman	18′35″	2:05A 5/7	3′35″	8:30A 5/7	6′25″	----------	12:55P 5/7	(5)	3:40P 5/7	----------	----------	----------	34.22	24.39
L. Rea, with fireman	17′25″	4:30A 5/7	2′50″	9:10A 5/7	4′40″	----------	12:55P 5/7	(5)	3:40P 5/7	----------	----------	----------	32.00	24.39
A. Nelson, no fireman	26′40″	4:20A 5/7	4′10″	11:00A 5/7	6′40″	4′45″	3:45P 5/7	3′50″	10:05P 5/7	6′20″	8′00″	13′00″ (a)	35.99	33.80
R. Getchell, no fireman [2]	13′30″	6:55A 5/7	4′55″	1:50P 5/7	6′55″	4′00″	5:50P 5/7	6′20″	1:45A 5/8	7′55″	11′15″	14′50″ (a)	32.95	34.21
J. Donovan, with fireman	19′00″	9:15A 5/7	4′05″	2:45P 5/7	5′30″	4′20″	7:05P 5/7	3′15″	11:35P 5/7	4′30″	7′20″	10′00″ (a)	30.46	32.87
A. Schneberger, no fireman	18′10″	12:45P 5/7	5′45″	8:15P 5/7	7′30″	6′10″	2:25A 5/8	3′25″	8:00A 5/8	5′35″	9′10″	13′05″ (a)	32.74	35.10
C. Barrett, with fireman	23′40″	3:10P 5/7	3′00″	8:10P 5/7	5′00″	7′10″	3:20A 5/8	5′20″	12:00N 5/8	8′40″	8′20″	13′40″ (a)	32.52	36.75
R. Daniels, with fireman [2]	23′30″	5:35P 5/7	5′50″	10:05P 5/7	4′30″	5′55″	4:00A 5/8	5′05″	12:45P 5/8	8′45″	10′55″	13′15″ (a)	31.72	36.31
A. Dorlaque, with fireman	12′10″	5:45P 5/7	4′25″	12:30A 5/8	6′45″	5′50″	6:20A 5/8	2′55″	10:40A 5/8	4′20″	7′20″	11′05″ (a)	28.50	31.80
F. Spearin, with fireman	18′05″	6:05P 5/7	4′20″	1:20A 5/8	7′15″	6′40″	8:00A 5/8	3′05″	1:40P 5/8	5′40″	7′25″	12′55″ (a)	34.72	37.16
W. Hughes, with fireman	24′10″	9:55P 5/7	4′15″	4:00A 5/8	6′05″	5′15″	9:15A 5/8	3′35″	3:05P 5/8	5′50″	7′50″	11′55″ (a)	31.77	31.56
J. Conwill, no fireman	(4)	10:40P 5/7	3′10″	3:30A 5/8	4′50″	----------	12:55P 5/8	(5)	3:30P 5/8	----------	----------	----------	33.91	24.39
R. Carlberg, no fireman	21′50″	10:50P 5/7	4′25″	5:35A 5/8	6′45″	----------	12:55P 5/8	(5)	3:30P 5/8	----------	----------	----------	35.37	24.39

See footnotes at end of table, p. 296.

Pool freight assignments operated between Dunsmuir and Klamath Falls, 106 miles—Home terminal, Dunsmuir, Apr. 30 through May 10, 1966—Continued

(1) Engine crew	(2) Hours off duty before call, Dunsmuir	(3) Date and time on duty, Dunsmuir	(4) Road trip time, Dunsmuir to Klamath Falls	(5) Date and time off duty, Klamath Falls	(6) Total time on duty, Dunsmuir to Klamath Falls	(7) Hours off duty, Klamath Falls	(8) Date and time on duty, Klamath Falls	(9) Road trip time, Klamath Falls to Dunsmuir	(10) Date and time off duty, Dunsmuir	(11) Total time on duty, Klamath Falls to Dunsmuir	(12) Total road time en route, round trip	(13) Total time on duty, Dunsmuir to Klamath Falls to Dunsmuir, continuous or aggregate time	(14) Trip earnings	
													Dunsmuir to Klamath Falls	Klamath Falls to Dunsmuir
H. Clark, no fireman	13′25″	11:25P 5/7	4′30″	7:50A 5/8	8′25″	-------	12:55P 5/8	([6])	3:30P 5/8	-------	-------	-------	$39.99	$24.39
S. Fischer, no fireman	16′35″	4:15A 5/8	3′50″	10:15A 5/8	6′00″	-------	3:00P 5/8	([6])	3:30P 5/8	-------	-------	-------	35.88	24.39
F. Wintering, with fireman	16′30″	5:50A 5/8	3′05″	10:30A 5/8	4′40″	4′00″	2:30P 5/8	4′35″	8:35P 5/8	6′05″	7′40″	10′45″ (a)	30.17	35.32
C. Carlquist, with fireman	16′25″	6:10A 5/8	3′20″	11:45A 5/8	5′35″	4′35″	4:20P 5/8	4′45″	10:55P 5/8	6′35″	8′05″	12′10″ (a)	31.56	31.93
J. Robinson, no fireman	49′05″	8:10A 5/8	3′20″	2:55P 5/8	6′45″	4′00″	6:55P 5/8	4′00″	12:50A 5/9	5′55″	7′20″	12′40″ (a)	38.41	35.27
L. Birkett, no fireman	12′45″	9:15A 5/8	4′25″	3:45P 5/8	6′30″	5′20″	9:05P 5/8	5′00″	3:55A 5/9	6′50″	9′25″	13′20″ (a)	30.46	30.67
A. Coffman, with fireman	31′05″	10:45A 5/8	5′25″	6:50P 5/8	8′05″	8′10″	3:00A 5/9	4′05″	10:05A 5/9	7′05″	9′30″	-------	36.73	35.22
A. Murray, with fireman [2]	25′20″	5:15P 5/8	5′15″	12:50A 5/9	7′35″	6′20″	7:10A 5/9	4′15″	2:25P 5/9	7′15″	9′30″	14′50″ (a)	32.71	35.25
R. Hackett, with fireman	6′50″	5:45P 5/8	2′55″	11:05P 5/8	5′20″	5′20″	4:25A 5/9	3′55″	10:45A 5/9	6′20″	6′50″	11′40″ (a)	34.07	34.92
R. Getchell, no fireman	17′05″	6:50P 5/8	4′20″	1:15A 5/9	6′25″	8′00″	9:15A 5/9	3′00″	1:30P 5/9	4′15″	7′20″	-------	34.66	32.48
J. McDonald, no fireman	8′45″	6:55P 5/8	5′05″	2:25A 5/9	7′30″	10′05″	12:30P 5/9	5′05″	7:20P 5/9	6′50″	10′10″	-------	35.66	32.71
C. Barrett, with fireman	10′15″	10:15P 5/8	2′55″	2:00A 5/9	3′45″	7′15″	9:15A 5/9	3′45″	3:40P 5/9	6′25″	6′40″	10′10″ (a)	29.78	35.37
D. Morrison, no fireman	34′55″	10:55P 5/8	4′00″	5:25A 5/9	6′30″	11′35″	5:00P 5/9	4′20″	11:05P 5/9	6′05″	8′20″	-------	34.24	31.35
A. Darlaque, with fireman	5′10″	12:15A 5/9	4′05″	6:55A 5/9	6′40″	-------	10:38P 5/9	([6])	1:35A 5/10	-------	-------	-------	33.34	25.16
C. Ingersoll, no fireman	5′50″	2:10A 5/9	4′20″	8:20A 5/9	6′10″	19′10″	3:30A 5/10	3′20″	9:45A 5/10	6′15″	7′40″	-------	32.89	35.68
F. Spearin, no fireman	17′20″	7:00A 5/9	4′45″	3:30P 5/9	8′30″	-------	10:38P 5/9	([6])	1:35A 5/10	-------	-------	-------	39.38	28.77
W. Hughes, with fireman	17′25″	8:30A 5/9	6′00″	3:55P 5/9	7′25″	12′30″	4:25A 5/10	5′05″	10:10A 5/10	5′45″	11′05″	-------	33.20	31.71
J. Aders, with fireman	107′35″	11:25A 5/9	3′50″	5:40P 5/9	6′15″	11′40″	5:00A 5/10	3′50″	10:45A 5/10	5′45″	7′40″	-------	33.20	30.94
J. Conwill, no fireman	21′35″	1:05P 5/9	4′50″	7:55P 5/9	6′50″	10′20″	6:15A 5/10	3′35″	11:35A 5/10	5′20″	8′25″	-------	34.75	34.11
R. Carlberg, with fireman	23′50″	3:40P 5/9	2′50″	8:05P 5/9	4′25″	11′25″	7:30A 5/10	2′25″	12:00N 5/10	4′30″	5′15″	-------	30.73	36.16
H. Clark, no fireman	24′45″	4:15P 5/9	3′50″	10:50P 5/9	6′35″	8′35″	7:25A 5/10	3′15″	3:05P 5/10	7′40″	7′05″	-------	34.66	38.81
S. Fischer, no fireman	31′35″	11:05P 5/9	3′50″	4:35A 5/10	5′30″	5′10″	9:45A 5/10	4′45″	4:30P 5/10	6′45″	8′35″	12′15″ (a)	34.19	35.58
F. Wintering, with fireman	26′50″	11:25P 5/9	3′55″	5:40A 5/10	6′15″	8′35″	2:15P 5/10	4′40″	8:45P 5/10	6′30″	8′35″	-------	33.36	34.18
C. Carlquist, with fireman	29′15″	4:10A 5/10	2′55″	8:45A 5/10	4′35″	8′20″	5:05P 5/10	2′50″	9:20P 5/10	4′15″	5′45″	-------	32.81	31.08
J. Robinson, with fireman	18′10″	7:00A 5/10	4′50″	2:15P 5/10	7′15″	-------	10:38P 5/10	([6])	1:50A 5/11	-------	-------	-------	33.20	25.16
A. Dorlaque, with fireman	26′20″	9:15A 5/10	5′20″	5:25P 5/10	8′10″	-------	10:38P 5/10	([6])	1:40A 5/11	-------	-------	-------	35.32	25.16

[1] Average road trip time in through freight service for entire month of May 1966: Dunsmuir to Klamath Falls, 4′30″; Klamath Falls to Dunsmuir, 4′34″.
[2] Engine crews referred to in statement of Mr. R. W. Guy.
[3] Relieved at Black Butte 4:50P 5/1, hours of service law.
[4] Relieved at Mount Shasta 6:20P 5/1, hours of service law.
[5] Vacation.
[6] Deadhead.
[7] Relieved Mount Shasta 1:00A 5/2 account 16 hours continuous time on duty.
[8] Extra engineer who previously worked Dunsmuir yard job 8 hours on duty. Road trip time 1′53″.
[9] Deadhead to Mount Shasta for 16-hour relief.
[10] Deadhead to Mount Shasta for 16-hour relief.
[11] Tied up Mount Shasta 7:15 P 5/5 under 16-hour law.
[12] Tied up Mount Shasta 9:05 P 5/5 under 16-hour law.
[13] Deadhead Mount Shasta for 16-hour relief, road trip time 3′15″, 2 trips.

EXHIBIT E

Pool freight assignments operated between Ashland and Dunsmuir, home terminal Dunsmuir, arriving Dunsmuir May 1 through 10, 1966[1]

Engine crew	Hours off duty before call, Ashland	Date and time on duty, Ashland	Road trip time, Ashland to Dunsmuir	Date and time off duty, Dunsmuir	Total time on duty, Ashland to Dunsmuir	Hours off duty, Dunsmuir	Trip earnings, Ashland to Dunsmuir
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Average per engine crew for period	13'04"		8'48"		10'38"	29'22"	$56.52
J. Fahs, with fireman [2]	9'50"	6:00P 5/30	11'00"	7:30A 5/1	13'30"	22'45"	68.49
R. Durbin, with fireman	13'00"	5:45A 5/1	5'25"	1:05P 5/1	7'20"	30'50"	44.16
A. Ceccato, with fireman	9'40"	9:00A 5/1	5'25"	3:20P 5/1	6'20"	12'05"	42.64
J. Lloyd, with fireman	8'15"	1:30P 5/1	4'50"	7:25P 5/1	5'55"	27'34"	43.25
H. Marsh, with fireman	14'00"	5:30A 5/2	4'50"	11:15A 5/2	5'45"	57'00"	45.39
C. Decker, with fireman [2]	15'45"	5:00P 5/2	12'20"	7:30A 5/3	14'30"	15'35"	74.09
J. Fahs, with fireman	9'40"	3:30A 5/3	7'15"	1:55P 5/3	10'25"	24'35"	50.30
J. Whitlock, with fireman	14'50"	12:30P 5/3	8'35"	10:45P 5/3	10'15"	19'50"	49.39
C. Harris, with fireman	10'00"	6:00P 5/3	9'50"	5:50A 5/3	11'50"	40'00"	59.19
D. Fidler, with fireman [2]	11'40"	3:30A 5/4	9'10"	2:15P 5/4	10'45"	15'30"	52.11
R. Behnke, with fireman	14'45"	8:30A 5/4	9'55"	8:50P 5/4	12'20"	27'40"	52.73
R. Durbin, with fireman	11'45"	10:30A 5/4	10'25"	10:50P 5/4	12'20"	15'25"	60.80
W. Randolph, with fireman	11'20"	7:00P 5/4	11'30"	8:10A 5/5	13'10"	21'35"	66.61
C. Decker, with fireman	16'35"	12:30A 5/5	6'45"	9:00A 5/5	8'30"	10'15"	43.54
J. Whitlock, with fireman	12'00"	5:30A 5/5	8'55"	4:00P 5/5	10'30"	18'15"	53.08
H. Marsh, with fireman	11'45"	12:45P 5/5	8'25"	11:10P 5/5	10'25"	20'05"	50.30
R. White, with fireman [2]	18'55"	11:00P 5/5	12'40"	2:10P 5/6	15'10"	38'05"	77.79
J. Fahs, with fireman	21'45"	6:45A 5/6	7'40"	4:40P 5/6	9'55"	14'10"	66.63
C. Decker, with fireman [2]	8'35"	3:00P 5/6	9'55"	3:40A 5/7	12'40"	34'05"	62.61
D. Fidler, with fireman [2]	15'00"	9:00P 5/6	12'20"	11:20A 5/7	14'20"	41'55"	73.14
R. Durbin, with fireman	8'30"	4:00A 5/7	7'45"	1:50P 5/7	9'50"	49'15"	47.29
J. Whitlock, with fireman	11'35"	10:30A 5/7	6'50"	6:50P 5/7	8'20"	48'25"	43.54
C. Harris, with fireman	15'30"	7:00P 5/7	10'10"	6:50A 5/8	11'50"	72'	59.19
W. Randolph, with fireman	18'55"	2:45A 5/8	5'30"	10:50A 5/8	8'05"	46'25"	45.39
H. Marsh, with fireman	14'00"	3:00P 5/8	7'10"	12:10A 5/9	9'10"	16'20"	48.49
J. Jensen, with fireman	8'10"	10:15P 5/8	5'10"	4:50A 5/9	6'35"	17'10"	46.29
M. Grant, with fireman	21'35"	4:00P 5/9	12'45"	7:05A 5/10	15'05"	34'10"	93.27
D. Fidler, with fireman	14'20"	4:00A 5/10	6'40"	12:50P 5/10	8'50"	45'10"	47.81
R. Durbin, with fireman	10'30"	1:45P 5/10	6'50"	10:20P 5/10	8'35"	15'55"	44.16
C. Decker, with fireman	9'55"	6:00P 5/10	14'25"	10:00A 5/11	16'00"	29'15"	83.87

[1] Mileage between Dunsmuir and Ashland is 108 miles. Engine crews are paid an additional 31 miles as an arbitrary, thus for pay purposes the mileage is 139 miles.

[2] Engine crew referred to in statement of Mr. R. W. Guy.

90-341—66—20

EXHIBIT F

Local freight assignment, run No. 310, operating Dunsmuir to Montague and return, daily except Sunday, home terminal, Dunsmuir, during periods indicated

JANUARY 20 TO 31, INCLUSIVE, 1966

Engine crew (1)	Hours off duty before call, Dunsmuir (2)	Date and time on duty, Dunsmuir (3)	Date and time off duty, Dunsmuir (4)	Total time on duty (5)	Trip earnings (6)
Average per engine crew for periods				12'43"	$53.38
V. Anderson, no fireman	11'50"	9:45A 1/20	1:40A 1/21	15'55"	70.26
C. Ingersoll, no fireman	16'05"	10:15A 1/21	2:15A 1/22	16'00"	70.98
A. Dorlaque, no fireman	17'25"	9:45A 1/22	9:25P 1/22	11'40"	47.32
Layover day, 1/23					
L. Birkett, no fireman	73'50"	9:45A 1/24	1:45A 1/25	16'00"	73.55
V. Osborne, no fireman	20'21"	12:20P 1/25	4:20A 1/26	16'00"	70.72
R. Holdman, no fireman	26'01"	10:00A 1/26	10:45P 1/26	12'45"	53.43
F. Pryatel, no fireman	18'00"	9:45A 1/27	9:50P 1/27	12'05"	48.80
Do	11'55"	9:45A 1/28	10;25P 1/28	12'40"	52.70
Do	11'20"	9:45A 1/29	8:25P 1/29	10'40"	41.38
Layover day, 1/30					
F. Pryatel, no fireman	13'20"	9:45A 1/31	10:35P 1/31	12'50"	53.62

MAY 1 TO 31, INCLUSIVE, 1966

Layover day, 5/1					
F. Pryatel, no fireman	54'30"	8:45A 5/2	9:15P 5/2	12'30"	$51.64
Do	11'30"	8:45A 5/3	12:35A 5/4	15'50"	68.51
Do	9'30"	10:05A 5/4	10:15P 5/4	12'10"	49.85
Do	10'30"	8:45A 5/5	10:20P 5/5	13'35"	56.12
Do	10'25"	8:45A 5/6	9:55P 5/6	13'10"	54.34
L. Birkett, no fireman	17'46"	8:45A 5/7	8:30P 5/7	11'45"	47.18
Layover day, 5/8					
F. Pryatel, no fireman	58'50"	8:45A 5/9	10:10P 5/9	13'25"	56.59
Do	10'35"	8:45A 5/10	12:45A 5/11	16'00"	78.73
Do	10'35"	11:20A 5/11	9:20P 5/11	10'00"	38.94
Do	11'25"	8:45A 5/12	8:40P 5/12	11'55"	48.50
Do	12'05"	8:45A 5/13	9:50P 5/13	13'05"	54.77
Do	10'55"	8:45A 5/14	6:35P 5/14	9'50"	37.25
Layover day, 5/15					
F. Pryatel, no fireman	38'10"	845A 5/16	8:40P 5/16	11'55"	48.50
Do	12'05"	8:45A 5/17	10:05P 5/17	13'20"	56.12
Do	10'40"	8:45A 5/18	9:10P 5/18	12'25"	51.21
Do	11'35"	8:45A 5/19	8:05P 5/19	12'05"	49.39
Do	11'55"	8:45A 5/20	9:10P 5/20	12'25"	51.20
T. Campbell, no fireman	15'35"	8:45A 5/21	6:25P 5/21	9'40"	33.65
Layover day, 5/22					
B. R. Barnes, no fireman	31'05"	8:45A 5/23	8:40P 5/23	11'55"	50.20
P. Livingston, no fireman	64'30"	8:45A 5/24	12:45A 5/25	16'00"	73.42
V. Osborne, no fireman	13'35"	10:45A 5/25	11:55P 5/25	13'10"	52.80
R. Holdman, no fireman	18'36"	9:35A 5/26	10:25P 5/26	12'50"	53.24
Do	10'10"	8:45A 5/27	10:10P 5/27	13'25"	56.41
T. Campbell, no fireman	18'31"	9:30A 5/28	6:30P 5/28	9'00"	36.35
Layover day, 5/29					
Annulled account holiday, 5/30					
R. Durbin, no fireman	75'25"	8:45A 5/31	8:40P 5/31	11'55"	48.67

JUNE 1 TO 7, INCLUSIVE, 1966

R. E. Durbin, no fireman	12'05"	8:45A 6/1	9:50P 6/1	13'05"	$56.01
Do	10'55"	8:45A 6/2	10:25P 6/2	13'40"	57.75
Do	10'20"	8:45A 6/3	9:10P 6/3	12'25"	51.05
Do	11'35"	8:45A 6/4	4:50P 6/4	8'05"	39.70
Layover day, 6/5					
R. E. Durbin, no fireman	15'55"	8:45A 6/6	7:40P 6/6	10'55"	43.26
Do	13'05"	8:45A 6/7	10:00P 6/7	13'15"	54.62

EXHIBIT G

SOUTHERN PACIFIC COMPANY—PACIFIC LINES

Average road trip time, principal pool freight districts, May 1966

District	Miles	Average time	
		East	West
San Francisco-Watsonville Junction	91	3'51"	3'12"
Watsonville Junction-San Luis Obispo	152	5'01"	5'16"
Roseville-Gerber	107	2'49"	3'10"
Roseville-Sparks	E137 W139	7'02"	5'29"
Gerber-Dunsmuir	101	4'29"	3'49"
Sparks-Carlin	E283 W288	7'04"	6'09"
Carlin-Ogden	E248 W249	7'19"	6'50"
Crescent Lake-Eugene	98	3'56"	3'37"
Eugene-Portland	118	3'47"	4'21"
Dunsmuir-Klamath Falls	108	4'29"	4'34"
Klamath Falls-Crescent Lake	99	2'53"	2'53"
Klamath Falls-Alturas	98	3'57"	4'05"
Bakersfield-Los Angeles	166	8'10"	7'18"
Fresno-Bakersfield	111	4'19"	3'37"
Santa Barbara-Los Angeles	100	4'01"	3'37"
Los Angeles-Indio	131	5'49"	6'50"
Indio-Yuma	121	3'13"	3'24"
San Luis Obispo-Santa Barbara	119	4'32"	3'44"
Yuma-Tucson (2-crew districts)	254	7'30"	5'30"
Tucson-Lordsburg	E162 W160	5'41"	5'32"
Lordsburg-El Paso	151	3'59"	3'56"
El Paso-Tucumcari (2-crew districts)	331	8'15"	8'59"

EXHIBIT H

ORDER OF RAILWAY CONDUCTORS & BRAKEMEN,
SHASTA DIVISION NO. 518,
Dunsmuir, Calif., July 25, 1966.

R. R. ROBINSON,
Superintendent, S.P. Co., Dunsmuir, Calif.

DEAR SIR: Recently I have received numerous complaints from my men about the long layovers in Gerber.

I have been working hand in hand with the dispatchers in hopes of alleviating this problem; to date we have had fair success. On the outset it would seem that the problem is an old one of too many dead heads on number eleven, mugs which aren't maturing, power, and poor communications. Certainly factors which seem obvious to me may seem rather petty to you and with a little research I believe we can get to the root of the problem.

This layover creates a circle of events which is offensive to both sides. If the company runs seven or eight hundred trains a month with eighteen or nineteen crews improperly balanced, then the long layover in Gerber creates a shorter layover in Dunsmuir and the men will be impelled to lay off more frequently. Not only will the men lose money laying off but the company too loses by sending green taggers in their place.

I must emphasize before concluding that I am not trying to place the blame anywhere, the train and crew dispatchers have been quite helpful in working this problem out, but it seems that any success we do have is short lasting.

I wish to thank you in advance for any help which you may give me concerning this mutual problem.

Sincerely,

GEORGE M. TAYLOR, *Local Chairman, ORC&B.*

Mr. BURTON. Thank you.

I would appreciate it very much if you would refer to my exhibits. I think I can summarize my statement by calling your attention to some of the exhibits that we have shown. I came up through the operating department, beginning as a telegraph operator and worked various jobs; train dispatcher, assistant chief dispatcher, assistant trainmaster, trainmaster, assistant superintendent, and as superin-

tendent at two different operating divisions. And at the present time I am assistant general manager.

I deal with the general chairman of the organizations and in my travels on the railroad I get a chance to talk to some of the local chairmen and certainly to people operating on our trains.

First of all, I would like to call your attention to exhibit H, if you will, please. That shows the men generally don't want a change, and this is brought out by exhibit H, which you will notice was written by a local chairman at Dunsmuir, Calif., which is in the territory that Mr. Guy refers to.

He writes to the superintendent and says he has "received numerous complaints from my men about the long layovers at Gerber."

I am not going to take time to read the entire letter, but he requests that the superintendent act; that some consideration be given to reduce their time away from home terminal due to delays of the men at Gerber.

He does this for two reasons. One is because of the increase in the away-from-home time at Gerber, and No. 2, it decreases their earnings opportunity. Actually, there is another reason for this because if the law was changed, this would eliminate desirable jobs thus affecting the right of the senior men to elect the work of their choice.

Now I can best illustrate this by my exhibit C. I would appreciate it if you would turn to that. This, too, covers the area of which Mr. Guy spoke. I think perhaps the top line will probably point out just exactly what we mean here.

No. 1, of course, is the average rest per engine crew per period. This is the hours off duty before his call at Dunsmuir, and Dunsmuir is the man's home terminal.

The next is self-explanatory; it is the date and time on duty at Dunsmuir.

The next is the road trip time Dunsmuir to Gerber which averages 3 hours 49 minutes. Now this is not the time on duty.

No. 5 is the date and time off duty at Gerber.

No. 6 is the total time on duty from Dunsmuir to Gerber. I should explain that.

In railroad parlance there actually are three different types of time. One is the time that is used in actual performance of duties in handling a train from one terminal to another, No. 2 is the hybrid waiting time when the crews wait for their trains coming into the terminal and preparatory time and so on, and the third is deadhead time. Deadhead time is compensated time. Sometimes it is considered on duty time, and sometimes it is considered off duty time.

To continue on with this exhibit, the next item shows the hours off duty at Gerber.

The next is the date and time on duty at Gerber which is the return trip.

No. 9 is the road trip time from Gerber to Dunsmuir.

No. 10 is the date and time off duty at Dunsmuir.

No. 11 is the total time on duty Gerber to Dunsmuir.

Then this is totaled. The total road time en route to the round trip which you notice in this area is 8 hours 19 minutes. The total time on duty Dunsmuir to Gerber to Dunsmuir the averages 12 hours 37 minutes.

Then their earnings for the two trips, one from Dunsmuir to Gerber and the other from Gerber back to Dunsmuir.

You will note, for instance, Engineer Smith in the total time on duty at Dunsmuir to Gerber shows 12 hours 40 minutes with a small "c", and the small "c" means that the time was continuous time. In other words, he was not off duty more than 3 hours at Gerber.

You will notice on Engineer J. Chiles, who is third from the top, total time on duty at Dunsmuir under item 13(a), 13 hours 20 minutes, which shows that the on duty time was in the aggregate. In other words, he did get more than 3 hours rest at Gerber.

To get back to my point that the law would eliminate desirable jobs, there is one thing I should point out, and this does not show in the exhibit.

This territory from Dunsmuir to Gerber is 101 miles and in addition to this as pointed out in the footnote, the pay for the engine crews is 140 miles. In other words, they get 140 miles or approximately 1.4 days pay for their trip from Dunsmuir to Gerber and again for the trip from Gerber to Dunsmuir.

In connection with the deadheading of the crews, as far as the engine crews are concerned they get actual mileage with a minimum of a day's pay. The train crew actually gets the mileage of the deadhead from Dunsmuir to Gerber or from Gerber to Dunsmuir.

This means that the men with the highest seniority, which is a zealously guarded thing on the railroad, are going to take this particular type of run. For instance, between Klamath Falls and Dunsmuir it is 106 miles, there is no arbitrary mileage like there is in the other district. So certainly they are going to choose the run between Dunsmuir and Gerber because they can make the round trip run actually a little faster and because they can make more money.

Another thing that is interesting, and I wish to refer to my exhibit B here, which is a collective bargaining agreement between Southern Pacific and the engineers and firemen. I will just comment very briefly on that. This indicates that the engineers and firemen as a result of collective bargaining agreements on the Southern Pacific have the option of how much rest they can take at the end of any run. They can take 8, 10, or 12 hours rest. It does not make any difference. How long they work—12 or 16 hours or whether they deadheaded, they still have this option. The men can take rest at the end of any run that they chose to, but if you will note on our exhibit "C" they don't choose to take this rest at Gerber. They come right back out, work right back out either on continuous time or in aggregate in order to spend more time at home.

You will notice on exhibit B, item 2 covers the hours off duty before they go on duty at Dunsmuir, which is the home terminal. Of course it is not fair to say that Mr. Smith has 70 hours and 50 minutes off duty because we assume that he laid off part of that time. Mr. Robinson had 35 hours rest and Mr. Chiles 22 hours and Mr. Grenko 23 hours which is probably more like the regular layover they have at their home terminal. The average you will note is 38 hours 35 minutes.

The question that you put to Mr. Barriger concerning total time worked is shown in this exhibit. The total time on duty Dunsmuir to Gerber and Gerber to Dunsmuir is 12 hours 37 minutes. While it is over 12 hours it is not close to 16 hours and we do require a certain

amount of flexibility in our operations for the things that come up that were not anticipated such as hot boxes and broken rails, mechanical troubles, snow and slides and so on.

If you will notice on our exhibit D between Klamath Falls——

Mr. SPRINGER. Mr. Chairman, may I ask a question?

Mr. DINGELL. Certainly.

Mr. SPRINGER. The other day I had a letter, Mr. Burton, from an engineer in my district who was against the legislation rather strongly but he said, and I have to take his word, I guess, that this will reduce his salary for a month by a very substantial sum. I don't have the letter but my recollection is $200 or $300. Is that possible?

Mr. BURTON. Yes, it is possible.

Mr. SPRINGER. The only reason I raise this is that in looking at this outline that you have gone over to 13 and come down to B. Robinson and J. Chiles, one is a fireman and one works 11 hours and 15 minutes and he makes $41.57 and $45.27 but Mr. Chiles works 15 hours and 20 minutes and he makes $46.89 and $44.04.

Now I take it that he is a fireman. This was an engineer. I am taking it the rates are more, is that right, the rate for engineer is substantially more?

Mr. BURTON. These are both engineers, Mr. Springer. It indicates they have no firemen.

Mr. SPRINGER. Anyway, I take it that what he is talking about is the difference between those two there wherein this man must have been working the longer number of hours, so he was getting substantially greater income for the month because he was working the run where he had these long joint hours.

Is that the situation?

Mr. BURTON. He is making a run, Mr. Springer, where he can double back on the road. Now if the 12 hours were in effect he could not double back. For instance, we would operate this man from Dunsmuir to Gerber and at that point he would have to get 8 hours, rest or more.

Mr. SPRINGER. Does he get paid anything for that?

Mr. BURTON. Not unless he has been there 16 hours.

Mr. SPRINGER. You said 16 hours again——

Mr. BURTON. Yes.

Mr. SPRINGER. What he is doing, then, is going out and coming back.

Mr. BURTON. Yes.

Mr. SPRINGER. And he is getting quite a few hours so his pay goes up much as indicated between these two illustrations, is that right?

Mr. BURTON. This is right. Now there is one other point that I can make here. In addition to this he would have away-from-home expenses that are not all covered by the company.

Mr. SPRINGER. You mean if he had to remain 16 hours?

Mr. BURTON. Right.

Mr. SPRINGER. Or had to remain 8 hours, is that what he would have to do?

Mr. BURTON. This is right.

Mr. SPRINGER. He would work 8 hours and then he could be off 8 hours.

Mr. BURTON. Yes.

Mr. SPRINGER. He would not get paid until he was off 16 or 8?

Mr. BURTON. Sixteen.

Let me correct that. He gets his lodging and he gets one meal for the period that he is resting.

Mr. SPRINGER. Well, this is what he is talking about, then. He apparently had a good run.

Mr. BURTON. He may be talking about this but I think probably what he is talking about is the fact that the local chairmen themselves regulate the mileage runs and they try to regulate them on 3,800 miles.

Mr. SPRINGER. Is that per month?

Mr. BURTON. Yes, sir.

Now, if you will look at the Klamath Falls district, exhibit D, a man who does not double back and requires a minimum of 8 hours rest could not make the 3,800 miles in 30 days.

In the Klamath Falls run he would have to work, for which he would get 106 miles, get his rest, then he would work back the following day for which he would get 106 miles. So, in effect, he has to work every day of the month and will not get 3,800 miles.

Now again, I don't know what this man's district was but we have some districts on the Southern Pacific——

Mr. SPRINGER. This was Central Illinois.

Mr. BURTON. It is probably the same. We have some long districts on the Southern Pacific. We have one 288-mile district, shown by exhibit G. You will notice, on the sixth line from Sparks to Carlin eastbound is 283 miles, with an average running time of 7 hours, 4 minutes, and westbound is 288 miles and the average running time is 6 hours, 9 minutes. So, actually, in working 6 hours and 9 minutes they can make almost 3 days' pay for that run.

Mr. SPRINGER. In effect he is traveling more miles per month, is that right?

Mr. BURTON. He is traveling more miles per month and he is getting a longer layover at home.

Mr. SPRINGER. If everybody is operating the same 3,800 miles per month, how is he making more money or this legislation would cut his salary $200 or $300 a month, as I recall it?

Mr. BURTON. Because there are some men now who prefer to work local freight because of the high hours on these runs. They work up to as high as 15 hours, 16 hours. The pay on these runs is higher than it is for other runs so their seniority would permit them to take a job with a better rate. Higher seniority would let a man on this job make more money than if he was on a yard job.

Mr. SPRINGER. Now would this man I am talking about be working fewer hours under this legislation than he is working now? I can't get how he figured he saved. I can't figure that. Everybody works 3,800 miles per month, is that right?

Mr. BURTON. He would be working, as I see it, probably the same number of hours. But it has taken him more days a month to do this.

In other words, he has to get his rest at his away-from-home terminal rather than double back. So he gets his rest at his home terminal and he gets the same rest at his away-from-home terminal, so he is working more days per month to get his 3,800 miles.

Mr. SPRINGER. So that means he would make more money than another fellow?

Mr. BURTON. If he doubles back.

Mr. SPRINGER. Instead of staying 8 hours at the other end?

Mr. BURTON. Yes, sir.

Mr. SPRINGER. Is that the secret of this thing?

Mr. BURTON. Not entirely, but this is one of the things why we are convinced that the men prefer these hours because they can double back and get more time at their home terminal rather than their away-from-home terminal.

Mr. SPRINGER. I think I have the idea. Thank you.

Mr. DINGELL. You were making some further comments, Mr. Burton. Is there anything else you wish to say?

Mr. BURTON. I might expand a little bit on what Mr. Barriger had to say in connection with the local freight runs. Our exhibit F will show the local freight run which was referred to by Mr. Guy which operates between Dunsmuir and Montague on the Ashland line, 53 miles from Dunsmuir. You will notice on that run there are long hours, there is no doubt about that. Some men prefer these local freights with the long hours because the pay is greater. They also prefer this particular job, which is a turnaround job, in order to tie up at their home terminal of Dunsmuir. So they work from Dunsmuir to Montague and back to Dunsmuir each day. There is a lot of work. We schedule a lot of work for a local of this type.

While they show tied up on 16 hours, they are normally in Dunsmuir during the tieup time. The work schedule is scheduled for the crew to be back within 16 hours and tie up at the terminal.

Were we to operate under the 12- or the 9-hour law, this would mean that these men would work from Dunsmuir to Montague and tie up. They then would get their rest and the next day they would operate from Montague back to Dunsmuir and tie up.

This would be an additional cost to the company. It is a real inconvenience to the men also because they don't get back to their home terminal. It would require two jobs where one job now performs the work and would require two sets of equipment.

In addition the away-from-home meal and lodging expense would be provided. So it is an additional cost to the company.

While I didn't make a cost study it has been made and I think another witness will cover this.

Finally, as far as we can determine there is no correlation on the railroad between on-duty time and safety.

I think, Mr. Chairman, that that summarizes what I have to submit to the committee. Thank you.

Mr. DINGELL. I certainly will go through your statement, Mr. Burton.

Mr. Pickle?

Mr. PICKLE. Mr. Chairman, I would have no questions at this point.

Mr. DINGELL. Mr. Huot?

Mr. HUOT. No.

Mr. DINGELL. I would like to ask you, if you please, Mr. Burton, in your reports to the Interstate Commerce Commission on point SS–82, the 6 months, December 1965 through May 1966, you showed 60 instances of excess service beyond the 16 hours' limitation comprising 27 in December, 27 in January, and 6 in April.

Would you be able to comment to the committee as to the occasions for these instances of excess service hours?

Mr. BURTON. I would be very happy to. Can you give me those dates again, please?

Mr. DINGELL. Yes, sir.

The reports to the Interstate Commerce Commission, SS 82, 6 months, December 1965 through May 1966, you show 60 instances of excess service hours beyond the 16-hour limitation; 27 in December of 1965, and 27 in January of 1966, and 6 in April of 1966.

Mr. BURTON. During the period of November and December of 1965 and January 1966, we had some very bad storms in the Sierra Nevada Mountains and in the Cascade Mountains which is the range of mountains between California and Oregon and 51 of these instances were due to the heavy storms.

Mr. DINGELL. Fifty-one.

Mr. BURTON. That is right.

Mr. DINGELL. December and January.

Mr. BURTON. That is right. I am very personally acquainted with this because at this time I was at Dunsmuir and they had the heaviest snow they had had for many, many years. So it amounts to this: On the snow crews, some of the crews that are fighting the snow on work train equipment, in addition to the freight crews and the local crews it was just impossible for us to find any means of conveyance where we could get crews out to relieve these people out on the road. Most of these instances occurred between Dunsmuir and Mount Shasta. The reason for it was that we could not get crews to relieve these people. The roads were all blocked. We had no electric power in the area for 5 days and it was a very bad situation. So the crews were authorized to work from the point where they tied up on their 16 hours into Dunsmuir in order to get them home.

Now this does not necessarily mean that we were fined for this excessive service—I checked on these and we had only one which was a mistake made by the man himself, and the crew dispatchers, during this period.

Mr. DINGELL. But in other instances it was because of bad weather and exceedingly difficult conditions?

Mr. BURTON. Yes. Forty percent of our excessive hours are during the winter weather on the Oregon and the Sacramento Division because of the heavy snowfall, severe winds, slides and so on.

Mr. DINGELL. On the same reports it appears that your railroad had 12 instances of excess service hours between 9 and 13 hours.

Would you care to comment on these instances? I note that you have relatively few total. There are other railroads that do have less. For that matter, I notice that there are many railroads that have no instances of violations of the 16-hour law.

Would you want to make a comment on these points?

Mr. BURTON. Mr. Chairman, I made the study only insofar as the operating people were concerned; that is, the engineers, the firemen, the conductors, the trainmen and the yardmen. My study did not indicate the violations as far as the telegraphers and dispatchers are concerned. I can provide that for you.

(The information requested, when supplied, will be found in the committee's files.)

Mr. DINGELL. If you want to make the regular comment it will be quite appropriate. The Chair will be happy to receive that.

The Chair notices in your comments here agreements dealing with the subject of the rest rule specifically with regard to engineers and firemen. Is this a standard agreement that covers not only your railroad but covers other railroads?

Mr. BURTON. I think generally it does cover most of the railroads but not all of them.

Mr. DINGELL. Do you have similar information, Mr. Barriger?

Mr. BARRIGER. I am sorry, I was not paying close attention to the question. Did it relate to——

Mr. DINGELL. The question was dealing here in connection with Mr. Burton's comments, he cites to the committee that Pacific lines have a series of rules in their contracts with the union, most specifically articles 30, 46, 26, and 37, which afford engineers and firemen opportunities to seek rest where they have worked beyond certain periods of time.

My question to Mr. Burton was, is this a standard or more or less standard division in union-management agreements throughout the industry, or is it unique with regard to his particular line?

Mr. BARRIGER. The answer is that we have agreements but they are with different branches.

Mr. DINGELL. But they do deal with the subject of rest, whether the employee is obviously fatigued and unsafe to go on?

Mr. BARRIGER. Yes.

Mr. DINGELL. Would you want to submit that to the committee?

Mr. BARRIGER. I would be happy to.

There are different agreements with different organizations and I will submit the agreements covering the trainmen, conductors, and engineers.

(The information requested, when supplied, will be found in the committee's files.)

Mr. DINGELL. This will be very helpful.

Mr. PICKLE. Mr. Chairman, I assume these are rules and regulations that management and the union have a right to collective bargaining.

Mr. BURTON. Yes, sir; this is correct.

Mr. PICKLE. Has this whole problem been adopted through a union-management bargaining standpoint, not just this bill?

Mr. BURTON. No; it has not.

Mr. PICKLE. Have you been approached for a conference on this?

Mr. BURTON. No; I have not.

Mr. PICKLE. Would you be willing to sit down with the railroad employees and approach this bill from that angle?

Mr. BURTON. It seems to me, Mr. Pickle, that at this point at least it would be impossible for me in my position as assistant general manager to sit down with people on Southern Pacific for this purpose. This is a decision that would have to be made by the industry and I am not qualified to answer that, sir.

Mr. PICKLE. I am speaking only now with reference to the Southern Pacific Co. of which you are assistant general manager. Would you be in a position to speak for your company on that point?

Mr. BURTON. No, sir; I would not, not at the present time.

Mr. PICKLE. Would you, Mr. Barriger?

Mr. BARRIGER. No, sir.

Mr. PICKLE. That is all, Mr. Chairman. Thank you.

Mr. DINGELL. Mr. Huot?

Mr. HUOT. No questions.

Mr. DINGELL. Gentlemen, the Chair is grateful to you. Your testimony has been very helpful to the committee. Thank you, Mr. Burton and Mr. Barriger, Mr. Fox, and Mr. Denton.

Mr. BURTON. Thank you.

Mr. DINGELL. The committee will stand adjourned until Monday morning at 10 o'clock.

(Whereupon, at 11:39 a.m. the committee was recessed, to be reconvened at 10 a.m., Monday, August 29, 1966.)

AMEND HOURS OF SERVICE ACT OF 1907

MONDAY, AUGUST 29, 1966

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. J. J. Pickle presiding.

Mr. PICKLE. The Subcommittee on Transportation and Aeronautics will now come to order.

We have four witnesses this morning who are here to testify. I believe the first witness is Mr. Rex Manion, who is vice president of the operations and maintenance department of the Association of American Railroads here in Washington.

Mr. Manion has testified last week but I believe we did not get into any period of interrogation because time had run out.

Mr. Manion, will you take the chair there as our first witness. I believe you are the first person scheduled.

FURTHER STATEMENT OF REX MANION, VICE PRESIDENT, OPERATIONS AND MAINTENANCE DEPARTMENT, ASSOCIATION OF AMERICAN RAILROADS

Mr. PICKLE. We are glad to have you back with us.

Mr. MANION. Thank you, Mr. Chairman.

Mr. PICKLE. Do you want to make any statement to begin with?

Mr. MANION. No, sir, I have no particular statement to make.

Mr. PICKLE. Well, let me ask you questions, Mr. Manion.

In your testimony I think you stated that approximately 91 percent of the employees of the railroad do not work in excess of 12 hours and 76 percent do not work in excess of 9 hours. I am trying to recall now if that is generally correct.

Then you go on to say that your costs involved, if this law would go into effect, would cost you over $181 million. Now, I don't reconcile those two statements. Can you clarify that statement of position for me?

Mr. MANION. Yes, sir, I believe I can. Even though the percentage of employees who work over the limits of the proposed bills is not great, it still represents a lot of people, it still represents a lot of service, because what we are talking about here are largely the locals and the switching runs and they are the ones that to a great extent would require a lot of capital expenditures in order to redesign those operations and still maintain the service.

In many cases if the service were to be maintained where a turnaround run now takes care of a local operation or a switching operation

it would be necessary to put on an additional train and this would require the purchase of locomotives and cabooses and that is really the largest element in the capital expenditure that would be involved.

There would be other expenses, too, where we have long through freight runs that would require breaking up or require dividing these runs in some manner in order to stay within the limits of the new law Then there would be other capital expenditures required in connection with rest facilities.

Mr. PICKLE. You have spoken, you and other witnesses have spoken, in terms of the purpose of this bill; namely, that it might result in hiring of new employees and actually that would result in reduced income because of a lesser number of hours they had worked.

Mr. MANION. Yes.

Mr. PICKLE. Now what is the difference, actually, to the railroad having one man work two shifts in regular yard service as against two men working for just one shift? Isn't there a ceiling on the funds actually that you pay a man? What is the difference in cost?

Mr. MANION. Well, here is the kind of thing that would happen: On some of these turns I was talking about, some of these round trip operations where the hours spent plus the overtime actually was less than the equivalent of 2 days, if you had two men doing the same work, they would get the minimum of a day each so there you would have additional wage cost.

Mr. PICKLE. Two days as against one and a half?

Mr. MANION. Or something like that, some difference.

Mr. PICKLE. Yet that one-half of the excessive employees would cost you $181 million.

Mr. MANION. No. We said that the annual additional operating expense I believe was $171 million—$171 million for the entire industry. Now that is not just on the locals, of course, and that example I just gave is only one example.

Mr. PICKLE. I would like, as one member of the committee, for you to submit us a breakdown of this cost. Now I have your sheet that is attached but it seems like it is related in several categories and I am just surprised that this would occasion that much additional cost if it is an exceptional case when the man works in excess of 9 hours.

Mr. MANION. You would like to have some explanation of the elements involved in these holdings on that exhibit?

(See p. 511 for breakdown of cost estimate submitted by Mr. Manion.)

Mr. PICKLE. Yes. I wanted to ask you another question because I don't know that I exactly understand it. This thing gets a little nvolved.

What about the phraseology "doubling"? If you nad a man working 6-nour shifts could he double up if this bill became the law? If the maximum hours would be 6 to 8 hours could he still double up?

Mr. MANION. Let me answer it this way, sir: Our present workday is 8 hours.

Mr. PICKLE. Yes.

Mr. MANION. Now if we had a 12-hour limitation, then the man would not be able to work a full second shift. Doubling is what we call the operation when a man works his regular tour of duty and then works another one right afterward. That is what we call doubling.

Now with a 12-hour limitation he would only be good for 4 more hours. So if you put him on another crew taking the place of a man who is absent for some reason or other, they would only have his

services for half of the shift. Then you would have a shorthanded crew, you probably could not work it, depending on the kind of operations.

Mr. PICKLE. Let me ask the gentleman from Ohio if he has any questions. He has to go back to the office and will return a little later but while he is here I would yield to him.

Mr. DEVINE. Thank you, Mr Chairman.

Mr Manion, if the daily working time of these operating employees is reduced what will that do to the take-home pay?

Mr MANION. Well for them it would reduce it substantially. For instance we were just talking about doubling back, which is not an uncommon type of a thing in yard operations. As a matter of fact, right now in most parts of the country we are experiencing a very great man shortage for yard crews and in order to keep the operations going it is necessary to either double or work a man a second shift on the same day. We don't always double him through, making them come back later and work a second shift.

If we could not do that we would just have to close down a lot of operations.

To get back to your question, the men on the extra boards actually have to depend on his doubling or this working a second shift in order to keep their earnings up. They would lose out. Men on these locals who actually make rather high earnings because of the amount of overtime would have their earnings reduced.

Mr. DEVINE. Well, separate and apart from your men on the extra board, these operating employees in the train service, are they paid on the basis of miles they run?

Mr. MANION. Well, it is a combination of miles and hours. There is a formula that determines which it is.

Mr. DEVINE. Well, when you are reducing number of hours it would actually be reducing number of miles, would it not?

Mr. MANION. Yes.

Mr. DEVINE. Accordingly that would——

Mr. MANION. The men on through freight service particularly where they have long-distance runs would certainly earn less.

Mr. DEVINE. Well, now what effect would the reduction in allowable hours service do in the operation of the railroad? Would it cause you to hire more employees?

Mr. MANION. Yes, it would require more employees, it would require more trains actually.

Mr. DEVINE. Do you think that may be the objective of this bill?

Mr. MANION. It seems to me that it is, yes, sir.

Mr. DEVINE. Well, now, getting away from this particular feature of it and back to the safety feature as has been suggested, has the ICC or any other agency given the railroad management any figures that indicate that accidents are resulting from fatigue or the hours of service operated by an operating employee?

Mr. MANION. No, they have not and as a matter of fact they have testified that they do not have any such figures that relate or would indicate that the limits or the present allowable hours of service are related to accidents.

Mr. DEVINE. On the other hand, getting back to your reference to the extra board, do you anticipate if we reduce the hours of service that the railroad employees with large families would find it necessary to "moonlight" and take other jobs to fill in for this extra time?

Mr. MANION. I could only speculate about that but they would have reduced earnings and it would encourage that.

Mr. DEVINE. It would increase the safety standards, if that is the contention?

Mr. MANION. I would think so.

Mr. DEVINE. Thank you.

That is all, Mr. Chairman.

Mr. PICKLE. Mr. Manion, is it your statement that a man working 13, 14, 15 hours is not affected with fatigue and no element of a risk from a safety standpoint?

Mr. MANION. We have made quite an analysis of the hours when these accidents occur and we find actually a higher percentage of them below the hour limits that are proposed in these bills. We have absolutely not any evidence whatever that indicates that the 13 or 14 or 15 hours does contribute to accidents.

Mr. PICKLE. I remember the testimony in which the engineers have testified that at least the ICC did not have any figures. However, that is significant and yet it is a little difficult to understand when you say 15 hours plus and he is not affected.

Mr. MANION. No, we cannot relate any kind of statistics to this supposition at all.

Mr. PICKLE. What about this law? This law was passed in 1906, 1907. Here you are in 1966 and we have a bill now to change the 16 hours. It seems to me kind of odd that the appeal is just now made that this is excessive. Now why is it we have not had any change on this type of thing during all these years?

Mr. MANION. I would suppose that because it actually has not been an attractive thing to the people to have it changed.

Mr. PICKLE. To which people?

Mr. MANION. To the employees themselves because it would break up some of the earning opportunities that they have, some of the fine jobs.

You know, the technology has changed tremendously in the last 15 or 20 years and the long runs have some advantages for the men particularly where they are able to turn around and come back home and get their rest at home instead of having to lay over and be away from home point. With the diesel locomotives and the faster railroad and the faster trains where many years ago these men did lay over at the away from home point, now they can make a round trip and be at home to take their rest and if the hours of service were reduced very much this would not be possible. They would be back where they were 25 or 30 years ago of having to stay at the away-from-home point.

Mr. PICKLE. Employees are split on this and yet one of the large groups think there ought to be some changes on this and the other group, I assume because they get extra work, want to retain it.

Who controls extra work, the extra board? Who determines if the man gets that particular run?

Mr. MANION. Well, to begin with seniority gives them their position to select work or to bid on work. Then the operating officers and the representtive of the organizations confer and agree on the level of number of men that will be on an extra board and this fluctuates from time to time with respect to the amount of traffic, the amount of service that is required. The size of an extra board is controlled in order to keep the people on it working.

Mr. PICKLE. I want to ask you one other question, Mr. Manion, with respect to deadheading if you will wait just a minute.

I am reading the testimony on page 42 with respect to your statement which said "There is no justification for extending the hours of service law to time spent deadheading."

In this statement you refer to deadhead time and the proposal made in these hearings that deadhead time would be computed in the calculation of time under the hours of service law. Now you say this particular bill as introduced would not have made this law applicable to deadhead time.

My question is, Is this your interpretation of section 2(b) of H.R. 8476 which would amend the act to require that for the purpose of computing time under the service of our law there should be counted as time on duty the time on duty in service other than the time engaged in or connected with the movement of any train. Would your answer be the same whether or not deadhead time was paid for; that is, would such time if paid for been time on duty in other service performed for the common carrier?

Mr. MANION. I am not sure I understand your question, sir. The deadhead time is time paid for.

Mr. PICKLE. Well, would it be the same whether it was paid for or whether it is on duty or being counted as on duty time?

Mr. MANION. It is not now. It is not now counted as time on duty but it is time paid for. When we talk about hours worked we have two concepts; one of them relates to pay and the other one relates to the hours available under the hours of service act and they are not necessarily related to each other.

Mr. PICKLE. Well, for the purpose of legislative history should it not be clear regardless of whether the amendment proposed by the firemen specifically spelling out deadhead time had been included whether or not this language can be so construed that deadhead time is covered? Is that statement agreeable to you or do you understand it?

Mr. MANION. I think it ought to be clear that the proposed amendment would be quite unworkable. I have some doubt, actually, that when they proposed their amendment they intended to have it work out the way it does work out. You will recall that I pointed out that if this became law and that amendment were part of it, we would have the unfortunate situation of being unable to bring a crew in whose time on duty had expired, whose 12 hours or 9 hours, whatever it might be, had expired on the road. So I am sure this is not what they intended, but I think the legislative history should make it quite clear it would be unworkable.

Mr. PICKLE. I appreciate that clarification.

I don't know that I have any other questions of Mr. Manion. I appreciate your coming back. I am sorry that the full committee could not be here. I am sure they had other questions, and I hope that we have an opportunity later, if they wish, to call you back. Thank you very much.

Mr. MANION. Thank you, sir.

Mr. PICKLE. Our next witness is Mr. R. L. Grimes, assistant chief transportation officer, Louisville & Nashville Railroad Co., Louisville, Ky., accompanied by H. G. Breetz, counsel.

We are glad to have you here this morning.

66-341—66——21

STATEMENT OF R. L. GRIMES, ASSISTANT CHIEF TRANSPORTATION OFFICER, LOUISVILLE & NASHVILLE RAILROAD CO., LOUISVILLE, KY.; ACCOMPANIED BY H. G. BREETZ, COUNSEL

Mr. GRIMES. Thank you, sir.

Mr. PICKLE. Do you wish to submit your statement for the record, or do you wish to present it?

Mr. GRIMES. Whatever you desire, sir.

Mr. PICKLE. Well, in view of the "heavy" attendance here this morning you might just submit it for the record and it will be so included in its entirety, but I would like to give you the opportunity to make a summary statement, or any other comment you care to, at this time.

Mr. GRIMES. Thank you, sir.

Mr. PICKLE. You are appearing in opposition to the amendment I assume.

Mr. GRIMES. Yes, sir.

Sir, my counsel says that he would prefer that I present the entire statement.

Mr. PICKLE. You may do so. You may proceed.

Mr. GRIMES. Thank you.

My name is R. L. Grimes. I am assistant chief transportation officer—operations of the Louisville & Nashville Railroad Co. (L. & N.) with offices in Louisville, Ky. I have been with the L. & N. over 25 years, starting as a brakeman in February 1941. I worked as a brakeman and later as a conductor in all classes of train service until May 1951, at which time I was appointed assistant trainmaster. I have also served as trainmaster, assistant superintendent and division superintendent, being appointed to my present position on July 1, 1963. In my present position I am responsible for the overall train and yard operations on the L. & N. system.

I have made a study and analysis of the impact on operations on the L. & N. that would result if changes are made as proposed in the hours of service law. This study was based on our actual operation over the entire system during the period October 16, 1965, through October 31, 1965.

The Louisville and Nashville Railroad operates 5,645 miles of railroad, of which approximately 1,800 miles is in Kentucky, 1,650 miles in Tennessee, 1,250 miles in Alabama, and relatively small mileage in Georgia, Florida, Illinois, Virginia, Mississippi, Louisiana, Indiana, North Carolina, Missouri, and Ohio

The geography and topography of the region through which the L. & N. operates varies widely. It includes the flat, marshy territory along the Louisiana and Mississippi gulf coast, the rolling countryside of central Alabama and western Tennessee and Kentucky, the level farmlands of south-central Illinois, and the rugged, mountainous terrain of eastern Kentucky and Tennessee, and western Virginia.

The climate of this region, in general, is comparatively mild, although it varies considerably between the northern and southern ends of the railroad, with frequent moderately heavy winter snows in the mountains of eastern Kentucky and Tennessee, occasional blizzard conditions through Illinois and Indiana, to the summertime subtropical weather in northwest Florida and along the gulf coast.

The territory served by the L. & N. extends from the western slopes of the Appalachian Mountains to the Mississippi River, and from the Ohio River to the Gulf of Mexico. Along the eastern boundary of this territory the L. & N. interchanges traffic with connecting railroads at Norton, Va.; Knoxville, Tenn.; Atlanta, Ga.; and Chattahoochee, Fla.

Along the southern, or gulf coast boundary, the principal interchange is, of course, with steamship lines at Pensacola, Fla.; Mobile, Ala.; and New Orleans, La. Along the western boundary the interchange points are at the Mississippi River crossings, at New Orleans, La.; Memphis, Tenn.; and East St. Louis, Ill.-St. Louis, Mo. Along the northern boundary, the principal interchange points are at the Ohio River crossings, at Evansville, Ind.; Louisville, Ky.; and Cincinnati, Ohio.

On the L. & N. we have nine operating divisions which are broken up into many seniority districts and subdivisions.

The principal points and mileages between which our through freight trains are operated under present conditions are:

East St. Louis, Ill., to Evansville, Ind., 163 miles.
Evansville, Ind., to Louisville, Ky., 152 miles.
Evansville, Ind., to Nashville, Tenn., 160 miles.
Nashville, Tenn., to Birmingham, Ala., 200 miles.
Birmingham, Ala., to Montgomery, Ala., 100 miles.
Montgomery, Ala., to Mobile, Ala., 178 miles.
Mobile Ala., to New Orleans, La., 136 miles.
Cincinnati, Ohio, to Louisville, Ky., 114 miles.
Louisville, Ky., to Nashville, Tenn., 190 miles.
Nashville, Tenn., to Bruceton, Tenn., 102 miles.
Bruceton, Tenn., to Memphis, Tenn., 130 miles.
Bowling Green, Ky., to Paris, Tenn., 132 miles.
Paris, Tenn., to Memphis, Tenn., 125 miles.
Nashville, Tenn., to Chattanooga, Tenn., 149 miles.
Chattanooga, Tenn., to Atlanta, Ga., 137 miles.
Cincinnati, Ohio, to Ravenna, Ky., 118 miles.
Ravenna, Ky., to Hazard, Ky., 98 miles.
Cincinnati, Ohio, to Corbin, Ky., 182 miles.
Corbin, Ky., to Etowah, Tenn., 162 miles.
Etowah, Tenn., to Atlanta, Ga., 131 miles.
Louisville, Ky., to Corbin, Ky., 170 miles.
Corbin, Ky., to Norton, Va., 136 miles.

I might say that our crews normally operate in through freight territories that I have listed here as our principal main line points. There are many branch lines of varying mileages in addition to the main line points mentioned.

Local freight trains in some instances cover the same distance as do the through freight trains. However, the majority of local freight trips are much shorter in length, mileagewise, but longer in length, hours-on-duty-wise.

Our longest through freight assignments, straightaway; that is, from point "A" to point "Z," are approximately 200 miles, and our shortest through freight runs are 98 miles.

Through freight trains are trains that operate between two points with few, if any, stops en route to set off or pick up cars. A through freight could be a train of perishable, piggyback, autos, coal, or miscellaneous commodities in various types of cars.

The type of work performed by locals, mine runs, and road switchers is switching at industrial plants, placing and pulling of cars from team tracks, placing empties and removing and switching loaded cars from coal mines, or assembling cars from various industries and tracks and switching them for movement by other trains. This is particularly the work of road switchers in highly industrialized areas where yard crews are not employed.

A yard crew is one that primarily works within a terminal whose activities could be assembling cars and putting them together for over-the-road movement by trains or the separating of cars on trains arriving at a terminal for further handling by yard crews for placement at industries, delivery to other railroads or for assembling in other trains for further over-the-road movements.

We have local freight trains on which mileages covered are from a maximum of 212 miles with 10 to 14 hours on duty dowh to a minimum of 14 miles with about the same hours on duty. The density of industries and the amount of work to be performed at such industries regulates the number of miles a local train might make on one trip. Road switchers may spend their entire tour of duty in going to and from one industry and switching that one industry while others may travel distances up to 25 or more miles between various stations performing service at industries or stations en route. Mine runs may vary in distances traveled from as little as 25 miles to as many as 100 miles. The hours on duty of the crews will vary greatly and in most cases has no relationship on these type runs to the miles actually traveled.

We have some through freight trains—primarily coal trains—which operate on a turnaround basis; that is, from point "A" to point "G" and return to point "A," whose mileages range from as little as 96 miles to as many as 239 miles per trip with the on-duty hours of the crew ranging from 6 to 14 or 15 hours.

We have through freight trains, local freight trains mine runs and/or road switchers operating on every division of the L. & N. The mine run operation is primarily in the State of Kentucky with some mine operation in Tennessee and Alabama. Therefore the territories covered by the different types of runs overlap in most instances and except for geographical location and the commodity handled, the type of work performed is the same.

The amount of switching performed, amount of standing time awaiting for connections and meeting or clearing trains would be entirely dependent upon the density of industry and/or towns or stations along the particular territory. The density of traffic over a particular segment of the railroad would determine the amount of time standing, meeting or clearing trains. There are some local freight trains, road switchers and mine runs that spend as much as 25 percent of their standing due to meeting trains in areas of high traffic density, while there are local freight trains, road switchers and mine runs in other areas that do not have any time standing due to meeting or clearing trains.

About 60 percent of the loads handled on the L. & N. originate on its own railroad. Therefore, a great number of crews on the L. & N. are in the local, mine run, and road switcher classification.

We have a number of unit coal trains on the L. & N. whose schedules are fast and which do not stop except to change crews en route either

to or from the loading or unloading locations. Mileage of these unit trains varies considerably, as do the distances over which the individual crews operate.

The L. & N. study was based on our actual operation of the entire system during the period October 16, 1965, through October 31, 1965, and projected to reflect the results on an annual basis.

In making this study, we examined each run that had trips on which the crew exceeded the allowable hours on duty under the proposed amendment. Each of these runs was redispatched and rearranged taking into consideration the work performed, the area traversed, the density of traffic, and the miles covered in such a manner as to allow compliance with the restrictions of the proposed bill.

At the same time, it was determined the number of additional men needed, additional locomotives and cabooses that would have to be purchased by the L. & N. as well as the additional cost to the railroad due to added away-from-home expenses which would result if saddled with the proposed amendment.

I might state here, sir, that the L. & N. study is based entirely on the 12-hour proposal, the 9-hour proposal would be, in my opinion, unbearable for the L. & N.

Mr. PICKLE. All right.

Mr. GRIMES. The enactment of a law reducing the time permitted for railroad operating employees to perform service from a maximum of 16 hours to a maximum of 12 hours would result in more than $3¾ million added expense per year to the L. & N. alone. This estimated additional annual cost is based on the following: (a) cost of additional train-miles, including crew expense, $1,117,344; (b) additional crew expense not requiring additional train-miles, $1,560,624; (c) additional locomotive expense including return on investment in additional locomotives, $944,520; (d) additional expenses for meal and lodging allowances, $136,752; and (e) expense for additional cabooses including maintenance and operation cost, $28,656.

Total estimated additional annual cost, $3,787,896.

The above cost figures take into consideration the fact that 24 additional locomotives and 24 additional cabooses would have to be purchased to power the added trains that would be required. However, it should be borne in mind that approximately $6 million would have to be appropriated immediately to purchase these additional locomotives and cabooses.

Mr. PICKLE. Mr. Grimes, let me interrupt your testimony. I am sure that the figures you have listed here are correct because you spent a lot of time in putting this study together. I don't challenge the figures but it just seems to me like this is a higher figure than I thought it would be if this small change were made.

Have you testified or submitted these figures to the Brotherhood of Locomotive Engineers for their comments or reaction?

Mr. GRIMES. No, sir.

Mr. PICKLE. I want to make a note here for the staff that I want these figures and the other figures calculated or evaluated by our own people. I am not saying that they are too large, I am just surprised they would be this large. I don't understand them.

What do you mean when you talk about cost of additional train-miles for through expense and additional crew expense not requiring additional train-miles?

Explain that to me just for my own satisfaction.

Mr. GRIMES. The cost of additional train-miles including crew expense would be in an area where we had to add another train.

Mr. PICKLE. Why would you have to add another train?

Mr. GRIMES. Because the one train could not make a trip on a branch line, for instance, they would go up and come back in the same day thus traversing the entire area and completing the work that is now assigned. Under the proposal, in some instances, we would have to run a crew up today and have another crew at the other end to come back today. That would be where additional locomotives would also be required.

Mr. PICKLE. Are you saying that you would have to have additional trainmen, that you could not put on additional people that make the trains that come on back?

Mr. GRIMES. In some cases we can put on additional people and make the trains come back.

Mr. PICKLE. This would not always follow?

Mr. GRIMES. Yes, sir; in the two categories in the A list.

Mr. PICKLE. Go ahead.

Mr. GRIMES. One example that I could give you for additional train-miles would be a local freight train, perhaps two of them, operating between point A and point G, one going A to G and one going G to A each day. Both of these trains exceed the proposed limitations.

In order to avoid exceeding that, we would have to add a turnaround to take up some of the work in between A and G in order to allow the two presently operated trains to get in within the proposed time. That would be additional train-miles. That would also be additional locomotive and caboose.

The situation where additional crew expense that does not require additional train-miles would be where we have a local that would be traveling, say, from A to G, 100 miles, and it takes him about 12 to 13 hours a day on the average. We would have to split this run somewhere near the halfway point and add another crew, each of which would receive a hundred miles.

Mr. PICKLE. As a minimum?

Mr. GRIMES. As a minimum. Now there would be some reduction in the pay of the crew that was presently operating the train. However, that reduction would not overcome the cost of the additional crew that we would have to add. That would be additional crew expense without additional train-miles.

Other instances would be crews that we now have in turnaround service that go out to a point and turn around and come back. Rather than allowing them to come back under the proposed amendment because the time would not be sufficient, we would have to let them lay over at the outlying point, bring another crew in to bring the train back, which would be additional crew expense without additional train-miles.

Mr. PICKLE. Go ahead with your statement, Mr. Grimes. I want to have these figures compared for my question. I believe you were on the middle of page 8 in your testimony.

Mr. GRIMES. Yes, sir.

The proposed change would result in the following detrimental effects to our service:

1. Extension of schedules would be required in some areas due to the necessity for additional stops account crew changes at points which are now intermediate.

2. Delays would be encountered in many instances where it would not be feasible to have a regular crew change when it was necessary to relieve crews on line of road with another crew deadheaded to perform the relief service.

3. Some areas of local service now being performed on a Monday-through-Saturday turnaround basis would have to be reduced o at triweekly basis if the proposal is adopted. In other words, one direction Monday, Wednesday, and Friday, and the opposite direction on Tuesday, Thursday, and Saturday, as it would be economically unsound to maintain a daily operation due to the amount of business involved. This would, in itself, result in a 24-hour delay to cars now departing the home terminal on Tuesdays, Thursdays, and Saturdays as well as delay to cars departing what is now an intermediate point on Mondays, Wednesdays, and Fridays due to their having to lay over to fit the day of operation from those points.

4. On some branch lines it would be necessary, on occasion, to start the return trip from a point short of the normal turning point in order to allow the trip to be completed within the maximum proposed limitations, thus reducing service to the areas not traversed.

5. In some areas it would be impracticable to reduce the service and it would be necessary to add additional trains in the same territory, thus increasing traffic density, which produces additional delay.

6. There would be instances at stations or industries where part or all the work would not be performed when it was apparent that the work could not be completed within the limitations of the proposed amendment and it would not be economically sound to send relief crews.

The passage of the proposed bill would have a serious, adverse effect to our employees in that their earnings would be reduced and their hours at other-than-home terminals would be increased in many instances.

The estimated average earnings reduction in overtime alone would be approximately $332 a year per employee. However, it is estimated that the overall reduction would be much greater due to the reduced mileages over which crews would operate where the hours-of-service reduction forced a shortening of the run. It should be borne in mind that this is an estimated average for all employees, and there would be instances where some employees would suffer considerably more. In fact, the redispatching and rearranging of the runs as previously mentioned would result in the following number of employees receiving reduced annual earnings: Engineers, 106; conductors, 106; brakemen, 212.

Of the 106 engineers affected the average annual earnings would be reduced approximately $2,091 per man; of the 106 conductors affected, their average annual earnings would be reduced approximately $1,713 per man; and, of the 212 brakemen affected, their average annual reduction in earnings would be approximately $1,520. In other words, there would be at least 424 employees adversely affected to the tune of an average of $1,717 each.

Mr. PICKLE. Mr. Grimes, you testified at the beginning of your statement that the average would figure out to be about $332 a year and yet you list some 424 employees and you say their loss was $1,717.

Now where is the extra amount that is lost in there?

Mr. GRIMES. The $332, sir, is the average annual reduction in overtime alone.

Mr. PICKLE. Just overtime?

Mr. GRIMES. Overtime losses.

Mr. PICKLE. I understand.

Go ahead.

Mr. GRIMES. The additional time at away-from-home terminals will be increased for many employees; in fact, a substantial number of employees now operating in turnaround service without any time being spent at away-from-home terminals would be required to spend away-from-home terminal time due to the necessity for splitting the runs at the turning point no account of inability to complete the trip, as now operated, within the required maximum limitations as restricted by such an amendment.

There would be a substantial number of employees that are now on long mileage runs that would spend approximately one-third more time at away-from-home terminals due to mileages being shortened and, under the proposed operation, it would be necessary for them to work more trips in order to make minimum mileages as required by mileage allowances desired by employees and provided for by collective bargaining agreements.

This not only results in increased away-from-home time, but in decreased earnings.

Our study shows that a total of 164 engineers, conductors, and brakemen, who do not now spend time away from home, would spend a minimum of 104 hours per month in away-from-home layovers should the runs be arranged to comply with the proposed restrictions.

I would like to give some specific examples of the adverse effect this proposed hours of service change would have on our employees.

1. Crews handling through freight trains operating between Birmingham, Ala. and Montgomery, Ala., now in most instances turn back out of Montgomery, Ala., the away-from-home terminal, without rest or without any appreciable time off duty but under the proposed amendment this could not be permitted as the round trip could not be completed within the maximum limitations.

This would result in each crew operating into Montgomery having to take at least 8 hours rest at Montgomery and cause additional crews to be assigned to man the same number of trains now operated under the present hours of service law. This would not only reduce the earnings of the crews involved due to a reduction in the number of trips per month, cause layover time in the away-from-home terminal that does not now exist, but would also reduce the layover time they are now enjoying at their home terminal.

Mr. PICKLE. Mr. Grimes, at that point, isn't there another factor? You have the turnaround, if a man goes back that he then is required to work 15-plus hours?

Mr. GRIMES. I don't understand you, sir.

Mr. PICKLE. These results that you mentioned may be true but is it not also true that if you didn't have change in the law that he could

turn around and go back and yet his hours would be accepted? It seems to me like all these results you mention on one hand is without the fact that you are going to work a man to a point in some instances where he is working 14, 15 hours.

Mr. GRIMES. He would in most cases exceed the 12-hour proposal in a round trip from Birmingham to Montgomery and return. Now under our present operation these men, and I might add here that the employees' representatives ask for these runs to be designed in this fashion, to be set up in this manner.

Mr. PICKLE. I believe I can understand why they ask for it; they have seniority and almost have to do it and maybe that division in their own group explains part of the problem they have. I just simply want to make the point that no matter what the technicality involved, somehow there is something basically wrong when we require a man to work in this day and age up to 16 hours a day, I don't care whether you are talking about the railroad or the employee.

Now the problem that we would have, that is basically wrong. Go ahead, please.

Mr. GRIMES. 2. A local freight crew operating between Montgomery, Ala. and Mobile, Ala., exceeds on most occasions, the restrictions proposed by the amendment. Therefore, it would be necessary to split these runs at Flomaton, Ala., which is the approximate halfway point. The operation then would be one crew from Montgomery to Flomaton, another crew from Flomaton to Mobile, and vice versa.

This would greatly reduce the earnings of the men now manning these runs, and would not reduce the time away from home, but would merely make their layovers longer, waiting on the return of the train in the opposite direction.

The proposals, if adopted, would result in runs being established between the present away-from-home terminal—Mobile, Ala.,—and Flomaton, Ala., which is now an intermediate point. Most of the employees on this division reside in the Montgomery, Ala. area and it would result in their either having to change their place of residence, to Flomaton or Mobile, or be on a run that operates between outlying points without any at-home time.

3. We now have a turnaround through freight crew which operates 7 days a week from Tuscaloosa, Ala., to Birmingham, Ala., and return, and the proposed bill, if adopted, would require the run to be split at Birmingham and the assignment of two crews. Aside from the earnings of the present employees being reduced by 40 to 50 percent, it would result in their being away from home every other night where, under present operations, all layover time is at their home terminal.

4. Locals presently operating between Evansville, Ind., and Guthrie, Ky., in each direction, 6 days a week, would have to be changed to operate between Evansville, Ind., and Hopkinsville, Ky., which is intermediate to Guthrie, Ky. This would result in a turnaround having to be established to serve the area from Hopkinsville to Guthrie and return.

Aside from the reduced earnings and an extension of the off-duty time at the away-from-home terminal of the present crews, the provision of the proposed amendment would require the assignment of a turnaround crew to operate between an intermediate point—Hopkinsville—and the present away-from-home terminal of the runs—

Guthrie—and, as most of the train service employees on this division live in the Evansville area, the men who manned the turnaround would be away from home all of the time or else would have to change their place of residence from Evansville to Hopkinsville.

5. Present operation of local freight trains between Evansville, Ind., and East St. Louis, Ill., 6 days a week, in both directions, would have to be split at Mount Vernon, Ill., if the proposed restrictions are adopted, resulting in a considerable decrease in earnings, and a the same time an increase in the away-from-home terminal time.

This would result in two additional crews being assigned to man these runs between Mount Vernon, Ill., and East St. Louis, Ill., and as most of the men in this seniority district live in the Evansville, Ind., area, it would result in their having to relocate their homes, or else protect the job and be away from home the full 6 days per week.

6. Crews operating Nashville, Tenn., to Mount Pleasant, Tenn., at the present time in turnaround service would have to be adjusted to operate in straightaway service if the amendment to the hours of service law is adopted. One crew would operate Nashville to Mount Pleasant, Tenn., one day, and return from Mount Pleasant to Nashville the next day, thus resulting in away-from-home layover time at Mount Pleasant, reduced earnings, and the necessity for additional employees as double the number of crews would be required.

7. Present operation of trains Nos. 81 and 80 between Nashville, Tenn., and Birmingham, Ala., via Columbia, Tenn., would have to be changed and the crews split at Oakworth, Ala., to comply with the new law.

These trains are now manned by three assigned crews working 1 day Nashville to Birmingham, 1 day Birmingham to Nashville, and then off 1 day. In other words, at an away-from-home terminal for rest period every third day. with more than 24 hours every 3 days at home.

Under the split arrangement that would be necessary to comply with the proposed amendment, there would be two crews assigned to each end of the run, Nashville to Oakworth and Oakworth to Birmingham, and each of the crews would spend layover time at an away-from-home terminal every other day, and would have much less than 24 hours, possibly only 12 to 15 hours, at the home terminal during layovers. They would also work 6 days per week where the crews now assigned only work 4 days per week. This would also reduce the earnings of the crews presently assigned.

8. We now have a crew that works out of Birmingham, Ala., to Varnons, Ala., in turnaround service and, due to the time necessary to perform the work assignments at industries, it would result in our having to split this assignment at Calera, Ala., and assign an additional crew working on a straightaway basis. This would result in layover time away from home every day, there being no away-from-home time now, and greatly reduce the earnings for those now assigned to the run.

9. Local freight trains Nos. 7 and 8 operating between Etowah, Tenn., and Atlanta, Ga., would be to be split at Cartersville, Ga., thus resulting in longer layover periods away from home, reduced overtime, and reduced mileage which would result in a substantial reduction in pay for those assigned. The additional crews assigned to handle the trains between Cartersville and Atlanta would be on a run that would be away from home at either end of its territory, as most of

the men in this seniority district reside at Etowah, Tenn., thus resulting in men either being away from home all of the time or having to change their place of residence.

10. Under the present hours-of-service limitations, we operate, in turnaround service, coal trains from Nashville, Tenn. to Widows Creek, Ala., a distance of 239 miles for the round trip for which employees are paid approximately 2½ days' pay and the runs are made in an average of 12 to 14 hours. However, based upon the changes that would be required by a lessening of the permissible hours on duty, these crews would have to be relieved and take rest at an intermediate point which would result in their being held at an away-from-home terminal point and a substantial reduction in earnings. This would also require additional employees.

There are many runs other than the examples I have just mentioned where the proposed changes in the hours of service law would affect our employees both in their time away from home and in their off-duty time at home as well as reductions in their earnings.

I might stray from the prepared statement for a moment and explain a run, that through a delay that occurred I investigated pretty closely just last Thursday night and Friday morning where a passenger train operates between Cincinnati, Ohio, and Corbin, Ky. We only have one passenger train each way per day in that area. The crews assigned to these two passenger trains, one each way, consists of one engineer, a fireman, a baggage man, a flagman and a conductor. At the request of the labor organizations we allow the engineer and the brakeman and flagman, the baggage man, to do what we call double back out of Corbin. The men live in Cincinnati area, the baggage man, flagman, and engineer. They go on duty for the southbound train at 6:10 p.m. due to depart Cincinnati at 6:40 p.m. They are due to arrive Corbin, Ky., at 11:45 p.m., at which time they go off duty, 5 hours 35 minutes later.

Now No. 18, the northbound train, is due to leave Corbin at 3:25 a.m. The engineer, baggageman and flagman go on duty for that trip at 2:55 a.m. having been off duty, if the trains are on time, at Corbin only 3 hours 10 minutes. They arrive back in Cincinnati at 8:10 a.m. after 5 hours 15 minutes on duty.

Now that total time from the time they first went on duty at Cincinnati until they arrive back at Cincinnati is 14 hours provided the trains were called to depart Cincinnati on time and arrive back on time.

This man is actually gone from his home terminal 14 hours. The engineer has made $85.99 provided no arbitraries of any sort are included. This man makes 12 trips per month. He spends 30 hours, about 34 hours, off duty at his home terminal every other day or out of every 2 days he spends 34 hours at his home terminal off duty. He is actually gone from his home terminal 14 hours even though under an ontime operation he is off duty at Corbin for 3 hours 10 minutes. He only works 12 trips a month. For the month of August, I am speaking strictly for the month of August, this engineer other than having his normal layover time and due to high earnings does not make the trips, on August 25, 27, 29, or 31, he is off during that period. If he makes nothing but the straight mileage rate, he earns $1,031.88.

The other engineer on the opposite side of this run makes the same number of days per month.

Now during the month of August, account of a 31-day period, the other man on the opposite side is only off three trips over and above his normal layover. Now if this is changed, this hours of service, we can not allow that kind of an operation for our crews. It really means nothing to the railroad. We take the chance in that if the southbound train encounters trouble, which it did Thursday and which caused me to look into this thing, then the northbound train gets delayed because the arrival of the southbound engineer, flagman, and baggageman is delayed. That is costly to the railroad in some instances, but under normal operation we really don't care whether the man has a layover at Corbin or at Cincinnati.

The organizations ask for this and we set it up. There are many of them throughout the L. & N. Railroad where they are set up that way, not just for engineers but for the trainmen and the conductors.

Now I might add that the conductor's operation on this particular train, operates from Cincinnati all the way through to Knoxville, Tenn. He goes a hundred miles, beyond where the engineer, fireman, baggageman, and flagman stop.

This man under the proposed bill would get into Corbin at 11:45 p.m. Monday night. He would stay there until 3:25 a.m. Wednesday. Then he would get back to his home terminal at 6:10 a.m. on Wednesday and be ready to go again at 6:10 p.m. Wednesday night. It would just reverse this situation. This is one of many, many examples where the Brotherhoods have requested certain arrangements on their runs, and the L. & N. Railroad and I am sure other railroads make these arrangements where it does not adversely affect our service under normal circumstances and where it does not cost us more money.

I have read the testimony before this committee by Mr. H. E. Gilbert, president of the Firemen's organization, and by Engineer E. L. Howard, who is employed by the Louisville & Nashville Railroad Co.

I feel that a number of statements made by Mr. Gilbert and Mr. Howard are very misleading insofar as operations on the L. & N. are concerned and that I would be remiss if I failed to clear the record as to such misleading statements.

I noted that, in answer to a question by Senator Cannon, Mr. Gilbert said, and I quote:

> In looking over the reasons for some of these long hours on duty, I have a strong belief that with the exercise of some managerial prerogatives that they have, they might be able to avoid some of the delays that occur and create the excessive hours in the programing of the work, et cetera.
>
> And after all, that is something that we do not have any control over, that is, the employees or the employees' representatives. The work is programed by the officials of the railroad and when the man bids in a job, for example, he does not know whether he is going to work 2 hours or 16 hours. He takes the job and the work is programed by the railroad officials (U.S. Senate, Report of Proceedings, volume I, p. 91, June 28, 1966).

Mr. Gilbert's answer is completely misleading.

I agree that railroad work varies considerably from day to day and from train to train. However, the particular work or hours of a certain assignment is more or less constant. In other words, a particular local freight train may work from 6 to 9 hours in one territory while in another territory a local freight train may work on a regular basis from 9 to 12 hours.

Railroad men know the kind of train or assignment they are taking or bidding on and have knowledge of the normal working hours of a particular assignment and the work that is done by the assignment before they bid for it.

I might stray here for a moment and say I was a brakeman and a conductor for 10 years and I had a good knowledge of what the jobs on the division which I served did, and I knew what I was getting when I bid on a job. I didn't bid on them blindly as Mr. Gilbert indicated.

While it is true that the hours on duty on each assignment will not be the same from day to day, the hours on duty will not vary to the exaggerated extent—from 2 to 16 hours—that Mr. Gilbert would have it believed, without some unusual occurrence.

Before both the House and Senate committees, Mr. Gilbert, as well as Mr. E. L. Howard, spoke of a case involving Engineer J. C. Lewis of the L. & N. who was called for duty at 8:30 a.m., April 29, 1966.

Engineer J. C. Lewis worked 15 hours and 59 minutes, was relieved and deadheaded to Louisville as stated, and he was called back to duty on completion of his rest, as stated. However, the terms used to describe this occurrence were designed for emotional appeal rather than for conveyance of fact.

Mr. Gilbert states, "The fact that he did not have a chance to sleep obviously did not concern the L. & N. officials." (U.S. Senate, Report of Proceedings, vol. I, p. 24, June 28, 1966; House of Representatives, Report of Proceedings, vol. I, p. 27, June 24, 1966.)

Being realistic, if Engineer J. C. Lewis had not been called for this service that he stood to protect at 9 a.m. on April 30, the L. & N. would have been forced to pay a penalty claim for not using him in accordance with the agreement he worked under. The penalty claim could be equal to the amount earned by the engineer who was called instead of him. In any case, the least amount we would be penalized would be 3 hours at straight-time rates.

As for Engineer Lewis working 15 hours and 59 minutes, I would like to point out that the Engineers' agreement, as well as the Firemen's agreement, required that the railroad company allow Mr. Lewis to work as near to the 16-hour limit as possible before relieving him.

I would like to quote to you that part of the agreement the Brotherhood of Locomotive Firemen and Enginemen—of which Mr. Gilbert is president—made with the L. & N. which requires this (art. 23, sec. (e)3):

> When a train is not tied up but is kept moving and it is necessary to relieve the firemen he should be permitted to work as close to the 16-hour limit as possible before being relieved by the relief fireman.

The agreement between the Brotherhood of Locomotive Engineers and the L. & N. reads exactly the same except the word "engineer" is used rather than the word "fireman." (Art. 23(e)3.)

I have references indicated there where they can be found in the two agreements that I have mentioned.

Mr. PICKLE. You are saying that he chooses to work and return rather than to rest and he could rest if he so elected?

Mr. GRIMES. I am saying, Mr. Chairman, that we handled Mr. Lewis as we are required to by the agreement between the Brotherhood of Locomotive Engineers, which he was working under at that

time, and the railroad company. Had we done otherwise, we would have been penalized.

Mr. PICKLE. You could have been penalized, but I imagine they would want to change part of these rules too if the bill were passed.

Mr. GRIMES. I get to another place in here, Mr. Chairman, that shows what Mr. Lewis could have done had he wanted to say home.

Mr. PICKLE. All right. Go ahead.

Mr. GRIMES. Much has been said by Mr. Gilbert and others in connection with employees being abused by not being allowed to have 8 hours off duty after completing a trip or after deadheading.

I would like to quote an agreement rule Mr. Gilbert's organization made with the L. & N. with respect to calling crews and reporting for duty (art. 24, sec. 2(c)):

> A fireman arriving at the division home terminal on a deadhead trip must show on the register the time he was off duty previous to deadheading, otherwise he will not be considered subject to call for another run or job on which he would report for duty or start deadheading within 8 hours from the time he registered in on the deadhead trip.

This means that if a fireman, arriving at his home terminal after deadheading, desires to be called for another run in less than 8 hours after he reached the terminal, he must show on the register the time he was relieved from the service trip prior to deadheading. If he does not show this information on the register, then he will not be called to report for duty or start another deadhead trip until after the expiration of 8 hours from the time he arrived at his home terminal at the completion of the deadhead trip.

The point I am trying to make is that this matter has been negotiated between the labor organization and the L. & N., and in my opinion, as well as in the opinions expressed in the statements of Mr. Manion and Mr. Wolfe before this committee, such matters should continue to be negotiated by railroads and labor organizations rather than forced upon either party by legislation.

Mr. PICKLE. Have we had any attempts for bargaining on this point?

Mr. GRIMES. Not to my knowledge, sir. I am not that familiar with the labor negotiation.

Mr. PICKLE. Mr. Grimes, let me interrupt you at this point. We have just had the one bell for the House call. I am going to ask again that the entire statement be included this morning. We will not be able to finish all your testimony.

Mr. Grimes, go ahead.

Mr. GRIMES. Mr. Gilbert presented a list to this committee which purports to show the trains and duty time assignments on the Main Stem Second Division of the L. & N. between Louisville, Ky., and Nashville, Tenn., for the month of March 1966. He called attention to some figures that indicated the hours of service law was violated on three of these assignments and stated that many of the assignments were runs of 15 hours or more and I assume intended to convey to you that these were very undesirable assignments due to the long hours of work required.

Mr. Gilbert stated, and I quote:

> Mr. E. L. Howard, who prepared the list of L. & N. assignments, will appear before you as a witness and explain in detail the work-hour problems confronting crews on this particular division. (House of Representatives, Report of Pro-

ceedings, vol. I, p. 35, June 24, 1966; U.S. Senate, Report of Proceedings, vol. I, p. 44, June 28, 1966.

I fail to find in the record where Mr. Howard discussed this listing of assignments as Mr. Gilbert indicated he would. However, I presume that some of the questions asked by committee members could have related to the statement submitted by Mr. Gilbert but I am unable to identify them.

The list submitted by Mr. Gilbert apparently was selected to indicate or to convey that all of the assignments in this territory were of long-hour duration. Also, it was indicated that it was one seniority district while actually the runs cover two seniority districts: main stem first and main stem second and the men from both districts man the runs.

The listing fails to show a true picture of the hours on duty of the men that were listed from the two seniority districts during the month of March 1966.

There were 99 engineers on the seniority roster on the main stem first division as of January 1, 1966, and only 23 of these men were used on the list presented by Mr. Gilbert.

On the main stem second division which operates in this territory there were 28 men on the seniority roster as of January 1, 1966, and only 15 were listed for 1 or more trips during the period.

The exhibit attached as exhibit 1 accompanying my statement—which I ask the committee to receive for the record—contains the following information regarding each man shown on the list submitted by Mr. Gilbert.

(The exhibits accompanying Mr. Grimes' statement follow:)

EXHIBIT 1

Statement showing work record for month of March 1966, of men listed on exhibit submitted by H. E. Gilbert and prepared by E. L. Howard

MAIN STEM 1ST (99 MEN ON ROSTER)

Seniority rank	Name	Trips	Hours per month—		Average hours per trip	Monthly wages
			Off duty	On duty		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
9	U. A. Whittaker	11.0	631.1	112.9	10.3	$675.82
19	J. E. Feather	18.0	547.8	196.2	10.9	1,208.30
21	P. K. Jenkins	18.0	553.4	190.6	10.6	1,186.32
22	W. T. Jackman	17.0	570.9	173.1	10.2	1,095.02
26	M. G. Westerfield	18.0	550.9	193.1	10.7	1,107.72
28	B. G. Pipes	15.0	593.1	150.9	10.1	896.69
30	C. S. Brady	17.0	551.1	192.9	11.3	1,089.54
35	H. G. Rexroat	20.0	522.3	221.7	11.1	1,184.45
	Subtotal	134.0	4,520.6	1,431.4	10.7	8,443.86
	8-man average	16.8	565.1	178.9	10.7	1,055.48
46	J. P. Daugherty	25.0	538.8	205.2	8.2	1,006.11
57	T. G. Wallace	26.0	526.0	218.0	8.4	1,019.23
58	L. D. Durrett	27.0	519.6	224.4	8.3	1,053.24
59	C. O. Jackson	22.0	566.9	177.1	8.1	909.84
60	H. R. Gray	27.0	507.5	236.5	8.8	1,072.58
67	H. G. Tatum	24.0	531.4	212.6	8.9	1,077.76
70	W. H. Harness	26.0	517.7	226.3	8.7	1,064.01
73	A. R. Carter, Jr	19.0	571.5	172.5	9.1	967.33
	Subtotal	196.0	4,279.4	1,672.6	8.5	8,170.10
	8-man average	24.5	534.9	209.1	8.5	1,021.26

Statement showing work record for month of March 1966, of men listed on exhibit submitted by H. E. Gilbert and prepared by E. L. Howard—Continued

MAIN STEM 1ST (99 MEN ON ROSTER)—Continued

Seniority rank	Name	Trips	Hours per month—		Average hours per trip	Month'y wages
			Off duty	On duty		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
77	C. E. McFadden	16.0	584.3	159.7	10.0	[1] $1,136.02
80	C. Payne	28.0	501.4	242.6	8.6	1,090.73
86	W. D. Lewis	23.	538.3	205.7	8.9	1,174.97
87	B. C. Hooper	14.0	611.2	132.8	9.5	[2] 978.71
89	J. A. Perdue	28.0	491.1	252.9	9.0	1,218.80
93	M. L. Ford	20.0	569.0	175.	8.8	869.60
95	E. N. Fields	25.0	479.5	264.5	10.6	1,156.64
	Subtotal	154.0	3,774.8	1,433.2	9.3	7,625.47
	7-man average	22.0	539.3	204.7	9.3	1,089.35
	Main stem 1st, total	484.0	12,574.8	4,537.2		24,239.43
	23-man average	21.0	546.7	197.3	9.4	1,053.89

MAIN STEM 2D (28 MEN ON ROSTER)

1	J. W. Pinkleton	18.0	551.1	192.9	10.7	$1,082.10
6	H. M. Collins	18.0	568.8	175.2	9.7	1,080.52
10	R. A. Williams	17.0	549.4	194.6	11.4	1,200.72
11	W. J. Alexander	19.0	553.1	190.9	10.0	1,179.76
14	W. C. Roddy	19.0	561.9	182.1	9.6	1,158.29
15	S. D. Holmes	9.0	634.0	110.0	12.2	[3] 862.02
18	E. V. Deener	19.0	568.0	176.0	9.3	1,207.08
19	N. B. Cole	17.0	553.4	190.6	11.2	1,100.48
20	E. L. Howard	13.0	631.1	112.9	8.7	1,148.19
23	J. P. White	11.0	602.3	141.7	12.9	1,013.72
24	E. B. Pulley	20.0	502.2	241.8	12.1	944.33
25	W. H. Anderson	20.0	581.7	162.3	8.1	1,178.06
26	R. B. Campbell	19.0	534.6	209.4	11.0	915.96
27	J. C. Tucker	23.0	591.3	152.7	6.6	827.30
28	E. W. Pulley	22.0	529.2	214.8	9.8	974.04
	Main stem 2d, total	264.0	8,512.1	2,647.9	10.0	15,872.57
	15-man average	17.6	567.5	176.5	10.0	1,058.17
	Grand total, main stem 1st and 2d	748.0	21,086.9	7,185.1	9.6	40,112.00
	38-man average	19.7	554.9	189.1	9.6	1,055.58

[1] Includes vacation, $400.81.
[2] Includes vacation, $350.32.
[3] Includes vacation, $425.04.

EXHIBIT 2

Through freight assignments operated between Louisville and Cincinnati on each Thursday during March 1966

Train No.	Date	Hours on duty	Train No.	Date	Hours on duty
(1)	(2)	(3)	(1)	(2)	(3)
76	Mar. 3	8'15"	Extra north	Mar. 17	9'23"
74	do	10'00"	Do	do	8'35"
72	do	8'30"	71	do	7'05"
75	do	12'15"	73	do	10'30"
73	do	7'00"	76	Mar. 24	7'00"
71	do	9'05"	74	do	7'55"
76	Mar. 10	8'15"	72	do	7'40"
74	do	7'10"	71	do	6'40"
72	do	7'20"	73	do	6'55"
75	do	10'35"	75	do	9'45"
73	do	6'56"	76	Mar. 31	9'35"
71	do	5'40"	74	do	9'41"
76	Mar. 17	10'35"	72	do	7'35"
74	do	9'10"	71	do	5'40"
72	do	8'25"	73	do	8'15"
			75	do	7'50"

NOTE.—Total hours on duty, 259.5; total trips, 31; average time on duty, 8.4 hours.

Mr. GRIMES. Column 1 shows the employee's standing on the seniority roster.

Column 2 shows the employee's name.

Column 3 shows the total number of trips made by the employee during March 1966.

Column 4 shows the total number of hours off duty during March 1966.

Column 5 shows the total number of hours on duty during March 1966.

Column 6 shows the average hours on duty per trip for the particular employee.

Column 7 shows the monthly wages of the particular employee during March 1966.

Of the 23 men shown on the main stem first seniority roster you will note that the 8 men shown on Mr. Gilbert's statement with the highest seniority worked an average of 16.8 trips during the month and were on duty an average of 10.7 hours per trip worked. The next 8 men on that statement, in seniority order, made an average of 24.5 trips during the month for an average of 8.5 hours on duty per trip while the 7 men shown on the statement with the least seniority worked an average of 22 trips during March with an average of 9.3 hours on duty per trip.

The point is that the eight men with the highest seniority standing selected the jobs with the highest number of hours on duty per trip which clearly indicates that that is the preference of these men and, I believe, of railroaders in general—to work a few more hours per trip, work less days per month, and have more time off duty per month.

It will be noted that the earnings of the eight men with the highest seniority totaled $8,443.86 for the month for an average of $1,055.48 per employee while the earnings of the next eight men totaled $8,170.10 for the month for an average of $1,021.26 per employee.

From the above you will note that the men with the highest seniority standing—which gives them the choice of assignments—desire the runs with the highest average hours on duty per trip and I think the reason is obvious. They worked an average of 16.8 days each during the month whereas the next eight men, who only averaged 8.5 hours on duty per trip, worked an average of 24.5 days per month, and made approximately the same amount of money per employee.

As of January 1, 1966, there were 28 men on the seniority roster on the main stem second division, of which only 15 were included in the listing furnished by Mr. Gilbert.

Mr. PICKLE. Mr. Grimes, let me interrupt you here. I don't know that I have heard your statement about the engineer, Mr. Lewis, with regard to the option he could have had with the 15 hours and 59 minutes. You said that you would be penalized if you had not let him work because of your agreement with the brotherhood that said they could work if the train was moving. Now what was his option? What could he have done? Have you covered that?

Mr. GRIMES. Mr. Lewis, under the engineers' agreement?

Mr. PICKLE. Yes.

Mr. GRIMES. I am not speaking of the 15 hours 59 minutes when I say we would have been penalized, I was speaking, if we had not

called him for the 9 a.m. call the next morning is when we would have been penalized.

Mr. PICKLE. I had the impression that you were saying if you had not called him right back after that 15 hours and 59 minutes.

Mr. GRIMES. No, sir. He deadheaded in from that point and when he got in, his agreement and the agreement that the engineers' organization has with the railroad, he did not lay off or mark off duty, therefore, he was marked up and ready for duty, and had we not used him, then we would have been subject to the penalty that I mentioned, either pay him what the man earned that did catch the trip, or a minimum at least of 3 hours.

Mr. PICKLE. You said that you were going to point out what his option could have been. Now what else could he have done?

Mr. GRIMES. He could have marked off duty. He could have marked off had he not been able to work, had he not been physically fit to work.

Mr. PICKLE. How much rest did he actually have?

Mr. GRIMES. I don't know, Mr. Chairman. I have no real way of knowing.

Mr. PICKLE. You don't have any idea whether he rested 1, 2, or 6 hours?

Mr. GRIMES. No, sir. He was off duty. What is required by law? I have no idea of what he actually did.

Mr. PICKLE. Would you say less than 3 hours would be assumed?

Mr. GRIMES. I don't have any idea, sir, as to how many actual hours of rest that he had.

Mr. PICKLE. But you called him back at 9 a.m. on April 30?

Mr. GRIMES. That is correct.

Mr. PICKLE. He reported at 8:30 on April 29. Now when did he actually get to Louisville or get to this point where his time was running out?

Mr. GRIMES. I don't recall the exact time that he said or that Mr. Gilbert stated that he got to Louisville.

Mr. PICKLE. It seems to me that would be pertinent to the point in argument here.

Mr. GRIMES. Sir, the agreement with the labor organization prevented us from doing anything but calling Mr. Lewis. That is the point I am trying to make. If Mr. Lewis had stayed up and walked around town we would have still had to have called him based on the agreement between the labor organization and the railroad.

Mr. PICKLE. I am assuming that this is one of the things they would want to change. Just because they have that in their agreement is no explanation of the fact that the man may or may not have worked excessive hours. That would be one of the rules I assume, that they would want to change if this law were to pass. Just because they have that agreement, that in itself does not say the man can work him 24 hours, 16 hours, whatever the time is, when that 15 hours 59 minutes comes to pass.

You have no idea how long he was there before he was called back to duty? You just say because you have an agreement you have to call him back at 9 a.m. the next morning?

Mr. GRIMES. No, sir. I say that he was off duty more than the period required by law and therefore——

Mr. PICKLE. How long was that?

Mr. GRIMES. More than 8 hours.

Mr. PICKLE. You are saying then he was at liberty at this point more than 8 hours before he went back on duty at 9 a.m. on April 30?

Mr. GRIMES. I am saying, Mr. Chairman, that from the time he was relieved from his 15 hours and 59 minutes on duty he was off more than 8 hours until the time he went back on duty the next morning at 8:30.

Mr. PICKLE. You mean the next morning at 9 o'clock?

Mr. GRIMES. Well, 8:30 or 9, whichever it was.

Mr. PICKLE. I want to be sure that I understand you. You are saying from the time he left at 8:30 a.m. on April 29 and the time that he was put back on duty at 9 a.m. on April 30, that in between there he had 8 hours off duty?

Mr. GRIMES. Yes, sir; that is what I am saying.

Mr. PICKLE. All right. I want that checked.

Mr. Grimes, I am going to interrupt at this point. We only have 1 minute until the bell and I want to ask if the gentleman on my right has any questions at this point.

Mr. DEVINE. Not at this time, Mr. Chairman.

Mr. PICKLE. I believe that in view of the time involved Mr. Grimes, I am going to rule that this committee will be adjourned. Your entire statement will be put in the record, however.

(Mr. Grimes' full statement follows:)

STATEMENT OF R. L. GRIMES, ASSISTANT CHIEF TRANSPORTATION OFFICER-OPERATIONS, LOUISVILLE & NASHVILLE RAILROAD CO.

My name is R. L. Grimes. I am Assistant Chief Transportation Officer-Operations of the Louisville and Nashville Railroad Company (L&N) with offices in Louisville, Kentucky. I have been with the L&N over twenty-five years, starting as a brakeman in February 1914. I worked as a brakeman and later as a conductor in all classes of train service until May 1951 at which time I was appointed Assistant Trainmaster. I have also served as Trainmaster, Assistant Superintendent, and Division Superintendent, being appointed to my present position on July 1, 1963. In my present position, I am responsible for the overall train and yard operations on the L&N system.

I have made a study and analysis of the impact on operations on the L&N that would result if changes are made as proposed in the Hours of Service Law. This study was based on our actual operations over the entire system during the period October 16, 1965 through October 31, 1965.

The Louisville and Nashville Railroad operates 5,645 miles of railroad, of which approximately 1,800 miles is in Kentucky, 1,650 miles in Tennessee, 1,250 miles in Alabama, and relatively small mileage in Georgia, Florida, Illinois, Virginia, Mississippi, Louisiana, Indiana, North Carolina, Missouri and Ohio.

The geography and topography of the region through which the L&N operates varies widely. It includes the flat, marshy territory along the Louisiana and Mississippi gulf coast, the rolling countryside of central Alabama and western Tennessee and Kentucky, the level farmlands of southcentral Illinois, and the rugged, mountainous terrain of eastern Kentucky and Tennessee and western Virginia. The climate of this region, in general, is comparatively mild, although it varies considerably between the northern and southern ends of the railroad, with frequent moderately heavy winter snows in the mountains of eastern Kentucky and Tennessee, occasional blizzard conditions through Illinois and Indiana, to the summertime subtropical weather in northwest Florida and along the Gulf Coast.

The territory served by the L&N extends from the western slopes of the Appalachian Mountains to the Mississippi River, and from the Ohio River to the Gulf of Mexico. Along the eastern boundary of this territory the L&N interchanges traffic with connecting railroads at Norton, Virginia; Knoxville, Tennessee; Atlanta, Georgia; and, Chattahoochee, Florida. Along the southern, or gulf coast boundary, the principal interchange is, of course, with steamship lines at Pensacola, Florida; Mobile, Alabama; and, New Orleans, Louisiana. Along the

western boundary the interchange points are at the Mississippi River crossings, at New Orleans, Louisiana; Memphis, Tennessee; and, East St. Louis, Illinois-St. Louis, Missouri. Along the northern boundary, the principal interchange points are at the Ohio River crossings, at Evansville, Indiana; Louisville, Kentucky; and, Cincinnati, Ohio.

On the L&N we have nine operating divisions which are broken up into many seniority districts and sub-divisions.

The principal points and mileages between which our through freight trains are operated under present conditions are:

	Miles
East St. Louis, Ill. to Evansville, Ind	163
Evansville, Ind. to Louisville, Ky	152
Evansville, Ind. to Nashville, Tenn	160
Nashville, Tenn. to Birmingham, Ala	200
Birmingham, Ala. to Montgomery, Ala	100
Montgomery, Ala. to Mobile, Ala	178
Mobile, Ala to New Orleans, La	136
Cincinnati, Ohio to Louisville, Ky	114
Louisville, Ky. to Nashville, Tenn	190
Nashville, Tenn. to Bruceton, Tenn	102
Bruceton, Tenn. to Memphis, Tenn	130
Bowling Green, Ky. to Paris, Tenn	132
Paris, Tenn. to Memphis, Tenn	125
Nashville, Tenn. to Chattanooga, Tenn	149
Chattanooga, Tenn. to Atlanta, Ga	137
Cincinnati, Ohio to Ravenna, Ky	118
Ravenna, Ky. to Hazard, Ky	98
Cincinnati, Ohio to Corbin, Ky	182
Corbin, Ky. to Etowah, Tenn	162
Etowah, Tenn. to Atlanta, Ga	131
Louisville, Ky. to Corbin, Ky	170
Corbin, Ky. to Norton, Va	136

There are many branch lines of varying mileages in addition to the main line points mentioned.

Local freight trains in some instances cover the same distance as do the through freight trains. However, the majority of local freight trips are much shorter in length, mileage-wise, but longer in length hours-on-duty-wise.

Our longest through freight assignments, straight-away, that is, from point "A" to point "Z", are approximately 200 miles, and our shortest through freight runs are 98 miles.

Through freight trains are trains that operate between two points with few, if any, stops in route to set off or pick up cars. A through freight could be a train of perishable, piggyback, autos, coal, or miscellaneous commodities in various types of cars.

The type of work performed by locals, mine runs, and road switchers is switching at industrial plants, placing and pulling of cars from team tracks, placing empties and removing and switching loaded cars from coal mines, or assembling cars from various industries and tracks and switching them for movement by other trains. This is particularly the work of road switchers in highly industrialized areas where yard crews are not employed.

A yard crew is one that primarily works within a terminal whose activities could be assembling cars and putting them together for over-the-road movement by trains or the separating of cars on trains arriving at a terminal for further handling by yard crews for placement at industries, delivery to other railroads or for assembling in other trains for further over-the-road movements.

We have local freight trains on which mileages covered are from a maximum of 212 miles with 10 to 14 hours on duty down to a minimum of 14 miles with about the same hours on duty. The density of industries and the amount of work to be performed at such industries regulates the number of miles a local train might make on one trip. Road switchers may spend their entire tour of duty in going to and from one industry and switching that one industry while others may travel distances up to 25 or more miles between various stations performing service at industries or stations in route. Mine runs may vary in distances traveled from as little as 25 miles to as many as 100 miles. The hours on duty of the crews will vary greatly and in most cases has no relationship on these type runs to the miles actually traveled.

We have some through freight trains—primarily coal trains—which operate on a turn-around basis: that is, from point "A" to point "G" and return to point "A", whose mileages range from as little as 96 miles to as many as 239 miles per trip with the on-duty hours of the crew ranging from 6 to 14 or 15 hours.

We have through freight trains, local freight trains, mine runs and/or road switchers operating on every division of the L&N. The mine run operation is primarily in the State of Kentucky, with some mine operation in Tennessee and Alabama. Therefore, the territories covered by the different types of runs overlap in most instances and except for geographical location and the commodity handled, the type of work performed is the same.

The amount of switching performed, amount of standing time waiting for connections and meeting or clearing trains would be entirely dependent upon the density of industry and/or towns or stations along the particular territory. The density of traffic over a particular segment of the railroad would determine the amount of time standing, meeting or clearing trains. There are some local freight trains, road switchers and mine runs that spend as much as 25% or more of their time standing due to meeting trains in areas of high traffic density, while there are local freight trains, road switchers and mine runs in other areas that do not have any time standing due to meeting or clearing trains.

About 60% of the loads handled on the L&N originate on its own railroad. Therefore, a great number of crews on the L&N are in the local, mine run and road switcher classification.

We have a number of unit coal trains on the L&N whose schedules are fast and which do not stop except to change crews enroute either to or from the loading or unloading locations. Milleage of these unit trains varies considerably, as do the distances over which the individual crews operate.

The L&N study was based on our actual operation of the entire system during the period October 16, 1965 through October 31, 1965, and projected to reflect the results on an annual basis.

In making this study, we examined each run that had trips on which the crew exceeded the allowable hours on duty under the proposed amendment. Each of these runs was re-dispatched and rearranged taking into consideration the work performed, the area traversed, the density of traffic, and the miles covered in such a manner as to allow compliance with the restrictions of the proposed bill. At the same time, it was determined the number of additional men needed, additional locomotives and cabooses that would have to be purchased by the L&N, as well as the additional cost to the railroad due to added away-from-home expenses which would result if saddled with the proposed amendment.

The enactment of a law reducing the time permitted for railroad operating employees to perform service from a maximum of 16 hours to a maximum of 12 hours would result in more than $3¾ million added expense per year to the L&N alone. This estimated additional annual cost is based on the following:

(*a*) Cost of additional train miles, including crew expense	$1,117,344
(*b*) Additional crew expense not requiring additional train miles	1,560,624
(*c*) Additional locomotive expense including return on investment in additional locomotives	944,520
(*d*) Additional expenses for meal and lodging allowances	136,752
(*e*) Expense for additional cabooses including maintenance and operation cost	28,656
Total estimated additional annual cost	3,787,896

The above cost figures take into consideration the fact that 24 additional locomotives and 24 additional cabooses would have to be purchased to power the added trains that would be required. However, it should be borne in mind that approximately $6 million would have to be appropriated immediately to purchase these additional locomotives and cabooses.

The proposed change would result in the following detrimental effects to our service:

1. Extension of schedules would be required in some areas due to the necessity for additional stops account crew changes at points which are now intermediate.

2. Delays would be encountered in many instances where it would not be feasible to have a regular crew change when it was necessary to relieve crews on line of road with another crew deadheaded to perform the relief service.

3. Some areas of local service now being performed on a Monday-through Saturday turn-around basis would have to be reduced to a tri-weekly basis if the proposal is adopted. In other words, one direction Monday, Wednesday and

Friday and the opposite direction on Tuesday, Thursday and Saturday, as it would be economically unsound to maintain a daily operation due to the amount of business involved. This would, in itself, result in a 24-hour delay to cars now departing the home terminal on Tuesdays, Thursdays, and Saturdays as well as delay to cars departing what is now an intermediate point on Mondays, Wednesdays, and Fridays due to their having to lay over to fit the day of operation from those points.

4. On some branch lines it would be necessary, on occasion, to start the return trip from a point short of the normal turning point in order to allow the trip to be completed within the maximum proposed limitations, thus reducing service to the areas not traversed.

5. In some areas it would be impracticable to reduce the service and it would be necessary to add additional trains in the same territory, thus increasing traffic density, which produces additional delay.

6. There would be instances at stations or industries where part or all of the work would not be performed when it was apparent that the work could not be completed within the limitations of the proposed amendment and it would not be economically sound to send relief crews.

The passage of the proposed bill would have a serious, adverse effect to our employees in that their earnings would be reduced and their hours at other-than-home terminals would be increased in many instances.

The estimated average earnings reduction in overtime alone would be approximately $332 a year per employee. However, it is estimated that the overall reduction would be much greater due to the reduced mileages over which crews would operate where the hours of service reduction forced a shortening of the run. It should be borne in mind that this is an estimated average for all employees, and there would be instances where some employees would suffer considerably more. In fact, the re-dispatching and re-arranging of the runs as previously mentioned would result in the following number of employees receiving reduced annual earnings: Engineers, 106; conductors, 106; brakemen, 212.

Of the 106 engineers affected, the average annual earnings would be reduced approximately $2091 per man; of the 106 conductors affected, their average annual earnings would be reduced approximately $1713 per man; and, of the 212 brakemen affected, their average annual reduction in earnings would be approximately $1520. In other words, there would be at least 424 employees adversely affected to the tune of an average of $1717 each.

The additional time at away-from-home terminals will be increased for many employees; in fact, a substantial number of employees now operating in turn-around service without any time being spent at away-from-home terminals would be required to spend away-from-home-terminal time due to the necessity for splitting the runs at the turning point account of inability to complete the trip, as now operated, within the required maximum limitations as restricted by such an amendment.

There would be a substantial number of employees that are now on long mileage runs that would spend approximately one-third more time at away-from-home terminals due to mileages being shortened and, under the proposed operation, it would be necessary for them to work more trips in order to make minimum mileages as required by mileage allowances desired by employees and provided for by collective bargaining agreements.

This not only results in increased away-from-home time, but in decreased earnings.

Our study shows that a total of 164 engineers, conductors, and brakemen, who do not now spend time away from home, would spend a minimum of 104 hours per month in away-from-home layovers should the runs be arranged to comply with the proposed restrictions.

I would like to give some specific examples of the adverse effect this proposed hours of service change would have on our employees:

1. Crews handling through freight trains operating between Birmingham, Alabama and Montgomery, Alabama, now, in most instances, turn back out of Montgomery, Alabama, the away-from-home terminal without rest or without any appreciable time off duty but, under the proposed amendment this could not be permitted as the round trip could not be completed within the maximum limitations.

This would result in each crew operating into Montgomery having to take at least eight hours' rest at Montgomery and cause additional crews to be assigned to man the same number of trains now operated under the present Hours of Service Law. This would not only reduce the earnings of the crews involved due

to a reduction in the number of trips per month, cause layover time in the away-from-home terminal that does not now exist, but would also reduce the layover time they are now enjoying at their home terminal.

2. A local freight crew operating between Montgomery, Alabama and Mobile, Alabama exceeds, on most occasions, the restrictions proposed by the amendment. Therefore, it would be necessary to split these runs at Flomaton, Alabama, which is the approximate half-way point. The operation then would be one crew from Montgomery to Flomaton, another crew from Flomaton to Mobile and vice versa.

This would greatly reduce the earnings of the men now manning these runs, and would not reduce the time away from home, but would merely make their layovers longer waiting on the return of the train in the opposite direction.

The proposals, if adopted, would result in runs being established between the present away-from-home terminal—Mobile, Alabama—and Flomaton, Alabama, which is now an intermediate point. Most of the employees on this division reside in the Montgomery, Alabama area and it would result in their either having to change their place of residence, to Flomaton or Mobile, or be on a run that operates between outlying points without any at-home time.

3. We now have a turn-around through freight crew which operates seven days a week from Tuscaloosa, Alabama to Birmingham, Alabama and return, and the proposed bill, if adopted, would require the run to be split at Birmingham and the assignment of two crews. Aside from the earnings of the present employees being reduced by 40 to 50 percent, it would result in their being away from home every other night where, under present operations, all layover time is at their home terminal.

4. Locals presently operating between Evansville, Indiana and Guthrie, Kentucky in each direction, six days a week, would have to be changed to operate between Evansville, Indiana and Hopkinsville, Kentucky, which is intermediate to Guthrie, Kentucky. This would result in a turn-around having to be established to serve the area from Hopkinsville to Guthrie and return.

Aside from the reduced earnings and an extension of the off-duty time at the away-from-home terminal of the present crews, the provisions of the proposed amendment would require the assignment of a turn-around crew to operate between an intermediate point—Hopkinsville—and the present away-from-home terminal of the runs—Guthrie—and, as most of the train service employees on this division live in the Evansville area, the men who manned the turn-around would be away from home all of the time or else would have to change their place of residence from Evansville to Hopkinsville.

5. Present operation of local freight trains between Evansville, Indiana and East St. Louis, Illinois, six days a week, in both directions, would have to be split at Mt. Vernon, Illinois, if the proposed restrictions are adopted, resulting in a considerable decrease in earnings, and at the same time an increase in the away-from-home terminal time.

This would result in two additional crews being assigned to man these runs between Mr. Vernon, Illinois and East St. Louis, Illinois, and, as most of the men in this seniority district live in the Evansville, Indiana area, it would result in their having to relocate their homes, or else protect the job and be away from home the full six days per week.

6. Crews operating Nashville, Tennessee to Mt. Pleasant, Tennessee at the present time in turn-around service would have to be adjusted to operate in straight-away service if the amendment to the Hours of Service Law is adopted. One crew would operate Nashville to Mt. Pleasant one day, and return from Mt. Pleasant to Nashville the next day, thus resulting in away-from-home layover time at Mt. Pleasant, reduced earnings, and the necessity for additional employees as double the number of crews would be required.

7. Present operation of Trains Nos. 81 and 80 between Nashville, Tennessee and Birmingham, Alabama via Columbia, Tennessee would have to be changed and the crews split at Oakworth, Alabama to comply with the new law.

These trains are now manned by three assigned crews working one day Nashville to Birmingham, one day Birmingham to Nashville, and then off one day. In other words, at an away-from-home terminal for rest period every third day, with more than 24 hours every three days at home.

Under the split arrangement that would be necessary to comply with the proposed amendment, there would be two crews assigned to each end of the run, Nashville to Oakworth and Oakworth to Birmingham, and each of the crews would spend layover time at an away-from-home terminal every other day, and would have much less than 24 hours, possibly only 12 to 15 hours, at the home

terminal during layovers. They would also work six days per week where the crews now assigned only work four days per week. This would also reduce the earnings of the crews presently assigned.

8. We now have a crew that works out of Birmingham, Alabama to Varnons, Alabama in turn-around service and, due to the time necessary to perform the work assignments at industries, it would result in our having to split this assignment at Calera, Alabama and assign an additional crew working on a straight-away basis. This would result in layover time away from home every day, there being no away-from-home time now, and greatly reduce the earnings for those now assigned to the run.

9. Local freight Trains Nos. 7 and 8 operating between Etowah, Tennessee and Atlanta, Georgia would have to be split at Cartersville, Georgia, thus resulting in longer layover periods away from home, reduced overtime, and reduced mileage which would result in a substantial reduction in pay for those assigned. The additional crews assigned to handle the trains between Cartersville and Atlanta would be on a run that would be away from home at either end of its territory, as most of the men in this seniority district reside at Etowah, Tennessee, thus resulting in men either being away from home all of the time or having to change their place of residence.

10. Under the present hours of service limitations, we operate—in turn-around-service—coal trains from Nashville, Tennessee to Widows Creek, Alabama, a distance of 239 miles for the round trip for which employees are paid approximately 2½ days' pay and the runs are made in an average of 12 to 14 hours. However, based upon the changes that would be required by a lessening of the permissible hours on duty, these crews would have to be relieved and take rest at an intermediate point which would result in their being held at an away-from-home terminal point and a substantial reduction in earnings. This would also require additional employees.

There are many runs other than the examples I have just mentioned where the proposed changes in the Hours of Service Law would affect our employees both in their time away from home and in their off-duty time at home as well as reductions in their earnings.

I have read the testimony before this Committee by Mr. H. E. Gilbert, President of the Firemen's organization, and by Engineer E. L. Howard, who is employed by the Louisville and Nashville Railroad Company.

I feel that a number of statements made by Mr. Gilbert and Mr. Howard are very misleading insofar as operations on the L&N are concerned and that I would be remiss if I failed to clear the record as to such misleading statements.

I noted that, in answer to a question by Senator Cannon, Mr. Gilbert said, and I quote:

"In looking over the reasons for some of these long hours on duty, I have a strong belief that with the exercise of some managerial prerogatives that they have, they might be able to avoid some of the delays that occur and create the excessive hours in the programming of the work, etc.

"And, after all, that is something that we do not have any control over, that is, the employees or the employees' representatives. The work is programmed by the officials of the railroad and when the man bids in a job, for example, he does not know whether he is going to work two hours or sixteen hours. He takes the job and the work is programmed by the railroad officials." (U.S. Senate, Report of Proceedings, Vol. I, p. 91, June 28, 1966)

Mr. Gilbert's answer is completely misleading.

I agree that railroad work varies considerably from day to day and from train to train. However, the particular work or hours of a certain assignment is more or less constant. In other words, a particular local freight train may work from 6 to 9 hours in one territory while in another territory a local freight train may work on a regular basis from 9 to 12 hours.

Railroad men know the kind of train or assignment they are taking or bidding on and have knowledge of the normal working hours of a particular assignment and the work that is done by the assignment before they bid for it.

While it is true that the hours on duty on each assignment will not be the same from day to day, the hours on duty will not vary to the exaggerated extent—from 2 to 16 hours—that Mr. Gilbert would have it believed, without some unusual occurrence.

Before both the House and Senate Committees, Mr. Gilbert, as well as Mr. E. L. Howard, spoke of a case involving Engineer J. C. Lewis of the L&N who was called for duty at 8:30 A.M., April 29, 1966.

Engineer J. C. Lewis worked 15 hours and 59 minutes, was relieved and deadheaded to Louisville as stated, and he was called back to duty on completion of his

rest, as stated. However, the terms used to describe this occurrence are designed for emotional appeal rather than conveyance of fact.

Mr. Gilbert states, "The fact that he did not have a chance to sleep obviously did not concern the L&N officials." (United States Senate, Report of Proceedings, Volume I, p. 24, June 28, 1966; House of Representatives, Report of Proceedings, Volume I, p. 27, June 24, 1966).

Being realistic, if Engineer J. C. Lewis had not been called for this service that he stood to protect at 9:00 A.M. on April 30, the L&N would have been forced to pay a penalty claim for not using him in accordance with the agreement he worked under. The penalty claim could be equal to the amount earned by the engineer who was called instead of him. In any case, the least amount we would be penalized would be 3 hours at straight-time rates.

As for Engineer Lewis working 15 hours and 59 minutes, I would like to point out that the Engineers' agreement, as well as the Firemen's agreement, required that the railroad company allowed Mr. Lewis to work as near to the 16-hour limit as possible before relieving him.

I would like to quote to you that part of the agreement the Brotherhood of Locomotive Firemen and Enginemen—of which Mr. Gilbert is President—made with the L&N which requires this: (Article 23, Section (e)3)

"When a train is not tied up but is kept moving and it is necessary to relieve the fireman he should be permitted to work as close to the 16-hour limit as possible before being relieved by the relief fireman."

The agreement between the Brotherhood of Locomotive Engineers and the L&N reads exactly the same except the word "engineer" is used rather than the word "fireman". (Article 23(e)3).

Much has been said by Mr. Gilbert and others in connection with employees being abused by not being allowed to have 8 hours off duty after completing a trip or after deadheading.

I would like to quote an agreement rule Mr. Gilbert's organization made with the L&N with respect to calling crews and reporting for duty: (Article 24, Section 2(e))

"A fireman arriving at the division home terminal on a deadhead trip must show on the register the time he was off duty previous to deadheading, otherwise he will not be considered subject to call for another run or job on which he would report for duty or start deadheading within 8 hours from the time he registered in on the deadhead trip."

This means that if a fireman—arriving at his home terminal after deadheading—desires to be called for another run in less than 8 hours after he reached the terminal, he must show on the register the time he was relieved from the service trip prior to deadheading. If he does not show this information on the register, then he will not be called to report for duty or start another deadhead trip until after the expiration of 8 hours from the time he arrived at his home terminal at the completion of the deadhead trip.

The point I am trying to make is that this matter has been negotiated between the labor organization and the L&N, and, in my opinion, as well as in the opinions expressed in the statements of Mr. Manion and Mr. Wolfe before this Committee, such matters should continue to be negotiated by railroads and labor organizations rather than forced upon either party by legislation.

Mr. Gilbert presented a list to this Committee which purports to show the trains and duty time assignments on the Main Stem Second Division of the L&N between Louisville, Kentucky, and Nashville, Tennessee, for the month of March 1966. He called attention to some figures that indicated the Hours of Service Law was violated on three of these assignments and stated that many of the assignments were runs of 15 hours or more and I assume intended to convey to you that these were very undesirable assignments due to the long hours of work required.

Mr. Gilbert stated, and I quote:

"Mr. E. L. Howard, who prepared the list of L&N assignments, will appear before you as a witness and explain in detail the work hour problems confronting crews on this particular division." (House of Representatives, Report of Proceedings, Vol. I, p. 35, June 24, 1966; U.S. Senate, Report of Proceedings, Vol. I, p. 44, June 28, 1966)

I fail to find in the record where Mr. Howard discussed this listing of assignments as Mr. Gilbert indicated he would. However, I presume that some of the questions asked by Committee members could have related to the statement submitted by Mr. Gilbert but I am unable to identify them.

The list submitted by Mr. Gilbert apparently was selected to indicate or to convey that all of the assignments in this territory were of long hour duration.

Also, it was indicated that it was one seniority district while actually the runs cover two seniority districts—Main Stem First and Main Stem Second—and the men from both districts man the runs.

The listing fails to show a true picture of the hours on duty of the men that were listed from the two seniority districts during the month of March, 1966.

There were 99 engineers on the seniority roster on the Main Stem First Division as of January 1, 1966, and only 23 of these men were used on the list presented by Mr. Gilbert.

On the Main Stem Second Division which operates in this territory there were 28 men on the seniority roster as of January 1, 1966, and only 15 were listed for one or more trips during the period.

The exhibit attached as Exhibit 1 accompanying my statement—which I ask the Committee to receive for the record—contains the following information regarding each man shown on the list submitted by Mr. Gilbert:

Column 1 shows the employee's standing on the seniority roster.

Column 2 shows the employee's name.

Column 3 shows the total number of trips made by the employee during March, 1966.

Column 4 shows the total number of hours off duty during March, 1966.

Column 5 shows the total number of hours on duty during March, 1966.

Column 6 shows the average hours on duty per trip for the particular employee.

Column 7 shows the monthly wages of the particular employee during March, 1966.

Of the 23 men shown on the Main Stem First Seniority roster you will note that the 8 men shown on Mr. Gilbert's statement with the highest seniority worked an average of 16.8 trips during the month and were on duty an average of 10.7 hours per trip worked. The next 8 men on that statement, in seniority order, made an average of 24.5 trips during the month for an average of 8.5 hours on duty per trip while the 7 men shown on the statement with the least seniority worked an average of 22 trips during March with an average of 9.3 hours on duty per trip.

The point is that the 8 men with the highest seniority standing selected the jobs with the highest number of hours on duty per trip which clearly indicates that that is the preference of these men and, I believe, of railroaders in general—to work a few more hours per trip, work less days per month and have more time off duty per month.

It will be noted that the earnings of the 8 men with the highest seniority totaled $8,443.86 for the month for an average of $1,055.48 per employee while the earnings of the next 8 men totaled $8,170.10 for the month for an average of $1,021.26 per employee.

From the above you will note that the men with the highest seniority standing—which gives them their choice of assignments—desire the runs with the highest average hours on duty per trip and I think the reason is obvious. They worked an average of 16.8 days each during the month whereas the next 8 men, who only averaged 8.5 hours on duty per trip, worked an average of 24.5 days per month, and made approximately the same amount of money per employee.

As of January 1, 1966, there were 28 men on the seniority roster on the Main Stem Second Division, of which only 15 were included in the listing furnished by Mr. Gilbert.

You will note that the number of trips per month and the average hours on duty per trip for each man listed varies considerably as do the earnings for each man shown. However, I believe you will have to agree that this list fails to indicate that any man was worked excessive hours.

One point I would like to make is that reducing the average number of hours per trip worked would definitely decrease the earnings of the individual and I call your attention to No. 27 on the seniority roster, Mr. J. C. Tucker, who worked 23 trips, averaged 6.6 hours per trip and earned $827.30 while all of the other men on the seniority roster worked less trips in the month and were paid more money although they did average more hours on duty per trip worked.

The overall average of the 15 men shown on this seniority roster was 17.6 trips per month, on duty 176½ hours, and earned $1,058.17.

In connection with the three trips on which Mr. Gilbert stated the Hours of Service 16-hour limit was violated, I have copies of the trip cards that were submitted by the engineers covering those trips and they were not on duty in excess of the 16-hour limit as claimed.

Mr. Donald Bennett, as attorney for Mr. E. L. Howard—a Louisville and Nashville engineer who testified before this Committee—wrote the Honorable Frank J. Lausche, Chairman of the Senate Subcommittee on Surface Transportation, under date of July 13, 1966, submitting certain material prepared by Mr. Howard.

First, the material submitted for Mr. Howard indicates that the trains shown are fast freight or through freight assignments. Some of them are, but most of them are not. In fact, the work records submitted for Engineer J. C. Lewis and Engineer C. Rose are for the same runs and these are local or mine runs that operate in interdivisional service between Louisville, Kentucky and Madisonville, Kentucky, doing a great deal of local work in route and primarily handling coal trains. They are not fast freights as Mr. Howard has indicated. These particular runs are similar to runs which I mentioned previously in my testimony that would have to be rearranged if the proposal before you is adopted.

The runs manned by Engineer W. P. Stevenson and Engineer George Hill of the Birmingham Division and the trains they operated were included in the examples given in my testimony to show that the change in the Hours of Service Law, as proposed, would result in these runs being split, the employees earnings being reduced, time away from home being increased, etc.

Further, these lists indicate that on 18 occasions engineers violated the 16-hour limitation of the present law. That is not true. I have checked the trip cards and have copies of them with me covering those trips and there was not a single case where the engineer was not relieved from duty prior to the 16-hour limitation of the present law.

Mr. Howard indicated to this Committee that his hours of work are excessive. I have checked Mr. Howard's work and payroll records for the year beginning with June, 1965, through May, 1966. Mr. Howard made a total of $12,348.65, was on duty a total of 1458½ hours for an average of $8.47 per hour. This figure slightly over 16% of the total hours in that period on duty and 83% of the total hours off duty.

I might further add that a man in another industry with a 40-hour week and working 52 weeks a year would put in 2,088 hours while Mr. Howard was on duty only 1458½ hours.

Mr. Howard's hours on duty amounted to about 60% of what a man in outside industry working 40 hours a week would put in.

Mr. Howard attempted to leave the impression that the trains were placed on sidings and delayed hours just to inconvenience the employees. But he later contradicted such absurd statements by admitting that most of the delays incurred were a result of meeting other trains.

I am sure you gentlemen would quickly agree that the faster the L&N, or any railroad for that matter, moves its trains over the road, gets its engines into the terminal to be made available more quickly for another trip, gets rid of cars to another railroad, thus relieving the L&N of per diem, satisfies its customers with better and faster service—all of this is money in the railroad company's pocket and certainly the statement made by Mr. Howard is not worthy of consideration.

Mr. Howard has stated, and I quote:

"In the territory from Louisville to Cincinnati, about 110 miles, through freight trains frequently take 12 to 16 hours to make the trip." (U.S. Senate, Report of Proceedings, Vol. 2, p. 243, June 29, 1966; House of Representatives, Report of Proceedings, Vol. 1, p. 129, June 24, 1966.)

This is absolutely not true.

I am in daily contact with division officials with regard to the operation of our trains and I observe their performance reports daily and know that the statement made by Mr. Howard is not correct. To give you an example of hours our through freight engineers are on duty in the territory between Louisville and Cincinnati, I had the operation of each through freight train for each Thursday during the month of March listed and that listing is attached as Exhibit 2 accompanying my statement which I ask the Committee to receive for the record.

I picked March because it was a month of high train density and Thursday as the check day because Thursday is one of the heaviest tonnage days of the week. The days and period I selected will give you a higher overall average hours on duty for engineers in this territory than any other period.

Out of 31 through freight trains operated on the 5 Thursdays during the month of March, 1966, between Louisville and Cincinnati, the time on duty of the engineers ranged from a high of 12 hours and 15 minutes down to a low of 5 hours and 40 minutes. There was only one trip over 12 hours and only 4 trips of the 31 where the engineer was on duty over 10 hours. The overall average was 8.4 hours on duty per trip.

A proposal has been made that the Hours of Service Law be extended to include "deadheading".

"Deadheading" is travel by railroad employees, as instructed by the railroad, without any work being performed en route. This travel can be by train, bus or automobile and may be between any points on the railroad in which the employee may serve.

"Deadheading" could be the result of employees on an assignment that works at or from a point other than the home terminal being off account of sickness, vacation, personal reasons, etc. and it is necessary to send a substitute to work their assignment while they are away. "Deadheading" may also be the result of a train crew approaching or reaching the Hours of Service limitation before arriving at its final terminal or destination, causing a crew to be "deadheaded" to the train to bring it to the final terminal or destination.

"Deadheading" may also be required by the amount of traffic over a particular section of the railroad being heavier in one direction than in another, resulting in more trains being operated in the heavy tonnage direction and the excess crews being "deadheaded" in the other direction account not needed to operate trains.

While "deadheading" on a train, employees are riding as passengers. They are not working, have no responsibility and, from all practical aspects, they are not on duty and, under the present Hours of Service Law, they are not considered on duty.

Mr. Manion has testified on behalf of the railroads before this Committee and has given numerous examples of the difficulties that would be encountered by railroads and its employees if "deadheading" were to be considered as time on duty and for me to cite any examples would merely be repetitious.

I can say that a great number of situations arise on a railroad in which this "deadheading" amendment, if adopted, would adversely affect our operations as well as our employees and it would have a general disrupting and disorganizing effect on the proper and efficient operation of the railroad.

My personal experience on the railroad as well as studies I have made show that the older men with the greatest seniority usually take the runs with the greatest mileages and hours on duty because of their attractiveness from the earnings standpoint. I think I can say without fear of being contradicted that this would be true on almost any railroad in the country as the men themselves consider these runs to be the most desirable.

In recent years, working conditions on the railroads have improved tremendously which I think should be obvious to all.

The diesel locomotive, which has replaced the steam engine, has much better riding qualities, requires less physical effort on the part of engineers, is cleaner, is warmer in winter, and is cooler in summer.

Centralized traffic control on much of the railroad has resulted in less physical effort by the trainmen involved inasmuch as the train dispatcher in such territories opens switches for trains to enter and leave sidings when meeting or passing other trains. Automatic or remote controlled switches at entrances and exists to yards eliminate physical effort of train crew men inasmuch as they do not have to align such switches for their movement.

Most of our locomotives and cabooses are equipped with radios and train crew men are funished with light walkie-talkies or chestpack radios which are used in switching operations both in road and yard service which greatly reduces the physical effort required of the men involved. The use of radios eliminates considerable walking, climbing, and positioning themselves where they could be seen by the engineer or other members of the crew when passing signals.

Our modern yards, particularly hump yards with electronic devices for retarding and switching cars, reduce the physical effort required of yard crews.

We have towers in many of our yards where yardmasters have modern communicating devices such as radio and talk-back speaker systems by which crews are directed in their work where formerly the yardmaster was on the ground walking almost constantly issuing instructions to crews as to the work to be performed.

Much of the clerical work required of conductors on trains has been eliminated. In fact, on the L&N, about the only clerical work performed by conductors today is the preparation of a trip card which serves as the basis of their pay.

CONCLUSION

In summary, I believe it is evident that the adoption of the proposed amendment to the Hours of Service Law would have serious adverse effects on the Louisville and Nashville Railroad Company not only from a monetary standpoint

but would also have serious effects on the service in some areas where it would not be economically sound to provide the services—due to the restrictions of the proposed amendment—that are being provided today. I am sure this would also be true of other railroads.

I think serious consideration should also be given to the reduction in flexibility that would result due to the restrictions of the proposed amendment during emergencies on a railroad such as Hurricane Betsy which caused disaster to the South end of our railroad in September 1965; also, serious disruption of our normal operations due to a bridge being destroyed such as occurred on January 27 of this year on the L&N just North of Nashville, Tennessee. In both instances mentioned, we operated under some of the most adverse conditions for a little over two months in connection with the Hurricane and thirty days in the bridge destruction; and, without the privilege of allowing crews to remain on duty up to 16 hours in some instances, our operations would have suffered much greater delays and our service to shippers would have suffered even more.

At the same time, the adoption of the proposal would have serious adverse affects on the employees of the Louisville and Nashville Railroad Company resulting in their being away from their homes either more often or for greater periods of time, having their earnings reduced due to a necessary reduction in mileage operated, or in overtime payments received, and would also result in some of them changing places of residence.

For the reasons given, I believe that the proposed amendment to the Hours of Service Law should not be given favorable consideration.

I appreciate and thank you for the opportunity given me to appear before you to present the Louisville and Nashville Railroad Company's position with respect to that bill.

Mr. PICKLE. I want to thank you for your testimony. I know the gentleman from Ohio, Mr. Devine, does likewise.

If you have any other statements that you care to make at a later time you may do so.

This committee will now be recessed.

Mr. GRIMES. Thank you, sir.

(Whereupon, at 12 o'clock noon, the subcommittee recessed subject to call of the Chair.)

AMEND HOURS OF SERVICE ACT OF 1907

FRIDAY, SEPTEMBER 9, 1966

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. Harley O. Staggers (chairman of the full committee) presiding.

The CHAIRMAN. The committee will come to order.

We are continuing this morning on the hours of service bills, H.R. 8476 and related bills.

We have several Members of Congress to hear first. In that order then we shall call on our colleague from Pennsylvania, the Honorable Fred Rooney, a member of our full committee.

STATEMENT OF HON. FRED B. ROONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. ROONEY. Mr. Chairman, I appreciate the courtesy extended me in being permitted to testify before this subcommittee on H.R. 8476 and the many similar bills introduced in the House of Representatives, including my own H.R. 9313.

The real substance of this bill is section 2(a)(1) which would reduce the maximum continuous hours on duty for railroad employees actually engaged in the movement of trains from the present outdated 16 hours to the more reasonable 12 hours. Section 2(a)(2) would prevent such employees from going on duty unless he has had 8 consecutive hours off duty.

I am aware, Mr. Chairman, that those who oppose this legislation have suggested that the amendments would not promote safety on the railroads, but that this legislation was introduced in order to create jobs. In my opinion we should not concern ourselves with whether or not this bill would have the effect of creating jobs or reducing jobs. The primary objective is to increase safety. I do not think it can be argued that the number of people employed, the hours they work, or the salaries they receive can be equated with the safety of the railroad employees and those who come in contact with the railroads.

Those people who lose loved ones in train accidents must receive our attention. We should not be satisfied with a situation in which long working hours may or may not be the cause of accidents. We should

only be satisfied that the proposed amendments could possibly have an influence on the reduction of rail accidents.

We know by our own experience that a man's reflexes are not as good after 8, 10, or 12 hours on duty as they would be prior to the proposed 12-hour amendment. Then, too, my colleagues, emotional fatigue is crippling and nearly everyone succumbs to it to some degree.

Mr. Chairman, in my State we have a law (hours of labor of animals, sec. 945) which prevents the working of an animal for more than 15 hours in 24 hours. Surely we must give consideration to how many hours of continuous duty a human can be required to work.

The proposed amendments will set more reasonable work hours and thereby cut down the requirements which often cause great physical strain on employees, thus making engine and train service safer for all concerned.

Mr. Chairman, I would like to join with my many colleagues who have introduced this legislation and request that you and your committee give prompt and favorable consideration to this long overdue and progressive legislation.

The CHAIRMAN. Thank you for your views Mr. Rooney.

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

The CHAIRMAN. We now have another Member to hear, the Honorable Abraham Multer.

STATEMENT OF HON. ABRAHAM J. MULTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. MULTER. Mr. Chairman, I appreciate this opportunity to testify in support of my bill, H.R. 11263, which would bring up to date the antiquated standards regulating the hours of service of employees on railroads. H.R. 11263 amends a law enacted, and last substantively amended, in 1907.

The standards which the original law established in 1907 were probably not even adequate for that horse and buggy era. They were standards for employment on steam locomotives, pulling wooden coaches with much smaller boxcars. Trains also ran much more slowly then.

This was before the day of the diesel, even before we had electrified railroads. It was back when only 140,000 automobiles were registered in the United States. We had practically no paved roads.

Today we have millions of miles of surfaced roads and upward of 90 million registered motor vehicles and so the chances for accidents occurring between the general motoring public and the trains have also become substantially greater, despite the decline in railroad traffic in recent years. The standards Congress set forth in 1907 are simply not adequate for 1966.

Much has been made of the point that travel on trains is much safer today than previously, that the number of accidents and injuries is substantially less. This only becomes true, if one compares the bare statistics of 1907 with today's. For example, in 1907, which was the worst year on record, 11,839 employees, passengers, and others were killed in railroad accidents. Over 111,000 people were injured. In 1964 only 2,423 were killed and 27,614 were injured. Even allowing for a considerable decline in passengers carried and a reduced exposure to accidents this looks like a good record. Let us remember that these

are American lives we are talking about and not merely statistics; 2,500 is just as appalling to me as is 11,000.

This reflects all the more clearly the need for taking further action such as this committee is considering here today. Over the years the many other safety measures which have been taken on railroads have had their effect. But, we have reached today no better than a plateau in accidents on railroads. We need new safety measures.

Indeed, there is evidence that in recent years we have been losing rather than gaining in our railroad safety record. If we take the 10 years from 1854 to 1963, to minimize the impact of the recent reduction in the number of firemen employed, we find that the number of fatal accidents on railroads dropped from 2,475 to 2,141. But during this period the number of train-miles fell from 764 to 590 million. Thus, the number of people killed per million train-miles went up from 3.2 to 3.8. As far as accidents are concerned, they went up even more, from 3.54 per million train-miles in 1954, to 5.10 in 1963.

Thus, even before the recent reduction in the number of operating employees, the likelihood of an accident was increasing with each mile a train moved. This is still increasing, even more rapidly as the years pass. In fact, the figure I cited earlier for 1964—2,423 dead—was a shocking increase from 2,145 in 1963, to the highest figure since 1956. We are losing, not gaining, ground in railroad safety.

No man, especially one over 50 years of age as most engineers are, should work 16 hours operating a train without any rest. Personally, I belive the figure in the bill of 12 hours is too long. I certainly favor the provision of the bill that no engineer may be alone in a cab without relief for longer than 9 hours.

The requirement of the bill that an operating employee must have at least 8 consecutive hours off duty before returning to work seems to me a minimum amount of rest if we are to protect the safety of the public and the railroad employees themselves.

I do not see how we in the Congress can overlook our responsibility to bring this apparently obsolete law up to date. I am well aware that the motives of many who support this bill extend beyond an interest in safety. It is my personal feeling that, in this respect, the firemen have merit in their contentions that their job rights have been taken away without just compensation. But this is not the prime reason for my support of this bill. In bringing to the attention of our colleagues the failure of Congress to bring up to date this important piece of safety legislation, the firemen, whatever their motives, have put us all in their debt. The law must be altered.

I cannot too strongly urge this subcommittee to act without delay to favorably report this piece of legislation as an urgently needed safety measure. Any further delay will place on us the responsibility for any further increase in the already shocking number of deaths and injuries on our railroads. Until recent years we could look at the safety record of the railroads and say it was getting better, year by year. As I have pointed out this is no longer true. It is getting worse. It is time to act. H.R. 11263 will help reduce the hazards to everyone, including the operating personnel on railroads, who must be exhausted with insuffiicent rest after 16 hours of work.

The CHAIRMAN. Thank you for your testimony, Mr. Multer. We have one more Member to hear at this time, the Honorable Charles McC. Mathias of Maryland.

STATEMENT OF HON. CHARLES McC. MATHIAS, A REPRESENTATIVE IN CONGRESS, FROM THE STATE OF MARYLAND

Mr. MATHIAS. Mr. Chairman and members of the committee, I am pleased to testify in support of my bill, H.R. 10208, and related bills. I believe it deserves the most favorable consideration of this committee.

The real crux of this bill is section 2(a)(1), which would reduce the maximum continuous time on duty for a railroad employee actually connected with the movement of a train from 16 hours to 12 hours. Section 2(a)(2) would prevent such a railroad employee from going on duty unless he has had 8 consecutive hours off duty immediately preceding any given 24-hour period.

There are two major points that I want to make about this legislation. The first is that it embodies a necessary and long overdue change in the original railroad hours of service law. The hours of service law under which railroad employees operate to this very day was enacted in 1907. Consider how much the railroad industry has been modernized since 1907. Trains are now longer, they move faster, and they operate with many fewer employees. Notwithstanding the changes of the last 60 years, however, an engineman still works the same hours as he did in 1907. The shortening of hours in the transportation industry as a whole is not a new concept. Consider the progress made in this area in the trucking and airline industries. We should realize that a revised hours of service law for our Nation's railroads is long overdue.

My second point is that while the hours of service concept itself may be nothing new, the intent of my bill and related bills is wholly consistent with an up-to-date national concern for increased safety in all types of transportation.

Mr. Chairman, and members of the committee, I urge your favorable consideration of H.R. 10208 and companion bills.

The CHAIRMAN. Thank you Mr. Mathias. Our next witness will be Mr. J. E. Wolfe, National Railway Labor Conference.

Mr. Wolfe, we are glad to have you, and whom do you have with you?

STATEMENT OF J. E. WOLFE, CHAIRMAN; ACCOMPANIED BY CHARLES I. HOPKINS, GENERAL COUNSEL, NATIONAL RAILWAY LABOR CONFERENCE

Mr. WOLFE. Mr. Charles Hopkins, general attorney for the National Railway Labor Conference.

The CHAIRMAN. Mr. Hopkins?

Mr. HOPKINS. Yes, sir.

The CHAIRMAN. In the interest of time and pursuant to the general practice of the committee, you may have your statement appear in the record in full and summarize it if you would.

Mr. WOLFE. Rather than read it, Mr. Chairman?

The CHAIRMAN. Yes. Do you have a summary on the main points?

Mr. WOLFE. I have a summary of the main points.

The CHAIRMAN. Could you give that, sir? I wonder if you could give that in the interest of time.

Mr. WOLFE. We believe and fervently hope that the members of the committee will take the time to study the testimony that you have indicated will be made a part of the record.

The CHAIRMAN. Yes, sir.

Mr. WOLFE. With that statement I will read this very brief summarization, and it is very brief. It does not bring out the points that I had hoped to bring out, but it will be part of the record, as you have so clearly indicated.

The CHAIRMAN. If you feel that there are some important points that, as you say, are not in there you may enlarge on them any time you wish because I want you to get the main points across to this committee that you have.

You may proceed.

Mr. WOLFE. My name is James E. Wolfe and I am chairman of the National Railway Labor Conference. The National Railway Labor Conference has the responsibility and the authority to handle labor matters for the railroad industry at the national and regional levels.

I was a member of the Presidential Railroad Commission which was appointed by President Eisenhower and during the life of that commission I acted as spokesman for the railroads. I represented the railroads in the handling of the National Rules Case before Emergency Board No. 154 which was created by Executive order of former President Kennedy.

I was also a member of Arbitration Board 282 which was created pursuant to Public Law 88–108, which was passed by Congress in the latter part of 1963.

I also acted as spokesman for the railroads during the period that Arbitration Board 282 was taking evidence and hearing testimony in connection with the manpower issues and the other issues involving working rules.

Our arbitration board reconvened on 14 occasions to render interpretations for the purpose of clarifying the intent of that award. The testimony that we have submitted to you in writing and which will be made a part of this record involves these pertinent and I think essential factors:

1. The pay and work assignment rules in the railroad industry are a complex structure that has evolved through collective bargaining over a period of some 50 years. A change in the maximum working hours would cause imbalances in the structure of these interdependent rules which would cause many employees to lose earnings, have their seniority rights altered, and spend a great deal more time away from home.

The railroads would be at a definite bargaining disadvantage in trying to revise the rules that accommodate the proposed changes in the law because the unions would demand concessions and certainly would demand restoration of lost earnings and other benefits.

2. Rules applicable to hours of work have been established by collective bargaining in the past, such as the 40-hour-week agreement, mileage limitation rules, and overtime rules. The engineers and firemen have pending at the present time collective bargaining proposals to reduce the basic workday and passage of the bills will add momentum to efforts to establish a 6-hour day although this would be contrary to national policy.

And I would like to interpolate here that the Brotherhood of Locomotive Firemen and Enginemen on July 15 of this year after the bill that is now being considered by Congress was introduced served notice upon the railroads for a reduction in the basic day to 6 hours instead of 8 in freight service, 4, as I recall, in passenger service.

3. There have been no concerted efforts by operating employee unions in the past to reduce the working hours on the longer assignments because the employees preferred these assignments. The longer assignments are chosen by men with the most seniority because of the higher earnings.

The recent proposals to reduce the basic day to 6 hours in reality are designed to increase earnings rather than shorten the length of assignments. If the law were changed the unions would insist on collective bargaining agreements that would restore lost earnings either by reducing the basic day or by other means.

And those demands are not something that we are merely thinking about. They are before us and in the case of the B.L.F & E. they were served subsequent to the introduction of this proposed legislation.

4. Any change in the working hours should be made through collective bargaining so that all of the necessary adjustments in the rules and working conditions which would be needed can be adopted at the same time.

5. The effect of the proposed changes would be to increase employment, and particularly the employment of firemen. The 9-hour provision particularly would penalize the railroads for operating without firemen even though they were authorized to do so by the Arbitration Board created by act of Congress.

6. All impartial tribunals, including Arbitration Board 282, found the firemen are not needed in freight and yard service. These assignments were made on the basis of present work assignment characteristics; that is, present working hours.

The boards found that discontinuance of firemen's positions under present work assignment practices would not adversely affect safety. Passage of the bills would substantially increase the number of compulsory firemen assignments and thus would amount to renunciation of the conclusion reached by all of the boards, including the Arbitration Board.

Whatever the motive of the union proponents of the bills, the effect is make-work legislation.

7. The engineers union opposes the pending bills. This should be given special significance because it is the engineers whose personal safety would be involved if operations without firemen were unsafe. No evidence has been presented to show any relationship between the bills and safety.

The comprehensive studies made by the Arbitration Board and other boards show that operations without firemen under present work assignment practices are not unsafe.

I might adhere that Arbitration Award 282 created a national joint board to make a continuing study throughout the 2-year life of the award as to safety and undue burden devolving upon the remaining employees in our operations that were conducted both with firemen and without firemen.

A majority of the Board, that is, the two members representing the carriers and the member representing the Brotherhood of Locomotive

Engineers, found as a result of most extensive and comprehensive day-to-day studies all over the United States, all over this industry, that there was not one single accident that could be attributed to the absence of a fireman, and the engineer member of the Board filed a supplemental concurring opinion to that effect.

Now, there have been charges made that there was conspiracy between the carrier members of the National Joint Board and the member of the Board representing the Brotherhood of Locomotive Engineers, and, I repeat, the organization that had the greatest interest in safety, because it was the employees that union represents that would be exposed to hazards, if indeed there were any hazards, and in the supplemental concurring opinion the Brotherhood of Locomotive Engineers unequivocally stated that there were no safety hazards.

Now, as to the charge of conspiracy, just a few weeks ago in convention in Cleveland, Ohio, some 845 delegates, men who work, men who are on those locomotives every day, reelected by acclamation the member of the National Joint Board whom the other union accused of conspiring with the members of that Board who represented the carriers.

I think the answer of those locomotive engineers is clearly recorded that the union supported this man and that he did a job for the working man and that was his purpose.

8. The bills conflict with national policy because they would increase railroad employment without any justification therefor having been shown. The highest authorities, including the President of the United States, have spoken out against the wasteful uses of manpower and have cautioned that if runaway inflation is to be avoided it is necessary to make maximum utilization of manpower resources.

9. The railroads have had a counterinflationary effect on the economy by reducing freight charges. They have done this despite having granted wage and fringe benefits comparable to and even surpassing those achieved by employees generally in American industry.

Railroad labor costs have gone up over 30 percent since 1958 and the Consumer Price Index over 12 percent, but the railroads average freight charges have gone down 13 percent.

I emphasize here, gentlemen, that there is no industry in our economy that has accomplished more and is accomplishing more to combat the evils of inflation than the railroad industry, and they have accomplished this, which might be termed almost a miracle, with very minimum income as compared with industry generally.

But we cannot continue to give to the public the benefits that we have been giving them if we are going to be confronted with legislation that conflicts with collective bargaining and thus makes our task even more difficult.

10. The carriers cannot hold the line on freight charges and remain competitive if labor costs get out of hand. The unions have initiated wage and fringe benefit movements that would cost over $125 million per year even if the total wage and fringe benefit improvements amount to only 3 percent.

The pending bills would add very substantially to the railroad labor costs. Labor costs should be subjected to regulation through collective bargaining rather than permitted by legislation on the one hand and collective bargaining on the other.

11. Passage of the bills would impose heavy costs on the railroads, would reduce the earnings of a great many employees, and because of these and other effects would provoke a chain reaction of collective bargaining demands or requests for further legislation.

I might add here, Mr. Chairman, and Congressman Cunningham, that we have just recently concluded an agreement in regard to supplemental annuities. We thought it was a worthwhile thing to do. We did it through and under the processes of collective bargaining, but it is going to add a substantial amount to our operating costs.

When all of these things are considered, and more particularly when you consider that to the best of our knowledge there has not been one thing submitted to Congress which in any way indicates a relationship between the hours of service and safety, we feel very strongly that it would be a tragic mistake to enter into this field and thus complicate our collective bargaining commitments, especially when we are faced now with demands to reduce the basic day.

I thank you, Mr. Chairman and Congressman Cunningham, and if you have any questions I will be more than happy to undertake to answer them.

(Mr. Wolfe's full statement follows:)

STATEMENT OF J. E. WOLFE, CHAIRMAN, NATIONAL RAILWAY LABOR CONFERENCE

INTRODUCTION

My name is James E. Wolfe. I am chairman of the National Railway Labor Conference, which assists with and coordinates the work of management representatives of the American railroads in the field of labor relations.

I entered the service of the Chicago, Burlington and Quincy Railroad Company in the spring of 1918, as a coal chute laborer at Hannibal, Missouri. In June, 1957, I became vice president in charge of personnel of the Burlington system, which position I held until November, 1961, when I became Chairman of the Committee on Labor Relations of the Association of Western Railways and Chairman of the Western Carriers' Conference Committee.

From 1952 until my appointment to my present position, I served as a member of all Western Carriers' Conference Committees handling concerted national and regional wage and rules movements.

I also served on several national arbitration boards and on December 22, 1960, I was appointed by the President of the United States as a member of the Presidential Railroad Commission. I served as a member of that Commission and as spokesman for the Carrier members of the Commission until it completed its work and was dissolved pursuant to the order of its creation on March 26, 1962.

I also was a member of Arbitration Board No. 282, created pursuant to Public Law 88–108, approved August 28, 1963, to dispose of manning issues involved in the National Rules Dispute with the unions representing railroad operating employees; and I have acted as spokesman and chief negotiator for the carriers in the handling of all of the various elements of that dispute.

I appear before your subcommittee as a spokesman for the railroad industry in opposition to the proposed Hours of Service Legislation which you have under consideration. The purpose of my testimony is to acquaint you with the adverse implications and what we believe would be the unjustifiable consequences from a labor relations standpoint of these proposed changes in the existing law.

The restrictions contained in the pending bill would disturb collective bargaining relationships

The existing pay structure for operating employees and the characteristics of their assignments have evolved over a period of many years and do not lend themselves to piecemeal restructuring isolating certain components from the integrated whole. Changes in the law such as those proposed inevitably would introduce imbalances which would have a serious impact on the industry and the

employees; and, no doubt, trigger a chain reaction of collective bargaining demands to restore lost earnings opportunities and other advantages that are obtained under the present system. Thus, I especially wish to emphasize that a statutory change in one aspect of the complex structure of work assignments and pay basis for operating employees would distort the system that has developed by collective bargaining over the last fifty years.

I wish it to be understood that we are not here to defend a system that imposes onerous working conditions on our employees. The facts are quite contrary. Other witnesses will make it clear that by far the majority of railroad operating employees enjoy working hours that are comparable to and in many cases substantially less than the working hours of employees in other industries. Those railroad employees who from time to time, or even regularly, are on duty more than eight hours, work on such assignments by choice; and, in addition the nature of their assignments is such that it is grossly misleading to compare their on-duty hours with the working hours of employees in outside industry.

I have indicated that the working conditions of railroad operating employees have evolved through collective bargaining over the course of many years. Our industry was among the very first in which collective bargaining was practiced on a broad scale. The railroad Brotherhoods are among the oldest labor organizations in the Country. They have represented their members, vigorously and successfully since the early years of this century, and even before. This alone demonstrates the implausibility of the notion that these organizations have tolerated burdensome working conditions. Of course they have not. Through the collective bargaining process railroad operating employees have enjoyed progress in wages, fringe benefits and working conditions at least commensurate with and even surpassing the progress of workers in American industry generally. Proposals to change work assignment characteristics, except in unusual cases, belong at the bargaining table where they can be appropriately evaluated and acted upon by representatives of both employees and management in the context of the entire fabric of the collective bargaining relationship.

I do not overstate the case when I say that the proposed legislation would intrude on the collective bargaining process. The collective bargaining agreements in this industry, unlike those in most other industries, are of indefinite duration: changes or additions are made as conditions warrant, but otherwise the underlying agreements continue in effect. This process of refining and augmenting the pay structure and working conditions has produced a complex and, in many respects, a unique body of rules and practices in which the many elements are interdependent.

The working hours of operating employees have developed as a part of this structure through collective bargaining within the framework of existing law. The forty-hour week was adopted through collective bargaining for yard operating employees and has been extended to other classes of service since that time. There are collectively bargained mileage limitation rules in effect for the various classes of operating employees which regulate the number of hours worked by operating employees from month to month. Of course, we have overtime rules which also have a direct relationship to working hours. In addition, there are many and varied rules in collective bargaining agreements which depend upon or were formulated in recognition of the existing statutory Hours of Service limitations and prevailing practices thereunder.

I cannot attempt to catalog the rules of this character since they vary from railroad to railroad, reflecting local operating conditions and local collective bargaining relationships. However, I can illustrate by referring to a type of rule that is so prevalent in the collective bargaining agreements of the operating employee unions that it may be regarded as a standard rule in the industry. The text of the rule I have in mind, which is taken from the agreement between the Chicago, Burlington and Quincy Railroad and the Brotherhood of Locomotive Firemen and Enginemen, is in part as follows:

"TIE-UP IN COMPLIANCE WITH THE 16-HOUR LAW

"(a) Under the laws limiting the hours of duty, crews in road service will not be tied up unless it is apparent that the trip cannot be completed within the lawful time; and not then, until after the exipiration of fourteen hours on duty under the federal law, or within two hours of the time limit provided by state laws if state laws govern.

"(b) If road crews are tied up in a less number of hours than provided in paragraph (a), they shall not be regarded as having been tied up under the law and their services will be paid for under the individual schedules of the different roads.

"(c) When road crews are tied up between terminals under the law, they shall again be considered on duty and under pay immediately upon the expiration of the minimum legal period off duty applicable to the crew; provided, the longest period of rest required by any number of the crew, either eight or ten hours, to be the period of rest for the entire crew."

This rule is typical of rules relating to the same subject matter in the collective bargaining agreements applicable on most of the railroads. The rule obviously is directly responsive to the present Hours of Service Law. The proposed changes in the law would have a direct impact on the operation of these and other rules relating to hours of work. It is conceivable that by operation of law some of these rules would automatically be vitiated or partially superseded in the event of amendments to the Hours of Service Act, though I am not a lawyer and express no opinion in that regard. However, I think it is clear that at least some of the present collective bargaining rules would not be automatically changed by amendments to the law and the railroads would be left with the problem of attempting to rationalize through collective bargaining many rules that would be rendered impracticable by amendment of the statute.

It is a fact of life that in order for the railroads to gain concessions from the unions, as would be essential in the event of a change in the law, they must be prepared to grant concessions in return. Were a revision of rules to become necessary because of a supervening change in the Hours of Service Law, the railroads would be in a difficult bargaining position in attempting to accomplish any such rules revisions. It is important to realize this in relation to the fact that the pending bill would cause a loss of earnings on the part of many employees, as later witnesses will particularize. It is fair to assume that efforts would quickly be mounted by the Brotherhoods to restore these losses so that concession needed by the railroads would afford the Unions additional bargaining leverage.

In addition to immediate earnings losses, there are other equally important, though less apparent, respects in which the proposed restrictions would impinge on the employes working conditions. As you are aware, seniority is a valued attribute of railroad employment. As a man accumulates seniority, his range of work and earnings opportunities enlarges. According to his personal preferences, there becomes increasingly available the assignments that produce high earnings through overtime and relatively longer hours on duty, or the assignments that work very short hours and permit very substantial off-duty time at home. Thus, seniority not only affords the more senior men opportunities best suited to their own preferences it holds out the promise to the junior men of similar advantages in the future.

As I am sure you have already been made aware, the restrictions in the pending bill would not have the limited impact on employee assignments as might at first appear. It is true that a relatively small percentage of the assignments involve long hours on duty. However, to accommodate the proposed restrictions it would be necessary to rearrange not merely that small percentage of assignments but many others as well in order to attain the most efficient and economical operations permissible in such circumstances. Other witnesses will tell you exactly what would have to be done if the proposed limitations became law and they will show the widespread effects that would follow.

One of the most significant consequences of the restrictions would be the effect on the work assignment preferences of the employees in the exercise of their seniority. Of course, relative seniority standings would be undisturbed or even advanced with the hiring of new employees, but the range in the types of available work opportunities would be constricted. There would no longer be the high earning assignments to bid in. Assignments would tend to offer less variety in terms of hours and earnings. The men formerly holding the high paying jobs would, because of their seniority standing, bid in the more desirable assignments remaining in the reorganized operations. This would displace the men junior to them who previously had chosen those assignments, and they in turn would exercise their seniority to bump men below them and so on down the

line. The effects of the restrictions, therefore, would permeate the entire seniority roster. Opportunities of the senior men and prospects of the junior men would be altered. These effects on working conditions and earnings would be compounded by the greater number and duration of layovers at away from home locations that inevitably would result from the proposed restriction. Other witnesses will show the extent to which this could be expected to occur.

I am not suggesting to you that existing work assignment characteristics necessarily should be frozen against change. In fact, as I explain later in this statement there are respects in which the carriers believe the present pay and work assignment structure is outmoded. What I do suggest to you is that alterations in work assignment characteristics and the resultant effects on the exising system of pay and working conditions should come about, if at all through the collective bargaining process in order to comprehend all of the effects of changes that might be adopted and all of the interests at stake.

I realize Union proponents of the bill may suggest, or may already have suggested, that management professions of concern over employee interests are to be viewed with suspicion; that the Unions are the stewards of the employees welfare, not the carriers. Certainly, however, the railroads have every reason to be concerned about the working conditions and earnings of their employees. Nevertheless, put solely on the basis of practicality, and ignoring considerations of employee morale in the general sense, I know from long experience that earnings losses or other conditions that cause discontent are bound to provoke demands for rules changes or more legislation that would restore lost advantages at the expense of the carriers. Passage of the pending bill would not be the end of the story, but the beginning.

There have been proposals in the past by the operating employee Brotherhoods to reduce the basic day from eight hours to six. The Firemen and the Engineer's Unions now have such proposals pending which were served on the carriers only in very recent weeks. I would expect that if Congress were to impose a 12 hour maximum on the working hours the Unions would attempt to use this fact as an added argument in support of efforts to achieve a six hour day, despite the fact that the Government and others have expressed opposition to such proposals. I suppose it would be contended that if a 16 hour work limit was appropriate when the 8 hour day was the standard, a reduction to a 12 hour work maximum would make a six hour basic day appropriate. Certainly, it would be argued that by reducing the maximum hours of service Congress was expressing itself as favoring shorter working hours for railroad operating employees. Regardless of the arguments that might be put forward, I think it likely that a shorter basic day would be sought as a means of producing greater earnings for the same amount of work in order to restore earnings losses resulting from reductions in the maximum hours of service.

I also wish to point out that there are very obvious respects in which the pending bills would pyramid our problems and costs under the existing collective bargaining agreements, entirely apart from the direct cost increases that would be occasioned by increased employment and the other effects already mentioned. For example, the railroads provide meal allowances and lodging at away-from-home layover points, or dodging allowances where railroad lodging facilities are not available. These costs would be increased where the frequency and duration of layovers increased and where the number of crews required to lay over increased. I believe later witnesses also will explain that under the proposed legislation there would be points where it would be necessary that the railroads establish new crew facilities or arrangements in order to comply with our obligations to provide suitable lodging.

I am informed that it was proposed by the spokesman for the Firemans Union during earlier hearings before your subcommittee that deadheading time should be counted as time on duty for purposes of the Hours of Service Law. Mr. Manion has commented on this suggested change and I will only add a brief word from an employee relations standpoint. The proposal quite obviously was an afterthought. Its implications are not so innocent as they might seem at first glance. The railroads for many years have had collective bargaining rules applicable to deadheading. These rules provide for different types of deadheading, for different situations that require deadheading and prescribe the pay basis for deadheading time.

The suggested change in the law would affect these rules and, of course, would not be responsive to the various conditions and circumstances involved in

present deadheading practices. If such a change were made it would create instances in which a crew that had to be deadheaded to a point to perform service would not have sufficient time under the law to do so when they arrived. Taken literally, as we must, the suggested change would mean that if a crew ran out of time under the Hours of Service Law at a point out on the road, they would simply have to be left there because deadheading them home or to a location where lodging was available would violate the law. Perhaps this latter result is not intended by the authors of the proposed change but, nevertheless, that is what the language says. This illustrates that proposals to change fundamental characteristics of working practices cannot be made lightly nor should they proceed from superficial or incomplete consideration of their probable consequences.

To this point in my statement I have identified various ways in which the pending bill would directly infringe on existing employment conditions or inevitably lead to alterations in collective bargaining relationships. These effects would not be of a minor nature but would be far reaching, affecting nearly everyone on the seniority rosters and imposing severe problems of collective bargaining on railroad management. Changes of such a fundamental and sweeping character, if they are to be made at all, should be exposed to the rationalizing process of collective bargaining, not imposed by legislation which necessarily cannot accommodate all of the many components of the pay basis and work-assignment structure that would be affected. However, as I will explain presently there is no really substantial indication that a problem exists that calls for a change in present practices. Surely where collective bargaining relationships that have endured over half a century have not revealed a need for changes of the kind proposed, there should not be a need to override established labor-management bargaining mechanisms in the manner proposed by the pending bill.

The Operating Brotherhoods Have Not Sought Reduced Working Hours Through Collective Bargaining

The second point I wish to make is that the Operating Employee Brotherhoods have not presented collective bargaining requests which would reduce the working hours of the employees, with certain exceptions that I believe will be of interest. I have touched briefly on the long history of collective bargaining in this industry and the progress made by our employees through collective bargaining. The most recent movement for improved wages and working conditions on the part of railroad employees was settled in 1964. In that movement there were no demands on the part of any operating employee union that had as their purpose a reduction in working hours. Currently, we are receiving collective bargaining notices from the various unions to initiate another industry-wide movement for improved wages and working conditions. The only operating employee union demands that include proposals which would tend to reduce hours of service are supplementary proposals made by the Firemen's Union on or about July 13, 1966 and by the Engineers' Union on or about July 19, 1966 after hearings began before your committee.

It is a fact of common knowledge that the process of collective bargaining involves give and take; the desires of all parties at the bargaining table are tempered by the realities of economic conditions and many other factors. When one approaches the bargaining table often it is necessary to subordinate some aspirations to other important or more urgent considerations.

But this moderating influence of "what the traffic will bear" is not present where a union pursues certain goals by means other than collective bargaining as here, and at the same time presses forward with a collective bargaining program asking the very maximum in wage and fringe benefit increases. I think it may be fairly concluded that there have been few proposals that would have the effect of reducing the working periods of the longer-hours assignments for operating employees because no real problem exists that calls for correction. The recently served proposals of two unions to reduce the hours constituting a day's work would appear to be more directly concerned with increasing earnings than with working hours. In any event, we now have the proposals on the table and can consider them on their merits. As I pointed out earlier, the context in which they are considered would be materially altered were Congress to pass the pending bill. Thus the potential impact of the bill on collective bargaining relationships is made very evident by these Union proposals.

I have been informed that at least one spokesman for labor interests who appeared before you in support of the pending bill has suggested that collective

bargaining proposals that would affect working hours have not been made because the unions have considered the field "preempted" by Congress through the existing Hours of Service Act. In my years of experience in railroad labor relations I have never known any conception of that kind to have inhibited union requests. Certainly, it did not in the case of proposals that have led to agreements affecting working hours, such as the forty-hour week and mileage limitation rules I mentioned earlier.

In the work rules dispute there were union proposals to reduce the basic day for operating employees from eight hours to six in freight service and seven in yard service, and to establish a four-hour day in passenger service for engineers and firemen and a six hour day for trainmen. These proposals along with the other union and carrier proposals to revise the pay structure were withdrawn when the dispute finally was resolved. However, at no time was any claim made that the proposals to reduce the hours constituting the basic day were illegal, though, of course, we felt then as we do now that proposals for a four or six-hour day were entirely unmerited.

The recent Firemen's and Engineers' proposals are very similar to the work-hours proposals advanced during the work-rules dispute. The fact that such proposals have been made by the Firemen's Union gives reason for some skepticism about the claim that "preemption" bars proposals affecting working hours. I do not believe the proposal has any more merit now than it had before but I do not regard it as unlawful on any theory of "preemption." I might add that I do not believe the proposal is designed primarily to reduce the working hours of the longer asignments, but rather is another method of increasing earnings by shrinking the unit of work constituting the normal work day. I express no judgment about the doctrine of preemption as a general proposition, nor can I venture any anticipatory opinion on the propriety of some proposal that might relate to hours of service that has never been served upon the railroad industry by any union. I can say, however, that rules that affect working hours have been negotiated through collective bargaining in the past without a legal challenge.

In stating to you that the working day, like wages, has been the subject of collective bargaining, I do not wish to leave any implication that there is a problem in this area that calls for correction. It certainly is not my purpose to invite any additional demands. Actually, the problem that exists with respect to the work-day is to the carriers' disadvantage. The 12½ mile per hour speed basis of pay is outmoded and results in a great many operating employees receiving one or more day's pay for substantially less than a day's work. So far as the lengthier assignments are concerned, the very fact that there have not been concerted collective bargaining proposals that would have the effect of reducing the length of assignments bespeaks the absence of any pressing problem from the employees' standpoint. The employees on these assignments receive very high pay commensurate with their hours of work. I also wish to recall your attention to the fact that the union proponents of the pending bill advocate its passage exclusively on the basis of safety. Where the asserted purpose of a proposal, whether it be a collective bargaining demand or a legislative proposal, is to eliminate alleged adverse safety conditions, some reasonable relationship should be shown between the proposed measure and the safety conditions to which it is supposed to be addressed. So far as I am aware, there has been no such relationship shown. Surely, then, the railroads would be justified in opposing collective bargaining demands (if any were made) ostensibly directed solely to safety but in fact unrelated to safety. We oppose the pending bill for the same reason.

The Pending Bill Would Counteract the Progress Made Pursuant to Public Law 88–108

I next wish to explain why the railroads believe the proposed leigslation is inconsistent with National policy and, specifically, why we believe it is adverse to the Congressional purposes embodied in Public Law 88–108 which led to the elimination of many unneeded operating employee positions in our industry.

I have already touched on some aspects of the railroad work-rules dispute. You will recall that after the Unions had rejected the recommendations of all impartial authorities that studied the dispute, and a Nationwide railroad strike became imminent, Congress in August 1963 enacted Public Law 88–108. That law provided for the creation of an Arbitration Board, which became known as

Arbitration Board No. 282, to render a binding Award on the question of the need or lack of need for firemen in freight and yard service and on the question of the size of train and yard ground crews. The Arbitration Board authorized the discontinuance of up to 90% of the firemens' positions and established procedures for reducing the size of train and yard crews, but prescribed extensive protective arrangements for affected employees. Pursuant to that Award the railroads have discontinued many firemen and trainmen positions and have expended over thirty-five million dollars in employee protection allowances and allied benefits.

Underlying the Award by the Arbitration Board was a recognition that the railroads were supporting an unjustifiable burden of unnecessary employees. Accordingly, the Award established a program for gradual elimination of redundant positions, paying due regard to the interests of individual employees by providing generous employment guarantees and severance allowances. Thus the effect of Public Law 88–108 has been to reduce the number of operating employee positions so that the work force more nearly conforms to the requirements of modern railroading. On the other hand, the effect of the pending bill would be to increase the number of operating employees on the railroads, and markedly so as already has been shown by Mr. Manion. I am not here to speculate about the motives of the union proponents of the bill, only to call attention to the inevitable consequences if it became law. Clearly the bill would counteract progress made pursuant to Public Law 88–108.

In order that my meaning as to the effects of the bill will be clear, I will explain particularly the impact the bill would have with respect to the employment of firemen. Under existing practices the railroads may operate up to 90% of freight and yard engines without firemen, subject to the requirement that employment be provided for firemen having more than 10 years seniority. Because of the employment guarantees we are now operating about 50% of the assignments without firemen. The firemens' Union is permitted to designate 10% of all freight and yard engine assignments as so-called "must fill" jobs and these assignments then must have firemen as members of the crews even if it is necessary to hire new firemen for this purpose. This is why there is a 90% maximum on the number of assignments that may be operated without firemen.

With this preface let me illustrate how the pending bill would operate. To simplify the illustration, I will use round numbers which are, of course, hypothetical. Let us say that a railroad has 1000 engine assignments in freight and yard services. Under the 10% veto privilege of the Firemen's Union, 100 of these engine assignments must be manned by firemen. If the 12 hour feature of the proposed bill increased the number of engine assignments from 1000 to 1200, the number of "veto" or "must-fill" firemen assignments would go up to 120. In other words to the extent the bill would require additional crews, there would be a corresponding increase in the number of compulsory firemen assignments.

This, of course, is not the whole story. As you know, the bill also provides a nine hour limitation for engineers working without firemen, although the remainder of the crew theoretically would remain subject to the twelve hour limit. The practical effect of the nine hour feature would be to induce railroads to hire firemen in order to be able to arrange runs and assignments within the twelve hour restriction rather than the nine hour limit. An alternative would be to treat the entire crew as subject to the nine hour maximum rather than assign otherwise unneeded firemen; and another alternative would be to have the train crew wait for a relief engineer to work with them for the balance of their assignments, up to a maximum of an additional three hours. The inefficiencies of this sort of arrangement are fairly obvious but other witnesses will explain in greater detail the nature and extent of the uneconomic effects of such restrictions.

I will point out, however, that to the extent a railroad had to treat the nine hour maximum as a practical limit on the entire crew, the effect would be to further increase the total number of crews required. This, in turn, would have the effect of further increasing the number of compulsory firemen assignments. Moreover, where a railroad chose the alternative of assigning a second engineer to take over after the first engineer's nine hours expired, it is conceivable that this would constitute an additional engine assignment which also would increase the basis on which the 10% Firemen's veto privilege functions.

Analysis reveals, therefore, that every important aspect of the proposed bill would have the effect of increasing the number of compulsory firemen assign-

ments, and, in particular, the nine hour feature would penalize the railroads for operating without firemen as they are authorized to do by the practices adopted in pursuance of Public Law 88–108.

The proposed nine hour restriction on engineers working without firemen warrants additional comment because it not only stands in direct opposition to the Arbitration Award but represents a sharp departure from the substantial body of precedent establishing the lack of relationship between safety or work-burden and the presence or absence of firemen.

As you probably recall, the Arbitration Board was preceded by other impartial tribunals that studied the fireman-off issue and other manpower questions. The Presidential Railroad Commission was created by the President following an agreement by the carriers and Brotherhoods to submit the issues to a special commission for extended and complete study. The five distinguished Public members of the Commission were former Federal District Court Judge Simon Rifkind of New York, who served as chairman; John Dunlop, Professor and Chairman of the Department of Economics, Harvard University; Charles Myers, Professor of Industrial Relations, Massachusetts Institute of Technology; Russell Smith, Associate Dean, University of Michigan Law School and Francis Robertson, Washington, D.C., attorney and arbitrator. The Commission conducted its proceedings over the course of more than one year and issued its report in February 1962. It recommended gradual elimination of firemen's positions in freight and yard service and also made recommendations on other carrier and union proposals.

The Presidential Railroad Commission was followed by Emergency Board No. 154 which sought through mediatory efforts to implement the Presidential Commission report and, upon failure of these efforts, made recommendations which, like those of the Commission, were designed to accomplish a gradual elimination of firemen positions. The Emergency Board was composed of former Judge Samuel Rosenman, chairman; Clark Kerr, Chancellor of the University of California and Nathan Feinsinger, noted professor of labor law and mediator.

These impartial bodies that preceded the Arbitration Board gave comprehensive consideration to railroad working conditions and practices. In formulating crew-size recommendations the most scrupulous attention was given to safety and employee work-burden. The report of the Presidential Railroad Commission makes this very clear and I can add my assurance to you as a carrier member of that Commission. The Commission also weighed manning practices throughout the world and particularly studied the experience in Canada where the railroads then were in the process of gradually discontinuing the employment of firemen. In Canada, as here, the Firemen's Union had bitterly opposed the elimination of firemen's positions but after exhaustive studies by a Board of Conciliation and a Royal Commission it was found that neither safety nor other considerations justified the continued use of firemen. Eventually, following a Firemen's strike, agreement was reached in Canada providing for the gradual discontinuance of firemen's positions. In the United States, even before the Canadian experience, Presidential Emergency Boards in the 1940's and 1950's had found that with the advent of the diesel locomotive the functions of the fireman either had disappeared or became redundant.

Finally, Arbitration Board No. 282, created by Public Law 88–108, found firemen to be unnecessary except in rare circumstances and established a 10% margin of compulsory fireman positions to more than amply provide for such rare instances.

The Arbitration Board was under mandate of law to give due regard to safety and the interests of the employees in formulating its Award. It did so in the fullest measure, as its Award and opinion attest. As a carrier member of the Arbitration Board who personally participated in all of its proceedings I can state to you without reservation that concern for railroad safety pervaded and dominated all of the Board's deliberations on the fireman and crew size questions.

There was a sequel to the Arbitration Board's Award that directly bears upon the experience of the railroads in conducting operations without firemen. The Award provided for the creation of a National Joint Board to make an "intensive and continuing study of the experience in road freight and yard service with and without the employment of firemen (helpers) during the period" of the Award. Those provisions of the Award were as follows:

"E(1) Within 30 days following the effective date of this Award, the parties shall establish a National Joint Board charged with responsibility for making

an intensive and continuing study of the experience in road freight and yard service with and without the employment of firemen (helpers) during the period that this Award remains in effect. During the 3-month period before the date this Award is due to expire, the National Joint Board shall prepare and issue to the parties a report based on its study.

"E(2). The National Joint Board established in paragraph E(1) shall consist of 4 members, of whom 2 shall be selected by the carriers, and one each by the Brotherhood of Locomotive Firemen and Enginemen, and by the Brotherhood of Locomotive Engineers. The expenses of the Board shall be borne by the participating parties."

I was one of the two carrier members of the National Joint Board. The findings of the Board with respect to the safety of operations without firemen, based on actual experience, are significant. Of course, the representative of the Fireman's Union on the Board dissented. In brief the Board did not find evidence that any relationship existed between actual operations conducted without firemen and the occurrence of accidents. The studies relied on by the Board included analysis of available statistical data and analysis of specific accidents, including those relied on by the Firemen's Union in attempting to show a causal relationship between the absence of firemen and the occurrence of accidents.

Also significant is the Supplemental Concurring Report of the National Joint Board member nominated by the Brotherhood of Locomotive Engineers. This report states that on the basis of studies and analysis there was "no evidence to substantiate" the contention that the absence of firemen was causally related to railroad accidents. It is important to realize that the engineers have a very special interest in the safety operations without firemen and are in a position in their daily work to observe actual experience in conducting such operations. It is the engineer's personal well-being that is involved, which distinguishes him from the fireman whose personal safety obviously is not a factor in operations conducted without firemen.

This brief resume of the historical antecedents of our present practices with respect to the employment of firemen offers added perspective to the provision in the pending bill that would restrict engineers working without firemen to nine hours on duty. Ostensibly this provision, like the rest of the bill, is based on considerations of safety. Yet, as far as I am aware, not the slightest adverse relationship has been shown to exist between engineers working without firemen and railroad safety. Indeed, the Arbitration Board and all of its predecessors, as well as the very recent National Joint Board, found a total absence of relationship between the presence or absence of firemen and safety. I emphasize that these Boards based their determinations on existing conditions in the industry. In recommending elimination of firemen positions they did so on the basis of thorough studies of the characteristics of operating employee assignments as they exist within the framework of the present Hours of Service Act. They found that engineers working without firemen on the assignments as they are constituted under existing law would not have adverse effects on railroad safety.

The special nine hour limitation on engineers in the pending bill, therefore, would be tantamount to a reversal of the judgment of the Arbitration Board that was the creature of Congressional Act, and the findings of the prior Boards and Commissions as well. I offer the opinion that the progress that has been made in pursuance of the Arbitration Award ought not to be negated, either wholly or partially, by a measure that superficially, and according to Union proponents, is not intended to intrude on crew-size practices. If there is a problem with respect to the employment of firemen, and I deny that there is, then any such question should be confronted directly and forthrightly and called by its proper name.

THE PENDING BILL IS INCONSISTENT WITH NATIONAL POLICY

By focusing my remarks on the firemen employment implications of the bill, I do not mean to discount the magnitude or significance of the increased employment of other classifications of operating employees that would be required. Mr. Manion has indicated the extent of the increased employment costs if the bill were passed and later witnesses will provide supporting detail. In my opinion, a bill that would increase railroad employment is not consonant with national policy I hasten to say that a measure shown to have a direct and reasonable relation

to railroad safety is one thing, but a bill not shown to bear such a relationship is another.

The national policy that I believe would be contravened by the bill is reflected in Public Law 88–108. I consider the law to be an expression of policy favoring the elimination of wasteful uses of manpower where such waste is shown to exist. As a matter of economic policy it is very evident that at this period it is essential for the country to achieve something approaching optimum utilization of resources to permit economic growth to continue without runaway inflation. Employment shortages are cropping up increasingly, intensifying the need to avoid wasteful and misdirected uses of manpower. Very recently the President spoke in somewhat these terms with respect to National Manpower policy. On June 17, 1966 at the swearing-in ceremony of Mr. Stanley Ruttenberg as Assistant Secretary of Labor for Manpower, the President said:

"I don't believe there is really a manpower shortage in this country today. There is a very serious waste of manpower in my judgment. One of the ways, I think, to stop inflation is to stop the waste of the human potential."

It would seem clear that an abrupt increase in the employment rolls of the railroads, where no need therefor is shown to exist, would represent just such a waste of human potential and would have decidedly inflationary tendencies by adding to the labor costs of a basic industry.

Railroad Labor Costs Should Remain Subject to Regulation Through the Collective Bargaining Process under the Railway Labor Act

The point I have just made about railroad labor costs is closely related to the final aspect of the pending bill which I wish to ask you to consider. In brief, I believe it is important to recognize the relationship between the proposed legislation before you and the totality of railroad labor costs. A labor cost increment does not become any less so or something of a different character because it is occasioned by legislation rather than by collective bargaining demands. This may seem so basic as to be hardly worth saying. Yet, I believe there is a distinct threat to the stability of railroad labor costs where a union advocates extremely costly legislative changes at the same time it is pressing a vast wage and fringe benefit program through collective bargaining. That is exactly the situation that confronts us at present. The Firemen's Union and the other operating and non-operating employee Organizations have initiated a wage, rules and fringe benefit movement that is unprecedented in its magnitude. I think it would be naive for me to expect that these demands are going to be moderated in deference to pending legislative proposals that would add substantially to our labor costs if enacted.

In this context, I believe it is useful to consider some of the fundamental facts about railroad labor costs. The nature of our industry is such that labor costs represent a very large proportion—about 50%—of our gross revenues, unlike most other businesses. On the other hand, the nature of our business is such that labor cost increases are not directly reflected in our transportation charges. Thus, excessive labor cost increases cause an immediate and continuing profit squeeze. The railroads have stayed afloat by massive capital investments in technological improvements and by other progressive measures that have maintained relative stability of unit labor costs but at the same time have permitted wage and fringe benefit progress by our employees that compares very favorably with outside industry. To give you a more precise idea of the level of wages on the railroads, the following are the average annual earnings of the operating employee groups as of 1965:

Engineers	$11,208
Firemen	8,663
Conductors	10,904
Brakemen	8,463

As I have indicated, and as these earnings levels show, the railroads have not been inhospitable to wage progress by their employees comparable to or surpassing the progress of employees in industry generally. The extent of the gains made by our employees in recent years is indicated by a comparison of our per-employee labor costs over the eight year period from 1958 to 1965. These figures do not encompass all of our labor costs but are sufficient to show the trend. In 1958 our average labor costs per employee hour were $3.11; in 1965 the figure had risen to $4.06. This represents more than a 30% increase over

the period. It is significant that in this same period, 1958 to 1965, the average freight charges of the American railroads declined 13% although the Consumer Price Index went up 12%.

The message conveyed by these facts is clear. In the face of spiralling wage and fringe benefit levels, the railroads have held the line on prices by modernizing their operations to achieve practically unparalleled productivity gains. But this counter-inflationary influence the railroads have had on the economy cannot continue if labor costs are allowed to get out of hand. Excessive labor costs have an immediate and direct impact by siphoning off funds needed to continue capital investment programs. While the financial condition of the industry has improved, the returns still are not adequate to support the capital expenditures needed to serve an expanding economy. As an illustration, I am sure all of you have heard much about the tight freight car supply which the industry is striving to overcome. The average cost of freight-train cars today is over $14,000 compared to $9,150 in 1958. In 1965 the railroads spent about one billion dollars to augment the freight car fleet and have programmed about one and one-half billion dollars for that purpose this year.

I have intended by these remarks to give some impression of the function of labor costs in the cost-price equation of our industry. Let me now offer some information as to what we are facing at the present time in Union demands for wage increases and other benefits. I mentioned the fact that a new wage and fringe benefit movement is under way. The wage demands alone are extravagant, ranging from 18% to 25% in requested increases. If we were to assume a 20% increase based on present employment levels, the cost to the industry in additional wages alone would be about 834 million dollars annually. If we assume wage increases of 3%, rather than the extravagant levels proposed, the cost to the industry would be 125 million dollars per year. These estimates do not take into account other benefits sought by the Unions many of which also would be very costly. The railroads, therefore, already face a serious problem of pyramiding labor costs. This gives currency in very practical terms to my point that except in unusual circumstances railroad labor costs should remain subject to regulation through collective bargaining under the Railway Labor Act.

The industry simply cannot sustain the cost burden represented by pending collective bargaining and legislative proposals, and at the same time meet the transportation challenge of an expanding economy.

CONCLUSION

As the spokesman and negotiator for the railroads in national labor matters, I believe I have a rather accurate insight as to the effects the proposed legislation would have on employee relations in our industry, both immediately and in the longer term. The views I have expressed I consider to be a realistic assessment of those consequences.

It is my opinion that the disadvantages that would accrue under the bill far outweigh what are at best the dubious benefits claimed for it by its Union proponents. Indeed, it is my understanding that all of the available data shows that there is no connection between railroad accidents or casualties and the present working hours of the employees. I submit that it would be most unfortunate for the industry and its employees if, in the name of safety, a measure were enacted that did not accomplish its stated goal of improved safety but instead visited heavy burdens on the railroads and impaired the earnings and altered the seniority values of the employees.

The CHAIRMAN. Thank you very kindly, Mr. Wolfe.

I would just have one or two questions in relation to your testimony. I notice you mentioned the 9 hours there, and I was trying to see where it was in the bill.

If this 9 hours were taken out of the bill, and we were to make it 12 hours for everyone, would that make it more palatable?

Mr. WOLFE. I think, Congressman Staggers, that there is no question but what the bill would go down somewhat easier. On the effect of the pill, I am not going to relate my answer to any particular medicine, especially not castor oil, but when you take the pill, you know that

there is going to be a certain result, and reduction in the hours would not be, and is not helpful and is not necessary, but in direct response, certainly taking the 9 hours would make it a little more palatable, but still extremely difficult to not disgorge.

The CHAIRMAN. I am sure you know all of the wild statements that were made about ruining this country over the 8-hour law which was passed.

Mr. WOLFE. Yes, I was working 12 hours a night when the 8-hour law passed.

The CHAIRMAN. You were happy to see it pass, weren't you?

Mr. WOLFE. Why, certainly I was. Eight hours is better than 12.

The CHAIRMAN. We are all human and when the railroads had the 16-hour law I expect you thought that was a pretty good thing.

Mr. WOLFE. The 16-hour law must be viewed in its proper context. One of the most important, and I think most desirable, from the viewpoint of those who work is aggregate service. You work from your home terminal to the outlying terminal. You may get 3, 4, or 5 hours rest, but you are permitted to double back.

The result is if it is, say, a 160-mile run you make 320 miles, the equivalent of 3⅕ days, and you may only be away from home a total of 10 or 11 hours. That means you have more time at home, and those are highly desirable runs.

Now, to cut that to 12 would to a great extent eliminate the possibility of aggregate service. In other words, you could not double back if there is a possibility of tying up between terminals. You would have to hold that crew at the away-from-home terminal until they had had their legal rest.

With train service as it is unfortunately, or perhaps fortunately, the demands of the public regulate our operations. We must operate these trains in order to satisfy the public and we can't hold a train, train of perishables, or stock, or whatever the commodities may be—everything is rush nowadays—we can't hold the train waiting for the crew to have rest. We must operate it.

That means that this crew would have to stay here in many instances 24 hours. Now, it is for those reasons and many others that the Brotherhood of Locomotive Engineers opposed this legislation.

The CHAIRMAN. Have they appeared before this subcommittee?

Mr. WOLFE. They appeared before the Senate committee and I believe they appeared before this committee. Yes, they did.

The CHAIRMAN. I am sure they can speak for themselves.

You talked about the public demand and public welfare. I just wondered what happened to these passenger trains that have been taken off all over the country. I would like to ride one between my home and Washington and back, but they took it off. They didn't consider my public welfare a bit.

Mr. WOLFE. Congressman Staggers, that is a very pertinent question and I am very happy to answer it.

The only reason passenger trains, passenger train operations, have been so drastically curtailed is because the public did not use them. Wherever there is a demand for the continuation of passenger service, passenger service has been retained. There isn't one train that is taken off to the best of my knowledge that we don't have to run the gantlet of getting public approval.

We must make a showing that the public abandoned our service compelling the railroads to abandon the operation.

The CHAIRMAN. I think that is a subject of discussion and the Government and your Congress have thought a little differently. They are willing to spend millions upon millions of dollars for some faster trains and some better trains that you didn't keep up with as time went along so the Government says in order to have a great transportation system it is going to try to help you do it. This committee passed a bill to do just that and we hope it will be successful because we need the passenger trains in this country in order to get some of these cars off the road.

If we had good passenger trains I expect we wouldn't have nearly as many accidents on the road.

Mr. WOLFE. I realize, Congressman Staggers, that this is a very important question. I think the railroads are cooperating with Congress and the administration in the high-speed problems to relieve especially the short mileage, the commuter service.

Something has to be done and I am certain that this Congress and this administration in solving the problem before them will find that they are going to get the most sincere cooperation from the railroad industry. You have it now.

The CHAIRMAN. I couldn't get it when I tried to keep a train or two on. I might tell you that. A line goes by our home. Not only me, but many, many other people implored that they be kept on. Those are all the questions I have and thank you, Mr. Wolfe.

Mr. Cunningham.

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

Mr. Chairman, speaking about taking off passenger trains, it seems to me that the Government giveth and the Government taketh away.

I have been trying to find out what this Government really has in its mind because, on the one hand, we have had two Presidents that sent us messages that we should take action and pass legislation to help all of our transportation industry, and we had many hearings on it. We still have not passed such a bill.

But there is an inconsistency on the part of Government. You have the Post Office Department which for years, in the 10 years I have been here—it is getting worse all the time—has been continuing to take off the RPO cars, which are the one remaining bit of profit in many of these passenger train operations. I just don't know which way our Government is going. I think it is going in two different directions so far as the railroads are concerned.

However, did I understand you, Mr. Wolfe, to say that this matter could be a collective bargaining item?

Mr. WOLFE. Yes, sir, it could.

Mr. CUNNINGHAM. Has it been an item in the past; ever been an item?

Mr. WOLFE. The question of hours of service has been handled through collective bargaining. One of the notable examples was the request for a 40-hour workweek for employees in yard service.

Agreements were negotiated which establish a 40-hour workweek in yard service and, as I indicated earlier, we now have demands for a 6-hour day, and those demands will be negotiated under the procedures of the Railway Labor Act.

Mr. CUNNINGHAM. We had the airline strike legislation before this committee and I voted against the legislation because I felt that we have collective bargaining machinery in operation. It seemed to me to be no business of the Congress to get into that problem field when we had the machinery available even though it was a great inconvenience to the traveling public, and that is the reason I ask you in this instance if this could be a collective bargaining item and you say it could be.

Mr. WOLFE. Yes, sir; it could be.

Mr. CUNNINGHAM. I come from, or at least we used to say it was, the fourth largest rail center in the country and in the years I have been familiar with the railroad industry, the years I have been in Congress, this particular matter had not come to my attention until this year and it is very technical and it is hard for a nonrailroad man to really understand.

So I am wondering now, there must be some reason why this year this legislation has become an issue that is before this committee. Would this revert back to any recent actions between the railroads and their employees?

Mr. WOLFE. Yes, we think it very definitely ties in with the effect of arbitration award 282 and in my testimony which will be made a part of the record I deal with that very extensively.

We believe, and we believe very strongly, that this legislation does not deal with safety at all, nor undue burden, but is designed primarily to offset the effects of award 282. It is a manpower, a make-work proposition, and does not deal with safety at all.

Mr. CUNNINGHAM. Of course in the ordinary understanding of working hours no man should work 16 hours a day, but it has been done for a long time I presume.

Mr. WOLFE. Well, since 1907.

The CHAIRMAN. And that was passed by law, was it not?

Mr. WOLFE. Yes, sir; it was.

The CHAIRMAN. That is the law and has been on the books since 1907.

Mr. WOLFE. Yes, sir.

The CHAIRMAN. That is right.

Mr. CUNNINGHAM. Those are all the question I have at the present time.

The CHAIRMAN. You said here this doesn't have anything to do with safety. How do you explain the fact that the Interstate Commerce Commission statistics show that for the past 2 years there has been an appreciable increase in the number of train service accidents?

Mr. WOLFE. Well, we have a witness, Congressman Staggers, who is going to deal with that very thoroughly, and we believe that when you have an opportunity to analyze his testimony you will be convinced that there has been no increase in personal injuries and as a matter of fact there has been a decrease.

The CHAIRMAN. Excuse me. You mean the ICC has been misleading this committee?

Mr. WOLFE. No, sir; I do not. And this witness will explain to you exactly what the cause is. Now, you understand how train service accidents are measured. It is the amount of money damage, and every time there is a wage increase or an increase in the cost of materials it

expands the number of reportable injuries although the total number may not increase one accident.

The CHAIRMAN. I just asked our counsel here if the ICC had been up here and he said "Yes." He explained they had figures but they didn't explain why the increase. Maybe you can explain why.

Mr. WOLFE. We are. We are going to explain it, Congressman Staggers, in such a thorough, persuasive manner that I am sure any doubts you may have will immediately disappear.

The CHAIRMAN. As far back as 1907 the Government had to pass a law and put it on the statute books that there would be a 16-hour day. Do you think that 59 years ago we perhaps were having a little difficulty with working conditions someway and we had to improve them by law?

Mr. WOLFE. As a matter of fact, improvement in working conditions—and, by the way, collective bargaining has changed somewhat since 1907, too.

I suppose many people would say there has been a great improvement in collective bargaining, including me. I would say there has been an improvement. So what was considered within the realm of or scope of collective bargaining in 1907—perhaps I should say it was nothing—is entirely different now.

We bargain about almost anything, including hours of service. In fact we are going to start bargaining pretty soon on hours of service unless we can find some way to avoid it and up until now I haven't been able to find the answer to that.

The CHAIRMAN. Mr. Wolfe, we appreciate you and Mr. Hopkins coming here. You are always a good witness. You always have your answers for the questions. They always sound pretty good.

Thank you very much.

Mr. WOLFE. Thank you, Mr. Chairman. It is always a pleasure to appear before you and Mr. Cunningham, the former mayor of our great city of Omaha where I worked for several years, and thank you again.

The CHAIRMAN. Thank you.

Our next witness is Mr. Hugh E. Greer, National Railway Labor Conference.

STATEMENT OF HUGH E. GREER, DIRECTOR OF RESEARCH; ACCOMPANIED BY CHARLES I. HOPKINS, GENERAL COUNSEL, NATIONAL RAILWAY LABOR CONFERENCE

Mr. HOPKINS. Yes, sir. Mr. Greer is here.

May I say, Mr. Chairman, that Mr. Greer is going to address himself directly to the question you asked with respect to the train accident and other ICC data going to railroad safety. His prepared text is only 8½ pages and it is distilled just about as far as it could possibly be and I would like to ask your indulgence, sir, to permit him to read it. I know of no way that it could be summarized any further than it already has been.

The CHAIRMAN. I don't know how you four gentlemen are going to get your time in between now and 12 o'clock.

Mr. HOKINS. This will only take I would say 15 minutes for Mr. Greer to make his direct presentation.

The CHAIRMAN. From now on I hope this committee will limit anybody that comes before it to 15 minutes. Several other committees do just that, make them condense it to 15 minutes, and I hope this committee will come to that point and do it, because we have just been through 6 weeks of hearings on a bill which I think could have been completed in 4 or 5 days if the men had condensed their statements and gotten together and worked together just a little bit, because it was continual repetition.

Well, we won't go into that. This is a different matter. I hope that you will be short.

Mr. GREER. Yes, sir.

The CHAIRMAN. You may proceed, Mr. Greer.

Mr. GREER. Thank you.

My name is H. E. Greer. I am director of research for the National Railway Labor Conference. I have been continuously employed in the railroad industry since 1934, when I was hired by the Illinois Central Railroad as a messenger boy.

About half of my work for the railroads has been in operations—that is, work involved in road train and yard movements—and half has been in work involved in safety, labor relations, and personnel work.

During the last 13 years, I have been chiefly engaged in research and statistical analysis in the safety, personnel, and labor relations fields for the Association of American Railroads, the Association of Western Railways, the Regional Carriers' Conference Committees, and the National Railway Labor Conference.

Most of the published statistical material relating to safety of railway operations is compiled by the Interstate Commerce Commission. I have spent considerable time during the last 13 years in studying and analyzing this statistical material and the Commission's methodology and reporting instructions.

I have also consulted extensively with the carriers concerning these matters, and have served on numerous industry committees that have been concerned with various aspects of the safety problem and with the Commission's reporting instructions and reports.

I have been asked to testify before your subcommittee because of representations that were made by one union witness who appeared before you which were intended to leave the impression that there is a deteriorating trend in railroad safety. I wish to preface my discussion with an explanation of the purposes, general significance and sources of the data I will present.

First, it would appear to be clear that the relevant inquiry for purposes of the bill under consideration is whether or not there is a causal relationship between the present working hours of railroad operating employees and the accidents that actually occur.

It is my understanding that although such a relationship has been claimed in testimony presented to you, there has been no factual support offered for the claim, either statistically or otherwise.

It is the broader contention that railroad safety generally is "on the decline" to which my testimony is addressed. This more general subject would not appear to be germane to the bill under consideration where there is an absence of evidence of any relationship between working hours and accidents; nevertheless, we do not believe that

charges of adverse safety trends should be allowed to remain unexposed on the record before you.

The data I will present show that the safety standards of the industry—already superior to those of any other transportation mode in the country—instead of deteriorating are continuing to improve.

Second, the information contained in my statement and the exhibit I will offer is not derived from independent studies conducted by the railroads but is based on official data published by the Interstate Commerce Commission, the same source as that used by union interests in attempting to show a declining trend in railroad safety. Essentially the same union claims were presented to the Senate Committee on Commerce during its hearings in August and September of last year on the administration of Public Law 88–108, the law that led to the gradual discontinuance of firemen's positions.

The same claims and data advanced by the Firemen's Union also were the subject of correspondence earlier this year with the chairman of this committee, Mr. Staggers. And Congressman Staggers did enter this correspondence into the record of these hearings on June 27.

In other words, the same data that has been presented to you in these proceedings as somehow showing a need for change in the hours of service law previously have been relied on by the Fireman's Union as allegedly showing a need for the reemployment of firemen.

The exhibit accompaying my statement, which I ask the subcommittee to receive for the record, contains essentially the same tables and data submitted to the chairman of this committee, Mr. Staggers, in March of this year, which are already a part of the record.

The only changes are that the tables and textual analysis in my exhibit have been updated to incorporate more recent ICC data that has subsequently become available. That material appears in this document you have before you behind the yellow separated sheet.

I would like to first refer to the misleading use of "train accident" statistics.

The first two sections of my exhibit, parts A and B, are concerned with ICC "train accident" statistics. You will recall that in characterizing railroad safety conditions as a "frightening mess" (statement of Mr. Gilbert, pp. 33–34), the spokesman for the Firemen's Union relied entirely on the trend in "train accidents."

It is also noteworthy, for reasons I will explain presently, that he avoided any reference whatever to personal injury or casualty trends.

The term "train accident" as used in our industry has a very precise meaning which differs from the meaning that probably would be attributed to the words in common usage.

For our purposes, a "train accident" is an occurrence that is reportable to the ICC in accordance with the definition of "train accidents" in the ICC accident reporting regulations.

Thus, a "train accident" is an accident arising out of the movement of trains, engines or cars that causes more than $750 damage to railroad equipment or property.

If there is less than $750 damage, the accident is not a reportable "train accident"; if there is more than $750 damage, it is a reportable "train accident." Only 7 to 9 percent of the reportable train accidents

result in injuries to persons (in 1965 only 7.7 percent of the train accidents caused any injury or fatality to employees or to the public), so that the loss usually is solely in monetary terms to the railroad involved.

Because the amount of physical property damage in dollar terms is determinative of its reportability, and for other reasons I will also explain, the number and rate of reportable train accidents may increase without any increase in the actual number of accidents that are occurring.

These factors have contributed to an increase in reportable train accidents for the last several years. This upward trend began long before the railroads began discontinuing firemen's positions in May 1964 pursuant to Public Law 88–108 and, actually the trend has decelerated during the period since that time.

I mention this only because it has been claimed by the Firemen's Union that the discontinuance of foremen's positions is responsible for an upward trend in reportable train accidents.

I will now explain the principal factors that tend to produce an increase in the number and rate of reportable train accidents without any actual worsening of relative safety on the railroads. The first of these is the increase in the cost of labor, materials, and equipment.

As I have previously mentioned, the Interstate Commerce Commission defines a train accident as one in which damage to property or equipment exceeds $750. In computing such damages the railroads take into consideration the cost of equipment damaged and the cost of repairs.

Due to higher wage rates and increases in the cost of materials and equipment, many accidents which were formerly unreportable, because the damage involved was less than $750, are now classified as reportable train accidents.

Train accident rates reported by the ICC may thus be increased without any increase in the actual number of such accidents.

Table A–1 in my exhibit contains significant cost statistics for the class I line-haul railroads for the years 1961 through 1965.

Repairs to right-of-way and equipment are made by the maintenance-of-way and shop employees. From 1961 to 1965, there was a 13.5-percent increase in the average straight time hourly rates of pay of maintenance-of-way employees and an 11.4 percent increase in the hourly rates of pay of employees engaged in the maintenance and repair of railroad equipment.

In 1964, the average cost of freight cars purchased by the American railroads exceeded their average cost in 1961 by 23.6 percent. Equipment costs are known to have increased in 1965, although published data is as yet unavailable for that year. The effect of these increases in costs upon the number of train accidents reported to the Interstate Commerce Commission is reflected in the fact that while the number of reported train accidents on all U.S. railroads increased 43.8 percent during the period 1961 to 1965, the number of casualties in train and train-service accidents decreased by a small percent over the same period, one-tenth of 1 percent.

The second major factor causing the rate of reportable train accidents to increase is the changing composition of overall railroad service. There has already been reference made to this this morning.

Since 1961, as during prior years, there has been a decline in the volume of passenger service and a concomitant increase in the volume of freight and yard services.

This redistribution of the operations, the increase in freight, the decline in passengers, among the several classes of services is shown on table B–1 of the exhibit. Passenger gross ton-miles declined by 17.1 percent over the period 1961 to 1965, while gross freight ton-miles increased by almost the same percent, 17.2 percent; and net freight on ton-miles increased by 22.8 percent.

The effect of these changes in the distribution of service on total accident and casualty levels may be judged from the accident and casualty rates shown in table B–2. Train accident rates in freight and yard service are from three to four times as high as in passenger service.

Casualty rates in freight service are almost three times as high as in passenger service, and casualty rates in yard service are over six times as high as in passenger service. These relationships have been true over a period of many, many years.

Thus, with no change in the hazards of any of the three classes of service, levels of total accident and casualty frequencies would have increased merely as a result of the redistribution of the service that has occurred since 1961.

In addition to the reasons I have given, increases in freight traffic levels, such as the railroads have experienced in the last several years (shown on table B–1), historically are accompanied by an upward trend in reportable train accidents.

As a consequence of the factors tabulated in parts A and B of my exhibit, the trend in reportable train accidents simply cannot be relied upon as depicting the actual trend in relative safety of railroad operations. A much more reliable and significant measure of relative safety is the trend in casualties, which is not subject to the distorting elements I have described.

We also consider casualty statistics to be much more important for the present purposes of your subcommittee.

While the money losses represented by property and equipment damage of course are a very serious concern of the railroad managements, the personal safety of individuals would appear to be much more directly revelant to the proposed legislation. Certainly the ostensible purpose of the union proponents of the pending bill is to reduce the risk of injuries to persons, not to avert money losses the railroads might incur.

However, in this connection, as I noted earlier, there is no factual basis for assuming a relationship between present working hours and employee injuries.

The casualty experience shows an improving trend as is shown in tables in parts C and D of the exhibit. The last column of each of the tables indicates the proportion of operations conducted without firemen for each period. The reason for this is that, as I explained, the tables originally were prepared in response to an inquiry by the

chairman of this committee, as to whether or not the gradual discontinuance of firemen's positions was accompanied by a deterioration in railroad safety. However, the other data is equally applicable for present purposes.

The table in part D of the exhibit shows by quarters the frequency or rate of casualties to employees on duty. This table is significant because it provides a measure for comparison by relating casualties to gross ton-miles.

In other words, not only are the number of casualties decreasing but when we relate casualties to a standard measure of operations we see that the freqeuncy of injuries in railroad operations also is going down.

The casualty data make it abundantly clear that the Interstate Commerce Commission statistics show a definitely improving trend both in the number and rate of employee injuries.

The last section of my exhibit, part E, contains data showing the absence of relationship between trends in reportable train accidents and the elimination of firemen's positions. These tables were included in the material submitted to the chairman of this committee which has been placed in the record and I have simply updated the figures and the explanatory text that precedes them.

However, since this information is specifically directed to the removal of firemen's positions, I will not take your time to comment on it.

I only wish to add in conclusion that, as the data I have presented shows, a full analysis of Interstate Commerce Commission statistics demonstrates an improvement, not a retrogression, in the safety record of the railroad industry.

As with most statistics, a selection process which uses certain data, like reportable train accidents, in isolation from their relevant context, and with only a partial explanation, can produce a distorted and unreal version of the facts.

When the facts are spread of record, as I have attempted to do, they establish a persistent improvement in the number, rate and trend of casualties in railroad operations.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Greer. Your appendix to your statement and the tables that you have about 19 pages of will be inserted in the record in full, and since I am sure we recognize that no analysis of all this data could be made without a study of it, I have no questions at this time.

(Attachments referred to follow:)

ANALYSIS OF CURRENT SAFETY STATISTICS

A. Effect of the Changes in the Levels of Costs in Reporting of Train Accidents

A factor which has contributed to the higher train accident rates reported by the Interstate Commerce Commission during the last several years is the increase in the cost of labor, materials and equipment. The Interstate Commerce Commission defines a train accident as one in which damage to property or equipment exceeds $750. In computing such damages the railroads take into consideration the cost of equipment damaged and the cost of repairs. Due to higher wage rates and increases in the cost of materials and equipment, many accidents which were formerly unreportable, because the damage involved was less

than $750, are now reportable accidents. Train accident rates reported by the ICC may thus be increased without any increase in the actual number of such accidents.

The following table (A–1) contains significant cost statistics for the Class I Line-Haul Railroads for the years 1961 through 1964.

Repairs to right-of-way and equipment are made by the maintenance of way and shop employees. From 1961 to 1964 there was a 7.8 percent increase in the average straight time hourly rates of pay of maintenance of way employees and a 6.0 percent increase in the hourly rates of pay of employees engaged in the maintenance and repair of equipment. In September of 1965 the average straight time hourly earnings of maintenance of way employees stood at $2,579, 8.0 percent above 1963 levels; and those of maintenance of equipment employees were $2,867, 7.1 percent above 1963 levels. In 1963 the average cost of freight cars purchased by the American railroads exceeded their average cost in 1961 by 23.9 percent. Equipment costs are known to have increased in 1964 and 1965, although published data is as yet unavailable for these years. The effect of these increases in costs upon the number of train accidents reported to the Interstate Commerce Commission are reflected in the fact that while the number of reported train accidents on all United States railroads increased 28.1 percent during the period 1961 to 1964, the number of casualties in train and train-service accidents increased only 4.6 percent.

TABLE A–1.—*Cost statistics—Class I line haul railroads*

Item	By years				Percent increase over year 1961		
	1961	1962	1963	1064	1962	1963	1964
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Average straight time hourly rates of pay:							
Maintenance of way	$2.279	$2.359	$2.389	$2.456	3.5	4.8	7.8
Maintenance of equipment	2.569	2.648	2.676	2.723	3.1	4.2	6.0
Average costs of new units:							
Diesel units	189,012	199,090	199,584	(1)	5.8	5.6	(1)
General service boxcars	10,715	11,469	14,625	(1)	7.0	36.5	(1)
Special service boxcars	13,000	14,803	15,679	(1)	13.9	30.6	(1)
Caboose cars	16,191	17,787	19,588	(1)	9.9	21.0	(1)
All freight train cars	11,392	11,783	14,111	(1)	3.5	23.9	(1)

[1] Not available.

Source: Interstate Commerce Commission statements M–300 and statements of railways.

B. Effect of Redistribution of Operations Among the Several Classes of Service

Since 1961, as during prior years, there has been a decline in the volume of passenger service and a concomitant increase in the volume of freight and yard services. This redistribution of the operations among the several classes of services is shown on the following table (B–1). Passenger gross ton-miles declined by 17.1 percent over the period 1961 to 1965, while gross freight ton-miles increased by 17.2 percent; and net freight ton-miles increased by 22.8 percent.

The effect of these changes in the distribution of service on total accident and casualty levels may be judged from the accident and casualty rates shown in the second following table (B–2). Train accident rates in freight and yard service are from three to four times as high as in passenger service. Casualty rates in freight service are almost three times as high as in passenger service, and casualty rates in yard service are over six times as high as in passenger service. With no change in the hazards of any of the three classes of service, levels of total accident and casualty frequencies would have increased merely as a result of the redistribution of the service that has occurred since 1961.

TABLE B–1.—*Operating statistics, class I line-haul railroads*

Item	By years					Percent increase over year 1961			
	1961	1962	1963	1964	1965	1962	1963	1964	1965
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Passenger train-miles (thousands)	198,497	193,211	189,360	183,557	172,344	−2.7	−4.6	−7.5	−13.2
Passenger gross ton-miles (millions) [1]	138,489	133,912	128,917	125,668	114,767	−3.3	−6.9	−9.3	−17.1
Revenue passenger miles (millions)	20,283	19,902	18,494	18,245	17,389	−1.9	−8.8	−10.1	−14.3
Freight train-miles (thousands)	386,332	393,257	399,897	414,930	420,962	1.8	3.5	7.4	9.0
Freight gross ton-miles (millions) [1]	1,274,535	1,326,022	1,370,733	1,432,105	1,494,002	4.0	7.5	12.4	17.2
Freight net ton-miles (millions)	577,398	607,217	635,986	670,682	709,321	5.2	10.1	16.2	22.8
Yard locomotive-miles (thousands)	211,874	213,928	214,068	219,119	221,323	1.0	1.0	3.4	4.5
Total gross ton-miles (millions) [1]	1,413,024	1,459,934	1,499,650	1,557,773	1,608,769	3.3	6.1	10.2	13.9
Total traffic units [2]	603,927	632,667	658,727	695,822	732,521	4.8	9.1	15.2	21.3

[1] Cars and contents.
[2] Twice revenue passenger-miles plus revenue freight ton-miles.

Source: Interstate Commerce Commission Statistics of Railways.

TABLE B–2.—*Train accident rates and casualty rates to train and engine service employees in train and train-service accidents per million locomotive and motor train-miles, by classes of service*

Item	Frequency rates			
	1961	1962	1963	1964
(1)	(2)	(3)	(4)	(5)
Train accident rates: [1]				
Passenger service	1.59	1.62	1.54	1.80
Freight service	6.52	6.62	6.84	7.22
Yard service	5.08	5.75	5.55	6.13
All services	4.70	4.89	5.36	5.79
Casualty rates to train and engine service employees in train and train-service accidents: [2]				
Passenger service	3.36	3.32	3.44	3.61
Freight service	9.24	8.47	9.04	8.90
Yard service	22.67	22.36	22.09	22.82
All services	11.26	10.82	11.10	11.30

[1] Rates by class of service computed by dividing accidents on all railroads by train-miles for class I line-haul railroads. Rates for all services computed by dividing accidents on all railroads by train-miles on all railroads.
[2] Class I line-haul railroads.

Source: Interstate Commerce Commission Annual Accident Bulletins, Statements M–400, and Statistics of Railroads.

C. Casualties to All Classes of Persons and to Employees on Duty

Because of the factors discussed in Part A, casualty statistics (fatalities and injuries) are a more significant measure of changes in relative safety than train accident statistics.

The four tables in this series summarize the casualty experience of the United States railroads for the years 1961 through 1965, and for the eight months period May to December inclusive for the same years.

The first two tables show casualties to persons of all classes. This includes casualties to employees on duty, passengers on trains, all classes of persons in highway-grade crossing accidents, and other classes of persons. Casualties to

persons of all classes in train and train-service accidents during the year 1963 were 3.3 percent higher than in 1962; in 1964 these casualties were only 1.6 percent higher than in 1963, although in 1964 20.1 percent of the freight and yard operations were conducted without firemen. In 1965 casualties to all persons in train and train-service accidents were 4.5 percent less than in 1964, whereas the percent of freight and yard operations without firemen increased to 47.6 percent (Table C–1).

For the eight months May to December inclusive, casualties to all classes of persons in train and train-service accidents in 1965 were 6.8 percent less than in 1964. During the 1964 period, 31.4 percent of the freight and yard service was operated without firemen, whereas in 1965 51.1 percent of the freight and yard locomotives were manned without firemen (Table C–2).

The last two tables in this series (C–3 and C–4) are identical to the preceding tables except that they cover only casualties to employees on duty. In all substantial respects, they reflect the same reversal or standoff in the comparative increases in casualties in the years 1962 to 1963 and the years 1963 to 1964, and the same decrease in the years 1964 to 1965. For the entire year 1965 these data reflect a decrease in casualties in train and train-service accidents to employees on duty under 1964 of 3.8 percent, and for the eight months May to December a decrease of 7.1 percent.

It is clear that the removal of freight and yard firemen commencing in May of 1964 did not have an adverse effect on the casualty record of the United States railroads. Increases between 1963 and 1964 were less than the increases between 1962 and 1963. Data for 1965, the first full calendar year of substantial operations without firemen, show a substantial improvement over 1964.

TABLE C–1.—*Casualties to persons of all classes, U.S. railroads, years 1961–65*

Year	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1961	19,779		9,466		29,245		
1962	19,711	−0.4	9,275	−2.0	28,986	−0.9	
1963	20,366	+3.3	9,231	−.5	29,597	+2.1	
1964	20,689	+1.6	9,348	+1.3	30,037	+1.5	20.1
1965	19,968	−4.5	8,420	−9.9	28,188	−6.2	47.6

[1] Class I line-haul railroads.

Source: ICC statements M–300 and M–400.

TABLE C–2.—*Casualties to persons of all classes, U.S. railroads, May to December, inclusive, 1961–65*

8 months, May to December	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1961	13,165		6,206		19,371		
1962	12,807	−2.7	6,035	−2.8	18,842	−2.7	
1963	13,551	+5.8	6,161	+2.1	19,712	+4.6	
1964	14,235	+5.1	6,286	+2.0	20,521	+4.1	31.4
1965	13,270	−6.8	5,638	−10.3	18,908	−7.9	51.1

[1] Class I line-haul railroads

Source: ICC statements M–300 and M–400.

TABLE C–3.—*Casualties to employees on duty, U.S. railroads, years 1961–65*

Year	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1961	11,492	----------	8,327	----------	19,819	----------	----------
1962	11,368	+1.1	7,973	−4.3	19,341	−2.4	----------
1963	11,730	+3.2	7,862	−1.4	19,592	+1.3	----------
1964	12,120	+3.3	8,036	+2.2	20,156	+2.9	20.1
1965	11,662	−3.8	7,154	−11.0	18,816	−6.7	47.6

[1] Class I line-haul railroads.

Source: ICC Statements M-300 and M-400.

TABLE C–4.—*Casualties to employees on duty, U.S. railroads, May to December, inclusive, 1961–65*

8 months, May to December	Casualties in train and train-service accidents		Casualties in nontrain accidents		Total casualties		Percent of freight and yard operations without firemen [1]
	Number	Percent change over preceding year	Number	Percent change over preceding year	Number	Percent change over preceding year	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1961	7,850	----------	5,498	----------	13,348	----------	----------
1962	7,386	−5.9	5,215	−5.2	12,601	−5.6	----------
1963	7,929	+7.4	5,311	+1.8	13,240	+5.1	----------
1964	8,409	+6.0	5,445	+2.5	13,854	+4.6	31.4
1965	7,817	−7.1	4,863	−10.7	12,680	−8.5	51.1

[1] Class I line-haul railroads.

Source: ICC Statements M-300 and M-400.

D. Casualty Rates of Train and Engine Service Employees in Train Operations

The quarterly casualty frequency rates tabulated on Table D–1 show no relationship between increases in rates and the elimination of firemen's jobs in freight and yard service. The increases in such rates generally were no greater in 1964 than in 1963 or in 1962. Notwithstanding rising traffic levels and the redistribution of the service (see Table B–1), the majority of the casualty rates were smaller for the year 1965 than for the preceding two years.

That there is no ascertainable relationship between casualty rates and freight and yard operations without firemen is apparent when these data are examined. For example, the frequency rate during the second half of the year 1965, when 51.1 percent of all freight and yard operations were conducted without firemen was substantially lower than during the same period of the preceding year, and was lower than the second half of each of the years 1961, 1962 and 1963.

Casualty frequencies during the third quarter of 1965, when 52.1 percent of the service was operated without firemen, were lower than during the same quarter of the year 1961, 1963, and 1964. The casualty rate during the fourth quarter of 1965 was lower than during the fourth quarter of each of the years 1961, 1962, 1963 and 1964.

All of the quarterly casualty figures for 1965 are less than the corresponding casualty rates for the years 1961–1964, with the exception of the first quarter of 1964, and the third quarter of 1962, although the percent of operations without fireman ranged from 39.0 percent in the first quarter to 52.1 percent in the third quarter of 1965.

TABLE D–1.—*Casualty rates per billion gross ton-miles in train operation to train and engine service employees, U.S. railroads* [1]

Period	Frequency rates [2]					Percent change over preceding year				Percent of freight and yard operations without firemen [3]	
	1961	1962	1963	1964	1965	1962	1963	1964	1965	1964	1965
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1st quarter	6.68	6.97	6.50	5.77	6.25	+4.3	−6.8	−11.2	+8.3	1.5	39.0
2d quarter	5.84	5.61	5.41	5.96	5.31	−3.9	−3.6	+10.2	−10.9	14.3	47.6
3d quarter	6.59	5.68	6.42	6.51	6.01	−13.8	+13.0	+1.4	−7.7	34.0	52.1
4th quarter	6.51	6.10	6.38	6.32	5.47	−6.3	+4.6	−1.0	−13.4	36.2	51.4
2d half	6.55	5.89	6.40	6.41	5.74	−10.1	+8.7	+.2	−10.5	35.1	51.1
Year	6.40	6.07	6.16	6.14	5.75	−5.2	+1.5	−.3	−6.4	20.1	47.6

[1] Reporting divisions 111 to 118, inclusive.
[2] Accident data for all railroads; gross ton-mile data for class I line-haul railroads.
[3] Class I line-haul railroads.

Source: ICC statements M–300, M–400, and OS reports.

E. Train Accidents and Train Accident Frequencies

As described in Part A, the number of train accidents reported to the ICC are affected by changes in the levels of costs. Because of higher wage rates and increases in the costs of materials and equipment many accidents which were formerly unreportable, because damage involved was less than $750, are now reportable train accidents. As discussed in Part B, the effect of the redistribution of operations among the several classes of employees no doubt has contributed to the increase in train accident frequencies. Notwithstanding these factors, the increases in train accident frequencies from 1963 to 1964 were less than the increases from 1962 to 1963. (As shown on Table E–1 for the calendar years 1961 to 1965, and on Table E–2 for eight-month periods, May to December, for the same years.)

Data for the year 1965 on Tables E–1 and E–2 show a moderate rise in the rate of increase in train accident frequency in 1965 over 1964, but a considerable reduction in the rate of increase for the period May-December 1964 to 1965 compared with the increases between 1962 and 1963, and between 1963 and 1964.

Although since 1961 there has been an upward trend in the frequency of train accidents, there appears to be no relationship between these increases and the amount of service that has been operated without firemen since the Award of Arbitration Board 282 became effective. This is evident from an examination of the data appearing on the following tables.

The data appearing on Table E–3 was derived from figures reported on ICC Statements M–400 for the years 1962 through 1965. The study covers 64 Class I Line-Haul Railroads, representing a substantial majority of all of the Class I Railroads parties to the Arbitration Award. These 64 carriers were grouped into two categories, those that conducted more than the average for the 64 railroads of 47.4 percent of their freight and yard service without firemen during the year 1965, and those that conducted less than 47.4 percent of their freight and yard service without firemen during the same period. There were 33 carriers in the first group and 31 carriers in the second group. The operations of each of the two groups produced approximately the same locomotive and motor train-miles.

The first group of 33 carriers conducted 60.8 percent of their operations without firemen during the year 1965. The second group of 31 carriers conducted only 34.2 percent of their operations without firemen during 1965.

The data show that between 1962 and 1963 (prior to the effective date of the Arbitration Award) the 33 carriers in the first group experienced greater increases in their train accident rates than the 31 carriers in the second group. Between 1963 and 1964, the rate of increase in each of the two groups was the same. However, between 1964 and 1965 the 33 carriers, which conducted almost 61 percent of their freight and yard operations without firemen, had a lesser increase in their train accident rates than the 31 carriers which conducted only 34.2 percent of their train operations without firemen. The significance of the

comparisons on Table A–3 is that they show no relationship between the extent of operations without firemen and changes in train accident frequency rates. This lack of relationship is further illustrated by the quarterly frequency rates shown on the following table.

Train accident frequency rates for each of the four quarters, as well as the annual rates, for the years 1961 through 1965 are shown on Table E–4.

Accident and casualty frequencies during the first quarter of each calendar year are largely determined by weather conditions, and such data are of limited usefulness in evaluating the effect of other factors. By way of illustration, as shown by the United States Weather Bureau data, weather conditions during the first three months of the year 1964 were relatively and unusually dry and mild. Operating conditions were good throughout the country, and accident and casualty frequencies were abnormally low. Weather conditions were more adverse during the first quarter of 1965, operating conditions were severe in certain parts of the country, and the train accident frequency rate increased by 24.3 percent.

However, in the second quarter of 1965 the increase in the train accident frequency rate was less than in the corresponding quarters of 1964 or 1963. In the third quarter of 1965 the increase was considerably less than between 1962 and 1963 but slightly greater than between 1963 and 1964. In the fourth quarter of 1965 the rate of increase was substantially less than between 1962 and 1963, and between 1963 and 1964, although the percent of freight and yard operations without firemen in 1965 was substantially greater than in 1964, and firemen were employed on practically all freight and yard locomotives in 1963.

TABLE E–1.—*Train accidents and train accident frequencies, U.S. railroads, years 1961–65*

Year	Train accidents		Train accident frequency		Percent of freight and yard operations without firemen [2]
	Number	Percent change over preceding year	Rate per million miles [1]	Percent change over preceding year	
(1)	(2)	(3)	(4)	(5)	(6)
1961	4,149		4.70		
1962	4,379	5.5	4.89	4.0	
1963	4,822	+10.1	5.36	+9.6	
1964	5,317	+10.3	5.79	+8.0	20.1
1965	5,967	+12.2	6.41	+10.7	47.6

[1] Locomotive and motor train-miles.
[2] Class I line-haul railroads.

Source: ICC Statements M-300 and M-400.

TABLE E–2.—*Train accidents and train accident frequencies, U.S. railroads, May to December, inclusive, 1961 to 1965*

8 months, May to December	Train accidents		Train accident frequency		Percent of freight and yard operations without firemen [2]
	Number	Percent change over preceding year	Rate per million miles [1]	Percent change over preceding year	
(1)	(2)	(3)	(4)	(5)	(6)
1961	2,828		4.73		
1962	2,799	−1.0	4.69	−0.9	
1963	3,225	+15.2	5.32	+13.4	
1964	3,653	13.3	5.93	+11.5	31.4
1965	3,925	+7.4	6.33	+6.7	51.1

[1] Locomotive and motor train-miles.
[2] Class I line-haul railroads.

Source: ICC statements M–300 and M–400.

TABLE E-3.—*Train accident rates, 64 class I line-haul railroads* [1]

[Per million locomotive and motor train-miles]

Item	33 carriers [2]	31 carriers [3]	64 carriers
Percent of total locomotive and motor train-miles, 1965	51.8	48.2	100.0
Percent freight and yard service operated without firemen, 1965	60.8	34.2	47.4
Train accident rates:			
1962	4.59	5.11	4.84
1963	5.23	5.43	5.33
1964	5.70	5.92	5.80
1965	6.15	6.75	6.44
Percent increase in train accident rates:			
1962 to 1963	13.9	6.3	10.1
1963 to 1964	9.0	9.0	8.8
1964 to 1965	7.9	14.0	11.0

[1] Parties to arbitration award 282, representing 95.4 percent of the 1965 train-miles of all class I line-haul railroads.
[2] Carriers operating more than 47.4 percent of their freight and yard service without firemen in 1965.
[3] Carriers operating less than 47.4 percent of their freight and yard service without firemen in 1965.

Source: ICC Statements M-400, ICC operating statistics and annual transport statistics.

TABLE E-4.—*Train accidents per billion gross ton-miles,* [1] *U.S. railroads*

Period	Frequency rates [1]					Percent change over preceding year				Percent of freight and yard operations without firemen [2]	
	1961	1962	1963	1964	1965	1962	1963	1964	1965	1964	1965
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1st quarter	2.68	3.00	3.06	2.92	3.63	+11.9	+2.0	−4.6	+24.3	1.5	39.0
2d quarter	2.41	2.42	2.49	2.88	2.89	+.4	+2.9	+15.7	+.3	14.3	47.6
3d quarter	2.50	2.32	2.68	2.87	3.10	−7.2	+15.5	+7.1	+8.0	34.0	52.1
4th quarter	2.61	2.71	3.00	3.24	3.40	+3.8	+10.7	+8.0	+4.9	36.2	51.4
Year	2.55	2.61	2.80	2.98	3.25	+2.4	+7.3	+6.4	+9.1	20.1	47.6

[1] Accident data for all railroads; gross ton-mile data for class I line-haul railroads.
[2] Class I line-haul railroads.

Source: ICC Statements M-300, M-400, and OS Reports.

Mr. GREER. Thank you, sir.

The CHAIRMAN. Mr. Cunningham?

Mr. CUNNINGHAM. I have no questions, Mr. Chairman.

The CHAIRMAN. Mr. Carter?

Mr. CARTER. I take it that you favor continuing the 16-hour day for engineers. Is that true?

Mr. GREER. The purpose of my testimony here is to answer the safety question. As far as my personal opinion is concerned, I think that it would be a mistake for many reasons, including the ones specifically emphasized by Mr. Wolfe who preceded me on the stand; for Congress to change the hours-of-service legislation.

Mr. CARTER. Then I take it from what you said you are in favor of continuing the 16-hour day?

Mr. GREER. I am in favor of continuing the 16-hour law as it presently exists; yes.

Mr. CARTER. Do you think a person can still work after 14 hours as well as he could after 7?

Mr. GREER. I think the occasions when long service hours are involved and the type of service in which that occurs, as the evidence and the history show, indicate that there is no real hardship on the individuals and that the converse side of the picture is such that to tinker with the law and to change the hours would have more adverse effect on the employee relations and their earnings by eliminating aggregate service than any advantages that might accrue by arbitrarily reducing the limit to 12 hours.

Mr. CARTER. It might diminish their earnings, that is true, and perhaps some people are willing to work a little longer for that, but certainly I couldn't see that anyone who had worked that long could work as well and as effectively.

It seems to me that he would be more accident prone after 10 or 12 or 14 hours of work. It would increase the hazards definitely on the roads for a man to work that long.

By the way, how many railroad labor organizations favor this legislation at the present time?

Mr. GREER. The only ones that I know of are two that appeared here, the firemen and conductors, I believe.

Mr. CARTER. I have been informed that 20 railway labor organizations do favor this. How many are not in favor of it?

Mr. GREER. The engineers have appeared in opposition to the bill.

Mr. CARTER. That is one, isn't it?

Mr. GREER. Yes, sir.

Mr. CARTER. All right, sir. Thank you, sir.

That is all, Mr. Chairman.

The CHAIRMAN. Thank you. I thank the gentleman very much.

Our next witness will be Mr. Quentin D. Watson, Association of American Railroads. Mr. Watson.

Mr. Watson, we are very glad to have you here and you may proceed. How long is your statement, sir?

STATEMENT OF QUENTIN D. WATSON, BUREAU OF RAILWAY ECONOMICS, ASSOCIATION OF AMERICAN RAILROADS

Mr. WATSON. It is 24 pages. It will probably take me 35 to 40 minutes.

The CHAIRMAN. Can you summarize that, sir?

Mr. WATSON. I can if you prefer. This statement was filed on August 25.

The CHAIRMAN. We will insert it into this committee record now and we will see that it is placed at this point in the record so you may summarize it if you would, sir, in the interest of time.

(Mr. Watson's full statement follows:)

STATEMENT OF QUENTIN D. WATSON, BUREAU OF RAILWAY ECONOMICS, ASSOCIATION OF AMERICAN RAILROADS

My name is Quentin D. Watson. I am employed by the Bureau of Railway Economics of the Association of American Railroads. Most of my work in the Bureau has related to the compilation of statistics relating to railroad employment and the service and compensation of the employees.

The Interstate Commerce Commission publishes a monthly and annual statement compiled from reports rendered by the carriers entitled "Wage Statistics of Class I Railroads in the United States—Statement M-300." This document

shows the number of employees, their service hours, and compensation for the period covered of the different occupational classes.

The data appearing on Table 1 attached to my statement have been computed from the ICC annual statement M–300 for the year 1964, the latest year available.

Column 1 lists the various occupational groups of train and engine service employees according to the classes of service, that is passenger, through freight, local freight, and yard services.

Column 2 shows the average of the 12 mid-month counts of employees in the year 1964 and reflects the number of positions or jobs during the year.

Column 3 shows the average number of hours actually worked per employee per week. The average is computed by dividing the sum of straight time hours and overtime hours actually worked by the number of employees, which gives the average number of hours actually worked per employee during the year. That average is then divided by the number of weeks in the year, for 1964 being 52.2857 weeks (366 days divided by 7).

Passenger train crews averaged 33.5 hours actually worked per week and passenger engine crews averaged 29.5 hours. In through freight service the train crews averaged 28.4 hours and the engine crews 27.4 hours. In local freight service the train crews averaged 55.4 hours while the engine crews averaged 54.6 hours. These averages for through and local freight service may be and probably are somewhat distorted by reason of a pay rule generally referred to as "the conversion rule." The rule provides that when through freight crews are required to pick up and/or set off a car or cars at three or more points, or when the time consumed in picking up or setting off cars exceeds one hour and thirty minutes in the aggregate during the trip, the crew will be paid local freight rates for the entire trip. The local freight rate is generally 56 cents per day more than the through freight rate. Under the reporting rules of the Interstate Commerce Commission, service hours and compensation are allocated to the service in which the employee is paid. Thus the hours and compensation would be reported in local freight service on a trip for which the crew converted from through freight service. The men themselves would not be classified in local freight service unless the conversion occurred on the day the count was taken or unless the preponderance of their service during the month was local freight. To the extent that men who converted may be included in the count of through freight employees while their hours and compensation are included in local freight service, average hours and average compensation would be somewhat overstated for local freight service and understated in through freight service.

For yard service, conductors and their helpers averaged 40.3 hours actually worked and engineers and firemen averaged 45.4 hours.

Column 4 shows the average annual compensation of employees in train and engine service, also derived from ICC Statement M–300 by dividing total compensation by the average mid-month count of employees. The operation of the conversion rule previously discussed may also affect the through freight and local freight averages. Annual compensation ranged from $7,076 for yard helpers to $12,871 for local freight engineers and averaged $8,790 for train and engine service employees as a group.

Average weekly earnings are shown in Column 5, derived by dividing the annual earnings by the weekly factor (52.2857). For train and engine employees as a group weekly earnings averaged $168.11 in 1964. For production workers in all manufacturing industries the average was $102.97 and for durable goods industries the average was $112.19 according to data of the Bureau of Labor Statistics.

TIME ON DUTY OF ENGINEERS AND CONDUCTORS PER TRIP OR TOUR OF DUTY

A trip or tour of duty is one of the customary measures or units of work performed by railroad operating employees. In road service a trip may be a run from point A to point B paid for as a trip, or it may be a run from point A to point B and return to point A, or several turns between A and B paid for as a single trip. Road trips are generally measured in terms of miles and may vary from distances of 15 or 20 miles to as much as 200 miles or more. In yard service, because of the nature of the operation, mileage is not a factor and the measure in terms of hours is more appropriately referred to as a tour of duty.

The Committee should understand that, while a "trip" is a standard measure of a unit of work for many railroad operating employees, it is not always synonymous with the amount of work that an employee does in a single day for the reason that in some railroad operations employees may perform more than one "trip" in one calendar day. This has already been referred to as "aggregating," and it is illustrated by operations in which train crews in some operations make a trip from their home terminal to an away-from-home terminal and make a separate return trip on the same day.

Statement M–300 published by the ICC to which I have previously referred also shows the number of trips and miles actually run for employees in road freight and passenger service and also the trips or tours of duty for employees in yard service. From these data the average miles per trip, the average hours per trip and per tour of duty may be computed. Table 2 shows these averages for engineers and conductors for the year 1964, the latest year available. Column 1 shows the classes of service, Column 2 shows the number of trips performed during the year and Column 3 shows the percentage distribution of the trips according to class of service.

Column 4 shows the average number of hours actually worked per trip. For all engineers the average is 7.5 hours, ranging from 4.8 hours for passenger engineers to 9.3 hours for local freight engineers.

For conductors the overall average is 7.7 hours per trip, ranging from 5.8 hours in through freight service to 9.3 hours in local freight service.

Column 5 shows the average number of miles actually run per trip in road service.

The Presidential Railroad Commission established in November 1960 pursuant to Executive Order 10891 investigated practically all phases of the working conditions of railroad operating employees.

At page 10 of Appendix Volume II of its report entitled "Pay Structure Study of Railroad Operating Employees," the Commission, based upon its sample study, shows the number of trips of engineers and conductors by hours on duty for the several classes of service during various weeks between July 1 and December 31, 1960. Similar data were shown separately for the Chicago, Burlington & Quincy Railroad, the Pennsylvania Railroad, and the Louisville & Nashville Railroad.

Tables 3 and 4 based upon the Presidential Commission data show the percentage distribution of the trips according to the intervals of hours on duty appearing in the column at the left. In Table 3 under the block relating to passenger straightaway service, 99.2 per cent of the engineers' trips and 92.6 per cent of the conductors' trips were completed in less than 9 hours and about 99 per cent of both engineers' and conductors' trips were completed in less than 12 hours. The average hours on duty per trip for engineers was 4.0 hours and for conductors 5.6 hours.

The next block relates to through freight service. In this service, 92.8 per cent of the engineers' and 93.9 per cent of the conductors' trips were completed in less than 9 hours. More than 98 per cent of both engineers' and conductors' trips were completed in less than 12 hours. The trips averaged 5.6 hours on duty for both engineers and conductors.

The next block relates to converted through freight to which I have previously referred. The PRC sample study made a special analysis of through freight trips which were converted under the rule to local freight. The PRC sample study indicates that 63.2 per cent of the engineers' trips and 52.9 per cent of the conductors' trips in converted through freight service were completed in less than 9 hours and 86.5 per cent of the engineers and 82.1 per cent of the conductors completed their trips in less than 12 hours. The average hours on duty per trip were 8.5 for engineers and 8.9 for conductors.

The first block on Table 4 relates to passenger short turn-around service. This is generally referred to as commutation passenger service and the trips ordinarily include one or more turns between points that are not more than 80 miles apart. The PRC sample study shows that 65.6 per cent of the engineers' trips and 78.9 per cent of the conductors' trips were completed in less than 9 hours and more than 90 per cent of both engineers' and conductors' trips were completed in less than 12 hours. Engineers averaged 8.0 hours on duty per trip and conductors averaged 7.1 hours.

The next block shows local freight service. About 35 per cent of the engineers' trips and 41 per cent of the conductors' trips were completed in less than 9 hours and 70 per cent were completed in less than 12 hours. Average hours on duty per trip were 10.2 hours for engineers and 9.9 hours for conductors.

In yard service more than 85 per cent of the tours of duty of both engineers and conductors were completed in less than 9 hours and more than 97 per cent were completed in less than 12 hours. The average number of hours per tour of duty was 8.3 hours.

The final block on Table 4 relates to road switcher service, which performs switching service generally at industry locations on the line of road beyond yard operations. About 50 per cent of the engineers' trips and 42.5 per cent of the conductors' trips were completed in less than 9 hours while 88.8 per cent of the engineers' trips and 77.6 per cent of the conductors' trips were completed in less than 12 hours. The PRC study did not indicate the average hours on duty per trip in this service.

In order to determine the length of the trips or tours of duty in terms of hours worked for a more current period, twenty-one Class I railroads prepared a tabulation covering all engineers' and conductors' trips or tours of duty for a payroll period in the month of October 1965. Hours on duty included all time on duty from the time of initial reporting until final release. For the payroll periods covered by the tabulation these carriers reported a total of 297,598 trips performed by engineers and 289,835 trips performed by conductors in all classes of service—that is, passenger, freight and yard operation.

During the entire month of October these carriers reported to the Interstate Commerce Commission a total of 657,487 trips by conductors and 671,472 trips by engineers which comprised 77.4 per cent of the trips performed by engineers and conductors on all Class I roads during that month. These reports to the Commission show only the total number of trips, and do not include any information about their duration. The purpose of the railroad industry's special study was to classify all of the trips that were covered by it according to the length of time they took.

Table 5 attached to my statement is a summary of the total trips reported by the twenty-one carriers *in all classes of service* showing the percentage distribution of the elapsed time on duty of engineers' trips and conductors' trips according to the time intervals shown in the first column, from trips that took less than 3 hours to trips that took 16 or more hours.

Column 2 shows the percentage distribution of the 297,598 trips performed by engineers during the time intervals indicated in Column 1. Column 3 shows the cumulative percentage of trips completed in the time intervals in Column 1. Columns 4 and 5 show the percentage distributions of the 289,835 trips performed by conductors.

At the middle of the page, in the line dealing with trips that lasted 8 but less than 9 hours, you will see in Columns 2 and 4 that 38 percent (engineers) to 40 per cent (conductors) of the trips were in that category. This particular category of trips was the largest single group of the different hourly intervals. Columns 3 and 5 on the same line, which show *cumulative* percentages, indicate that 76 per cent of all trips performed had been completed in less than 9 hours. The columns showing cumulative percentages also indicate that 90–91 per cent of all trips were performed in less than 12 hours. I mention these particular figures because they show the total percentage of trips that were of shorter duration than the principal limits contained in the pending bills, namely, 9 hours and 12 hours. You can see that the percentage of trips in all classes of railroad service that exceeded the proposed limits was quite small.

Table 6 shows the percentage distribution of elapsed time on duty for trips performed by engineers and conductors in passenger service. It will be noted that 90 per cent of the engineers' trips and nearly 82 per cent of the conductors' trips were completed in less than 9 hours and 96 and 94 per cent of engineers' and conductors' trips, respectively, were completed in less than 12 hours.

Table 7 shows the percentage distribution of elapsed time on duty per trip in freight service and includes both through freight and local and way freight trips. The table shows that more than 65 per cent of all the trips in freight service were performed in less than 9 hours and that nearly 85 per cent were accomplished in less than 12 hours.

Table 8 shows the percentage distribution of trips in *through freight* service. More than 85 per cent of all trips were accomplished in less than 9 hours and approximately 96 per cent were completed in less than 12 hours.

Table 9 relates to *local and way freight service*. This service performs switching at intermediate stations along the way—that is, picking up or setting out cars, and also spends time standing or waiting on sidings for superior trains to pass. Thus, the average speed of local freight operations is considerably less than that of through freight operations and because of the necessity for more frequent stops the attained speed is probably less than in through freight service. This is reflected in the percentage distribution of the trips according to elapsed time on duty. It will be observed that about 42 per cent of the trips were completed in less than 9 hours and about 70–71 per cent were completed in less than 12 hours.

Table 10 shows the distribution of tours of duty performed in yard service. Nearly 85 per cent of the tours of duty were completed in less than 9 hours and about 96 per cent were completed in less than 12 hours.

These tables reflect the differences between the various categories of railroad service with respect to the duration of the trips of operating employees. Among other things, they suggest that local and way freight service is the principal field of railroad operations in which longer hours—which might be defined for present purposes as those that exceed the limits proposed by the pending bills—are worked. However, every other category of railroad service was found to contain a relatively small number of trips that would have exceeded the limits of the pending bill but that were nevertheless necessary to meet the demands of the shipping public. The great range in the duration of trips for the different kinds of railroad service shown in these tables indicates clearly the diversity of railroad operations and the fact that railroad operations—as reflected by these trips—are quite different from ordinary industrial operations where an 8-hour tour of duty is standard and the close scheduling of working time is feasible.

THE RELATIONSHIP BETWEEN RAILROAD ACCIDENTS AND HOURS WORKED BY EMPLOYEES

In order to determine the possibility of a relationship between accidents and the number of hours that employees had been on duty at the time accidents occurred, the following 12 railroads collected information for their train and train service accidents—as defined in ICC rules—during the months of May and November 1965:

Atchison, Topeka & Santa Fe.
Atlantic Coast Line.
Chesapeake & Ohio.
Chicago & North Western.
Chicago, Burlington & Quincy.
Chicago, Milwaukee, St. Paul & Pacific.
Missouri Pacific.
Norfolk & Western.
Northern Pacific.
Pennsylvania.
Southern Pacific.
Union Pacific.

These railroads, in 1965, operated 50.5 per cent of the total mileage of all Class I railroads and accounted for 52.3 per cent of the total operating revenue. Their operations account for approximately 50 per cent of the total trips or tours of duty performed by engineers and conductors.

The month of November 1965 was selected because it was the latest period for which reports were available at the time the data were requested and also represented a month when weather conditions might be relatively more severe. The month of May was selected because of generally prevailing milder weather.

These roads, during the month of May 1965, reported 713 train and train service accidents which represented 40.5 per cent of the total number of train and train service accidents reported to the Interstate Commerce Commission by railways of all classes during the month.

During the month of November 1965, these roads reported 761 train and train service accidents which represented 41.1 per cent of the total reported by railways of all classes.

The roads included in this survey also reported a few non-train accidents (a total of 14 during the two months) which were related to signal employees on duty at the time of accident.

Perhaps I should, at this point, indicate the definitions of different kinds of accidents set forth by the Interstate Commerce Commission in its rules governing the reporting of railroad accidents.

Train accidents are accidents, with or without casualties to persons, arising in connection with the operation or movement of trains, locomotives, or cars that result in damage to railroad equipment, track or roadbed amounting to more than $750, not including the cost of clearing the wreckage.

Train service accidents are accidents arising in connection with the operation or movement of trains, locomotives, or cars that result in reportable casualties to persons but *not* in damage to railroad property if more than $750.

Non-train accidents are accidents not caused directly by the operation or movement of trains, locomotives, or cars that result in reportable casualties.

Reportable casualties include fatalities and injuries which incapacitate an employee from performing the duties of his assignment for more than one day in the aggregate during the ten days immediately following the accident and injuries to other persons sufficient to incapacitate for a period of more than one day.

Table 11, attached to my statement, is a summary of the classes and types of accidents which occurred during the months of May and November 1965 on the 12 railroads covered by this study.

Train accidents accounted for 440 or 29.5 per cent of the total. Train service accidents totaled 752 or 50.6 per cent of the total, while highway-grade crossing accidents, which included both train and train service accidents, totalled 282 or 19.0 per cent of the total. Thus, the total of all accidents included in this study covers 1,474 train and train service accidents and 14 non-train accidents.

In the 1,474 train and train service accidents, 1,512 engineers and 1,493 conductors were on duty at the time that the accidents happened.

Relating the inquiry to the hours of service limits proposed by the pending bills, it was determined that 91.07 per cent of all of the engineers had been on duty less than 9 hours when the accidents happened, and 97.69 per cent had been on duty less than 12 hours. In other words, only 2.31 per cent of the engineers had been on duty more than 12 hours when the accidents happened, and only 8.93 per cent of them had been on duty 9 hours or more. With respect to the total of 1,512 engineers who were on duty when the accidents happened, only 35 had been on duty for more than 12 hours at the time of the accidents.

It was further determined that 91.09 per cent of all of the conductors had been on duty less than 9 hours when the accidents happened and 97.72 per cent had been on duty less than 12 hours. In other words, only 2.28 per cent had been on duty more than 12 hours, and only 8.91 per cent had been on duty for 9 or more hours. With respect to a total of 1,493 conductors who were on duty when the accidents happened, only 34 had been on duty for 12 hours or more at the time of the accidents.

With respect to the 14 non-train accidents related to signal employees, none of those accidents occurred when the employee had been on duty more than 8 hours.

The analysis also revealed that 61.1 per cent of the employees including engineers, firemen, conductors and brakemen and also signalmen and telegraphers had been off duty 16 or more consecutive hours prior to the tour of duty during which an accident occurred. More than 87 per cent had been off duty 10 or more consecutive hours and 96.1 per cent had been off duty 8 or more consecutive hours.

To summarize the data which are contained in the tables which I have submitted, it is apparent that average hours on duty for train and engine service employees as a group are not inordinately long or excessive. In local freight service the average hours worked measured on a weekly basis or on a trip basis are longer than in other classes of service and this points up the unique nature of railroad operation and the necessity to tailor the service to meet the needs and the demands of the shipping public.

With respect to safety, there is no basis for attributing train or train service accidents to the hours of service of railroad operating employees. The Inter-

state Commerce Commission has no information indicating that hours of service are related to accidents. The data the railroads have compiled indicate no causal relationship between accidents and hours of service. It is true, of course, that a statistical analysis does not reflect the causative factors involved in any particular accident. However, as representatives of the Interstate Commerce Commission have stated, the accidents which it has investigated have not shown hours of service to be a contributing factor. The data I have presented show statistically that only a very small number of accidents occur after engineers and conductors have been on duty beyond the hours of service limits proposed by the pending bills and, therefore, that there is no basis for relating these bills to safety on the American railroads.

TABLE 1.—*Employment, average hours, and compensation, train and engine service employees, class I railroads, year 1964*

Class of service	Average number of employees, midmonth	Average hours per employee per week, straight time and overtime	Average compensation per employee	
			Annual	Weekly
(1)	(2)	(3)	(4)	(5)
Passenger service:				
111 Conductors	3,592	33.9	$10,067	$192.53
112 Ticket collectors	2,168	37.1	9,099	174.02
115 Baggagemen	1,578	33.7	9,022	172.55
116 Brakemen and flagmen	3,827	31.1	8,819	168.67
Total, passenger train crews	11,165	33.5	9,303	177.93
121 Engineers	4,212	30.5	11,786	225.42
125 Firemen	3,652	28.4	10,068	192.56
Total, passenger engine crews	7,864	29.5	10,989	210.17
Through freight service:				
113 Conductors	8,039	30.6	9,531	182.28
117 Brakemen and flagmen	19,436	27.5	7,868	150.49
Total, through freight train crews	27,475	28.4	8,355	159.80
122 Engineers	9,364	28.3	10,360	198.15
126 Firemen	8,501	26.5	8,032	153.62
Total, through freight engine crews	17,865	27.4	9,252	176.95
Local freight service:				
114 Conductors	5,555	56.8	11,467	219.31
118 Brakemen and flagmen	12,474	54.8	10,033	191.89
Total, local freight train crews	18,029	55.4	10,475	200.34
123 Engineers	5,864	55.5	12,871	246.16
127 Firemen	4,809	53.4	10,174	194.58
Total, local freight engine crews	10,673	54.6	11,656	222.93
Yard service:				
119 Conductors	18,020	43.5	8,561	163.73
120 Brakemen and helpers	41,015	38.8	7,076	135.34
Total, yard train crews	59,035	40.3	7,530	144.02
124 Engineers	14,867	48.6	9,557	182.78
128 Firemen	13,002	41.7	7,461	142.69
Total, yard engine crews	27,869	45.4	8,579	164.08
Total, 18 classes: Passenger, freight, and yard service	179,975	39.4	8,790	168.11

Source: Computed from ICC statement M-300, year 1964.

TABLE 2.—*Number of trips, average hours per trip and average miles per trip, engineers and conductors, class I railroads, year 1964*

Class of employees	Number of trips		Average number of hours actually worked per trip [1]	Average number of miles actually run per trip
	Total	Percent of total		
(1)	(2)	(3)	(4)	(5)
Passenger engineers	1,388,979	13.8	4.8	138.4
Through freight engineers	2,362,407	23.5	5.9	117.4
Local freight engineers	1,822,278	18.2	9.3	93.0
Yard engineers	4,467,925	44.5	8.5	----------
Total engineers	10,041,589	100.0	7.5	[2] 113.7
Passenger conductors	1,027,245	10.4	6.2	185.5
Through freight conductors	2,202,558	22.2	5.8	120.9
Local freight conductors	1,772,014	17.9	9.3	94.6
Yard conductors	4,905,977	49.5	8.3	----------
Total conductors	9,907,794	100.0	7.7	[2] 124.8

[1] Straight time and overtime hours actually worked.
[2] Passenger and freight road service.

Source: Computed from ICC statement M-300, year 1964.

TABLE 3.—*Percentage distribution of number of trips of engineers and conductors by hours on duty per trip in certain classes of service, for railroads included in the Presidential Commission's pay structure study*

Hours on duty per trip	Passenger straightaway				Through freight				Converted through freight			
	PRC sample study	Burlington	Pennsylvania	Louisville & Nashville	PRC sample study	Burlington	Pennsylvania	Louisville & Nashville	PRC sample study	Burlington	Pennsylvania	Louisville & Nashville
Engineers:												
Under 3 hours	19.4	28.0	6.2	5.4	4.0	2.6	1.1	0.1				
3 and under 4	35.9	39.9	28.9	28.8	15.8	23.3	3.2	1.6	0.7	0.9		
4 and under 5	27.2	21.2	21.5	41.4	22.9	29.9	8.5	10.0	4.5	8.1	2.6	1.5
5 and under 6	10.1	6.9	15.8	20.9	22.0	25.5	12.7	18.7	9.6	12.7	1.3	1.9
6 and under 7	2.9	3.1	14.9	3.2	14.1	11.2	13.2	24.2	14.3	15.8	5.2	10.0
7 and under 8	3.3	.5	6.9	.2	9.0	3.8	12.2	17.0	18.2	19.0	7.8	17.7
8 and under 9	.4	.1	1.9		5.0	1.8	12.4	15.5	15.9	11.3	3.9	20.4
9 and under 10	.2		2.1	.1	2.9	.9	10.3	6.5	11.0	10.9	11.7	14.6
10 and under 11	.1		1.2		1.7	.4	8.3	3.6	9.2	4.1	16.8	13.9
11 and under 12	.2		.3		1.3	.2	6.3	1.9	3.1	4.1	14.3	5.4
12 and under 13		.2	.3		.4		4.4	.4	5.4	3.6	10.4	4.6
13 and under 14	.3				.4	.3	2.7	.3	2.5	4.5	3.9	4.2
14 and under 15		.1			.1	.1	2.1	.1	3.4	.9	5.2	3.1
15 hours and over					.4		2.6	.1	2.2	4.1	16.9	2.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total number of trips	1,170	1,312	2,062	650	2,135	978	3,509	753	446	221	77	260
Average hours on duty per trip	4.0	3.6	5.0	4.3	5.6	4.9	8.2	7.0	8.5	8.2	11.2	9.3
Conductors:												
Under 3 hours	6.0	8.9	1.6	.9	3.0	2.9	1.2	.3	.4			
3 and under 4	14.4	25.4	12.2	20.7	18.4	26.6	4.0	1.7	.4	.5		.7
4 and under 5	21.9	21.9	35.6	38.4	22.4	32.7	11.6	16.4	7.8	11.1	4.3	1.4
5 and under 6	20.1	17.5	15.0	17.6	20.8	23.0	14.0	18.3	9.3	12.5	2.8	3.1
6 and under 7	12.9	11.3	9.0	6.0	14.6	8.5	13.6	25.3	11.3	18.1	7.1	12.9
7 and under 8	9.0	4.7	6.4	7.6	8.9	2.6	13.4	15.4	10.9	18.5	11.3	17.8
8 and under 9	8.3	1.7	5.7	5.7	5.8	2.3	11.7	12.6	12.8	8.8	12.1	17.8
9 and under 10	3.0	5.7	3.1	1.8	2.0	.5	9.2	4.9	14.4	8.8	15.6	14.3
10 and under 11	2.5	.9	3.7	.9	2.1	.4	7.5	3.2	7.8	3.7	15.6	13.9
11 and under 12	.8	.8	2.2	.2	.9	.1	5.2	1.2	7.0	5.5	10.6	5.9
12 and under 13	.7	.4	2.3	.2	.3	.1	3.1	.3	7.8	3.2	5.0	4.2
13 and under 14	.3	.8	.9		.3	.2	2.3		5.8	4.2	2.1	3.1
14 and under 15			1.6		.4	.1	1.5	.3	3.1	1.4	5.0	2.5
15 hours and over	.1		.7		.1		1.7	.1	1.2	3.7	8.5	2.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total number of trips	745	858	1,592	550	1,092	928	3,090	720	257	216	141	287
Average hours on duty per trip	5.6	5.1	6.1	5.2	5.6	4.8	7.7	6.7	8.9	8.0	10.0	9.1

Source: Appendix, vol. II, p. 10, to the Report of the Presidential Railroad Commission, Washington, D.C., February 1962. PRC sample study of 31 railroads, various weeks, July 1 to Dec. 31, 1960; Chicago, Burlington & Quincy, May 19–25, 1958; Pennsylvania, May 3–9, 1959; Louisville & Nashville, Mar. 2–8, 1959.

TABLE 4.—*Percentage distribution of number of trips of engineers and conductors by hours on duty per trip in certain classes of service, for railroads included in the Presidential Commission's pay structure study*

Hours on duty per trip	Passenger short turnaround		Local freight		Yard service		Road switcher,
	PRC sample study	Burlington	PRC sample study	Burlington	PRC sample study	Burlington	PRC sample study
Engineers:							
Under 3 hours	0.9		0.8				
3 and under 4	2.3	2.3	.6	0.3			[1] 1.4
4 and under 5	6.7	3.4	3.7	1.5			1.4
5 and under 6	12.4	2.3	3.4	4.5			8.4
6 and under 7	13.2	13.6	7.1	9.1			4.2
7 and under 8	14.0	2.8	9.5	9.7	[2] 71.0	[2] 69.9	8.5
8 and under 9	16.1	9.6	10.0	8.8	17.4	18.8	25.4
9 and under 10	9.4	9.0	10.6	13.6	5.3	6.8	12.7
10 and under 11	11.5	5.1	12.0	11.2	2.9	2.0	14.1
11 and under 12	7.1	5.1	12.0	12.1	1.2	1.5	12.7
12 and under 13	3.6	26.5	9.8	10.0	1.1	.6	8.4
13 and under 14	2.2	20.3	6.4	7.9	.5	.3	1.4
14 and under 15			6.0	6.4	[3] .6	[3] .1	
15 hours and over	.6		8.1	4.9			1.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total number of trips	808	177	651	330	1,502	1,974	71
Average hours on duty per trip	8	10.2	10.2	10.2	8.3	8.3	
Conductors:							
Under 3 hours	2.6		0.2				
3 and under 4	9.0	1.4	2.0	0.3			[1] 1.1
4 and under 5	10.3	6.8	3.6	2.8			2.1
5 and under 6	12.8	11.0	6.8	5.2			5.3
6 and under 7	14.1	2.7	10.0	10.4			6.4
7 and under 8	14.4	14.4	11.5	9.8	[2] 79.1	[2] 76.1	4.2
8 and under 9	15.7	1.4	7.0	8.9	6.3	13.8	23.4
9 and under 10	5.9	.7	10.6	13.2	6.5	6.3	9.6
10 and under 11	4.6		9.9	13.5	2.8	2.1	13.8
11 and under 12	5.6	16.4	9.0	11.7	2.9	1.1	11.7
12 and under 13	2.9	44.5	4.8	7.0	1.6	.3	9.6
13 and under 14	1.5	.7	7.4	8.0	.4	.3	3.2
14 and under 15	.6		6.8	5.5	[3] .4		4.3
15 hours and over			10.4	3.7			5.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total number of trips	799	146	557	326	492	2,022	94
Average hours on duty per trip	7.1	9.9	9.9	9.9	8.3	8.3	

[1] Tabulated as under 4 hours.
[2] Tabulated as under 8:01 hours.
[3] Tabulated as 14 hours and over.

Source: Appendix vol. II, p. 10, to the "Report of the Presidential Railroad Commission," Washington, D.C., February 1962. PRC sample study of 31 railroads, various weeks, July 1 to Dec. 31, 1960; Chicago, Burlington & Quincy, May 19 to 25, 1958.

TABLE 5.—*Time on duty of engineers and conductors per trip or tour of duty during selected payroll periods in October 1965; 21 railroads* [1]

[Class of service: All classes of service]

Elapsed time on duty	Percent	Cumulative percent	Percent	Cumulative percent
Less than 3 hours	3.58	3.58	1.60	1.60
3 and less than 4 hours	6.84	10.42	5.23	6.83
4 and less than 5 hours	7.28	17.70	7.08	13.91
5 and less than 6 hours	6.93	24.63	7.12	21.03
6 and less than 7 hours	6.03	30.66	6.50	27.53
7 and less than 8 hours	7.32	37.98	7.92	35.45
8 and less than 9 hours	38.24	76.22	40.75	76.20
9 and less than 10 hours	6.31	82.53	6.37	82.57
10 and less than 11 hours	4.62	87.15	4.78	87.35
11 and less than 12 hours	3.76	90.91	3.72	91.07
12 and less than 13 hours	3.06	93.97	3.17	94.24
13 and less than 14 hours	2.15	96.12	2.08	96.32
14 and less than 15 hours	1.55	97.67	1.54	97.86
15 and less than 16 hours	1.81	99.48	1.70	99.56
16 hours and over	.52	100.00	.44	100.00
Total number of engineers' trips				297,598
Total number of conductors' trips				289,835

[1] Reports of carriers to AAR—Bureau of Railway Economics: Atlantic Coast Line; Atchison, Topeka & Santa Fe; Baltimore & Ohio; Chesapeake & Ohio; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee, St. Paul & Pacific; Chicago, Rock Island & Pacific; Erie-Lackawanna; Gulf, Mobile & Ohio; Great Northern; Illinois Central; Louisville & Nashville; Missouri Pacific; New York Central; Norfolk & Western; Northern Pacific; Pennsylvania; Reading; Southern Pacific; Union Pacific.

NOTE.—Individual items may not add to 100 percent because of rounding.

TABLE 6.—*Time on duty of engineers and conductors per trip or tour of duty during selected payroll periods in October 1965; 21 railroads* [1]

[Class of service: Passenger]

Elapsed time on duty	Percent	Cumulative percent	Percent	Cumulative percent
Less than 3 hours	20.42	20.42	4.11	4.11
3 and less than 4 hours	26.80	47.22	13.10	17.21
4 and less than 5 hours	17.66	64.88	17.98	35.19
5 and less than 6 hours	11.91	76.79	16.48	51.67
6 and less than 7 hours	6.47	83.26	15.02	66.69
7 and less than 8 hours	3.91	87.17	8.37	75.06
8 and less than 9 hours	2.93	90.10	6.78	81.84
9 and less than 10 hours	1.87	91.97	4.99	86.83
10 and less than 11 hours	1.98	93.95	3.99	90.82
11 and less than 12 hours	2.74	96.69	3.49	94.31
12 and less than 13 hours	2.04	98.73	4.04	98.35
13 and less than 14 hours	1.00	99.73	1.08	99.43
14 and less than 15 hours	.16	99.89	.38	99.81
15 and less than 16 hours	.10	99.99	.14	99.95
16 hours and over	.01	100.00	.05	100.00
Total number of engineers' trips				33,570
Total number of conductors' trips				25,569

[1] Reports of carriers to AAR—Bureau of Railway Economics: Atlantic Coast Line; Atchison, Topeka & Santa Fe; Baltimore & Ohio; Chesapeake & Ohio; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee, St. Paul & Pacific; Chicago, Rock Island & Pacific; Erie-Lackawanna; Gulf, Mobile & Ohio; Great Northern; Illinois Central; Louisville & Nashville; Missouri Pacific; New York Central; Norfolk & Western; Northern Pacific; Pennsylvania; Reading; Southern Pacific; Union Pacific.

NOTE.—Individual items may not add to 100 percent because of rounding.

TABLE 7.—*Time on duty of engineers and conductors per trip or tour of duty during selected payroll periods in October 1965; 21 railroads* [1]

[Class of service: Freight]

Elapsed time on duty	Percent	Cumulative percent	Percent	Cumulative percent
Less than 3 hours	2.80	2.80	2.74	2.74
3 and less than 4 hours	8.52	11.32	9.17	11.91
4 and less than 5 hours	11.79	23.11	12.33	24.24
5 and less than 6 hours	12.36	35.47	12.65	36.89
6 and less than 7 hours	11.54	47.01	11.32	48.21
7 and less than 8 hours	9.14	56.15	9.09	57.30
8 and less than 9 hours	9.30	65.45	8.89	66.19
9 and less than 10 hours	7.09	72.54	7.00	73.19
10 and less than 11 hours	6.28	78.82	6.30	79.49
11 and less than 12 hours	5.42	84.24	5.37	84.86
12 and less than 13 hours	4.86	89.10	4.84	89.70
13 and less than 14 hours	3.62	92.72	3.49	93.19
14 and less than 15 hours	2.82	95.54	2.74	95.93
15 and less than 16 hours	3.41	98.95	3.20	99.13
16 hours and over	1.06	100.00	.87	100.00

Total number of engineers' trips 132,641
Total number of conductors' trips 128,271

[1] Reports of carriers to AAR—Bureau of Railway Economics: Atlantic Coast Line; Atchison, Topeka & Santa Fe; Baltimore & Ohio; Chesapeake & Ohio; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee, St. Paul & Pacific; Chicago, Rock Island & Pacific; Erie-Lackawanna; Gulf, Mobile & Ohio; Great Northern; Illinois Central; Louisville & Nashville; Missouri Pacific; New York Central; Norfolk & Western; Northern Pacific; Pennsylvania; Reading; Southern Pacific; Union Pacific.

NOTE.—Individual items may not add to 100 percent because of rounding.

TABLE 8.—*Time on duty of engineers and conductors per trip or tour of duty during selected payroll periods in October 1965; 21 railroads* [1]

[Class of service: through freight]

Elapsed time on duty	Percent	Cumulative percent	Percent	Cumulative percent
Less than 3 hours	4.61	4.61	4.61	4.61
3 and less than 4 hours	14.55	19.16	15.80	20.41
4 and less than 5 hours	18.99	38.15	19.82	40.23
5 and less than 6 hours	17.78	55.93	18.17	58.40
6 and less than 7 hours	13.95	69.88	13.53	71.93
7 and less than 8 hours	9.04	78.92	8.92	80.85
8 and less than 9 hours	6.79	85.71	6.40	87.25
9 and less than 10 hours	4.83	90.54	4.54	91.79
10 and less than 11 hours	3.26	93.80	3.00	94.79
11 and less than 12 hours	2.11	95.91	1.87	96.66
12 and less than 13 hours	1.49	97.40	1.26	97.92
13 and less than 14 hours	1.00	98.40	.85	98.77
14 and less than 15 hours	.64	99.04	.50	99.27
15 and less than 16 hours	.58	99.62	.44	99.71
16 hours and over	.39	100.00	.30	100.00

Total number of engineers' trips 71,222
Total number of conductors' trips 68,589

[1] Reports of carriers to AAR—Bureau of Railway Economics: Atlantic Coast Line; Atchison, Topeka & Santa Fe; Baltimore & Ohio; Chesapeake & Ohio; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee, St. Paul & Pacific; Chicago, Rock Island & Pacific; Erie-Lackawanna; Gulf, Mobile & Ohio; Great Northern; Illinois Central; Louisville & Nashville; Missouri Pacific; New York Central; Norfolk & Western; Northern Pacific; Pennsylvania; Reading; Southern Pacific; Union Pacific.

NOTE.—Individual items may not add to 100 percent because of rounding.

TABLE 9.—*Time on duty of engineers and conductors per trip or tour of duty during selected payroll periods in October 1965; 21 railroads* [1]

[Class of service: Local and way freight]

Elapsed time on duty	Percent	Cumulative percent	Percent	Cumulative percent
Less than 3 hours	0.70	0.70	0.56	0.56
3 and less than 4 hours	1.52	2.22	1.45	2.01
4 and less than 5 hours	3.44	5.66	3.61	5.62
5 and less than 6 hours	6.08	11.74	6.22	11.84
6 and less than 7 hours	8.74	20.48	8.75	20.59
7 and less than 8 hours	9.24	29.72	9.29	29.88
8 and less than 9 hours	12.19	41.91	11.78	41.66
9 and less than 10 hours	9.70	51.61	9.87	51.53
10 and less than 11 hours	9.77	61.38	10.13	61.66
11 and less than 12 hours	9.27	70.65	9.46	71.12
12 and less than 13 hours	8.76	79.41	9.02	80.14
13 and less than 14 hours	6.67	86.08	6.57	86.71
14 and less than 15 hours	5.35	91.43	5.36	92.07
15 and less than 16 hours	6.70	98.13	6.40	98.47
16 hours and over	1.85	100.00	1.53	100.00

Total number of engineers' trips 61,419
Total number of conductors' trips 59,282

[1] Reports of carriers to AAR—Bureau of Railway Economics: Atlantic Coast Line; Atchison, Topeka & Santa Fe; Baltimore & Ohio; Chesapeake & Ohio; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee, St. Paul & Pacific; Chicago, Rock Island & Pacific; Erie-Lackawanna; Gulf, Mobile & Ohio; Great Northern; Illinois Central; Louisville & Nashville; Missouri Pacific; New York Central; Norfolk & Western; Northern Pacific; Pennsylvania; Reading; Southern Pacific; Union Pacific.

NOTE.—Individual items may not add to 100 percent because of rounding.

TABLE 10.—*Time on duty of engineers and conductors per trip or tour of duty during selected payroll periods in October 1965; 21 railroads* [1]

[Class of service: Yard]

Elapsed time on duty	Percent	Cumulative percent	Percent	Cumulative percent
Less than 3 hours	0.06	0.06	0.06	0.06
3 and less than 4 hours	.04	.10	.04	.10
4 and less than 5 hours	.09	.19	.09	.19
5 and less than 6 hours	.17	.36	.15	.34
6 and less than 7 hours	.35	.71	.35	.69
7 and less than 8 hours	6.36	7.07	6.73	7.42
8 and less than 9 hours	76.49	83.56	77.20	84.62
9 and less than 10 hours	6.65	90.21	6.04	90.66
10 and less than 11 hours	3.61	93.82	3.50	94.16
11 and less than 12 hours	2.34	96.16	2.20	96.36
12 and less than 13 hours	1.52	97.68	1.42	97.78
13 and less than 14 hours	.97	98.65	.93	98.71
14 and less than 15 hours	.63	99.28	.62	99.33
15 and less than 16 hours	.62	99.90	.57	99.90
16 hours and over	.10	100.00	.10	100.00

Total number of engineers' trips 131,387
Total number of conductors' trips 135,995

[1] Reports of carriers to AAR—Bureau of Railway Economics: Atlantic Coast Line; Atchison, Topeka & Santa Fe; Baltimore & Ohio; Chesapeake & Ohio; Chicago & North Western; Chicago, Burlington & Quincy; Chicago, Milwaukee, St. Paul & Pacific; Chicago, Rock Island & Pacific; Erie-Lackawanna; Gulf, Mobile & Ohio; Great Northern; Illinois Central; Louisville & Nashville; Missouri Pacific; New York Central; Norfolk & Western; Northern Pacific; Pennsylvania; Reading; Southern Pacific; Union Pacific.

NOTE.—Individual items may not add to 100 percent because of rounding.

TABLE 11.—*Summary of types of accidents reported, May and November 1965, 12 roads*

Class of accident	Total number of accidents	Percent of total
Train accidents:		
Collisions	103	6.9
Derailments	276	18.5
Other train accidents	61	4.1
Total train accidents	440	29.5
Train service accidents:		
Employees coupling or uncoupling cars or locomotives	44	3.0
Employees operating locomotives, handbrakes, switches, etc	92	6.2
Persons getting on or off cars or locomotives	203	13.6
Persons struck or run over not classified above	71	4.8
Miscellaneous, not elsewhere classified [1]	342	23.0
Total train service accidents	752	50.6
Grade crossing accidents (train and train service)	282	19.0
Nontrain accidents	14	.9
Total	1,488	100.0

[1] Miscellaneous train service accidents include accidents resulting from such as closing or opening door or windows; stumbling, tripping, or falling in cars or on steps, into holes or depressions, on rails, ties, or ballast; foreign objects in eye; sudden start, stop, lurch, or jerk of locomotive or car; baggage falling from luggage rack.

Mr. WATSON. To summarize the data which are contained in the tables which I have submitted, it is apparent that average hours on duty for train and engine service employees as a group are not inordinately long or excessive.

In local freight service the average hours worked measured on a weekly basis or on a trip basis are longer than in other classes of service and this points up the unique nature of railroad operation and the necessity to tailor the service to meet the needs and the demands of the shipping public.

With respect to safety, there is no basis for attributing train or train service accidents to the hours of service of railroad operating employees. The Interstate Commerce Commission has no information indicating that hours of service are related to accidents.

The data the railroads have compiled indicate no causal relationship between accidents and hours of service. It is true, of course, that a statistical analysis does not reflect the causative factors involved in any particular accident. However, as representatives of the Interstate Commerce Commission have stated, the accidents which it has investigated have not shown hours of service to be a contributing factor.

The data I have presented show statistically that only a very small number of accidents occur after engineers and conductors have been on duty beyond the hours of service limits proposed by the pending bills and, therefore, there is no basis for relating these bills to safety on the American railroads.

The CHAIRMAN. Thank you very kindly. I appreciate your briefness here, but I would like to ask you then in this same light would it be all right to change the law to 20 hours if we could make it a little bit more efficient and get more done?

Mr. WATSON. I have no information as to what the effect of a 20-hour law might be.

The CHAIRMAN. Or 24 hours? A man could work 24 hours maybe and wouldn't be inefficient.

Mr. WATSON. No, sir; I wouldn't be able to say that that is the case at all.

The CHAIRMAN. You are talking about as long as he can work and if we can work him it would be all right to do that 24 or 36 hours?

Mr. WATSON. If the facts developed that that was the case, Mr. Chairman, you mean?

The CHAIRMAN. Yes, sir.

Mr. WATSON. On the basis of studies?

The CHAIRMAN. Yes, sir.

Mr. WATSON. Real informed studies?

The CHAIRMAN. Yes, sir.

Mr. WATSON. So far as safety is concerned——

The CHAIRMAN. I am not talking about the safety. I am talking about the man, the human being, that works for a living.

Mr. WATSON. My approach to this is entirely from the point of view of safety, Mr. Chairman, because that is the consideration and the purpose of this bill, to promote safety, as I understand it. That is my approach to this problem.

The CHAIRMAN. Don't you think that the Congress has the responsibility to take in all facets and look at it from different angles, not just the cold fact of one single thing, but look at this as a matter of human beings that work and that are involved in an industry?

Mr. WATSON. Oh, yes, sir; I certainly think the Congress has that authority and that right. This bill is not based upon that premise, though, as I understand it.

The CHAIRMAN. That is right. Those are cold facts. You said we had the right, but I am saying do you think we have the duty to do anything about this thing of human facts, and human life, and dignity of the human being in any way?

Mr. WATSON. Oh, yes, sir.

The CHAIRMAN. That is what I want to know. To work a man as long as you want to regardless if he can work I think has been a thing of the past in long years gone by.

Mr. WATSON. I will agree with you, Mr. Chairman, very much in that regard. Therefore, it leads me to this observation, just expressing my own opinion.

The CHAIRMAN. Yes, sir.

Mr. WATSON. Under those conditions I think the bill should be premised upon that base rather than upon the basis of safety as such.

The CHAIRMAN. Maybe we should change it. Maybe we should make a dual-purpose bill here. Would that be all right?

We can do that in the committee, you know We can change anything we need to as we go along and mark it up. It might be wise to make it a dual-purpose bill.

Evidently there was some reason for legislation being passed in 1907 limiting it to 16 hours.

Mr. WATSON. I presume so. I wasn't here in 1907. I don't know, but from what I have read about it there have been vast changes in technology, a great many innovations, all of which have led to a safer operation not only in railroad operations, but industrial operations generally, so I am just not able to say that the same conditions that prompted the necessity for legislation in 1907 exist today.

My research hasn't gone into that phase at all, but my judgment tells me that the conditions in the light of today's technology should govern actions and not conditions in the light of what existed in 1907.

The CHAIRMAN. We don't intend to go back there or study anything about it at all. I am just asking you what you think, that we have improved a little bit in relationships in working men since 1907.

The miner used to work about 12, 14, 16 hours a day, and 18 sometimes, and he had to work, but he doesn't do that today because of the fact that they were able to bring about a change and it is only 8 hours and they get paid from the time they start out to get to their job to where they work until they get back into the open.

I am just saying that things have improved a lot. We have had a lot of changes since 1907.

Mr. WATSON. You say we have not had a lot of changes?

The CHAIRMAN. The things are changing over night. You can wake up tomorrow morning and see in the paper things that changed over the night. I think anybody knows that. The changes are so swift and so many things have happened since 1907 and 1908 and the 1800's that we ought to be looking at just a little bit.

I have no further questions.

Mr. Cunningham.

Mr. CUNNINGHAM. No questions.

The CHAIRMAN. Thank you for coming and giving us the benefit of your views and having them as a matter of record here. I hope that I don't seem to abuse the witnesses here. I don't want you or the others to get that impression at all, because we are only trying to get something that this committee comes out with which I hope will be fair and will be just and certainly will be for the best interests of the working men and women and also for the industry of the land, for all of this land.

That is what this Congress is here for. I just don't want to let some statements ride that perhaps we shouldn't do things on a certain basis, that is all, and I appreciate your testimony.

I had some quesions here on your tables and so forth but I think I will defer asking them in the interest of time.

Mr. WATSON. I will be very happy to answer them at any time.

The CHAIRMAN. All right.

Thank you.

Mr. WATSON. Thank you, Mr. Chairman and Mr. Cunningham.

The CHAIRMAN. Mr. Gerald Fleming of the Baltimore & Ohio Railroad.

Mr. Fleming, we are glad to see you. I see you brought a book with you.

STATEMENT OF GERALD G. FLEMING, ASSISTANT SUPERINTENDENT OF TRANSPORTATION, BALTIMORE & OHIO RAILROAD

Mr. FLEMING. Yes, sir.

The CHAIRMAN. I hope that you will summarize this in the interest of time. It is pretty long.

Mr. FLEMING. Congressman Staggers, being aware of your interest to expedite these hearings I will summarize my statement with the

hopes that my entire statement and tables will be submitted for the record.

The CHAIRMAN. I can assure you that they will be placed at this point in the record and I hope that each member of the committee will take time to look them over and try to get some information.

(Mr. Fleming's full statement follows:)

STATEMENT OF GERALD G. FLEMING, ASSISTANT SUPERINTENDENT OF TRANSPORTATION, B. & O. RAILROAD

I am Gerald G. Fleming, 45 years old. I went to work for the B. & O. R.R. Co. in 1939 on the Buffalo Division as a freight handler. I enlisted in the U.S. Marine Corps in 1942 while working as chief yard clerk, Division Headquarters, Buffalo; and after serving three years with the 3rd Marine Division, I returned to the B. & O. R.R. and subsequently advanced through positions in the Operating Department. I am now Assistant Superintendent of Transportation. Under the Director of Transportation I have supervision over car supply, interchange arrangements with other railroads, and train make-up (called train classification). I am responsible for the scheduling of all trains operated by the B. & O.

One of the principal factors in planning the schedules of train operations is the availability of manpower and the need of making economical use of crews. Our companies are gravely disturbed over the probable effects of the proposed new restrictions on the lawful hours of service. Because certain relevant tests were run on the B. & O. (but not on the C. & O.), and because of my own greater personal knowledge of operating conditions on the B. & O., I will discuss the consequences which the proposed new hours of service restrictions would have on B. & O., but I think the consequences on C. & O. operations would be equally adverse.

The most severe new restriction is the alternative provision of Section 2(a)(1), whereby it would become unlawful to keep an engineer who is operating without a fireman on duty continuously for more than 9 hours. That would have a disastrous effect on our operations. Since the Award by Arbitration Board 282, B. & O. operates many freight trains without employing a fireman as a member of the engine crew. During May, 1966 the B. & O. system, composed of 3 regions, dispatched 15,670 freight trains. On 7,045 of them (45% of the whole number) no fireman was employed. Except for the so-called "full crew" laws and regulations affecting our operations in the Central and Western Regions, the percentage of freight trains operated without firemen would have been equivalent to the 73.5% operated without firemen in our Eastern Region. There of 6,602 freight trains dispatched during May this year, 4,850 operated without a fireman.

This 9-hour limitation combined with the restriction of the conductor brakeman, and flagman to 12 hours within the 16 hours measured from reporting time after at least 8 hours' rest, would require B. & O. to operate more than 488,000 additional train miles annually. Additional yearly crew expense of $3,926,520 would be incurred. Additional locomotive expense of $1,025,640 would be incurred. Other additional expense on yearly basis would exceed $1,013,080. The impact which a 9-hour limitation would have on B. & O.'s operation is evident from the fact that in local freight service during October, 1965 more than 64% of all local freight required more than 9 hours' service to complete the trips. In through freight service in that month more than 18½% of all of the engineer trips would have violated the 9-hour limitation. It would be unconscionable to impose such a heavy burden on the Railroads and upon the shipping public, especially because the money and manpower expended would have no productive effect. When I explain why the proposed new 12-hour limitation is unecessary and against the public interest it will be self-evident, I think, that this alternative 9-hour limitation is even less desirable.

Proponents of H.R. 8476 and S. 2180 contend that short rest and long hours on duty have caused an increase in train accidents and personal injuries on the railroads. I know that this is not so. The Chairman of the House Subcommitte sought the evidence on this issue (Tr. 166), but Chairman Bush of I.C.C. could not provide it. I made a detailed study of all reportable injuries to train and engine service employees on B. & O. for the first six months of 1966. The results of that study are summarized in 2 tables marked Appendix I attached to the typewritten manuscript of this statement, and I hope you will include them

in the record. It was found that of the 173 reportable injuries for the first six months of 1966, only one injury occurred after more than 12 hours on duty. This employee had been on duty 12 hours and 30 minutes when injured, after having had 72 hours' rest time. Employees on duty 2 hours or less had 29.5% of the injuries; employees on duty 4 hours or less had 61.3% of the injuries; employees on duty 8 hours or less had 91.9% of the injuries; and employees on duty 12 hours or less had 99.5% of the injuries. Four of the injured employees, or 2.2% had less than 8 hours' rest prior to performing work on the date injured. The basic facts in each individual case, by operating divisons showing name of the injured employe, amount of rest time before tour of duty began, and length of time on duty when accident occurred, have been compiled in an exhibit marked "G. G. Fleming, Ex. B." which is available in limited quantity for filing if desired. It also shows that the average time on duty, before the injury, for the system as a whole, was 3 hours and 39 minutes. By individual divisions the averages ranged from 2 hours and 41 minutes to 4 hours and 5 minutes.

I have also made a detailed study of instances in which train and engine service employees were found responsible for accidents or for violation of operating rules during the first six months of 1966. That study also proves that neither long hours on duty nor short rests between tours of duty were major factors in the occurrence of accidents and violations. Ninety-two percent of the incidents occurred when the employee had been on duty less than 12 hours. Indeed 90.7% of them occurred within duty periods of 8 or less hours. (This is shown on the table on sheet 2 of Appendix II attached to my written statement). Also on sheet 1 of Appendix it is shown that 98.1% of the employees involved had secured more than 8 hours' rest before beginning that tour of duty. In other words only 1.9% of them had had less than 8 hours' respite from duty before beginning the tour of duty in which the accident or violation occurred.

A proponent witness indicated that railroad officials instruct operating employees not to show over 15 hours and 59 minutes as time on duty on their time reports regardless of how long the trip actually takes. (House Tr. 220.) This testimony does not apply to the instructions issued to operating officers on the B. & O. R.R. Our bulletin on the subject entitled "Observance of Hours of Service Law, Preparation of Reports and Records Relating Thereto," in the first section on "Observance of the Law," in paragraph B, instructs the subordinate officers of the Company as follows: "The intent of the law as it affects train service employees is to restrict, so far as possible, working such employees in excess of 16 hours and as it is desired to live up to the spirit of the law, every possible effort should be made to handle train movements in such a way as to keep excess service to a minimum."

And in paragraph F it is provided: "The responsibility for the observance of the law is upon those officers and agents of the railroad company who direct and control train movements."

I know from my own experience that B. & O. makes a genuine effort to observe the Hours of Service Law. Responsibility is placed on train and engine crews to notify the train dispatcher from the first "open office" after they have been on duty 12 hours, warning him of the time when they will be on duty 14 hours. This is the requirement of general rule "U" of the Rules and Regulations of the Operating Department of the B. & O. This is a safeguard, against unintentional violation of the law. It does not relieve the operating official of his own responsibility. B. & O. has never required any employee to falsify his time report.

While these new limitations would have their most disruptive impact upon local freight, mine run and district run service, I am gravely concerned with the less evident impact on through freight operations. President H. E. Gilbert of the Firemen was asked by Congressman Pickle whether certain long hour runs which he had discussed represented a majority of the cases. In answer to Congressman Pickle, President Gilbert explained as follows: "Sure, there are a lot of runs that make the time over their road in 5 or 6 hours, but if they all did, we would not be in here trying to correct the abuses that are being foisted upon these employees by the railroads" (House Tr. 146).

Studies on B. & O. covering the 2-week period, October 2nd to 15th, 1965, inclusive, show that a total of 1522 of 4828 trains operating in through freight service—30% of the through freights—consumed between 5 and 7 hours for the straight-away trip. This is a representative percentage of through freights consuming more than 5 hours and less than 7 hours. Appendix Volume II to the Report of the Presidential Railroad Commission, page 10, table 2, shows that

other railroads had approximately the same percentage of through freight trips in which the hours of duty extended from 5 to 7. The P.R.C.'s own sample study showed 22% of the through freight trips required between 5 and 6 hours' time on duty and 14.1% required between 6 and 7 hours' time on duty, aggregating 36.1% for the 5 to 7 hour spread.

Where President Gilbert was unconcerned with the railroad operations within the 5 and 7 hour spread, I am gravely concerned with the effect of the proposed limitations on those trips since they are trips where "aggregating" would be normal, and legal relief times would be difficult to arrange. This bill in section 2(a)(1) proposes to limit on duty hours to 12 consecutive hours, but also in 2(a)(2) it would require that no employee can go on duty or continue on duty when he has not had at least 8 consecutive hours off duty during the preceding 24 hours. These co-ordinating limitations definitely put the railroad "in a box" as respects the operation of through freight service where the time on duty of the 2 trips ranges between 5 and 7 hours, respectively. This compounded limitation is illustrated by the following table, which I will discuss and hope you can follow on the prepared statement.

Violations of §2(a)(1), 12 consecutive hours duty

[Account Relief Too Short]

Run A to B	6½′	6′	5½′
Rest	>½′<3′	>1′<3′	>½′<3′
Run B to A	5′	5′	6′

The same runs violating §2(a)(2), 8′ relief in every 24′

[Account Relief Too Long]

Run A to B	6½′	6′	5½′
Rest	>4½′<8′	>5′<8′	>4½′<8′
Run B to A	5′	5′	6′

As you can see, the first combination would allow B. & O. to run this crew back to the home terminal by calling "in the aggregate" during the first half-hour or in the period from 3′ to 4½′ of relief at the away-from-home terminal. In the second example he could be called during the first hour of relief or between the 3rd and 5th hours.

I arranged to have the effect of the proposed new limitations determined by means of certain tests conducted on the Monongah Division of the B. & O., on which I have served as Assistant Superintendent. That Division is principally composed of a line extending from Wheeling, along the Ohio River through Parkersburg to Huntington, W. Va. A parallel line, with numerous branches, extends from Grafton, W. Va., through Buckhannon, Burnsville and Gassaway. This has three main branches, which extend to Richwood, Pickens and Mabie. There are also several branches from Grafton to Moundsville and Brooklyn Junction. These areas of West Virginia are extremely mountainous, and the principal commodity for rail shipment is coal. It is impractical to stockpile coal at mines since most mines are arranged for the progressive movement of the coal from the mine through the cleaning and screening process to the railroad car. Mines must constantly have railroad cars available during their working hours. It is our obligation to perform the service in the most economical, yet most efficient, manner with our crews. Under the 12-hour continuous service restriction, the Monongah Division would be greatly affected.

A study of the trips made on B. & O.'s Monongah Division during the period October 2 to October 15, 1965, inclusive, showed that more than 27% of the local freight trains (57 of 210) would have violated the 12-consecutive-hour limitation, and 141 out of 541 mine run trips (more than 26%) would have violated it also. If you take account, also, of the 66 trips which extended between 11 and 12 hours (on the ground that it would be impractical to operate them in the same way since, with a few minutes additional delay, they also would have violated the law) you would have a total of 201 out of the 541 (more than 37%) of the mine run trips operated during this period which would have violated the 12-hour limitation. If a 9-hour continuous service limitation had been applicable, 324 of the 541 mine run trips would have violated the law.

But even in through freight service the 12-hour limitation alone would cause definite difficulty for B&O. For instance, at the present time 8 crews operate in through freight service a distance of 120.3 miles 6 days a week between Grafton and Cowen, West Virginia. The home terminal for these crews is Grafton. Frequently these crews are on duty in excess of 12 hours in continuous service. The slowness of this trip is a result of the steep grades which are not avoidable in this mountainous area, frequent interference from the mine run crews, and the necessity of operating under train orders because 96.9 miles of the distance is single track teritory without automatic train controls. Despite the long hours of this duty, the men on these turns are men of high seniority who have a big opportunity to choose runs of shorter duration, for instance, the conductors holding these assignments come from a seniority roster of 283 men. Their seniority standing ranges between Number 22 and Number 65. Roughly speaking, their standing ranges between a rank above 10% and above 25% of the men on the roster. The engineers also show a preference for these assignments despite the length of the runs. The engineers come from two different rosters. One roster has 126 men. The 3 engineers from that roster ranked 33, 37 and 45 respectively when I checked this matter on June 10, 1966. On the other engineers' roster there is a total of 71 men. Five engineers from that roster had bid in these assignments. Their ranks were 4, 5, 18, 26 and 33.

In order to adjust to the threatened 12-hour limitation in this service a 50% increase in the number of crews might be necessary. The difficulty might be met in the following way: by inserting 4 additional "extra" crews in the service and relieving all crews for a minimum 8-hour period of rest at a newly designated intermediate terminal; such as, at Burnsville (76.8 miles from Grafton) or Buckhannon. This would require substituting a rested crew at the intermediate terminal, and more significantly still it could mean that the crews would be away from home for more than 2 days—for approximately 52 hours. Under the present method of operation, when they return home after an absence of approximately 36 hours, assuming two 14-hour trips, of which a part would be at overtime rate, they will have earned the equivalent of approximately "4 basic days" pay. Their individual earnings would be sharply decreased under any substitute arrangement, since the same total mileages would be shared by a greater number of men.

The 12-hour limitation on continuous service by itself would severely handicap B. & O. in operating its local freight and mine run service. By and large, local freight trains are operated by crews holding so-called regular assignments; i.e., usually not working out of a pool in turn as through freights usually work. A local freight is one which is used to pick up or set off cars at a considerable number of intermediate points and/or to perform switching for industries located at intermediate points, and usually has a terminal at each end of the road, operating in opposite directions on alternate days. A "district run", however, does basically the same work, but, normally, has but one terminal to which it returns each day, and the trackage traversed is somewhat less than that covered by a straightaway local. The Baltimore & Ohio Railroad Company and those train and engine service unions representing its employees have collectively bargained to pay a non-standard rate (Road Switcher Rate), which is substantially higher than the local freight or district rate, to certain agreed upon runs in the local and district run classification in exchange for certain exceptions to the basic rules and in consideration of the nature of the work performed.

The difficulty B. & O. would have in operating its mine run service consistently with the proposed new 12-hour limitation is shown by what would happen on the Buckhannon District Turn, which places empties and pulls loads from the Pickens Branch. It is a district run of 34.5 miles from Buckhannon to Pickens. There are two mines—Vernon and Higrade—loading coal on this Branch. In addition, Benson Lumber Company and J. M. Huber Corporation are each loading lumber at Pickens. Besides servicing these companies, this crew switches in Buckhannon Yard and places and pulls cars from Buckhannon Team Track and Local industries. This crew operates out of Buckhannon six days each week and generally works in excess of 12 hours per day, returning to Buckhannon. Judging by the seniority of the successful bidders, this run is considered a "choice" assignment. In order to protect this work, it would be necessary to put another crew in this service or gamble on the crew completing the work within 12 hours, and when they did not, relieve them on line. This would be most unsatisfactory, since when this crew was "caught out" it would be necessary for the B. & O. to deadhead a crew, under pay, of course, from Clarksburg

or Cowen by taxi. The men protecting the West Virginia and Pittsburgh Subdivision turns from Clarksburg would be "first out" (i.e., have a preference to) this extra work on the Buckhannon District Turn. If there are insufficient men on the Clarksburg extra board at the time they were needed to relieve the Buckhannon District Turn, it would be necessary to deadhead part of the crew from Clarksburg, and the balance from Cowen, or take the entire crew from Cowen and pay the men on the board of Clarksburg for not being used. The deadhead taxi trip would be 30 to 40 miles from either point, depending on the location at which the crews would be relieved.

The industrial switching on the West Virginia and Pittsburgh Sub-division is performed by crews from Clarksburg. These crews operate in turnaround district run service Clarksburg to Weston—a distance of 26.4 miles one way—and they average in excess of 12 hours on duty. As a "district run" by special agreement with the unions they are paid at road switcher rates. There are two crews operating in this territory six days per week. Under the proposed 12-hour restriction, it would be necessary to add one more crew and redistribute the work. There are 7 mines, 16 industries and 3 team tracks located on this subdivision. Timetable—train order operating rules are in effect on this single-track territory. There are no passing sidings and only one open telegraph office on the entire sub-division. This open telegraph office is located at Clarksburg—"MD Tower," the starting point for the crews. This additional crew would require four diesel units, a caboose, three trainmen and two engineers. The three crews would work eight hours each, instead of the present two-crew, 12-to-14-hour days. This would reduce the earnings of the crews presently working these assignments four to six hours at time-and-one-half. With the extra time required to get an additional crew off this single-track territory and get another crew moved to the location where it could complete the unfinished work, it would, in many cases, cause delays to the coal mines operating in this territory.

I have merely discussed what B. & O.'s problems would be on several actual runs on one of its operating Divisions. When you realize that B. & O. serves 111 coal mines on the Monongah Division alone, you begin to understand the impact which the 12-hour restriction would have and the many changes in our present operation of placing empties and pulling loads from these mines which would be necessary. In many cases, operating costs would be substantially increased, and the service would be adversely affected.

Chairman Bush speaking for the I.C.C., after reserving judgment concerning § 2(a)(1), favored the enactment, thereby seemingly endorsing the proposed new limitation in § 2(a)(2) which prohibits calling or continuing an employee on duty when the man has not had at least eight consecutive hours off duty *during the preceding 24 hours*. This means that there would be a 16-consecutive-hour period (in contrast with the present period of 24-consecutive hours) during which the permissible hours of continuous or discontinuous service (whether 12 or 16) could be required.

As I have shown earlier in my statement, the joint effect of § 2(a)(1)—12 hours continuous—with § 2(a)(2)—8 hours' rest in every 24 hours—is to "compound" the restrictive effect as respects through freight crews used "in the aggregate." The effect is "compounded" because the period of "interim relief" (i.e., relief less than 8 hours, "full rest") cannot be too short, nor too long. But as I shall demonstrate in a few minutes, either of the two limitations taken separately has about the same restrictive effect. In other words, § 2(a)(2) alone has almost the same restrictive effect upon the use of through freight crews "in the aggregate" as § 2(a)(1). On that account I believe that the I.C.C. should have reserved its judgment on both § 2(a)(1) *and* § 2(a)(2).

A man is used "in the aggregate" when there is an intervening off-duty time period of less than 8 hours between work periods. That period can conveniently be referred to as "interim relief." Under the present Act, a "fully rested" operating employee now can be used to make a run of 8 hours from his home terminal to his away-from-home terminal. There he can be relieved for 3 hours, 4 hours, 5, 6 or even 7 hours and still be available to operate a return trip with legal working time of 8 hours. This present, highly useful legal latitude results from the fact that under the Act now there is no requirement that a man be relieved from duty if he has not had 8 *consecutive hours off duty during the preceding 24-hour period.*

While it would still be permissible under § 2(a)(2) of H.R. 8476 to use an employee "in the aggregate"; i.e., upon successive tours of duty interrupted by

less than the full rest period of 8 consecutive hours off duty, the privilege to use crews "in the aggregate" would be far less valuable to the B. & O. since the amount of time in the intervening period between the separate tours of duty would not have the effect of extending the 16-consecutive-hour period in which this service in the aggregate must be "positioned". In a word, the difference is that under the present law the maximum lawful hours of service, whether continuous or "in the aggregate", is available to the Management and to the employee during a period of 24-consecutive hours. That longer, 24-hour "positioning period" facilitates the re-use of operating men after various rest period spans of more than the minimum, 3 hours, but less than 8 hours. Men so reused are not "fully rested", and for the purposes of my testimony will be referred to as "unrested men".

H.R. 8476 in § 1(b)(3) provides that in computing time on duty an individual shall be deemed to be continuously on duty from the time of reporting for duty until finally released "except that any interim period available for rest for more than 3 hours shall not be regarded as time on duty". That definition, however, does not in any way liberalize the new restriction proposed in § 2(a)(2) which requires at least 8 consecutive hours off duty *during the preceding 24 hours*. The fact that there is an off-duty period of more than 3 hours (unless the period is at least 8 hours) does not expand, does not stretch, and does not lengthen the limitation span constituted in the phrase "*during the preceding 24 hours*" used in § 2(a)(2) of H.R. 8476.

Periods of service and rest spans (of less than 8 consecutive hours) are indistinguishable under § 2(a)(2); that is, both rest and duty equally operate to "consume" the 16-hour "positioning period".

It is my judgment that this new limitation (8 consecutive hours of rest in any and every 24 consecutive hours) will seriously reduce the availability of railroad operating men for work in the aggregate, with the result that many new men will be needed in order to produce the same amount of transportation service. My judgment is based upon an analysis which was made of all of the road trips operated on the Cumberland Division of B. & O. (chosen for this test because of its diverse characteristics make it representative of the B. & O. as a whole). (Exhibit C) The test week was December 11 through 17, 1965. During this period unrested engineers made 117 road trips. A total of 64 (54.7%) of these trips would have violated § 2(a)(2).

The same study involved 115 unrested conductor trips during the test week. 53.9% of these conductor trips (62 trips in all) would have violated § 2(a)(2). Looking again at the engineers' trips,[1] our Cumberland Division test indicates that the § 2(a)(2) limitation would have a disruptive effect, considerably less than the compound effect, in the ratio of 65 instances to 79 instances, but the disruptive effect of § 2(a)(2) alone would be comparable to that of § 2(a)(1) alone (in the ratio of 64 to 72). Many trips which would violate one of those limitations would also violate the other (57 : 59). The impact of § 2(a)(2) on working time available for a return trip in through freight service (i.e., use "in the aggregate") is shown in the following illustrative table. It shows how that section would be more restrictive than § 2(a)(1) for interim rest periods of more than 4 hours:

Example No.	Time of 1st trip	Off-duty (short rest period)	Remaining lawful working time under sec. 2(a)(1) alone	Remaining lawful working time under sec. 2(a)(2) alone
1	6	3	6	7
2	6	4	6	6
3	6	5	6	5
4	6	6	6	4
5	6	7	6	3
6	5	7	7	4
7	5	6	7	5
8	5	5	7	6

[1] If conductor trips were used the result would be greater.

Observe that for examples 3 to 8 the time available to work the men "in the aggregate" is less than is provided under § 2(a)(1).

In the Cumberland test we analyzed merely the effect of he new limitations on unrested men (men used "in the aggregate"). When we use the results of the Monongah Division test, which dealt with all the new violations, the results, extended to the B. & O. System as a whole, indicate that in order to be able to produce the same amount of transportation service, the B. & O. would require the following numbers of additional road men: 68 conductors, 137 brakemen, 56 engineers and 45 firemen, or a total of 306 additional road men. The B. & O. statisticians could not determine to what extent wage cost of the new men, apart from the fringe benefit costs which are attributable to active employee status, *per se*, would be recouped by the Company out of the wages of the present employees. They concluded that the following number of present employees in road service might have their earnings opportunities restricted: 735 conductors, 1460 brakemen, 809 engineers and 502 firemen. If the entire wage cost (other than fringe benefits) was recouped evenly from the existing employees, the effect would be as follows on the road men, the amounts being *the average monthly reduction in earnings:* $77.58 for road conductors, $60.50 for road brakemen, $70.91 for road engineers, and $56.08 for road firemen.

In addition to those extra expenses and wage losses, it was found that a large number of present employees would be required to spend additional time at other than their home terminals. Train crewman would suffer an extension of away-from-home terminal time of 19.1 hours on a monthly basis, and that engine crewmen would suffer to the extent of 12.7 additional away-from-home hours on a monthly basis. The number of crews whose departure would be postponed at away-from-home terminals on an average day was determined to be 162, with a total daily delay impact on 810 employees.

A different test was conducted at a number of yards during the same period to determine how many additional yard men might have been needed. B. & O.'s yard at Toledo, Ohio, was selected as representative of its yards where "doubling"—additional tours of duty within a 24-hour period were common. There 593 man tours of duty, counting all train service employees (engineers, firemen, foremen and helpers), were operated during the test week. Approximately 23 tours of duty were operated with an insufficient rest period, which would have violated the requirement for 8 hours' continuous rest in every 24-hour period. This percentage (3.54%) applied to the yard employment over the System as a whole, which is comprised of some 90 yards and terminals employing yard crews, would have resulted in the requirement of the following additional men: 28 yard foremen, 57 yard brakemen or helpers, 24 yard engineers, and 20 yard firemen, or 129 additional men. It is calculated that the gross increase of train and enginemen, road and yard, required for the System as a whole by this proposed new limitation would be 448.

Our study of the week's trips on the Cumberland Division showed that so far as use of crews "in the aggregate" is concerned there was a very large overlap between the two limitations of proposed § 2(a)(1) and § 2(a)(2).

If H.R. 8476 is enacted, there would be an adverse effect on the total service B. & O. can give. Often it would be possible to avoid specific violations of the proposed new limitations by postponing work, especially by crews performing local service. We have located many areas of possible service curtailment on B. & O. alone.

AVERAGE HOURS OF SERVICE

Many members of the House subcommittee[1] and of the Senate subcommittee[2] sought information about average hours of service, presumably because proponents' testimony tended to signalize exceptional or minority conditions. In answer to Senator Lausche's question, President Gilbert stated that the Railroads report hours to the I.C.C. and also the numbers of employees involved, adding ". . . they can make a calculation and come up with the figure of the average hours on duty." (Tr. 36)

I have accepted President Gilbert's suggestion and I wish to file with the subcommittee, as my Exhibit "A", such a study, entitled "Statement of Miles

[1] Chairman Friedel at pp. 178; Cong. Cunningham, p. 65–68, 106; Cong. Pickle, p. 145, 148.

[2] Chairman Lausche at p. 36, 96–7; Senator Morton, pp. 231–7.

Clipsham, Senior Cost Consultant C&O/B&O RRs". I shall refer only to a few of the significant figures, but I want to say two things. First, Mr. Clipsham, who compiled the exhibit, is present in order to respond to any questions about the exhibit which the subcommittee wants answered; and, second, we are well aware of the limitations as to the meaning of the study; and, indeed we wish ourselves to point them out, in order to avoid the rancor of misunderstanding. Our calculations have used *actual hours worked on B. & O.* and *the actual number of employees.* In order to do that our statistician was compelled to group and average the members of the engine crew with the members of the train crew.

The group of actual hours worked per-man-day-worked, arranged into 3, 4, 5, 6, and 7 day weeks is purely arbitrary. For instance, it does not mean that any one man (much less, for instance, that the *average* engineman in through freight service did work a 3-day week). It simply means that the actual hours worked in a class of service and the compensation paid for them are arithmetically distributable on such a basis. While we do *not* assert that the average engineman in through freight service worked a 3-day week, our figures do show that if such had been true, the average day would have been 13.8 hours and the average pay would have been $79.83.

In column 7 the study shows the actual average hours worked per employee per week, and in column 8 we have the actual average trips per employee per week. Both the hours, the employees and the trips are reported to I.C.C. Thus we derive, in column 9, the average hours per employee per trip.

When we use the average number of trips per week, found in column 8, it is clearly indicated that train crews and engine crews both on the average are working a 6-day week; that the trainmen are working an average of 6.4 hours per day, earning $30.80 per day; that the enginemen are working 6.5 hours per day earning $37.76 per day.

The same "control," column 8 indicates local freight on the average are working a 5-day week; that enginemen are working an average 10.1 hours, earning $40.37 per day; while trainmen work 9.5 hours on the average, earning $33.87.

It is indicated that yardmen are on the average working a 5-day week. The members of the train crew averaged 7.9 hours per day, earning $29.17; while enginemen averaged 9 hours per day and $33.46.

It is somewhat unrealistic to discuss average numbers of days per week. For instance, some men in through freight service average only 5 days a week and others only 4 days a week. Thus on the 5-day basis it is seen that they average approximately 8 hours' work per day (7.8 for train crew and 7.9 for enginemen) for which their respective earnings would be $37.30 and $45.74.

In allocating to a 5-day week it was considered that the men would be off duty entirely for 2 relief days per week (104 days) plus 15 days for vacation, plus 7 holidays for all except passenger and through freight crews. So in allocating to a 5-day week only 246 days were considered work days for passenger and through freight crews, and only 239 days for the other occupations. Also allocating to a 4-day week only 194 days were considered as work days for through freight men, and 194 was the number of days per year used in the averages.

When we come before Congress defending the *right* to use operating employees more than 12 hours in continuous service, and objecting even to the arbitrary requirement of 8 hours' rest in every 24 hours, we seem to be out of step with the times. It is essential for the Congress to be informed that despite the considerable latitude allowed to the Management under the present law, the *average train and engine service employee of B. & O. does not work an excessive number of hours during a normal year.* The latitude simply avoids a light work year which would result from an effort to conform the railroad pattern of work to that in manufacturing, for instance. On the average, our men are not working excessively either by necessity or by choice.

I have heard and agree with the objections and criticisms levelled by other railroad management witnesses at § 2(c) and § 3 of the bill, but time does not permit me to deal with those sections.

APPENDIX I

Reportable injuries for the 1st 6 months of 1966 to train and engine service employees covered by hours of service law

Hours injured person was off duty prior to performing work on date injured	Number of injuries	Percent of injuries	Cumulative percent of injuries	Hours on duty at time of injury													
				Less than 1 hour	1 to 2 hours	2 to 3 hours	3 to 4 hours	4 to 5 hours	5 to 6 hours	6 to 7 hours	7 to 8 hours	8 to 9 hours	9 to 10 hours	10 to 11 hours	11 to 12 hours	12 to 13 hours	Over 13 hours
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
16 hours or over	124	71.7	71.7	20	18	20	18	15	7	10	8	1	5	0	1	1	0
14 to 16 hours	11	6.4	78.1	2	0	0	5	2	0	2	0	0	0	0	0	0	0
12 to 14 hours	11	6.4	84.5	0	3	2	1	0	0	1	0	0	1	3	0	0	0
10 to 12 hours	6	3.5	88.0	0	2	3	0	0	0	0	0	0	0	0	1	0	0
8 to 10 hours	17	9.8	97.8	4	1	4	0	4	0	2	1	1	0	0	0	0	0
6 to 8 hours	3	1.7	99.5	1	0	2	0	0	0	0	0	0	0	0	0	0	0
4 to 6 hours	1	.5	100.0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Under 4 hours	0	0	100.0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	173		100.0	27	24	31	24	22	7	15	9	2	6	3	2	1	0
Percentage	100			15.6	13.9	17.9	13.9	12.7	4	8.7	5.2	1.2	3.5	1.7	1.2	0.5	0
Cumulative percentage	100			15.6	29.5	47.4	61.3	74.0	78	86.7	91.9	93.1	96.6	98.3	99.5	100.0	100

Reportable injuries for the 1st 6 months of 1966 to train and engine service employees covered by hours of service law

Hours on duty at time of injury	Number of injuries	Percent of injuries	Cumulative percent of injuries	Hours injured person was off duty prior to performing work on date injured							
				16 hours or over	14 to 16 hours	12 to 14 hours	10 to 12 hours	8 to 10 hours	6 to 8 hours	4 to 6 hours	Under 4 hours
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Less than 1 hour	27	15.6	15.6	20	2	0	0	4	1	0	0
1 to 2 hours	24	13.9	29.5	18	0	3	2	1	0	0	0
2 to 3 hours	31	17.9	47.4	20	0	2	3	4	2	0	0
3 to 4 hours	24	13.9	61.3	18	5	1	0	0	0	0	0
4 to 5 hours	22	12.7	74.0	15	2	0	0	4	0	1	0
5 to 6 hours	7	4.0	78.0	7	0	0	0	0	0	0	0
6 to 7 hours	15	8.7	86.7	10	2	1	0	2	0	0	0
7 to 8 hours	9	5.2	91.9	8	0	0	0	1	0	0	0
8 to 9 hours	2	1.2	93.1	1	0	0	0	1	0	0	0
9 to 10 hours	6	3.5	96.6	5	0	1	0	0	0	0	0
10 to 11 hours	3	1.7	98.3	0	0	3	0	0	0	0	0
11 to 12 hours	2	1.2	99.5	1	0	0	1	0	0	0	0
12 to 13 hours	1	.5	100.0	1	0	0	0	0	0	0	0
Over 13 hours	0	0	100.0	0	0	0	0	0	0	0	0
Total	173		100.0	124	11	11	6	17	3	1	0
Percentage	100			71.7	6.4	6.4	3.5	9.8	1.7	0.5	0
Cumulative percentage	100			71.7	78.1	84.5	88.0	97.8	99.5	100.0	100

APPENDIX II

Train and engine service employees found responsible for train accidents or violation of operating rules for the 1st 6 months of 1966

Hours person was off duty prior to performing work on date of incident	Number of incidents	Percent of incidents	Cumulative percent of incidents	Hours on duty at time of incident													
				Less than 1 hour	1 to 2 hours	2 to 3 hours	3 to 4 hours	4 to 5 hours	5 to 6 hours	6 to 7 hours	7 to 8 hours	8 to 9 hours	9 to 10 hours	10 to 11 hours	11 to 12 hours	12 to 13 hours	Over 13 hours
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)
16 hours or over	93	62.0	62.0	5	8	14	11	14	14	12	10	0	0	0	0	0	5
14 to 16 hours	24	16.0	78.0	1	2	1	1	2	2	5	3	0	0	1	3	3	0
12 to 14 hours	10	6.7	84.7	1	1	0	0	6	1	0	0	0	0	1	0	0	0
10 to 12 hours	7	4.7	89.4	0	0	2	0	2	0	1	2	0	0	0	0	0	0
8 to 10 hours	13	8.7	98.1	2	0	2	2	0	5	1	0	0	0	0	1	0	0
6 to 8 hours	2	1.3	99.4	0	0	0	0	0	2	0	0	0	0	0	0	0	0
4 to 6 hours	0	0	99.4	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Under 4 hours	1	0.6	100.0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	150		100.0	10	11	19	14	24	24	19	15	0	0	2	4	3	5
Percentage	100			6.7	7.3	12.7	9.3	16	16	12.7	10.0	0	0	1.3	2.7	2.0	3.3
Cumulative percentage	100			6.7	14	26.7	36.0	52	68	80.7	90.7	90.7	90.7	92.0	94.7	96.7	100.0

Train and engine service employees found responsible for train accidents or violation of operating rules for the 1st 6 months of 1966

Hours on duty at time of incident	Number of incidents (1)	Percent of incidents (2)	Cumulative percent of incidents (3)	Hours person was off duty prior to performing work on date of incident							
				16 hours or over (4)	14 to 16 hours (5)	12 to 14 hours (6)	10 to 12 hours (7)	8 to 10 hours (8)	6 to 8 hours (9)	4 to 6 hours (10)	Under 4 hours (11)
Less than 1 hour	10	6.7	6.7	5	1	1	0	2	0	0	1
1 to 2 hours	11	7.3	14.0	8	2	1	0	0	0	0	0
2 to 3 hours	19	12.7	26.7	14	1	0	2	2	0	0	0
3 to 4 hours	14	9.3	36.0	11	1	0	0	2	0	0	0
4 to 5 hours	24	16.0	52.0	14	2	6	2	0	0	0	0
5 to 6 hours	24	16.0	68.0	14	2	1	0	5	2	0	0
6 to 7 hours	19	12.7	80.7	12	5	0	1	1	0	0	0
7 to 8 hours	15	10.0	90.7	10	3	0	2	0	0	0	0
8 to 9 hours	0	0	90.7	0	0	0	0	0	0	0	0
9 to 10 hours	0	0	90.7	0	0	0	0	0	0	0	0
10 to 11 hours	2	1.3	92.0	0	1	1	0	0	0	0	0
11 to 12 hours	4	2.7	94.7	0	3	0	0	1	0	0	0
12 to 13 hours	3	2.0	96.7	0	3	0	0	0	0	0	0
Over 13 hours	5	3.3	100.0	5	0	0	0	0	0	0	0
Total	150			93	24	10	7	13	2	0	1
Percentage	100			62	16	6.7	4.7	8.7	1.3	0	0.6
Cumulative percentage	100			62	78	84.7	89.4	98.1	99.4	99.4	100.0

EXHIBIT A

Service-hours worked per man-day worked, average hours per employee per week, average number trips per employee per week, average hours per employee per trip, and average compensation per man-day worked, based on year ended Nov. 30, 1965

Group	Occupation group	Service-hours worked per man-day worked, basis of workweek					Average hours worked per employee per week	Average number trips per employee per week	Average hours per employee per trip	Average compensation per man-day worked, basis of workweek				
		3 day	4 day	5 day	6 day	7 day				3 day	4 day	5 day	6 day	7 day
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
A	Train crews, passenger trains	12.1	8.8	6.9	5.7	4.9	34.9	6.5	5.4	$66.49	$48.33	$37.97	$31.42	$26.75
B	Engine crews, passenger trains	11.4	8.3	6.6	5.4	4.6	32.8	7.1	4.6	83.52	60.70	47.93	39.56	33.73
C	Train crews, through freight trains	13.5	9.8	7.8	6.4	5.4	39.0	6.1	6.3	65.06	47.28	37.30	30.80	26.13
D	Engine crews, through freight trains	13.8	10.0	7.9	6.5	5.5	39.6	6.1	6.5	79.83	58.02	45.74	37.76	32.15
E	Train crews, local and way freight trains	-------	12.0	9.5	7.8	6.5	46.1	4.8	9.7	-------	42.85	33.87	27.81	23.12
F	Engine crews, local and way freight trains	-------	12.8	10.1	8.3	6.9	49.3	5.0	9.9	-------	50.96	40.37	33.15	27.54
G	Train crews, yard service	-------	-------	7.9	6.5	5.4	38.3	4.7	8.2	-------	-------	29.17	23.96	19.92
H	Engine crews, yard service	-------	-------	9.0	7.4	6.1	43.7	5.3	8.3	-------	-------	33.46	27.48	22.83
J	Switch tenders	-------	-------	9.0	7.4	6.1	44.2	-------	-------	-------	-------	26.00	21.43	17.76
K	Hostlers	-------	-------	10.8	8.9	7.4	53.1	-------	-------	-------	-------	35.29	28.99	24.09
L	Dispatchers, telegraphers, telephoners	-------	-------	8.3	6.8	5.7	40.4	-------	-------	-------	-------	26.92	22.11	18.38

Explanation of ICC wage statistic occupational reporting division included in exhibit A, col. (1), occupation groups A to L inclusive [1]

Exhibit A occupation group		ICC wage statistics form A and B		
			Reporting division	
Group	Class of service	Form	Number	Occupation
A	Train crews, passenger trains	B	111	Road passenger conductors.
		B	112	Assistant road passenger conductors and ticket collectors.
		B	115	Road passenger baggagemen.
		B	116	Road passenger brakemen.
B	Engine crews, passenger trains	B	121	Road passenger engineers and motormen.
		B	125	Road passenger firemen and helpers.
C	Train crews, through freight trains	B	113	Road freight conductors (through freight).
		B	117	Road freight brakemen and flagmen (through freight).
D	Engine crews, through freight trains	B	122	Road freight engineers and motormen (through freight).
		B	126	Road freight firemen and helpers (through freight).
E	Train crews, local and way freight trains	B	114	Road freight conductors (local and way freight).
		B	118	Road freight brakemen and flagmen (local and way freight).
F	Engine crews, local and way freight trains	B	123	Road freight engineers and motormen (local and way freight).
		B	127	Road freight firemen and helpers (local and way freight).
G	Train crews, yard service	B	119	Yard conductors and yard foremen.
		B	120	Yard brakemen and yard helpers.
H	Engine crews, yard service	B	124	Yard engineers and motormen.
		B	128	Yard firemen and helpers.
J	Switch tenders	A	107	Switch tenders.
K	Hostlers	A	108	Outside hostlers.
		A	109	Inside hostlers.
		A	110	Outside hostlers helpers.
L	Dispatchers, telegraphers, telephoners	A	76	Train dispatchers.
		A	80	Station agents (telegraphers and telephoners).
		A	83	Telegraphers, telephoners, towermen.

[1] These consolidations of ICC reporting divisions accomplished to reduce mass of data which would otherwise be shown as well as to avoid the effect of subordinate men swinging up to higher paid occupation and then dropping back to original position during reporting periods.

STATEMENT OF MILES CLIPSHAM, SENIOR COST CONSULTANT, C&O/B&O, IN EXPLANATION OF EXHIBIT "A" WITH TESTIMONY OF G. G. FLEMING

My name is Miles Clipsham. My business address is Room 2015 Charles Center Building, Baltimore, Md. I am employed by the Vice President of Finance of the Chesapeake and Ohio Railway and the Baltimore and Ohio Railroad Companies, in the office of the Director of Profit Margin Research, as Senior Cost Consultant.

My railroad accounting and financial service dates back to 1936. For the past 22 years, I have been engaged in planning, directing, presentation of revenue and cost studies of all phases of railroad operations. Because of the burden of cost and research work, my present duties are confined to studies involving regulatory procedures. In this connection, I wish to point out that on numerous occasions I have testified before the I.C.C. as well as most of the Public Utilities Commissions of the States in the northeast section of the United States, on matters of freight rates and charges, their divisions between the carriers, passenger fares, discontinuances of deficit services, as well as the abandonment of little-used lines of railroad. On occasion, I have served as a representative on Eastern Railroads' Accounting Committees, as well as on committees of United States Railroads. I have, in the past, assisted in the compilation of data for presentation before the Congress of the United States in its deliberations of rail transportation problems.

I have prepared a statement which shows, for the Baltimore and Ohio Railroad Company, service hours worked per man day worked, average hours per employee per week, average number of trips per employee per week, average hours per employee per trip, as well as average compensation per man day worked, for those employee occupations which are presently affected by Hours of Service law, and which would be affected under the bills herein proposed. The data contained in this exhibit was compiled from B&O R. R. "Monthly Report of Employees, Service, and Compensation" as reported on I.C.C. Wage Statistics Form A and Form B, Budget Bureau #60 R 133.12, for the 12 months ended November 1965.

The occupations considered are shown in Column 1, identified as Groups "A" through "L".

In Columns 2 through 6 inclusive, I have shown service hours worked per man day worked, for each of the occupation groups indicated. Since some of our employee groups work 3, 4, 5, 6 or 7 day assignments, these columns indicate the days of the work-week. For example, Column 2 is based on a 3-day work week, while Column 3 is based on a 4-day work week, and Column 6 is a 7-day work week. This statement shows, for example, those passenger train crews who work three days a week on the B&O would average 12.1 hours per day per man worked, whereas if the assignment is a four-day assignment, this group would work an average of 8.8 hours per day; on a five-day basis, 6.9 hours per day; on a six-day basis, 5.7 hours per day; and on a seven-day basis, 4.9 hours per day.

In Column 7, for each of the employee groups, I have shown average hours worked per employee per week. For example, referring again to my Group "A", Passenger Train Crews, these crews worked an average of 34.9 hours per week, whereas the Passenger Engine crews, included in Group "B", work an average of 32.8 hours per week. Thus, for any of the employee groups included, one can readily determine the average number of hours worked per employee per week.

In Column 8, I have shown, for the Baltimore and Ohio Railroad, for this period, the average number of trips per employee per week, and would point out, as an example, Passenger Train Crews shown as Group "A" would average 6.5 trips per week whereas the Engine crew in passenger trains, included in Group "B", would average 7.1 trips per week.

In Column 9, I have shown average hours per employee per trip. Thus, referring again to Group "A", Passenger Train Crews, for each of the 6.5 trips (Column 8) these employees average per week, 5.4 hours would be consumed in making such trip.

Because of the mass data involved, it would be very time-consuming and costly to try to catalog the employees by the number of days worked in each week. This is the reason I have shown the range of 3-day to 7-day work day weeks in Columns 2 to 6.

At the bottom portion of the statement, in Columns 10 through 14, I have shown average compensation per man day worked, again using a 3-day work week in Column 10; a 4-day work week in Column 11; on up to a 7-day work week in Column 14. This section of my statement should be read in context with Columns 2 to 6 inclusive. Thus, if a passenger train crew worked a 3-day basis averaging 12.1 service hours per day worked, their average compensation would be $66.49 per day, whereas if this passenger train crew worked on a 7-day basis, and averaged 4.9 hours per day worked, their average compensation would be $26.75 per day worked.

Using Column 8 "Average Number of Trips Per Employee Per Week," as an indicator for the number of days worked per week, it can be approximately determined which set of number of days worked per week, the hours per man day worked is most meaningful. For example, going again to Passenger train crews in Group "A", Column 8 shows that these crews average 6.5 trips per week, so reading across Columns 3 to 7 it may be assumed that on the average, passenger train crews worked between 5.7 and 4.9 hours per day on a 6 to 7-day basis. Reading this together with Column 9 shows that the average hours per employee per trip is 5.4 and thus this number of hours per trip seems to fit the 6-day work week more closely than any other basis on this chart.

Going to Group "B", Passenger Engine Crews, you will note the average number of trips is 7.1 per employee per week. On a 7-day basis, the average service hours per man day worked is 4.6, whereas going over to Column 9 the average hours per employee per trip is also 4.6. Thus, if we continue down Column 8, using that as a guide into the proper number of days worked per week, we find that the average service hours per day worked is similar to the average hours per employee per trip, thus it is indicated whether on a per day basis or on a per trip basis the average hours for passenger train crews is about 5 hours per day or per trip, whereas in through freight trains it seems to center between 6 and 7 hours per day or per trip. Local crews on the average consume between 9 and 10 hours per day or per trip, while yard crews work somewhat over 8 hours per day or per trip.

Explanation of formula used to develop averages shown in exhibit A, columns (2) to (14) inclusive

Exhibit A columns	*Explanation of formulas used*
Cols. (2) to (6) inclusive: Service-hours worked per man-days worked.	Total service-hours worked [1] divided by total man-days worked [2] equals service-hours worked per man-days worked.
Col. (7): Average hours worked per employee per week.	Total service-hours worked [1] divided by number of employees [3] equals total hours worked per employee for year ended Nov. 30, 1965 divided by 49 workweeks equals average hours worked per employee per week.
Col. (8): Average number trips per employee per week.	Total number of trips [4] divided by number of employees [3] equals total number of trips per employee for year ended Nov. 30, 1965 divided by 49 workweeks equals average number of trips per employee per week.
Col. (9): Average hours per employee per trip.	Equals col. (7) divided by col. (8).
Col. (10) to (14) inclusive: Compensation per man-day worked.	Total compensation [5] divided by total man-days worked [2] equals compensation per man-day worked.

[1] Total service-hours worked: I.C.C. wage statistics form B, cols. (4) plus (6), form A; cols. (4) plus (5).
[2] Total man-days worked: Number of employees from footnote 3, times days worked in year ended Nov. 30, 1965. Days worked in year equal calendar days less vacation and holidays as applicable.
[3] Number of employees: I.C.C. wage statistics form B, col. (3); form A, col. (3).
[4] Number of trips: I.C.C. wage statistics form B, col. (15).
[5] Total compensation: I.C.C. wage statistics form B, col. (12); form A, col. (11).

Source reference of data used in above formulas as taken from I.C.C. wage statistics reports from Baltimore & Ohio RR. for year ended Nov. 30, 1965.

EXHIBIT B

Reportable injuries for the 1st 6 months of 1966 to train and engine service employees covered by hours of service law

OHIO-NEWARK DIVISION

Date of injury	Injured person	Type of service	Time injured person was off duty prior to performing work on date injured	Time on duty at time of injury
Feb. 24	C. G. Hall	Yard fireman	16'00"	0'01"
Mar. 27	W. J. Starr	Freight engineer	18'20"	0'05"
Apr. 17	R. E. Wingate	Yard fireman	9'30"	0'10"
May 15	J. L. Balding	Freight flagman	25'45"	0'10"
24	C. T. Anderson	Freight brakeman	32'45"	0'30"
29	V. Allen	do	32'15"	0'40"
Feb. 12	T. E. Worley	Yard brakeman	16'00"	1'10"
16	F. E. Robinette	do	16'00"	1'20"
Apr. 14	H. R. Tucker	do	12'50"	1'20"
Feb. 16	L. Vilensky	do	16'00"	1'30"
Apr. 6	G. J. LaCourt	do	16'00"	2'05"
Feb. 15	J. E. Hammon	Yard conductor	7'00"	2'15"
Mar. 28	J. R. Surgeon	Yard brakeman	16'00"	2'25"
May 25	M. G. Gunter	do	16'00"	2'30"
Jan. 24	H. E. Reed	do	16'00"	2'35"
Apr. 23	E. S. Henry	Freight brakeman	12'55"	2'40"
June 5	W. G. Viars	Yard brakeman	16'00"	3'00"
May 14	H. R. Watling	do	54'15"	3'20"
Mar. 1	M. Reneau, Jr.	do	15'30"	3'30"
29	G. L. Green	do	16'00"	4'20"
Jan. 13	R. J. Regan	do	64'00"	4'49"
25	C. B. Jinks	Freight brakeman	8'10"	4'49"
June 8	D. L. Chilto	Yard brakeman	16'00"	4'50"
Apr. 27	O. J. Peavley	do	16'00"	5'35"
Feb. 15	J. A. Justice	Yard conductor	16'00"	7'35"
June 10	F. M. Richardson	Yard brakeman	16'00"	7'30"
	Total (26 men)		516'25"	70'44"
	Average		19'52"	2'41"

AKRON-CHICAGO DIVISION

Apr. 13	A. W. Bird	Yard brakeman	16'00"	0'15"
May 11	J. W. Scott	Freight brakeman	17'30"	0'25"
Jan. 4	O. H. Ritenour	Freight conductor	9'50"	0'30"
1	O. L. Hedges	Freight brakeman	16'00"	1'30"
13	A. Kussic	Yard brakeman	16'00"	1'30"
Feb. 22	R. H. Younger	Yard foreman	31'30"	1'30"
18	L. D. Gouchneaur	Freight brakeman	8'40"	2'30"
June 23	R. Nixon	Passenger brakeman	48'00"	2'45"
23	E. J. Harold	Freight engineer	18'00"	3'00"
23	J. G. Karaiskos	Freight fireman	18'00"	3'00"
Jan. 13	H. M. Collins	Freight conductor	33'40"	3'05"
May 13	J. Holodnak	Yard foreman	16'00"	3'30"
Feb. 15	V. R. Saxton	Yard brakeman	64'00"	4'15"
Mar. 24	F. Cook	Freight conductor	14'30"	4'25"
June 25	S. Hasson	Freight brakeman	18'50"	4'25"
16	R. J. Blinzley	Yard foreman	16'00"	4'40"
Jan. 16	W. D. Wayne	Yard brakeman	8'00"	4'50"
Feb. 10	S. A. Marzula	do	16'00"	4'50"
Mar. 1	D. L. Beamer	Yard engineer	16'00"	5'40"
	Total (19 men)		400'50"	56'35"
	Average		21'06"	2'59"

ST. LOUIS DIVISION

June 29	P. L. Wonder	Freight brakeman	16'00"	1'20"
Mar. 12	C. J. Brewer	Freight engineer	13'00"	1'42"
Jan. 30	C. E. Dunn	Yard brakeman	16'00"	2'00"
June 18	N. E. Glassford	Freight engineer	16'40"	2'00"
May 31	W. E. Podesva	Yard brakeman	16'00"	2'55"
29	J. Kish	Yard foreman	16'00"	3'05"
Mar. 25	L. Steelman	Freight brakeman	45'50"	6'00"
Feb. 24	W. W. Krump	Yard foreman	16'00"	7'15"
Jan. 24	R. W. Kehrer	Yard brakeman	16'00"	7'40"
	Total (9 men)		171'30"	33'57"
	Average		19'03"	3'46"

BALTIMORE DIVISION

Date of injury	Injured person	Type of service	Time injured person was off duty prior to performing work on date injured	Time on duty at time of injury
Feb. 24	H. E. Gaither	Yard brakeman	16′00″	0′05″
June 14	H. R. Rice	do	16′00″	0′15″
Apr. 11	F. J. Noone	do	48′00″	0′30″
Mar. 20	R. B. Cannon	Freight flagman	13′39″	0′31″
Jan. 5	F. Blanchfield	Yard foreman	16′00″	1′00″
Apr. 2	N. Lessick	do	8′00″	1′00″
8	W. A. Schluth	Freight brakeman	12′00″	1′00″
June 26	I. H. Cooper	Yard fireman	24′00″	1′00″
13	D. D. McCoy	Yard foreman	24′00″	1′20″
23	W. M. Hoffmaster	Freight conductor	11′25″	1′36″
Feb. 28	S. R. Jordan	Yard brakeman	6′30″	2′00″
Apr. 18	W. J. Davis	do	16′00″	2′00″
15	A. T. Laciak	Freight brakeman	16′00″	2′30″
Mar. 2	H. B. Crum	Yard brakeman	8′00″	2′35″
June 29	J. J. De Muzio	do	48′00″	2′50″
7	W. Porter	do	24′00″	3′30″
May 21	B. S. Lafferty	do	16′00″	3′35″
June 19	R. M. Tuohy	Freight flagman	12′00″	3′55″
Mar. 31	R. F. Dunn	Freight brakeman	8′00″	4′05″
31	R. B. Sutton	Freight conductor	4′00″	4′15″
Jan. 25	J. P. Nolan	Yard brakeman	48′00″	4′45″
Feb. 21	J. A. Rossi	do	16′00″	6′00″
Mar. 17	P. L. Kisling	do	15′00″	6′00″
Feb. 25	H. B. Sheppard, Jr	Yard foreman	56′00″	6′00″
May 18	F. J. Groome	Freight flagman	12′00″	6′20″
Jan. 10	J. R. Pardue	Yard foreman	48′00″	6′25″
May 12	M. R. Eddy	Yard brakeman	14′30″	6′30″
18	J. P. Moore	do	24′00″	6′30″
Mar. 5	L. L. Reynolds	do	53′30″	6′40″
Feb. 28	U. L. Gordon	do	16′00″	6′45″
22	W. M. King	do	8′00″	7′30″
June 28	J. E. Neal	Yard foreman	16′00″	7′45″
May 5	T. P. Reid	Yard engineer	12′10″	9′20″
	Total (33 men)		686′44″	126′22″
	Average		20′48″	3′50″

CUMBERLAND DIVISION

Feb. 18	J. D. Shaffer	Freight brakeman	*1 month	0′10″
Jan. 25	M. H. Baker	Yard brakeman	*72′00″	0′31″
23	W. B. Harris	Yard engineer	14′00″	0′31″
Feb. 22	G. K. Nave	Yard foreman	16′00″	0′40″
11	M. G. Cline	Passenger engineer	31′47″	0′41″
Mar. 25	R. L. Dick	Freight brakeman	11′20″	2′10″
26	H. C. Staggs	Freight conductor	11′10″	2′15″
May 17	R. H. Calhoun	Freight fireman	12′15″	2′25″
June 19	R. J. Saville	do	19′45″	3′55″
May 8	P. K. Huber	Freight engineer	9′50″	4′30″
Feb. 3	J. L. McClellan	Freight brakeman	17′00″	5′00″
May 26	L. E. Smith	Yard foreman	16′00″	5′05″
Jan. 14	E. E. Lewis	Yard brakeman	64′00″	5′55″
29	A. W. Crabtree	Freight conductor	*185′00″	6′10″
10	L. B. Wotring	Freight engineer	12′20″	10′32″
May 24	D. E. Landis	Freight brakeman	51′40″	11′10″
	Total (16 men)		1,126′07″	61′40″
	Average		[1] 22′08″	3′51″

PITTSBURGH DIVISION

May 5	D. J. Moyer	Freight brakeman	26′45″	0′30″
June 22	W B. McCafferty	Yard brakeman	16′00″	1′05″
Feb. 15	E. L. Baker	Freight flagman	29′00″	1′35″
Jan. 14	R. R. Browne	do	22′40″	2′40″
18	J. R. Cortese	Yard foreman	16′00″	6′45″
May 21	C. O. Polen	Yard brakeman	56′00″	7′00″
31	T. W. Cowan	Freight conductor	8′00″	8′35″
Feb. 18	C. J. Kirsch	do	52′31″	9′49″
	Total (8 men)		226′56″	37′59″
	Average		28′36″	3′56″

See footnotes at end of table, p. 411.

TOLEDO-INDIANAPOLIS DIVISION

Date of injury	Injured person	Type of service	Time injured person was off duty prior to performing work on date injured	Time on duty at time of injury
June 21	C. Blair	Yard fireman	64'00"	0'10"
Mar. 30	E. L. Finn	Passenger baggageman	6'55"	0'35"
June 2	H. F. Jones	Yard foreman	16'00"	0'40"
22	J. Scott	Yard brakeman	16'00"	0'40"
Jan. 9	J. R. Galloway	Yard foreman	*136'00"	0'50"
Mar. 23	V. D. Brewster	Yard brakeman	17'00"	1'00"
19	C. M. Capps	do	*160'00"	1'15"
18	H. L. Reed	do	32'30"	2'15"
21	H. Conley	do	22'30"	2'30"
Jan. 23	E. R. Lear	do	16'00"	2'30"
June 25	C. L. Dryden	do	56'00"	2'35"
Apr. 15	W. L. Reed	do	16'00"	3'00"
May 8	L. B. Jones	do	15'30"	3'00"
24	D. E. Beldon	Freight engineer	*72'00"	3'07"
25	H. L. Hauger	Yard foreman	18'30"	3'15"
Jan. 28	A. R. Schnabel	Yard brakeman	14'30"	3'20"
15	R. D. Deal	do	*112'00"	3'35"
Apr. 9	D. Cooper	do	15'30"	3'45"
an. 6	L. Painter	do	16'00"	3'46"
June 2	J. B. Depew	do	39'00"	3'55"
May 2	K. G. Bingham	Local conductor	16'00"	4'00"
Jan. 17	R. C. Miller	Freight conductor	62'45"	4'05"
26	V. L. Neal	Freight brakeman	16'15"	4'30"
Feb. 8	J. D. Morgan	Yard brakeman	16'30"	4'30"
Jan. 12	C. T. Anderson	Freight flagman	35'30"	5'45"
May 17	G. R. Hoops, Sr	Yard foreman	16'00"	6'15"
Apr. 2	G. E. Greer	Yard brakeman	8'30"	6'20"
Jan. 19	H. H. Bach	Yard fireman	16'00"	7'00"
28	R. B. Depew	Yard brakeman	16'00"	7'10"
Feb. 12	L. W. Summers	Freight flagman	16'00"	8'10"
Jan. 20	A. M. Gossett	Yard foreman	16'00"	9'15"
Feb. 7	G. C. Hollingsworth	Freight conductor	13'50"	10'15"
May 18	G. G. Riddle	Freight brakeman	13'30"	10'15"
	Total (33 men)		1,124'15"	133'13"
	Average		[1] 22'13"	4'02"

MONONGAH DIVISION

Apr. 17	R. G. Rosendale	Freight brakeman	9'15"	0'05"
Mar. 19	S. E. Stephens	Yard brakeman	8'00"	0'20"
Jan. 13	H. F. Norris	do	16'00"	0'50"
Mar. 30	P. E. Delaney	do	10'50"	1'00"
Jan. 1	T. E. Shriver	Yard foreman	64'00"	1'05"
Apr. 4	F. G. Karr	Yard brakeman	32'00"	1'05"
June 21	R. G. Cristy	Freight conductor	59'50"	1'10"
Mar. 28	T. W. VanFossen	Yard brakeman	16'00"	1'45"
Feb. 4	B. E. Long	Freight conductor	9'25"	2'00"
May 24	S. T. Vincent	Yard brakeman	64'00"	2'15"
Jan. 29	G. R. Davis	Freight conductor	21'55"	2'25"
Do	J. J. Lushinski	Freight flagman	21'55"	2'25"
Do	G. Garrison	Freight brakeman	21'55"	2'25"
Mar. 29	C. R. Heavner	Freight fireman	11'40"	2'25"
June 26	D. E. Losh	Freight flagman	8'15"	2'30"
16	J. K. Plutro	Yard brakeman	*64'30"	3'15"
Mar. 30	R. E. Garrett	do	24'00"	3'30"
June 8	E. A. Taylor	Freight flagman	14'30"	3'40"
Jan. 24	M. R. Efaw	Yard brakeman	16'00"	4'00"
May 1	G. C. Ford	Freight conductor	*87'00"	4'20"
Mar. 23	C. H. Harper	Yard foreman	24'00"	4'30"
Jan. 23	H. W. Williams	Freight brakeman	15'35"	4'55"
Apr. 25	C. W. Farley	Freight conductor	24'00"	5'40"
Jan. 21	D. R. Carpenter	Freight brakeman	8'50"	6'55"
3	W. W. Aman	do	*72'00"	9'15"
June 16	C. N. White	Freight conductor	19'35"	9'45"
Do	G. R. Reeves	Freight brakeman	19'35"	9'45"
Feb. 9	S. D. Whitlatch	Freight conductor	10'00"	11'40"
28	D. E. Mathews	Freight brakeman	*72'00"	12'30"
	Total (29 men)		846'35"	117'25"
	Average		[1] 22'00"	4'05"

*Indicates item omitted in calculating average rest time prior to reporting for duty account periods exceeding 64' may be atypical.

[1] This average has omitted the individuals having atypical rest time marked by asterisk above.

Reportable injuries for the 1st 6 months of 1966 to train and engine service employees covered by hours of service law

Division	Average time injured person was off duty prior to performing work on date injured	Average time on duty at time of injury
Ohio-Newark	19'52"	2'41"
Akron-Chicago	21'00"	2'59"
St. Louis	19'03"	3'46"
Baltimore	20'48"	3'50"
Cumberland	22'08"	3'51"
Pittsburgh	28'36"	3'56"
Toledo-Indianapolis	22'13"	4'02"
Monongah	22'00"	4'05"
Total	175'46"	29'10"
Average	21'58"	3'39"

EXHIBIT C

B. & O. Cumberland division, road trips, engineers and conductors, during test week of Dec. 11–17, 1965—Comparison of proposed new 12-hour limitation with proposed 16-hour-work-span limitation—Analysis of data

	Engineers		Conductors	
	Number (A)	Percent (B)	Number (C)	Percent (D)
1. Number preceded by less than 8 hours' rest—"unrested trips"	117	----------	115	----------
2. Number of "unrested trips" which would not have violated either sec. 2(a)(1) or sec. 2(a)(2)	38	----------	35	----------
3. Number of trips which would have violated both sec. 2(a)(1) and sec. 2(a)(2)	57	----------	51	----------
4. Number which would have violated either sec. 2(a)(1) or sec. 2(a)(2)	79	----------	80	----------
5. Number which violated sec. 2(a)(1)	72	----------	69	----------
6. Number of trips which would have violated sec. 2(a)(2)	64	[1] 54.7	62	[1] 53.9

[1] Percentage of all trips shown in line 1 of the respective cols. A and C.

B. & O. Cumberland division road trips during test week of Dec. 11–17, 1965

ENGINEERS

Worked	Rest	Worked	Total	Worked	Rest	Worked	Total
[1] 9:25	0:00	4:50	14:15	[3] 7:10	7:10	6:30	20:50
6:15	4:05	4:20	14:40	[3] 7:40	4:00	8:05	19:45
:45	2:20	7:55	10:20	[2] 9:40	2:05	5:55	17:00
[2] 6:30	2:00	9:29	17:59	4:10	6:00	:50	11:00
[3] 6:00	3:10	7:55	17:05	[3] 11:40	7:00	6:00	24:40
[2] 6:10	2:50	8:25	17:25	[1] 9:10	:20	5:40	15:10
6:30	4:00	2:00	12:30	[1] 10:55	5:55	6:00	22:10
[2] 6:50	5:55	9:10	21:15	6:10	4:00	2:00	12:10
[1] 7:05	:00	6:10	13:15	4:00	5:15	5:40	14:55
[2] 5:40	2:00	8:55	16:35	4:35	6:00	2:00	12:35
[1] 5:55	2:00	7:10	15:05	[3] 3:25	7:00	9:00	19:25
[1] 5:55	2:00	8:00	15:55	[3] 6:10	2:00	9:20	17:30
[2] 6:40	3:00	8:00	24:20	[3] 6:50	2:00	8:35	17:25
[3] 7:45	6:00	7:30	21:15	[1] 6:10	:00	8:35	14:45
[2] 5:35	4:35	9:00	19:10	[3] 7:55	5:35	4:30	17:20
[4] 8:05	7:00	2:00	17:05	[3] 6:15	4:25	15:05	25:45
[4] 6:40	5:05	5:15	17:00	4:10	4:00	5:35	13:45
[4] 3:00	7:15	8:30	18:45	[2] 6:35	2:00	9:24	17:59
[4] 7:45	7:45	3:45	18:35	[2] 5:50	2:00	9:35	17:25

See footnotes at end of table, p. 414.

B. & O. Cumberland division road trips during test week of Dec. 11–17, 1965—Con.

ENGINEERS—Continued

Worked	Rest	Worked	Total	Worked	Rest	Worked	Total
[1] 4:15	1:00	8:50	14:05	[3] 7:00	5:00	7:00	19:00
[1] 7:05	1:00	5:05	13:10	:40	6:00	6:50	12:90
5:30	4:35	3:30	13:35	[4] 3:45	5:45	7:35	16:25
[1] 6:55	2:00	4:45	13:00	2:00	5:00	8:30	15:30
7:00	6:25	2:00	15:25	2:45	6:20	3:40	12:05
[3] 4:55	4:55	10:10	19:20	4:20	----------	6:05	10:25
[3] 7:05	6:00	5:00	18:05	[3] 9:00	4:00	4:25	17:25
1:00	5:00	7:35	13:35	5:15	7:00	1:45	14:00
4:45	7:20	3:10	15:15	3:30	5:20	5:05	13:55
4:35	3:40	4:20	12:35	[1] 8:00	2:00	4:35	14:35
3:45	4:25	6:00	14:10	[3] 8:00	6:00	4:40	18:40
[3] 6:05	6:00	7:15	19:20	[3] 5:30	5:15	7:20	18:05
[3] :50	5:00	12:55	18:05	[3] 5:15	5:00	10:25	20:40
[2] 6:15	3:00	10:00	19:15	5:20	5:00	2:00	12:20
1:20	1:00	7:50	10:10	[4] 6:00	6:00	4:15	16:15
[3] 7:50	6:10	5:50	19:10	[2] 8:25	2:00	8:25	18:50
4:15	4:35	7:05	15:55	[3] 6:30	5:00	7:50	19:20
[1] 4:30	2:50	6:55	13:35	6:30	4:40	4:20	15:30
5:30	7:00	:45	13:15	[3] 7:15	5:25	9:40	22:20
2:20	0:00	5:20	7:40	8:10	6:05	:55	15:10
[3] 3:26	3:55	10:35	17:16	[3] 4:55	5:25	10:10	20:30
[1] 6:00	0:00	6:05	12:05	7:50	3:45	2:00	13:35
[2] 6:10	2:00	9:20	17:30	[4] 5:45	6:05	5:15	17:05
[3] 4:35	4:20	7:55	16:10	2:50	3:35	7:20	13:05
[3] 10:55	4:20	2:00	17:15	[3] 6:20	6:30	6:40	19:30
[3] 7:00	6:00	8:00	21:00	[4] 7:45	5:00	8:10	20:55
[3] 6:40	6:50	6:00	19:30	3:55	3:20	3:25	10:00
6:25	0:00	1:00	7:25	[3] 5:50	5:00	10:20	21:10
[3] 6:35	4:20	6:35	17:30	[3] 5:45	7:50	11:20	24:15
[3] 10:30	4:30	4:20	19:20	3:40	7:00	2:00	12:40
[1] 8:25	2:20	5:05	15:50	[3] 5:10	6:00	11:15	22:25
8:40	4:50	2:00	15:30	[3] 5:35	6:00	11:50	23:25
3:25	5:55	2:00	11:20	[1] 5:55	1:00	5:25	12:20
5:10	3:50	5:30	14:30	[3] 9:50	4:05	6:05	20:00
8:40	5:10	2:00	15:50	[2] 9:30	2:00	7:20	18:50
[3] 3:26	4:05	13:55	21:26	[3] 6:20	5:40	12:30	24:30
[3] 5:45	7:35	9:20	22:00	[2] 6:10	2:00	10:05	18:15
7:45	6:00	1:00	14:45	[2] 5:35	2:35	10:05	18:15
1:00	4:00	9:45	14:45	[3] 6:35	6:10	6:35	19:20
[1] 8:10	3:00	2:00	13:10				

CONDUCTORS

[3] 5:50	5:00	10:05	20:55	[1] 8:35	----------	4:35	12:70
[3] 7:40	4:00	8:15	19:55	[1] 9:20	----------	5:40	14:60
[3] 10:40	4:20	4:20	19:20	[3] 6:20	5:00	9:39	20:59
[2] 8:45	2:00	5:25	16:10	[3] 5:00	2:30	10:55	18:25
[3] 6:15	3:15	9:44	19:14	[3] 8:45	5:15	5:40	19:00
3:50	5:15	4:45	13:10	[3] 5:25	3:25	7:05	15:55
[1] 10:10	:40	4:15	15:05	[3] 9:40	2:05	5:55	17:00
[3] 4:55	5:25	10:10	20:30	[4] 5:20	5:00	6:05	16:25
[3] 7:00	6:35	9:00	22:35	[2] 6:30	2:00	9:29	17:59
[3] 6:50	4:55	5:15	16:20	[3] 6:00	3:10	7:55	17:05
[3] 5:45	6:00	8:00	19:45	[1] 7:25	2:00	6:00	15:25
6:30	4:40	4:20	15:30	[1] 6:50	2:00	5:45	14:35
6:50	0:00	1:00	7:50	2:30	0:00	7:00	9:30
[3] 4:30	5:00	10:35	20:05	3:20	6:00	5:05	14:25
[4] 10:05	5:00	1:00	16:05	7:30	0:00	2:12	9:42
[4] 3:10	7:10	6:45	17:05	5:30	4:35	3:30	13:35
[2] 6:10	2:00	9:20	17:30	[3] 5:30	3:10	8:00	16:40
[2] 5:40	2:00	8:55	16:35	[3] 5:30	7:25	9:55	22:10
[1] 5:55	2:00	7:10	15:05	[2] 8:25	2:00	7:30	17:55
[1] 5:55	2:00	8:00	15:55	[3] 8:00	6:00	4:40	18:40
[3] 10:10	5:00	4:00	19:10	[3] 8:20	5:00	6:40	20:00
3:00	3:15	3:15	9:30	5:00	4:00	3:10	12:10
7:00	3:45	4:25	15:10	2:00	0:00	5:40	7:40
[4] 8:40	5:10	3:10	17:00	[4] 4:40	7:00	5:00	16:40
[2] 5:35	4:35	9:00	19:10	0:30	3:00	7:30	11:00
[2] 7:50	5:00	7:55	20:05	3:50	----------	5:20	8:70
[3] 4:55	4:00	10:10	19:05	6:10	4:10	4:00	14:20
[4] 6:50	6:00	5:10	18:00	5:00	5:20	4:15	14:35
[3] 8:05	7:00	6:10	21:15	[2] 8:00	2:00	7:50	17:50
[1] 4:30	2:50	6:40	13:20	[2] 6:10	2:00	9:20	17:30
[3] 5:30	4:00	8:00	17:30	[2] 6:50	2:00	8:35	17:25
[3] 5:30	5:15	7:15	18:00	6:35	2:00	2:45	11:20
4:30	3:40	5:25	13:35	4:40	7:00	3:25	15:05
[4] 5:45	6:05	5:30	17:20	8:00	6:05	0:55	15:00
2:45	6:20	3:40	12:05	[3] 6:00	6:00	8:35	20:35
[1] 9:05	0:00	4:25	13:30	3:15	0:25	3:00	6:40

See footnotes at end of table, p. 414.

B. & O. Cumberland division road trips during test week of Dec. 11–17, 1965—Con.

CONDUCTORS—Continued

Worked	Rest	Worked	Total	Worked	Rest	Worked	Total
[3] 8:00	5:30	4:00	17:30	[4] 3:00	6:55	8:50	18:05
[3] 4:35	4:20	8:00	16:55	5:05	0:00	3:35	8:40
[1] 5:45	2:00	4:25	12:10	5:00	4:00	5:30	14:30
[3] 7:45	5:00	8:10	20:55	[3] 6:50	5:00	9:10	21:00
[3] 9:00	4:00	4:25	17:25	[3] 10:55	6:00	4:15	21:10
[1] 9:15	0:00	5:30	14:45	[3] 5:45	5:00	11:50	22:35
[4] 6:05	7:45	4:20	18:10	3:45	5:00	5:20	14:05
[1] 6:50	2:00	4:45	13:35	[1] 7:25	1:00	5:05	13:30
2:55	6:40	4:00	13:35	6:00	0:00	5:00	11:00
[4] 6:10	6:00	4:30	16:40	:47	2:00	8:05	10:52
[1] 7:30	2:00	6:10	15:40	[1] 7:45	:05	5:30	13:20
[3] 7:15	5:00	9:40	21:55	[3] 7:15	5:00	8:40	20:55
[1] 2:40	3:00	7:20	13:00	[3] 6:30	5:00	7:50	19:20
[2] 6:10	2:00	9:45	17:55	4:35	6:00	4:00	14:35
[4] 11:00	6:00	:30	17:30	4:00	3:00	3:00	10:00
[2] 9:30	2:00	6:29	17:59	3:00	3:00	3:00	9:00
[2] 6:15	4:00	15:05	25:20	5:30	7:00	:39	13:09
5:40	1:00	4:25	11:05	[3] 3:25	7:00	9:25	19:50
[3] 6:50	4:00	8:10	19:00	4:30	5:00	3:15	12:45
[1] 3:50	3:00	6:00	12:50	5:10	4:00	6:25	15:35
[2] 6:35	2:00	9:24	17:59	4:00	4:00	6:00	14:00
[2] 5:50	2:00	9:35	17:25				

Engineers:
- 12-hour violation with less than 3 hours' rest 30
- 12-hour violation with more than 3 hours' rest 42
- 16-hour violation 64
- 16-hour violation with less than 3 hours' rest 15
- 16-hour violation with more than 3 hours' rest 42

Conductors:
- 12-hour violation with less than 3 hours' rest 31
- 12-hour violation with more than 3 hours' rest 38
- 16-hour violation 62
- 16-hour violation with less than 3 hours' rest 14
- 16-hour violation with more than 3 hours' rest 37

[1] Indicates 12-hour violation with less than 3 hours' rest.
[2] Indicates 16-hour violation with less than 3 hours' rest.
[3] Indicates 16-hour violation with more than 3 hours' rest.
[4] Indicates 16-hour violation.
[5] Indicates 12-hour violation with more than 3 hours' rest.

Mr. FLEMING. I believe I can do this in about 5 minutes for you if you will bear with me.

The CHAIRMAN. We will certainly do that. I don't want to cut legitimate explanations because you certainly have that right. I did say that I think most things can be summarized to a point after a certain length of time.

Mr. FLEMING. Congressman Staggers, Congressman Cunningham, and staff, I am G. G. Fleming, assistant superintendent of transportation of the B. & O. Railroad. I have been employed in the operating department of the B. & O. Railroad for 27 years.

In my present position as assistant superintendent of transportation, I have the responsibility of classification and scheduling of all freight trains operated on the B. & O. Railroad. In addition to this, I have the responsibility of policing the on-time performance of these trains. I am greatly disturbed over the restrictions in the proposed new hours law. The most restrictive measure, I think, is a restriction in 2(a) (1) whereby an engineer operating without a fireman would not be able to continue on duty in excess of 9 hours.

Due to the operation of a railroad we cannot make a comparison of the time a man can be on duty to that of manufacturing.

The CHAIRMAN. Might I interrupt you right there? If this provision were taken out of the bill and a 12-hour law applied to all railroad employees, would you have any objection to this bill?

Mr. FLEMING. Yes, sir; I would have objections to that, but it certainly would be much more to our advantage than having the 9 hours in.

The CHAIRMAN. All right.

Mr. FLEMING. I will not discuss in detail the 9-hour limitation. I would sooner go to the other provisions of the bill, with the understanding that if I object to these I would have even more objection to the 9 hours. The 2(a)(1) of the bill provides for 12 hours on continuous duty, limitation of 12 hours on continuious duty. 2(a)(2) provides that a man must not be operated without 8 hours' rest within any 24-hour period.

These two combined limitations, I believe, are pointed out in my table on page 10. I would like to call your attention to the table on page 10 of my testimony. You can see that under the restrictions of 2(a)(1), the table on page 10, that a man could be worked for 6½ hours from point "A" to "B" and turn back in the aggregate after having had less than one-half hour off duty or in excess of 3 hours off duty with 5 hours remaining time to operate.

But the same man under 2(a)(2) working 6½ hours from "A" to "B" could not be turned back with more than 4½ hours' rest, unless it was more than 8 hours' rest, with 5 hours to operate. So in effect this man with these two provisions could only be turned back in less than one-half hour, or in the rest time between 3 and 4½ hours unless it was 8 hours. These two combined restrictions would greatly affect the crews being operated in the aggregate.

The 12-hour limitation as it would affect the B. & O. Railroad on our straightaway through freight would not be too prohibitive. We have found in a 2-week study made in October that only 2 percent of our crews operated in through-freight service exceeded the 12-hour limitation.

The CHAIRMAN. How much did you say?

Mr. FLEMING. Two percent.

The CHAIRMAN. Two percent?

Mr. FLEMING. Yes, sir.

The CHAIRMAN. That is all for whole system?

Mr. FLEMING. Yes, sir; 10.4 percent of our locals exceeded the 12-hour limitation and 8.7 of our mine runs exceeded the 12-hour limitation. When we think of reducing the time on duty for our mine runs to less than 12 hours we must take into consideration the fact that with the present mine operation they are insistent upon having continual car supply.

This is because they have been constructed so that they will have continuous loading from the time it leaves the pits, goes to their cleaning tracks, their washing plants, and into the car. It causes them additional time, additional labor, and additional expense to stockpile if they are unable to load in the cars.

Many of our mines are not equipped to stockpile at all. These mines would have to shut down if we did not have empties available.

In some of our operations on our mine runs we hold crews at certain mines in order that we can insure a continuous car supply. We are unable to take a crew away from a mine because it will shut down.

The restriction to 12 hours on duty would cause us to add additional yard employees. At the present time we are able to double yard employees who work 8 hours to the following 8-hour tour or we can work them 8 hours, they can have 8 hours rest at home, and come back and work an additional 8 hours in the same 24-hour period.

This would not be possible under the 2(a) (1). It would increase the away-from-home terminal time on road crews.

The CHAIRMAN. Go ahead, sir. I am sorry.

Mr. FLEMING. It would increase the away-from-home terminal time on crews because we would not be able to turn crews back, as we do now some crews, "in the aggregate," that is, without a full 8 hours rest. It would increase the transportation cost to our customers.

We have found that the increased costs to the B. & O. system would be in excess of $6 million. When you compare this with our net revenues for last year we find that this would drain in excess of 35 percent of our net revenues, with no increase in the quality or quantity of transportation.

This, as you are well aware, would have the effect of reducing our credit rating, which would in turn reduce our ability to buy new equipment to improve our roadbed.

Proponents of the bill have indicated that crews are instructed not to show in excess of 15 hours and 59 minutes on duty regardless of the amount of time they have worked.

I know from my own experience on the B. & O. Railroad that this is not a fact. Our operating officers are responsible for relieving the crews short of 16 hours. The crews have the responsibility of notifying the dispatcher after they have been on duty 12 hours, advising him of the time they will be on duty 14 hours. This is to insure that there will not be an unintentional violation of the present law.

Proponent witnesses have indicated that excessive hours on duty have contributed to accidents and injuries. These, I felt, must be handled separately; and I have made a study, and these are covered in my appendixes 1 and 2, attached to my testimony.

Briefly, I have found that on the B. & O. Railroad for the first 6 months of 1966 we had 173 reportable injuries. These are injuries where a man has lost 24 hours' work because of an injury. But, of these injuries, only one man had been on duty in excess of 12 hours. This man had been on duty 12 hours and 30 minutes, after having had 72 hours' rest time.

Ninety-nine and five-tenths percent of the employees had been on duty less than 9 hours when injured. Indeed many of them had been on duty 10 minutes, 30 minutes, 1 hour, after having had possibly 72 hours' rest.

For the train accidents, I have grouped these with rule violations and train accidents. I have selected my cases by taking all accidents where a formal investigation had been held after an accident or an operating rule violation where the employee was represented by his committeeman or any man of his choice; a hearing was conducted by the company, at which time the employee was given full opportunity

to testify as to his responsibility or lack of his responsibility. All members of the crew who had any knowledge or information of that derailment were also called as witnesses. I have taken these and selected only the accidents or rule violations where, after having had these investigations, an employee was found responsible; and, of these, I found that 92 percent of the employees had been on duty less than 12 hours, and 90 percent of the employees had been on duty less than 8 hours.

I know from my own personal experience on the railroad that crews select the positions for two reasons: They select them either because it is a run where they are able to turn back in the aggregate and make a second day's earnings, which might be equivalent to a day and a half additional earnings, or they select them where there are excessively long hours, where they are guaranteed time and a half.

We found that employees on tests I have made on our Monongah Division, on which I serve as an assistant superintendent, where we have runs in excess of 12 hours' duration, from Grafton to Cowen, moving empty from Grafton to Cowen, and returning with coal from Cowen to Grafton—with extreme grades in these territories, requirements for helper service, single-track territory over which we must operate under train order timetable rules, the crews on these range between 23 and 74 on the seniority roster of 283, combined in excess of 480 employees. That is taking the engineers and conductors.

In the yard turns, you find that, if a crew consistently makes overtime, these are the crews that your senior employees will bid on when they have the opportunity.

When we come before Congress defending the right to use operating employees more than 12 hours in continuous service, and objecting even to the arbitrary requirement of 8 hours' rest in every 24 hours, we seem to be out of step with the times.

It is essential for the Congress to be informed that despite the considerable latitude allowed to the management under the present law, the average train and engine service employee of B. & O. does not work an excessive number of hours during a normal year.

The latitude simply avoids a light work year which would result from an effort to conform the railroad pattern of work to that in manufacturing, for instance. On the average, our men are not working excessively, either by necessity or by choice.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Fleming.

You mentioned some names that are in my district I noticed.

Mr. FLEMING. I could have mentioned many more.

The CHAIRMAN. In your reports to the Interstate Commerce Commission, on forms SS–82, for the 6 months December 1965 through May 1966, you show 83 instances of excess service hours beyond the 9- and 13-hour limitation, of which 6 were in December, 49 in January, and 28 in February.

Would you care to comment on the occasion for these instances of excessive service hours?

Mr. FLEMING. Congressman Staggers, I am not familiar with the reports that you have given me right now. In what I have before me, I do have information that in 1965 we were found responsible for 8 re-

portable violations involving 22 men. These could have been two and three men on a crew.

The CHAIRMAN. Was that part of your statement that is going into the record?

Mr. FLEMING. No, sir. This was for my own information that I had available in case asked.

The CHAIRMAN. Will you supply your comments for the record?

Mr. FLEMING. Yes, sir, I shall. I believe it is a part of the record now.

(The information referred to above follows:)

Hours of Service Act violations on B. & O. 1965–66 to date

1965 hours of service violations:

2673, West Virginia, 2 violations	Engineer and fireman.
2662, West Virginia, 2 violations	Operators.
1727, Maryland, 5 violations	1 crew.
1949, Maryland, 4 violations	1 crew (no fireman).
1726, Maryland, 1 violation	Yard helper.
1722, Maryland, 1 violation	Fireman.
1745, Maryland, 1 violation	Conductor.
3159, New York, 6 violations	1 crew (full-crew law).

Total of 8 reportable violations, 22 men.

1966 hours of service violations:

4839, Pennsylvania, 1 violation	Fireman.
1744, Maryland, 15 violations	4 engineers. 4 brakemen. 3 conductors. 3 flagmen. 1 fireman.
2694, West Virginia, 2 violations	Engineer and fireman.
2689, West Virginia, 3 violations	Conductor, brakeman, and fireman.
871, Indiana, 6 violations	1 crew (full-crew law).
7438, Ohio, 5 violations	1 crew.

Total of 6 reportable violations, 32 men.

The CHAIRMAN. On these same reports I notice also that you had nine instances of excess service hours beyond the 16-hour limitation. Would you care to comment on these instances. Although I note that while you have relatively few compared to the total, there are other railroads that have less and, for that matter, I notice that there are many railroads that have no instances of violations of the 16-hour law.

Mr. FLEMING. Mr. Chairman, the only comment that I could make on that is we make a genuine effort not to exceed the 16 hours and when we are guilty of this we feel in our own minds that there have been extenuating circumstances that have brought this about that possibly the ICC have not agreed with us on, but at the time that this was our only decision that we could make.

I believe that you will find that even on these violations in many cases the time may have been only 10 or 15 minutes. I don't think you will find that the time is excessive. I think that possibly some of them were brought about by poor judgment on the part of the dispatcher as to when he could relieve a crew and possibly because of some delays that he did not foresee that these violations occurred.

We continually press our dispatchers and our trainmasters, all supervision, that we must not violate the 16-hour law.

The CHAIRMAN. I think that is all the questions I would have at this time.

Mr. Cunningham, have you any questions?

Mr. CUNNINGHAM. No, I have no questions.

The CHAIRMAN. I want to thank you, Mr. Fleming, for coming and and being with us. Fleming is a very familiar name in my district. I might say to you that I also was employed by the B. & O. Railroad for some little time in two capacities.

One was as a trainman in the Monongah Division in Grafton and I also was caller for B. & O. Railroad for 2 years to help work my way through high school, so I know something of the B. & O. Railroad.

Mr. FLEMING. With that experience I am sure that you are familiar with some of our problems.

The CHAIRMAN. Yes, I am. I know you have problems and I know that there are two sides to every question. We know that always.

The B. & O. runs through my hometown, as you know.

Mr. FLEMING. Yes, sir.

The CHAIRMAN. Well, thank you again for coming and giving us the benefit of your views and keeping them down to a reasonable shortness. I think you have given us your views and they will be in the record.

I believe this is all the witnesses we have for today.

Mr. FLEMING. Thank you for the time.

The CHAIRMAN. Thank you so much.

If any of the following gentlemen are present and wish to put their statement in the record they may do so. If not, they can appear Monday.

Mr. Hastings, Mr. Smucker, Mr. Ahearne, Mr. Love, Mr. Prouty, Mr. Stratton, Mr. Gould, and Mr. Nase.

Mr. PHILIP WELSH (attorney, Association of American Railroads). They will be here Monday, sir.

The CHAIRMAN. The committee will adjourn until next Monday at 10 o'clock.

(Whereupon, at 11:41 a.m., the committee recessed, to reconvene at 10 a.m. Monday, September 12, 1966.)

AMEND HOURS OF SERVICE ACT OF 1907

MONDAY, SEPTEMBER 12, 1966

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

The committee meet at 11 a.m., pursuant to recess, in room 2123, Rayburn House Office Building, Hon. John Bell Williams presiding.

Mr. WILLIAMS. The committee will come to order, please. This is a continuation of hearings on several resolutions to amend the act of March 4, 1907, regarding the 16-hour limitation upon continuous duty for certain railroad employees.

Our first witness this morning is Mr. David E. Smucker, vice president of the Pennsylvania Railroad.

STATEMENT OF DAVID E. SMUCKER, VICE PRESIDENT, OPERATIONS, PENNSYLVANIA RAILROAD CO.; ACCOMPANIED BY RICHARD N. CLATTENBURG, ASSISTANT GENERAL COUNSEL; AND JOSEPH BONELLI, OPERATING DEPARTMENT

Mr. SMUCKER. Mr. Chairman, I have a prepared statement consisting of 29 pages and, in view of saving the time and attention of the committee, I would ask that it be received and printed in the record if that is satisfactory; and I am prepared to summarize that statement.

Mr. WILLIAMS. That would be fine, Mr. Smucker. Your statement will appear in the record in its entirety.

Mr. SMUCKER. Thank you, sir.

(The statement referred to follows:)

STATEMENT OF D. E. SMUCKER, VICE PRESIDENT, OPERATIONS

My name is David E. Smucker. I am vice president, Operations, of The Pennsylvania Railroad Company, with offices at Room 1740, Six Penn Center Plaza, Philadelphia, Pa.

I attended the grammar school and high school in Bellefontaine, Ohio, the University of Cincinnati and the Ohio State University, from which I was graduated in June of 1929 with the degree of Bachelor of Science in Civil Engineering.

I went to work for the Pennsylvania Railroad two days following graduation as assistant on the engineer corps, and I served that company successively as assistant track supervisor, track supervisor, assistant division engineer, division engineer, assistant superintendent-freight transportation, superintendent of the Indianapolis Division, superintendent of the Fort Wayne Division and superintendent of the Pittsburgh Division until March 1, 1948, when I was appointed general manager of the Long Island Rail Road, then a wholly-owned but independently operated subsidiary of the Pennsylvania Railroad.

I served the Long Island as general manager, as trustee and chief operating officer until October 30, 1952, when I returned to the Pennsylvania as assistant

chief engineer. I held that position for 15 months, during which time I was loaned to the United States Government for six months, from May until November of 1952, as director of the Rail Transport Division of the Defense Transport Administration of the United States Government.

On January 1, 1953, I was elected president of the Detroit, Toledo and Ironton Railroad, another wholly-owned but independently operated subsidiary of the Pennsylvania Railroad.

I continued to be president of that road until October 1, 1963, when I returned to the Pennsylvania as vice-president, operations.

My duties include general responsibility for all operations of locomotives, cars, trains and terminals, both passenger and freight, of the Pennsylvania Railroad Company, and for all matters relating to efficient and safe operation of our entire railroad properties. Studies made by our company as to the effect of H.R. 8476 and similar bills were conducted under my general supervision.

It is my sincere opinion that the present proposals to reduce the permissible hours on duty of railroad operating employes will have an extremely adverse effect on the railroad industry, not only from the cost standpoint, but also from the standpoints of service to the public and ability to compete favorably with other forms of transportation. At the same time, the proposed changes will bring little, if any, benefit to railroad employes and will result in requiring them to spend many more hours away from their homes, with less take-home pay. I feel that any such results from the operating changes which would be necessitated would adversely effect employe morale and thus be harmful to the industry.

For almost sixty years, since Congress first legislated on the subject of hours of service, the 16-hour limitation has been a major factor in the establishment of runs and terminals, the determination of manpower needs, the establishment of efficient operating practices, and the provision of economic and competitive service to the public. Perhaps I could say that the present 16-hour limitation is like an old jacket that fits comfortably and permits us to do our work efficiently, while the proposals for a 12-hour or 9-hour work limitation and an 8-hour period off duty in each 24-hour period are a new and smaller coat which will limit our movement; and if we have to reduce to wear this new jacket, the reduction may well be in our ability to provide good service to our customers.

I do not want to give you the impression that all of our operations involve tours of duty for operating employees which would exceed the limits proposed by these bills, for the vast majority do not. Based on a PRR study, covering the payroll period from October 13 to October 26, 1965, the average tour of duty for all engineers was 9 hours, 6 minutes, and for conductors 9 hours, 9 minutes. In this period engineers performed a total of 36,494 trips or tours of duty in all classes of service, of which only 5,223, or 14%, equaled or exceeded the proposed twelve-hour limitation. Conductors in the same period performed 36,532 trips or tours of duty, of which only 4,603, or 12½%, equaled or exceeded the proposed limitation. For engineers, 23,761, or 65%, of the trips were completed in less than 9 hours; and 24,454, or 67% of the conductors' trips were completed in less than nine hours.

It might seem from such figures that the problem of accommodating to the proposed reduction in permissible hours on duty would be small, but I assure you that this is not the case. Our overall study showed that all our services would be affected.

In turnaround local freight service, which is our principal means of service to industry located on our right of way, designed to deliver and pick up their freight as promptly as possible, close to 50% of the trips studied were 12 hours in length or more. In the case of engineers in this service over 70% of the trips required more than nine hours, so that a 9-hour limitation would have far reaching effects.

Substantial percentages of our turnaround miscellaneous service (which includes crews engaged in road work, wreck and wire service, engine exchange, light engine movements and helper service) exceeded the proposed twelve-hour limitation, and this was also true in straightaway through freight service, our "bread-and-butter" freight movement, and in our straightaway local freight service. As previous witnesses have explained, straightaway service is a trip from one terminal to another terminal with the crew completing the trip at the

latter point, while turnaround service is a trip from a terminal which returns to that same terminal to complete the trip.

Through freight crew districts have in the past been determined largely by the distance that a locomotive would run before it had to be cut off for servicing or repairs, or the distance between important junctions or traffic originating centers necessitating classification or re-classification of an entire train or trains. Almost every substantial improvement in over the road time of through freight service has been brought about by production of engines which would run further before they had to be cut off for servicing, or by the skillful scheduling of freight movement so that solid trains could be brought up and handled intact through many former crew change points. In many cases, this has required construction of multi-million dollar modern electronic classification yards, and the eventual closing of smaller classification yards en route. The economics of construction of these very expensive new facilities was heavily influenced by the improved ability of the railroads generally, or particularly, to attract more traffic from competitors, by speeding up the movement and increasing the reliability of scheduled arrival and delivery times.

Where there is no necessity to stop the train to change crews or to set off and pick up cars, or to reclassify the entire train, there has been no corresponding necessity to change crews or cabooses, and such time-wasting and delay producing steps have been eliminated to the maximum extent possible.

We have about 100 areas where through freight service is performed, and in about 40 of these areas our presently-established through freight service involves distances, terrain, or other operating conditions which may result in trips in excess of the proposed 12-hour limitation. Additional areas would be affected by a 9-hour limitation. The distance between terminals in these areas generally varies between 80 and 200 miles, and for the most part return trips are not made by crews without an intervening rest period of at least 8 hours except in areas where the mileage between the terminals is less than 100.

Every effort is made to limit crews in through freight service to a maximum of two stops to set off or pick up cars en route. If they make a third stop, they may become entitled to a higher rate of pay under our labor contracts. Normally they perform no switching en route and are not held at points between terminals for connections. Many of our straightaway through freight trains now operate with practically no stops or delays between terminals, because of our major effort to provide ever-improving fast and competitive freight service.

To meet the proposed limitations contained in H.R. 8476, it would be necessary to re-establish intermediate terminals made obsolete years ago by advances in railroad technology. Additional and unnecessary terminals and crew changes would delay train movements, and of course such costs as rest facilities, and away-from-home-terminal allowances would be involved. These "solutions", which are not solutions to us because the additional costs and effect on our service could not be avoided, would also reduce the earnings of the employees, by addition of extra employees to share the time on duty, the miles run, and the trains available to be operated; the time spent by employees at their away-from-home terminals would be substantially increased.

As an example of straightaway through freight service, we studied during October, 1965, the service area between Columbus, Ohio and Logansport, Indiana. There were 114 straightaway trips in the two week period, 32 taking less than 9 hours, 54 between 9 and 12 hours, and 28 over 12 hours. This is a 200-mile run. Since about one-quarter of the trips take more than 12 hours, it would be necessary, to insure against violation of a 12-hour limitation, to establish an additional terminal, intermediate between Columbus and Logansport, and relieve *all* crews there regardless of whether they could have made the final terminal without violation.

The effect on our service would be delay simply to change crews, which would average about 45 minutes for each train. Facilities at the new terminal would cost about $50,000 (for crew room, office for crew clerk, et cetera) and monthly costs of about $7,500 (lodging, crew transportation, crew clerk 3 tricks per day and other crew handling costs).

Although each crew's earnings would be reduced by at least one-half per trip, more trips could be made per month by each crew, with an overall reduction in earnings per crew of about 25%. Time away from home would also increase about 25% because of the additional trips. Some additional employes would be needed, with additional employment and fringe benefits costs to the company.

There is really no alternative to establishment or re-establishment of unnecessary intermediate terminals. The matters under consideration by this committee include a proposal which would eliminate the distinction heretofore observed between time actually spent in train duty, and time spent deadheading prior to, or following such train duty. Accordingly, it would be impossible to prevent an Hours of Service violation by simply stopping a train along the way and placing it under the charge of a fresh crew, while conveying the crew which had been relieved from train duty to the final terminal. What would be counted, would be the entire period from the time the first crew reported until it was finally released. The only possible way to avoid violation would be to release the original crew entirely. This could be done satisfactorily only at a point where facilities were available for rest and food, and where arrangement could be made to put the crew back into productive train duty after the expiration of their rest period. Obviously, the only possible place to do this is at an intermediate terminal, as has been described.

The committee should take note, and I hope it will consider seriously the provisions of collective bargaining agreements among railroads and their on-train employes represented by the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Railroad Trainmen, and the Order of Railway Conductors and Brakemen. Under these agreements, additional terminals may not be established except by agreement. It is my firm opinion that the PRR would have no opportunity whatever to make such agreements with the rival brotherhoods each vying with the other for memberships.

So much for through freight service. We also operate local freight service throughout the lines comprising the PRR System. Some of these local freight trains operate in main line territory, rendering station switching and local freight service to shippers an dconsignees located in towns an dcities of various sizes. Generally speaking, the assignment of crews to local feright service gives effect to distance between terminals, junctions with other PRR lines, and our interchange with other railroads, the size of the community and the number of shippers and consignees, and the complexities of the switching requirements and other widely varying factors.

The local freight crews servicing patrons on a stretch of the main line are usually assigned on a straight-away basis—that is, they begin their day's work at one point and end it at another, with a return trip to the original terminal scheduled for the following day, after taking rest. On branch lines, it is generally more advantageous and better service results when local freight train crews are assigned in turn-around service. Usually they go to work at the main line junction in the morning and peddle out the cars destined to branch line points which were set off by main line through freight trains. Then the crews return in the evening with cars which have been picked up on the branch for pick-up and further movement by passing main line trains.

Branch line local trains may also be on the straight-way basis, that is, they may be assigned to work from the junction to the end of the branch, take rest and return the following day. Where the volume of business is sufficient, seasonally, or in some cases the year around, two crews may be employed—one working out today and back tomorrow, while the other crew works each day in the opposite direction.

Many of the local runs exceeding the proposed 12-hour and 9-hour limitations do so as a direct result of delays for clearing other trains. Mountainous grades, especially in coal-producing areas, often require helper or pusher service and permit operation only at very slow speeds.

A relevant characteristic of this service is that, although hours on duty may be long, the activity is slow-paced. Much waiting and slow speed shifting is involved, and over the road moves between jobs are generally slow and short. Such work does not subject crews to severe strains, and no safety hazard results from the hours spent.

Many varying problems would be encountered if it were necessary to comply with the proposed 9 or 12-hour limitations. Some of the alternatives we would have to consider in connection with 50% of our present services would be:

(1) Reduce the number of work assignments of present crews and augment with additional crews;

(2) Reduce over-all trip mileages and augment with additional crews;

(3) Provide services at remote locations or on isolated branch lines on a less frequent basis;

(4) Abandon service on branch lines where additional costs would not justify operating changes to maintain the service;

(5) Establish new local services at terminals out of which crews could operate without exceeding the hours limitation. This would delay movement of cars at least one day simply because they were handled by two local crews to get them into the mainstream of transportation.

Many of these changes would curtail the quality of our service to customers, and could result in loss of business.

Examples of service which would be affected are the turnaround locals from Bicknell, Indiana, to Campbells, Indiana, averaging 14 hours 30 minutes per round trip (total mileage is 152) and from Indianapolis, Indiana, to Campbells, which average 14 hours per round trip (total mileage is 64). It would probably be necessary to make these straightaway services, with all crews relieved for at least 8 hours at Campbells (Martinsville, Indiana). To maintain present service, with daily industrial switching and deliveries in these areas, additional crews would have to be added. Present crew members would have their earnings cut in half and would be required to spend much greater time away from their homes. Campbells (Martinsville) would be a new terminal and the concurrence of the unions would be needed to establish it. As I have said, our experience does not indicate that this concurrence could be obtained.

A turnaround local also operates on our main line between Indianapolis and Terre Haute, Indiana, averaging 14 hours on duty for the 149 miles covered. Maintenance of present service would require changing this to straightaway service, with Terre Haute as a rest terminal, and adding an adidtional crew. The earnings of the crew would be reduced slightly and each crew would spend 35 hours weekly at its away-from-home terminal.

Another turnaround local crew operates on the main line between Terre Haute and Brazil, Indiana, covering 27 miles in an average tour of duty of 12 hours, 30 minutes. To maintain service, this would be made straightaway service with Brazil a rest terminal, and another crew added. The effect would be a substantial cut in earnings and again a substantial period of time at the away-from-home terminal. The present conductor in the crew is No. 3 on a roster of 188 men, and the engineer No. 13 on a roster of 160, which shows that the present assignment is not considered undesirable.

We now operate a straightaway local service between Conway, Pennsylvania, and Canton, Ohio (a distance of 79 miles). To insure compliance with the proposed 12-hour limitation, this service would probably be relieved of some of its work by the establishment of a turnaround local out of Canton. Traffic handled by this additional crew would be delayed at least 24 hours in getting to Conway for classification for through movement, and of course the cost of handling the business would be increased.

These examples show some of the major problem areas with which we would be faced if H.R. 8476 or any such legislation were enacted to alter the framework upon which our operations are constructed, our terminals located, and our services fitted to our customers' needs. These are merely illustrations of the effect the proposed 12-hour limitation would have all over our system. The proposed 9-hour limitation on the hours on duty of engineers working without firemen would multiply our problem areas and the adverse effects.

As I have pointed out, our general study showed that over 70% of our turnaround local freight service runs required engineers to be on duty for over 9 hours. The effect of a 9-hour limitation would also be heavy in straightaway through freight service, affecting over 50% of the runs; in straightaway local freight service affecting nearly 40% of the runs; and in miscellaneous turnaround service affecting 49% of the runs.

During the week of May 9 to May 15 we made a detailed study of the operations on our Southwestern Division. This division covers central Illinois and the central and southwestern parts of Indiana. This major route extends for 242 miles westward from Indianapolis, Indiana, to East St. Louis, Illinois. Running out from Indianapolis are supporting routes southward to Louisville, Kentucky (112 miles), southwestward to Vincennes, Indiana (118 miles), and northward to Logansport, Indiana (87 miles). Branches extend from Terre Haute, Indiana to Peoria, Illinois (176 miles), and to Frankfort, Indiana (79 miles). Other branch lines also extend from Columbus, Indiana to Madison and Rushville.

This division presently operates an average of 13 turnaround local freight trains and 8 straightaway local freights each day. Through freight service is

represented by 18 straightaway through freights and 2 turnaround through freights daily. The mileage operated per crew varies from 52 to 225 for turnaround local, from 85 to 167 for straightaway local, from 112 to 241 for straightaway through, and from 112 to 224 for turnaround through freight service.

If this division were to be operated within the limitations of the proposed amendment the working conditions of 37 out of the 41 crews would be changed. New terminals for taking rest would be needed at five points on the division. There would be a large increase in time that crews would have to spend away from home. Movement of freight over the division would be substantially delayed by the need for stops to change crews, or by a reduction in frequency of service.

We estimate that the average earnings of all the local freight crews on this division on the basis of straight time hours paid for would be reduced from 85.3 to 55.7 hours per week, a decrease of 35%. Keep in mind that these are not actual work hours but involve the conversion of overtime hours paid for to a straight time basis. On the whole, we estimate that the annual increased costs of the proposed limitations on this division would be about $650,000. This figure is made up of about $200,000 in additional crew expense, about $300,000 in locomotive expense, $100,000 for lodging for crews, over $40,000 in meal allowances to the crews, and over $3,000 for taxis handling relief crews.

We also studied the operation of Meadows and Greenville Yards, two of our yards serving the New York City and North New Jersey territory. The studies show that at these points there would be little effect on yard operations; some "doubling" (i.e., performance of two tours of duty in twenty-four hours) would be prohibited, but so long as sufficient extra men are available, this would not seriously affect operations and costs. At any period of manpower shortage, the situation would be quite different, because if artificial statutory restrictions prevent a railroad from keeping its yards working, operations over the entire system would become gradually throttled and slowed to a stop.

Our general study showed that only 6.8% of the engineers' trips in yard and transfer service would be affected by a 12-hour limitation but nearly 24% of those runs would be cut off by the 9-hour provision. There is no reason for such a stringent limitation in yard or transfer service, which by its nature involves slow speed operation with many waiting periods and some idle time. There are no safety considerations to justify the employment of the additional engineers who would be required were a 9-hour limitation imposed.

The overall effect of the proposed limitations on passenger service has not been stressed, and is relatively less significant than on freight service. This is the result of the steady decline in the relative importance of passenger transportation by railroad as compared to freight transportation. However, I think you would be interested in the effect the proposed limitations of H.R. 8476 would have on passenger transportation over our company's lines between New York and Washington.

Our New York to Washington Service is set up on a straightaway basis. Crews in this service ordinarily report at Washington or New York, run to the other terminal, and lay over for a short time before returning to their home terminal on another train. In some cases the train schedules are such that, with layover time, these crews exceed 12 hours from the time they report until they go off duty.

The principal effect of a 12-hour limitation would be to increase the layover time for all crews at their away-from-home terminal; at the present time some crews are at the away-from-home terminal for only brief periods, but in order to avoid possible violations of the proposed limitations, all crews would be required to take at least 8 hours' rest.

We do not contemplate that this would involve any substantial extra costs or any changes in train schedules. It would merely mean that the employes would suffer the inconvenience of longer periods of layover time at their away-from-home terminals, which I presume would be undesirable to them. This aspect of the proposed amendments, therefore would impose hardship primarily on the employes involved.

I have earlier referred to the proposal that deadheading time be considered as time on duty in the application of the law. "Deadheading" is of course time spent riding in company-furnished transportation either en route to active duty or following relief from duty in returning to the home terminal. From a pay standpoint, time spent in deadheading is paid for at the same rate as the active service with which it is connected.

However, deadheading is not active service, as the employes have no duties during such times, and it has not been considered as such under the present law.

Consideration of time spent by employes in deadheading as time on duty would impose very serious restrictions on the railroads. It is very common now to relieve crews who are on short time from actual duty, but then to require or permit them to proceed to their terminal in deadhead status. In some cases also it is necessary to deadhead crews out from their terminals in order to go on active duty at some outlying point. To consider such deadhead time as time on duty would in many cases reduce the available working time far below any reasonable level, or necessitate releasing employes out on the road rather than transport them to their terminals. In instances of unforeseen delays to trains, it would often become completely impossible to comply with the hours limitations if deadheading were counted as time on duty, and where employes are deadheaded prior to performing service, delays to train movement would result from the necessity to give them rest periods before starting to work.

I wish to discuss briefly one further aspect of H.R. 8476 and similar bills, namely, the requirement with respect to crews of relief and wreck trains. Under the present law, the crews operating such trains are not subject to any hours limitations. This, of course, is because of the recognized emergency character of their work.

H.R. 8476 permits crews of relief and wreck trains to exceed the 9 and 12-hour limitations "when necessary to clear the track at the scene of a wreck, but only until such time as the track is cleared sufficiently to permit movement of trains". This new limitation is found in proposed Section 2(c). Although the exact meaning of the proposed limitation is not clear, it appears to be both confusing and burdensome.

In the first place, it requires a determination as to whether it is "necessary" to clear the track at the scene of a wreck. If this simply means "necessary to restore normal service", there may be no problem, but if it should be intended to mean "necessary to restore train movement in the area", it could adversely affect the use of wreck trains to clear tracks in multiple-track territory. In other words, if it is considered not "necessary" to clear a track if other tracks are available for movement of trains, even though such movements are seriously delayed, the limitation could have an adverse effect on the service we provide to our customers. The multiple track areas which would be affected by a narrow and rigid construction of this language are, of course, the areas of our highest traffic density.

Secondly, the limitation requiring relief of a wreck train crew as soon as "the track is cleared sufficiently to permit movement of trains" creates problems. It would appear to mean that the operating crew of the wreck train must be relieved on the spot as soon as wreckage is cleared from the track, and cannot move the wreck train from the scene, an action which, of course, is necessary for restoration of normal operation. Furthermore, under the proposal of the unions to include deadheading as "on duty" time, the crew of the wreck train could not even be returned to its home terminal, but would have to be turned loose at the scene of the wreck. It is doubtful that the time when the track would be cleared could be accurately prejudged, so as to provide a relief crew at the exact moment the track is cleared. Restoration of normal operation might well be affected by delay in moving the wreck train; and it must be remembered that the relief crew would be subject to the limitations proposed, and if the wreck occurred at a distance from the wreck train terminal, the relief crew itself might require rest at the scene of the wreck before returning to the terminal. All of these complications seem totally unreasonable, and the proposed limitations unrealistic, in the light of the absence of evidence relating accidents to long hours of service and in view of the recognized emergency character of wreck train service.

As nearly as possible, we have estimated, based on the overall study and on the local area studies I discussed, the impact in costs of H.R. 8476 on the entire railroad. In doing this we acted on the basis of preserving present services to shippers, although as has been pointed out there are probably situations where this is not justified economically. We kept the number of additional train miles at low as possible, and thus perhaps have acted too conservatively; similarly we did not include in the total estimate any charges for new diesel locomotives, in the hope that greater and more efficient utilization of present power could absorb necessary additional train operation. Our total estimate of cost is $10,770,540

annually, including an initial cost of $390,000 for additional rest facilities. If a 9-hour limitation on engineers without a fireman is assumed, the total cost estimate goes to $12,475,975.

These estimates are on the conservative side. I have already discussed a detailed estimate made on the Southwestern division. To me it indicates a higher overall cost might occur on the railroad as a whole, as it seems greater than the amount one would expect in relation to the overall estimate, taking into account the relative importance of that division. The division estimate also included some expense for additional locomotives, which appeared necessary on the basis of the more detailed study, and would also be necessary on the other divisions.

Although this cost impact would be extremely serious, in view of the great need for funds to maintain and improve our property, and to provide more of the modern rolling-stock needed to meet our shippers' needs, the impact on overall operations and services of the railroad would be even more serious. The character of our business requires flexibility of operations in order to meet public requirements; and unlike other industries, our operations are scattered abroad over the countryside and all sorts of terrain, not in fixed plant locations. Our trains cannot be stopped and crews relieved at any point of time and at any location along the right of way; and our calls at customer plants to provide transportation service, our assembly of trains for over-the-road movement, our dispatching of trains, as a public service, and in the face of our competitors' services, must be tailored as closely as possible to our shippers' needs.

Before closing, I would like to comment briefly at this point on assertions by the organizations' representatives that the railroads generally ignore the present Hours of Service limitations and are quite willing to pay the fines involved, in order to expedite service.

I want to assure the Committee that the railroads generally, and my company in particular, make every effort to avoid violations of the present law. It is, of course established policy to comply with all existing federal or state legal requirements, as any responsible corporation will do. In addition, the present minimum fine of $200 for a violation is a very real deterrent to careless disregard of the law. To pay such a fine represents the equivalent of a very substantial increase in crew costs, far more expensive than supplying a relief crew.

Our Book of Rules contains specific instructions to each operating employe to keep careful track of his own time on duty and to report promptly to the Superintendent of Transportation after being on duty 12 hours as to the time when his hours on duty will amount to 14. This permits time to arrange relief.

In addition to this personal responsibility of the employe, Train Dispatchers are required to keep records of the time on duty of all crews operating over their division and to take appropriate steps to avoid violations of the Hours of Service Act. We fully expect our employes to observe the rules and they may be subject to discipline for failure to do so. It is not true that we disregard the law or have any disrespect for it.

Any tightening of the present hours' limitations, which provide the framework within which our present operating services are constructed, will clearly make it far more difficult generally, and in some instances may make it economically not feasible, to provide satisfactory, competitive railroad transportation services. The safety of railroad operations does not require revision of the present Hours of Service Act, in the light of the record which fails to show that present hours of work cause accidents, but which does show the adverse effects such revision would have on the railroads, their employes, and the public.

Mr. SMUCKER. My name is David E. Smucker. I am vice president, operations, of the Pennsylvania Railroad Co., with offices at room 1740, 6 Penn Center Plaza, Philadelphia, Pa.

I attended the grammar school and high school in Bellefontaine, Ohio, the University of Cincinnati and the Ohio State University, from which I was graduated in June of 1929 with the degree of bachelor of science in civil engineering. I immediately went to work for the P.R.R.

My experience has been in maintenance of way, engineering and in transportation. I was superintendent of service on different divisions and later general manager.

On January 1, 1953, I was elected president of the Detroit, Toledo & Ironton Railroad, wholly owned but independently operated subsidiary of the Pennsylvania Railroad.

I continued to be president of that road until October 1, 1963, when I returned to the Pennsylvania as vice president, operations.

It is my sincere opinion that the present proposals to reduce the permissible hours on duty of railroad operating employees will have an exteremely adverse effect on the railroad industry, not only from the cost standpoint, but also from the standpoints of service to the public and ability to compete favorably with other forms of transportation.

At the same time, the proposed changes will bring little, if any, benefit to railroad employees and will result in requiring them to spend many more hours away from their homes, with less take-home pay.

I feel that any such results from the operating changes which would be necessitated would adversely affect employee morale and thus be harmful to the industry as well as the individuals.

Based on a PRR study, covering the payroll period from October 13 to October 26, 1965, the average tour of duty for all engineers was 9 hours, 6 minutes, and for all conductors, 9 hours, 9 minutes.

In this period engineers had performed a total of 36,494 trips or tours of duty in all classes of service, of which only 5,223, or 14 percent, equaled or exceeds the proposed 12-hour limitation.

Conductors in the same period performed 36,532 trips or tours of duty, of which only 4,603, or 12½ percent, equaled or exceeded the proposed 12-hour limitation—23,761, or 65 percent, of trips were completed in less than 9 hours; and 24,454, or 67 percent of the conductors' trips were completed in less than 9 hours.

Our study also disclosed that in turnaround local freight service, which is our principal means of service to industry located on our right-of-way, designed to deliver and pick up their freight as promptly as possible—these are the crews that switch between the elevator and the freight house and the iron foundry and the pulley interchange and set up cars at the cannery.

This service is designed to deliver and pick up our freight of our patrons. This is distinguished from hauling it over the road for long distances. This is our local service—over 50 percent of the trips studied were 12 hours in length or more.

In the case of engineers in this service over 70 percent of the trips required more than 9 hours, so that a 9-hour limitation would have far-reaching effects.

We have about 100 areas where through freight service is performed, and in about 40 of these areas our presently established through freight service involves distances, terrain, or other operating conditions which may result in trips in excess of the proposed 12-hour limitation effects.

As distinguished from local freight service which I have described, we have about 100 areas where through freight service is performed and in about 40 of these, our presently established through freight service involves distances, terrains, or other operating conditions which may result in trips in excess of the proposed 12-hour limitation.

Additional areas would be affected by a 9-hour limitation. The distance between terminals in these areas generally varies between 80

and 200 miles, and for the most part return trips are not made by crews without an intervening rest period of at least 8 hours except in areas where the mileage between the terminals is less than 100.

As to this through freight service compliance with the proposed limitations contained in H.R. 8476, will require reestablishment of intermediate terminals made obsolete years ago by advances in railroad technology.

Additional and unnecessary terminals and crew changes will delay train movements and, of course, such costs as rest facilities, and away-from-home-terminal allowances are involved. These solutions, which are not solutions to us because the additional costs and effect on our service could not be avoided, would also reduce the earnings of the employees, by addition of extra employees to share the time on duty, the miles run, and the trains available to be operated; the time spent by employees at their away-from-home terminals would be substantially increased.

That is the time not under pay while they are presumably taking a rest.

Mr. WILLIAMS. Inasmuch as you have departed from your statement, I would like to ask you if you could explain in a little more detail the basis on which you make the statement that their time away from home would be substantially increased.

I notice on page 3 of your statement you say:

> At the same time, the proposed changes will bring little, if any, benefit to railroad employees and will result in requiring them to spend many more hours away from their homes, with less take-home pay.

Would you explain a little more in detail why you say that they will spend more hours away from their homes?

Mr. SMUCKER. Yes, sir. Take for example the passenger train service between Washington and New York. That is performed now by crews who report at Washington, haul a train to New York, take it out to Sunnyside Yard to where they are relieved for a short period of time considerably less than 8 hours.

They do not take rest at Sunnyside. Their regular assignment allows just about enough time for the possibility of a normal lateness in arrival at New York so that they turn back to Washington without taking rest.

Those crews, Mr. Williams, would, if this becomes law, be required to take rest at Sunnyside, if we ran them that way which we probably would not, and then they would come back to Washington.

Now, the way they work now they make a round trip from Washington to New York and return to Washington within an elapsed time of somewhere around 18 hours but with 4 or 5 hours off duty at Sunnyside which is release time and not counted in computing the hours of service, if we were required to relieve these men in 12 hours, we would obviously find it necessary to do one of two things.

That is to require the men to rest at Sunnyside, which is a minimum of 8 hours, you see, and the way the trains operate, the men might be at Sunnyside for 16 or 17 or 18 hours before it became their turn to operate a train southward.

So that those men who live in Washington or hereabouts, in making a round trip from Washington to New York might very well be gone

for 35 or 36 hours and since their pay is computed by mileage, they would make no more money.

These men now work 1 day. They make a round trip 1 day and they are off 2 days so that they do not exceed what we call their monthly guaranteed mileage. They have a maximum mileage and they cannot make more than that.

So that they make a round trip 10 times a month except I think it is on the third month that they drop to nine round trips so that in the aggregate they do not exceed their maximum earnings.

We would either be required to take rest on passenger crews at Sunnyside before they operated south or, and we haven't figured out what we would do, we might run through from Washington to Philadelphia and double back to Washington and run a crew from Philadelphia to New York and double back to Philadelphia.

In any case, there are more individuals sharing in the mileage on which the pay is computed and we would not run more trains but we would have more people employed to do the same task and the individual's pay would be reduced and no matter how we did it in the aggregate, men would be required to be away from home longer periods.

Mr. WILLIAMS. That is rather clear now. In the light of your answer that you have given me, do these practices constitute to any degree a compromise to safety?

Mr. SMUCKER. No, sir. If we had any such thought in our heads, we have a perfect right now to put these runs on straightaway and require the men to take rest at Sunnyside.

No, there is no compromise with safety whatever. I have worked in this territory in the old Maryland division and I was supervisor at Perryville, Md., at one time. I knew an excellent family there.

The father was a passenger engineman and he used to get up in the morning and ride a train to Washington to go to work to run to New York and back again and he came home by train and there was never any question of safety about Bill Boyd's operation.

I have this personal experience with a good deal of the operation throughout our territority and I can assure you that there is no compromise with safety.

Mr. WILLIAMS. Thank you. I am sure that that is bound to be subject to argument, but I am not in a position to argue it. So, I will accept your statement. Thank you very much.

Mr. SMUCKER. You are most welcome. I was speaking of the necessity which we would find to reestablish terminals which had been closed or to establish new terminals and the facilities at such points would cost about $50,000 each consisting as they would of a crew room and an office for crew clerk and places for crews to go on duty, locker rooms, and with a monthly cost of somewhere around $7,500 covering lodging and crew transportation and other crew change costs.

I think the committee should also take note and consider very seriously the provisions of collective-bargaining agreements among railroads and their on-train employees represented by the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Brotherhood of Railroad Trainmen, and the Order of Railway Conductors and Brakemen.

Under these agreements, additional terminals may not be established except by specific further agreement. It has been my experience and I do believe that we would have no opportunity whatever to make such agreements as to the establishment of additional terminals with the rival brotherhoods which are each vying with the other for membership.

Many varying problems would be encountered if it were necessary to alter local freight train assignments to comply with the proposed 9- or 12-hour limitations. Some of the alternatives we would have to consider in connection with 50 percent of our present freight services would be:

1. Reduce the number of work assignments of present crews and augment with additional crews;
2. Reduce overall trip mileages and augment with additional crews;
3. Provide services at remote locations or on isolated branch lines on a less frequent basis;
4. Abandon service on branch lines where additional costs would not justify operating changes to maintain the service;
5. Establish new local services at terminals out of which crews could operate without exceeding the hours limitation. This would delay movement of cars at least one day simply because they were handled by two local crews to get them into the mainstream of transportation.

Many of these changes would curtail the quality of our service to customers, and could result in loss of business.

The proposed 9-hour limitation on the hours on duty of engineers working without firemen would multiply our problem areas and the adverse effects in all classes of service.

To give you some idea of how extensive this would be, during the week of May 9 to May 15 we made a detailed study of the operations on our southwestern division. This division covers central Illinois and the central and southwestern parts of Indiana.

This major route extends for 242 miles westward from Indianapolis, Ind., to East St. Louis, Ill. Running out from Indianapolis are supporting routes southward to Louisville, Ky. (112 miles), southwestward to Vincennes, Ind. (118 miles), and northward to Logansport, Ind. (87 miles).

Branches extend from Terre Haute, Ind.., to Peoria, Ill. (176 miles), and to Frankfort, Ind. (79 miles). Other branch lines also extend from Columbus, Ind., to Madison and Rushville.

I was, incidentally, superintendent of that division years ago. This division presently operates an average of 13 turnaround local freight trains and 8 straightaway local freights each day. Through-freight service is represented by 18 straightaway through freights and 2 turnaround through freights daily.

The mileage operated per crew varies from 52 to 225 for turnaround local, from 85 to 167 for straightaway local, from 112 to 241 for straightaway through, and from 112 to 224 for turnaround through-freight service.

If this division were to operated within the limitations of the proposed amendment the working conditions of 37 out of the 41 crews would be changed. New terminals for taking rest would be needed at five points on the division.

There would be a large increase in time that crews would have to spend away from home. Movement of freight over the division would be substantially delayed by the need for stops to change crews, or by a reduction in frequency of service.

We estimate that the average earnings of all the local freight crews on this division on the basis of straight-time hours paid for would be reduced from 85.3 to 55.7 hours per week, a decrease of 35 percent. This is our southwestern division.

Keep in mind that these are not actual work hours but involve the conversion of overtime hours paid for to a straight-time basis. On the whole, we estimate that the annual increased costs of the proposed limitations on this division would be about $650,000.

This figure is made up of about $200,000 in additional crew expense, about $300,000 in locomotive expense, $100,000 for lodging for crews, over $40,000 in meal allowances to the crews, and over $3,000 for taxis handling relief crews.

Our total estimate of cost on the entire Pennsylvania system similarly computed including an initial cost of $390,000 for additional rest facilities. If a 9-hour limitation on engineers without a fireman is assumed, the total cost estimate goes to $12,475,975.

I would like to comment briefly at this point on assertions by some of the representatives of labor organizations that the railroads generally ignore the present hours-of-service limitations and are quite willing to pay the fines involved, in order to expedite service.

I want to assure the committee that the railroads generally, and my company in particular, make every effort to avoid violations of the present law. It is, of course, established policy to comply with all existing Federal or State legal requirements, as any responsible corporation will do.

In addition, the present minimum fine of $200 for a violation is a very real deterrent to careless disregard of the law. To pay such a fine represents the equivalent of a very substantial increase in crew costs, far more expensive than supplying a relief crew.

During the 12-month period, July 1965 through June this year on the Pennsylvania Railroad, circumstances prevented relief of only 34 crews before violation occurred. This is compared with more than 950,000 individual crew trips or tours of duty during that period, 34 violations of the law in almost a million individual crew trips or tours in a period of 1 year on the Pennsylvania Railroad.

Any tightening of the present hours' limitation, which provide the framework within which our present operating services are constructed, will clearly make it far more difficult generally, and in some instances may make it economically not feasible, to provide satisfactory, competitive railroad transportation services.

The safety of railroad operations does not require revision of the present Hours of Service Act, in the light of the record which fails to show that present hours of work cause accidents, but which does show the adverse effects such revision would have on the railroads, their employees, and the public.

I would like to thank the committee, gentlemen, for the opportunity to testify. I hope that the members will have the opportunity to study the testimony which has been included in the record and that they will

give it consideration in their consideration of this measure pending before you.

I will be glad to answer any questions that the members have.

Mr. WILLIAMS. Thank you, Mr. Smucker.

Mr. Devine, do you have questions?

Mr. DEVINE. Your statement I think is quite comprehensive. We appreciate your additional remarks.

Mr. WILLIAMS. Mr. Smucker, I understand that your reports to the Interstate Commerce Commission for the last 6 months, from December 1965 to May 1966, show 122 instances of excess service hours beyond the 9- to 12-hour limitation of which 73 appear to have been in December and the rest spread out over the other 5 months.

Would you care to comment on the occasion for these instances of excess service hours?

Mr. SMUCKER. They include, of course, other than train and engine service employees as I am sure the committee is aware and the circumstances that caused so many of those in December was simply the adverse weather conditions and the shortage of men that resulted therefrom and the inability to get relief crews in all cases prior to the expiration of the hours-of-service limitation.

Mr. WILLIAMS. Along the same line, I understand that you had 34 instances of excess service hours beyond the excess limitation of which 30 of the 34 were in January. What could cause that?

Mr. SMUCKER. It was again the extremely adverse weather conditions. Our railroad runs over the Allegheny Mountains and I again was superintendent of that division at one time. I know something about the mountains in the wintertime.

When you get a stoppage of any kind adverse weather is involved and wrecks occur, it is sometimes wholly impossible to get enough men, let alone transport them. There are no roads in the mountains.

Mr. WILLIAMS. I wonder if you would mind looking into these specific instances and advising us if you could what were the reasons.

Mr. SMUCKER. I am sure that we can advise you and I will be glad to do so.

Mr. WILLIAMS. Thank you very much, Mr. Smucker.

Our next witness is Mr. David C. Hastings, vice president, operations; accompanied by Gerald L. Burrows, attorney; and J. J. Stockard, assistant general superintendent, transportation, Atlantic Coast Line Railroad.

Mr. Hastings, if you care to, you can place your entire statement in the record.

STATEMENT OF DAVID C. HASTINGS, VICE PRESIDENT, OPERATIONS; ACCOMPANIED BY GERALD L. BURROWS, ATTORNEY, AND J. J. STOCKARD, ASSISTANT GENERAL SUPERINTENDENT, TRANSPORTATION, ATLANTIC COAST LINE RAILROAD

Mr. HASTINGS. Mr. Chairman, I would hope that the prepared statement would, of course, appear in the record. It contains a lot of very important facts. Unfortunately, for the stenographic reporter my remarks are going to have to be extemporaneous because I do not have a prepared summary.

Mr. WILLIAMS. That is all right, sir. If you feel you can summarize it, perhaps it will save time and be helpful.

(Mr. Hastings' prepared statement follows:)

STATEMENT OF D. C. HASTINGS, VICE PRESIDENT, OPERATIONS, ATLANTIC COAST LINE RAILROAD CO.

My name is D.C. Hastings. I am Vice President, Operations, of the Atlantic Coast Line Railroad Company with offices at 500 Water Street, Jacksonville, Florida. I have been employed in the railroad industry for 29 years, having worked in various capacities in the Engineering, Maintenance of Way, Transportation and Operating Departments of the Pennsylvania, Richmond, Fredricksburg & Potomac, Clinchfield and Atlantic Coast Line Railroads. I have been in my present position of Vice-President-Operations of the Atlantic Coast Line Railroad for approximately one year. I was educated in the public schools of Richmond, Virginia, was graduated from Fishburne Military School at Waynesboro, Virginia, and received by degree of Bachelor of Science in Civil Engineering in 1937 from the Virginia Military Institute at Lexington, Virginia.

A number of railroads including Coast Line were asked to make a detailed study of representative portions of their operations for a selected period. The purpose of this study which we have referred to as the "in depth" study was to refine the results of a general broad study conducted by 21 representative American railroads. We wanted to find out as closely as possible what the enactment of the proposed amendments to the Hours of Service law would mean in terms of required changes in our operations, the impact of such changes on our employees, the effects on our service and the added cost to which the company would be subjected.

The only way to determine exactly what impact the proposed changes would have on the railroad would be to take a period of one year and determine on the basis of operations actually conducted what would have been the effect if those operations had been conducted under various limitations. Such an analysis would be extremely costly and would not be practical. We determined therefore that it would be necessary to take a sample period and proceed on that basis. For the study, a week in the month of October, 1965, was selected covering one entire operating division and a portion of another division in order to develop a reasonably accurate picture of the operations of the railroad as a whole. In making our selection, we were requested to select one division where the amount of aggregating was relatively high and another on which the aggregating was very little.

Coast Line operates about 5,500 miles of railroad in the six Southeastern States of Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama. The territory is generally coastal plains and rolling country, with maximum grades up to 1.3% in Alabama and 1% in Georgia, and maximum main line curvature 6°. The weather is temperate, there being very little interference with operations on account of cold weather.

It was decided to study the operations on the north and east end of the Richmond Division, i.e., our lines north and east of Rocky Mount, North Carolina, and the entire Ocala Division which is that portion of the railroad generally serving the central and western parts of the State of Florida. A Trainmaster from each of those divisions who is intimately familiar with their operations made careful studies of the actual operations for the test period October 4–10, 1965, in order to determine the effects of the proposed changes in the Hours of Service law. In other words, the trains were constructively redispatched under the assumption that the provisions of H.R. 8476 were in effect.

The results of our investigation clearly indicate that railroad operating men are not overworked. For example, during the period of our study of the Ocala Division, the week of October 4–10, 1965, conductors in frieght service averaged 58 hours and 6 minutes on duty, and on the Richmond Division they averaged 48 hours on duty. Of course, this time included periods when employees were actually released for 3 hours or more and also preparatory time used in getting ready for the run for which employees were paid. On the Ocala Division, enginemen averaged 46 hours and 46 minutes, and on the Richmond Division, 49 hours and 56 minutes. These figures, of course, include fast freight runs with speeds of 60 to 65 miles an hour as well as local freight runs where mileage is short, work is heavy and overtime payments great. However, these jobs are

preferred by many of the senior employees as evidenced by the fact that most of them are held by men with the most seniority. No separate study was made for brakemen and flagmen for they are generally on duty about the same length of time as conductors.

An example showing the effect of the proposed changes on our operations would be the operation of our local freight trains, Nos. 574 and 575, which are now operated on a turn-around basis between St. Petersburg and Trilby, Florida. It is 73 miles in each direction or 146 miles round trip. Yard engines are employed at St. Petersburg and build the train at that point but the crew of this turnaround train, as well as other trains operating through Trilby, perform switching at that point. This train serves five intermediate stations between St. Petersburg and Trilby. During the test period, these trains required 4 hours for straightaway runs on this assignment, standing time clearing trains was about 30 minutes and time awaiting connections at Trilby about 3 hours. Switching enroute consumed about 4 hours. The average time on duty for the test period was 14 hours and 56 minutes a day. Notwithstanding these long hours, these assignments are regarded by the employees as a good run. The seniority roster was checked and it was found that there were 70 enginemen on this particular seniority roster, with the engineman handling this run standing 24th on the roster. There were 50 conductors on the roster with the conductor assigned to this run standing No. 3. There were 75 trainmen on the roster, with the brakeman standing 25th and the flagman 38th.

A comparable run on the Richmond Division is No. 516–517 which operates between Rocky Mount and Plymouth, North Carolina, on a turn-around basis daily. During the test period October 4–10, 1965, the train crew handling this run averaged 12 hours and 46 minutes on duty time daily. The engineman assigned to that run stood No. 13 on a roster of 118 men while the conductor stood No. 3 on a roster of 22 men, with the brakeman and flagman standing No. 12 and No. 21, respectively, on a roster of 36 men.

Proponents have cited horrible examples of long hours and arduous duties performed by train service employees. I have had an analysis made of hours on duty of train service employees on Coast Line for the year 1965, and it shows the following, from our report to the ICC:

	Hours per week
Freight conductors averaged working	44.2
Freight trainmen averaged working	39.3
Freight enginemen averaged working	41.8
Freight firemen averaged working	35.9
All train service employees averaged working	40.9

Proponents have stated employees will bid in a job and once they are on it, the railroad will make radical changes in working conditions and the employees cannot leave the job. On Coast Line, any material change in the assignment will permit the employee to exercise his seniority on another job. For example, a change in starting time of more than one hour will permit an employee to make a seniority move. Even if no change is made, an employee may make a seniority move after having been assigned to a job ten days.

If the present Hours of Service law should be changed limiting the on-duty time of train service employees to 12 hours or less, it would clearly be impossible to continue to operate these trains between St. Petersburg and Trilby, Florida, and between Rocky Mount and Plymouth, North Carolina, under the existing arrangements. It would be necessary to double crew both of these runs reducing the number of hours on duty of the men presently handling these assignments. In so doing, it would virtually eliminate the possibility of their earning overtime compensation and would materially affect their earnings as well as have other adverse effects on them. For example, on the St. Petersburg-Trilby turnaround local, the men now earn 146 miles a day while away from home, more than 14 hours. This would be reduced to 73 miles a day although they would be paid for 100 miles pursuant to the current agreements. Their mileage would thus be cut from 146 miles to 100 miles a day, a reduction of 31% in the daily mileage and the average 3 hours and 15 minutes overtime a day now being made would be eliminated. Additionally, the employees would be away from home 3 nights a week whereas they are now home every night.

Naturally, it would cost the railroad more to operate the trains but just how much more would depend on the form of change it would be necessary to put

into effect. Not only would we have to pay for mileage not run because of the minimum 100 mile day required by the existing agreements covering these runs but there would also be an additional crew required. For each man on that crew, there would be fringe benefits such as railroad retirement, unemployment insurance, etc., to be paid by the company. These fringe benefits amount to approximately 21.5% of the basic wages paid. The wage cost for a 4 man crew is $90.02 per day, 21.5% of which is $19.35 or a total of $109.37 per day. If the run should be double crewed, one crew would be away from home every night and under the current agreements with train service employees, the railroad would be required to pay each man $3.75 per night away from home for lodging and meal allowance. This would come to $15 per day for a 4 man crew or an additional cost increment of $105 for a seven day week.

The effect on the individual employees in reductions and earnings would be quite serious. For example, our studies indicated that under the 12-hour limitation, the average monthly reduction in earnings of enginemen would be $466.50. of firemen $270.67, of conductors $424.87, and of trainmen $418.54. Further, under the 9-hour limitation, our studies indicated that the average monthly reduction in earnings for enginemen would be $391.23, for conductors $452.34, and for trainmen $434.96.

Additionally, our study showed that it would be necessary to purchase additional engines and caboose cars, for if the proposed changes in the existing Hours of Service law were made, it would not be possible to use the present equipment with maximum efficiency and two sets of equipment would, in many cases, be necessary where only one is required under the present methods of operation.

From a review of the portion of our study covering the Ocala Division, as shown by the attached exhibits numbered 1 through 6, it can be seen that there would have been an increase of 5 enginemen and 5 conductors and further that there would have been an increase of 31 trips by enginemen and conductors. Additionally, enginemen would have been tied up at their home terminal 14 additional trips with the average elapsed time tied up at the home terminal being reduced an average of 36 minutes per trip. Also, conductors would have been tied up at their home terminal an additional 14 trips, with the elapsed time tied up at the home terminal in this instance being reduced 6 minutes per trip. Further, the enginemen would have been tied up at the away-from-home terminal 17 additional trips with the elapsed time tied up being increased by an average of 1 hour and 10 minutes per trip. The conductors would have been tied up at other than the home terminal an increase of 17 additional trips with the elapsed time tied up being increased an average of 27 minutes per trip. It was further noted that the average on-duty time for a trip for conductors and enginemen would have been reduced to slightly more than 8 hours which would virtually eliminate any overtime pay for those employees.

Looking at this same portion of the study further, under the 9-hour limitation, there would be an increase of 18 enginemen and 6 conductors with a resulting increase of 113 trips by enginemen and 37 trips by conductors. Enginemen would have been tied up at their home terminal 66 additional trips with the average elapsed time tied up at home terminal being reduced 46 minutes per trip. Conductors would have been tied up at their home terminal an additional 17 trips with the elapsed time tied up at the home terminal reduced 36 minutes per trip. The enginemen would have been tied up at the away-from-home terminal 47 additional trips with the elapsed time tied up increasing an average of 3 hours and 9 minutes. The conductors would have been tied up at other than their home terminal 20 additional trips with the elapsed time increasing by an average of 52 minutes per trip. The average on duty time per trip for enginemen would have been reduced to 7 hours and 19 minutes and the average on duty time per trip for conductors would have been reduced to 8 hours and 19 minutes, virtually eliminating any overtime payments, which constitutes additional income for these employees who are generally the senior employees on our seniority rosters.

From our study, it is readily apparent that the proposed changes in the Hours of Service law would cost our railroad and the railroad industry a considerable sum of money, and they would cost our senior employees the opportunity to earn wages above the basic day's pay.

We do not feel that the safety of railroad operations would be enhanced by the proposed changes. As a part of our studies in connection with these proposed bills, we reviewed our report made to the ICC on all train and train service

accidents during the months of May and November, 1965. In May, 1965, there were 44 such accidents, and there were 181 train and engine service employees involved. Our analysis showed that those employees had been on duty an average of 4'4" at the time of the accident, and had been off duty prior to the time they went on duty on the day or trip on which the accident occurred, an average of 19'28". In November, 1965, there were 36 such accidents, and there were 141 train and engine service employees involved. Our analysis showed that those employees had been on duty an average of 6'00" at the time of the accident, and had been off duty prior to the time they went on duty on the day or trip on which the accident occurred an average of 29'12". Our experience certainly does not indicate that the length of time on duty has anything to do with the occurrence of accidents.

We do not feel that the proposed changes would improve the efficiency of railroad operations, nor that they would be of any material benefit to our employees. On the contrary, we think both would suffer, and we do not feel that we should have change simply for the sake of change.

Proponents for these bills have inferred that the existing Hours of Service law is widely flouted by the railroads and have proposed that the fines for such violation of the law should be increased. This allegation is simply not true insofar as Coast Line is concerned. Records of the ICC, to which we are required to make reports of all violations of the law, whether excusable under the law or not, will show that we do everything within our power to avoid violations of the law, and in the very infrequent cases in which we are involved, the violation is caused by circumstances beyond the control of our Management. There have been only two instances on Coast Line within the 12 month period ending June 30, 1966, one due to an accident which blocked the main line and one due to failure of an employee to call attention to the fact that he was about to violate the law in time to enable his superior to take action to prevent it.

We feel that our present operations are safe and efficient, and we also feel that the existing Hours of Service law gives us the necessary latitude and discretion to achieve these high standards. We further feel that the proposed changes in the law are unnecessary and urge the Committee to take no action which would place additional burdens and handicaps on railroad operations.

The operation of a railroad is a highly complex business, and it is simply impossible to compare it with a manufacturing operation in which it is possible to adhere rigorously to an 8 hour day and a 40 hour week. A railroad company is a service organization with one product to sell—transportation—and that product must be tailored to fit the needs of our customers.

EXHIBIT 1

Atlantic Coast Line RR. Co., Ocala Division, recapitulation of data pertaining to actual freight operations, week of Oct. 4–10, 1965

ENGINEMEN

Item	Totals	Averages	
		Per man per week	Per trip
(1) Number of men	31		
(2) Number of trips	143	4.61	
(3) Number of times tied up at home terminal	102	3.29	0.71
(4) Elapsed time tied up at home terminal:			
Hours	2,263	73	15
Minutes	56	2	50
(5) Number of times tied up at other than home terminal	41	1.32	.29
(6) Elapsed time tied up at other than home terminal:			
Hours	591	19	4
Minutes	21	5	8
(7) Elapsed time on duty (including release periods, see item (9) above):			
Hours	1,449	46	10
Minutes	47	46	8
(8) Number of times relased during a tour of duty paid for as a single trip (see item (10) above)	6	.19	.04
(9) Elapsed release time (see item (10) above):			
Hours	20		
Minutes	10	39	8.46

EXHIBIT 2

Atlantic Coast Line RR. Co., Ocala Division, recapitulation of data pertaining to freight operations, week of Oct. 4–10, 1965, under the 12-hour time limitation

ENGINEMEN

Item	Totals	Averages	
		Per man per week	Per trip
(1) Number of men	36		
(2) Number of trips	174	4.83	
(3) Number of times tied up at home terminal	116	3.22	0.67
(4) Elapsed time tied up at home terminal:			
Hours	2,651	73	15
Minutes	13	39	14
(5) Number of times tied up at other than home terminal	58	1.61	.33
(6) Elapsed time tied up at other than home terminal:			
Hours	923	25	5
Minutes	11	39	18
(7) Elapsed time on duty (including release periods, see item (9) above):			
Hours	1,495	41	8
Minutes	32	32	36
(8) Number of times released during a tour of duty paid for as a single trip (see item (10) above)	0	0	0
(9) Elapsed release time (see item (10) above)	0	0	0

EXHIBIT 3

Atlntic Coast Line RR. Co., Ocala division, recapitaulation of data pertaining to freight operations, week of Oct. 4–10, 1965, under the 9-hour time limitation

ENGINEMEN

Item	Totals	Averages	
		Per man per week	Per trip
(1) Number of men	49		
(2) Number of trips	256	5.22	
(3) Number of times tied up at home terminal	168	3.43	0.66
(4) Elapsed time tied up at home terminal:			
Hours	3,858	78	15
Minutes	47	45	4
(5) Number of times tied up at other than home terminal	88	1.79	.34
(6) Elapsed time tied up at other than home terminal:			
Hours	1,865	38	7
Minutes		4	17
(7) Elapsed time on duty (including release periods, see item (9) above):			
Hours	1,871	38	7
Minutes	11	11	19
(8) Number of times released during a tour of duty paid for as a single trip (see item (10) above)	0	0	0
(9) Elapsed release time (see item (10) above)	0	0	0

EXHIBIT 4

Atlantic Coast Line RR. Co., Ocala Division, recapitulation of data pertaining to actual freight operations, week of Oct. 4–10, 1965

CONDUCTORS

Item	Totals	Averages	
		Per man per week	Per trip
(1) Number of men	24		
(2) Number of trips	139	5.79	
(3) Number of times tied up at home terminal	102	4.25	0.73
(4) Elapsed time tied up at home terminal:			
Hours	2,050	85	14
Minutes	45	27	45
(5) Number of times tied up at other than home terminal	37	1.54	.27
(6) Elapsed time tied up at other than home terminal:			
Hours	527	21	3
Minutes	34	59	48
(7) Elapsed time on duty (including release periods, see item (9) above):			
Hours	1,394	58	10
Minutes	25	6	2
(8) Number of times released during a tour of duty paid for as a single trip (see item (10) above)	5	.21	.04
(9) Elapsed release time (see item (10) above):			
Hours	16		
Minutes	5	40	6.94

EXHIBIT 5

Atlantic Coast Line RR. Co., Ocala Division, recapitulation of data pertaining to freight operations, week of Oct. 4–10, 1965, under the 12-hour time limitation

CONDUCTORS

Item	Totals	Averages	
		Per man per week	Per trip
(1) Number of men	29		
(2) Number of trips	170	5.86	
(3) Number of times tied up at home terminal	116	4	0.68
(4) Elapsed time tied up at home terminal:			
Hours	2,491	85	14
Minutes	35	55	39
(5) Number of times tied up at other than home terminal	54	1.86	.32
(6) Elapsed time tied up at other than home terminal:			
Hours	821	28	4
Minutes	46	20	15
(7) Elapsed time on duty (including release periods, see item (9) above):			
Hours	1,464	50	8
Minutes	10	29	37
(8) Number of times released during a tour of duty paid for as a single trip (see item (10) above)	0	0	0
(9) Elapsed release time (see item (10) above)	0	0	0

EXHIBIT 6

Atlantic Coast Line RR. Co., Ocala division, recapitalation of data pertaining to freight operations, week of Oct. 4–10, 1965, under the 9-hour time limitation

CONDUCTORS

Item	Totals	Averages	
		Per man per week	Per trip
(1) Number of men	30		
(2) Number of trips	176	5.87	
(3) Number of times tied up at home terminal	119	3.97	0.68
(4) Elapsed time tied up at home terminal:			
Hours	2,491	83	14
Minutes	35	3	9
(5) Number of times tied up at other than home terminal	57	1.90	.32
(6) Elapsed time tied up at other than home terminal:			
Hours	821	27	4
Minutes	46	24	40
(7) Elapsed time on duty (including release periods, see item (9) above):			
Hours	1,464	48	8
Minutes	10	48	19
(8) Number of times released during a tour of duty paid for as a single trip (see item (10) above)	0	0	0
(9) Elapsed release time (see item (10) above)	0	0	0

Mr. HASTINGS. My name is David C. Hastings. I am vice president, operations, of the Atlantic Coast Line Railroad Co., with offices at 500 Water Street, Jacksonville, Fla. I have been employed in the railroad industry for 29 years, having worked in various capacities in the engineering, maintenance of way, transportation and operating departments of the Pennsylvania; Richmond, Fredericksburg & Potomac, Clinchfield; and Atlantic Coast Line Railroads.

I have been in my present position of vice president, operations, of the Atlantic Coast Line Railroad for approximately 1 year. I was educated in the public schools of Richmond, Va., was graduated from Fishburne Military School at Waynesboro, Va., and received my degree of bachelor of science in civil engineering in 1937 from the Virginia Military Institute at Lexington, Va.

The rest of my remarks will be extemporaneous.

Coast Line was selected to prepare this in-depth study and, in so doing, we picked the period October 4 to October 10 of 1965. All of the statistics contained in the prepared report cover that period.

In order to prepare the report, we took some competent operating officers off of two of our divisions and constructively redispatched all of the trains on our railroad on those two divisions during that period under the provisions of H.R. 8476, and the results from those studies were then projected over the entire system, and that is the way that we arrived at the statistics in this report. I would like to summarize by saying that, in our opinion, our men are not overworked.

On page 7 of the prepared report, we show that freight conductors averaged working, during the year 1965, 44.2 hours per week. Freight trainmen averaged 29.3 hours per week. Freight enginemen averaged 41.8 hours per week, and freight firemen averaged 35.9 hours per week, and all freight service 40.9 hours per week.

When we throw our passenger operations into it, the total for the year 1965: for conductors, the average was 40.7 hours per week; for

trainmen, 36.3 hours per week; for enginemen, 37.7 hours per week; and for firemen, 29.2 hours per week; or system average for the whole Coast Line Railroad—all train and engine service employees, in both freight and passenger service—of only 36.9 hours per week.

Mr. WILLIAMS. Do you know how these figures—as related to your railroad—compare with the figures on other railroads in general?

Mr. HASTINGS. I don't know, sir. The second thing that I would like to point out is that the proponents of this bill have indicated that employees, once they are on one of these jobs that we have that involve long hours of service, bid it in and the railroad will then make radical changes in the working conditions on that job and the employees cannot leave the job.

On Coast Line, any material change in the assignment will permit the employee to exercise his seniority on another job. For example, a change in starting time of more than 1 hour will permit an employee to make a seniority move.

Even if no change is made, an employee may make a seniority move after having worked the job that he bid in on 10 days. The third thing I would like to point out is the reduction of earnings of our employees which are shown on pages 9 and 10 of the prepared report; and for enginemen we have a reduction of earnings for this test period of $466.50 per month, and this man is now making $1,660.68 per month.

For conductors, we have a reduction in earnings of $424.87 per month, and these conductors are now earning $1,431.58 per month. For trainmen, we have a reduction in earnings of $418.54 per month; and these men are now earning $1,292.46 per month. These are all, of course, averages, and are positions and not individual employees.

The next thing I would like to point out is on page 6 about the long hours that these men have to work and indicate to the committee that these jobs are considered choice jobs by the men on our railroad.

The long-hour runs are good runs. The seniority roster was checked and it was found that there were 70 enginemen on this particular seniority roster that this run covered and the engineman handling the run stood 24th on the roster.

There were 50 conductors on the roster, and the conductor assigned to his run stood No. 3. There were 75 trainmen on the roster, and the brakeman on this particular run stood 25th, and the flagman 38th.

So that these men picked these jobs that have the long hours because of the high earnings.

The next thing I would like to point out is that in our opinion the safety of operations would not in any way be affected by any change in the present hours-of-service law. As part of our studies in connection with these proposed bills—and this is on page 13 of my prepared text—we reviewed our report made to the Interstate Commerce Commission on all train and train service accidents during the month of May and the month of November of 1965.

In May of 1965 there were 44 such accidents. There were 181 train and engine service employees involved and our analysis showed that these employees had been on duty an average of only 4 hours and 4 minutes at the time of the accident and had been off duty prior to the time they went on duty on the day or trip on which the accident occurred, an average of 19 hours and 28 minutes.

In November 1965 there were 36 such accidents. There were 141 train and engine service employees involved and our analysis showed that these employees had been on duty an average of only 4 hours and 4 minutes at the time of the accident and had been off duty prior to the time they went on duty on the day or trip on which the accident occurred, an average of 19 hours and 28 minutes.

Our experience certainly does not indicate that the length of time on duty has anything to do with the occurrence of accidents.

Mr. WILLIAMS. What was the longest period that any single employee had been on duty that may possibly have contributed to the accident?

Mr. HASTINGS. Mr. Chairman, the longest on duty was 12 hours and 1 minute for this average, in May of 1965. The longest on duty in November was 13 hours and 15 minutes.

Mr. WILLIAMS. That is under the 16-hour limitation?

Mr. HASTINGS. You asked the question about the longest that the man had been on duty when one of these accidents occurred.

Mr. WILLIAMS. I presume that there is no indication that these people who had worked 12 or 13 hours in these particular accidents could be blamed with any of the responsibility for the accident itself; is that correct?

Mr. HASTING. We could get the specific cases.

Mr. WILLIAMS. I am trying to see if there is any relationship between the length of time that person had been working who was in a position to control the operation of the train to the extent that this factor might have contributed to the accident, if I make myself clear.

Mr. HASTINGS. Yes, sir. In my opinion, it has nothing to do with it. In my 29 years of experience the length of time on duty of the man has never had anything to do with the cause of the accident. In other words, the fatigue of the employee didn't contribute to the accident.

Mr. WILLIAMS. That is the point that I was trying to ascertain.

Mr. HASTINGS. In my opinion, it has nothing to do with it.

The next thing that we would like to point out is that the proponents of this bill have indicated that modern railroading is very difficult, that there are many added burdens on train and engine service employees. In our opinion modern railroading is not difficult and if anyone who might be interested in finding out how difficult it is would merely ride one of our modern freight or passenger trains he will find that the many electronic devices that we have such as radio communication, CTC, automatic bellringers, and sanders, et cetera, makes the operation of today's modern freight and passenger train much easier than it used to be in older days.

The next thing I would like to point out is the cost. On Coast Line we would be required to purchase additional locomotives, purchase additional caboose cars. We would have to pay our crews constructive mileage for miles not actually operated under the basic day's pay of 100 miles.

We would have to pay additional away-from-home terminal pay. We would have to pay additional meals and lodging to our employees away from home terminal and the most serious thing to us would be the manpower situation and we conservatively estimate that in road

service alone we would have to employ 378 men over and above the men that we have now.

In yard operations it would be most difficult to determine exactly how many additional employees we would have to have but it would be a large number. We are in a highly competitive labor field in the southeastern part of this country and we are having difficulty now securing enough people to operate our trains under our present rules and regulations and to be faced with the necessity of employing 378 men in road service and an undetermined number in yard service as far as manpower is concerned would create a situation that would materially affect our operations. We conservatively estimate that it would cost Coast Line Railroad $4,400,315 to comply with the provisions of this bill.

This represents 5 percent of our gross transportation expense or 3 percent of our total operating expense annually on the basis of 1965 figures.

It has been indicated that the railroads flagrantly violate the present 16-hour rule. On Coast Line we do everything that we possibly can do to avoid a violation of the present law.

On page 14 of our prepared testimony the records which we presented to the ICC indicated that for the 12-month period ending June 30, 1966, we had only two instances of a violation of the present 16-hour law.

One was due to an accident which blocked the main line and the other was due to a failure of an employee to call attention to the fact that he was about to violate the law in time for his superior to be able to take appropriate action to prevent the violation.

In summary, our study on Coast Line indicates that there is absolutely nothing that would warrant a change in the existing law. The present situation as far as our operations are concerned very adequately covers our employees. A 24-hour operation running 7 days per week can only be divided up into three 8-hour basic days.

Any attempt to try to change the 16-hour provisions of the present law would very seriously affect our ability to be able to manipulate our employees in train and engine service on a basic 8-hour day.

I would be happy to answer any questions.

Mr. WILLIAMS. I think you have made a very clear statement and I don't have any questions unless Mr. Devine has questions.

Mr. DEVINE. No. Mr. Hastings, the only thing that I would like to ask is whether over the years there has been any prolonged or serious negotiations between the brotherhoods and your company in this area of hours of service. Has this been the subject of any negotiations?

Mr. HASTINGS. No, sir. Most of these negotiations, of course, are conducted on a national basis and we are part of the national conference.

Mr. DEVINE. That is all, Mr. Chairman.

Mr. WILLIAMS. You indicated, if I understood you correctly, that if this bill were to go into effect, that your operating costs would go up about 3 percent.

Mr. HASTINGS. No, sir. I indicated that our transportation expense would go up 5 percent and, of course, these employees that we are

talking about under the hours-of-service law are all transportation employees so that we think that this should be set out.

Our total operating expense of the whole railroad would go up 3 percent. There are many, many things involved in operating expenses over and beyond transportation expense. We feel that the transportation employees should stand with transportation expense and this would cost us 5 percent increase in those expenses.

Mr. WILLIAMS. Assuming your figures to be true, do you feel that this would necessarily be reflected in increased rates to the public?

Mr. HASTINGS. Mr. Chairman, to discuss that at this point I think would be quite involved. I am an operating man and don't have very much to do with freight rates but I do know that unless we can control these operating expenses the railroad industry is going to fall and we have to do something to be able to operate economically because we think it is a sound industry and is an essential industry to this country.

We just can't stand a $4 million increase in operating expenses.

Mr. WILLIAMS. I take it that your answer is that as a matter of commonsense the initial cost would have to be passed on to the public.

Mr. HASTINGS. I would rather not answer the question. We would have to get the money from someplace.

Mr. WILLIAMS. There is no other place you could get it, is there?

Mr. HASTINGS. Other than charge for our services; no, sir.

Mr. WILLIAMS. All right.

I believe that is all. Thank you very much.

Our next witness is Mr. H. C. Stratton, general signal engineer of the Union Pacific Railroad.

Mr. Stratton.

STATEMENT OF H. C. STRATTON, GENERAL SIGNAL ENGINEER; ACCOMPANIED BY JAMES A. WILCOX, ASSISTANT GENERAL SOLICITOR, UNION PACIFIC RAILROAD

Mr. STRATTON. Mr. Chairman, I have an 18-page statement and I have summarized this as briefly as I can to save time. Part of the tables I will leave out but I request that they be placed in the record.

Mr. WILLIAMS. We would be very happy to receive them for the record.

Mr. STRATTON. I thank you.

My name is H. C. Stratton. Since 1957 I have been employed as general signal engineer of the Union Pacific Railroad, with headquarters at Omaha, Nebr.

I am responsible for the engineering, construction, and maintenance of the signal system on the Union Pacific Railroad. My employment with the Union Pacific commenced in 1921 when I entered service as an assistant signalman. All of my work with the Union Pacific has been in various capacities in the signal department since that time.

From 1958 to 1962, I served on the Committee of Direction of the Communications and Signal Section of the Association of American Railroads. I have also held other committee assignments in the signal section of the AAR.

It is my understanding that I am the only signal witness at this hearing and I represent all the railroads in the United States in the signal department.

It is my purpose to discuss H.R. 5196 and to tell you why the railroad industry opposes this bill which would make the 16-hour work limitation now applicable to employees who operate trains also applicable to signal employees. This will be accomplished by amending the second sentence of section 1 of the Hours of Service Act which now defines an employee as a person "actually engaged in or connected with the movement of any train," by adding the following: "and includes persons installing, repairing, and maintaining signal systems."

This amendment would thus restrict the hours on duty of signal employees as now provided in section 2 of that act. When an employee has been continuously on duty for 16 hours, regardless of emergency circumstances, he must be relieved and not required or permitted to again go on duty until he has had at least 10 consecutive hours off duty; also that no employee who has been on duty for 16 hours in the aggregate in any 24-hour period shall be required to go on or remain on duty without at least 8 consecutive hours off duty.

H.R. 8476 and similar bills are pending in the House and S. 2180 in the Senate which would further amend section 2 of the Hours of Service Act by reducing the maximum on-duty hours from 16 to 12—9 where there is no fireman—and would also require that no employee can go on or remain on duty when he has not had at least 8 consecutive hours off duty during the preceding 24 hours.

H.R. 5196 is supported by the Brotherhood of Railroad Signalmen and, while he did not appear to testify or be questioned by your committee, Mr. Jesse Clark, the president of that brotherhood, filed a statement in the support of this bill. Mr. Clark did not specifically state that he supports the additional limitations which would be imposed by H.R. 8476; however, it must be assumed that he does.

We sincerely believe that there is no need for either a 16-hour or 12-hour limitation on the hours of service for signal employees who do not generally work more than 8 hours a day except in infrequent emergencies. Such a limitation will not further the safety of railroad operations.

In emergency situations, such as derailments, floods, tornadoes, and storms, or whenever there is an interruption in the signal system for any reason, safety of operation requires that the signal system be restored as soon as possible.

Many times this involves the use of all available signal employees continuously until the signal system is restored to operation. In these rare cases, employees may be on duty continuously for more than 12 or 16 hours, and under H.R. 5196 the railroads would be required to stop emergency repairs after those periods of time. This legislation would thus actually deter and impede the repair of signal systems in emergency situations and many times delay the resumption of train operations.

The bill would also increase the cost of railroad operation by forcing the railroads to employ additional signal employees simply for relief purposes. Indeed, President Jesse Clark, in his report to the 1961 and 1964 conventions of the Brotherhood of Railroad Signalmen,

frankly conceded that one of the benefits from this legislation would be to bring about the hiring of additional signal employees.

Presently the 16-hour limitations are applicable only to those employees who actually operate trains. There is no justification to make such limitations applicable to signal employees who are only indirectly involved in train operations.

They are but a part of a large number of nonoperating employees responsible for the maintenance and repair of railroad facilities.

Mr. John W. Bush, Chairman of the Interstate Commerce Commission, pointed out in discussing this bill—

> if signalmen are to be considered under the Hours of Service Act, it seems entirely possible that other rail craftsmen may request similar consideration.

The work of signal employees, like many others may be detailed. But the signalman is not confined. He does not have to remain in one place; he is free to move about and to take brief respites from his work, thus continuously relieving whatever tensions and physical strains are asserted to be a part of his work.

After a signal employee performs the work of installation, maintenance, or repair, the signal apparatus is carefully tested and retested by him or other signal employees before it is placed in service. In practically all instances of construction and emergency work his work is under the direction of a supervisor.

In short, the working conditions and job content of signal employees simply do not require any hours limitation as would be imposed by H.R. 5196. The probability is remote that a signalman, because of fatigue, could make an error that would endanger safety of train operation.

The work performed by signal employees is essentially similar to electrician's work. I have never heard the electricians' union insisting that there should be a limitation on the use of electricians in the many emergency situations which confront the telephone and electric companies over the country.

In emergencies, those utility workers are called out and work until the damaged wire lines are back in service. There is little or no difference in the work of signal employees and that of electricians as far a restoration of service is concerned.

Most important, there has been no evidence that the hours worked by signal employees bear any relation to safety of rail operations. Chairman Bush also stated:

> Also, a review of our investigations failed to disclose any such accidents resulting from the fatigue of signalmen.

I was somewhat shocked to see President Clark's misleading inference at page 8 of his statement concerning an "increase in signal failures" and his citation of Interstate Commerce Commission data supposedly showing this. Mr. Clark does a real disservice to the railroad signal systems and to the signal employees who install, repair, and maintain them.

Mr. Clark referred to what has been termed "false restrictive failures" as showing an increase in signal failures on American railroads. Actually, these so-called false restrictive failures, rather than being signal failures, are, in fact, examples of the signal system working in accordance with its basic concept and purpose.

All signal systems are designed on a "fail safe" principle. Any malfunction of component parts of mishandlings by operators or enginemen cause the signals to display their most restrictive aspects. The following is a partial list of the conditions which could affect signal operations:

1. Train, engine, or car on the track.
2. Track, circuit shorted by work equipment or other foreign objects.
3. Broken rail.
4. Broken bond wire.
5. Switch not properly lined.
6. Apparatus not properly installed or adjusted.
7. Exhausted battery.
8. Broken wire.
9. Blown fuse.
10. Burned-out transformer.
11. Shorted insulated joint.
12. Signal lamp burned out.
13. Wet track, due to heavy rain or flood.
14. Damage to apparatus by vandals.
15. Worn, broken, loose, or corroded or dirty parts.
16. Damage by lightning.
17. Grounded circuits, due to broken insulation on wire.
18. Line wires crossed.
19. Mishandling of dual control switch machine or electrically locked switch by trainmen.
20. Mishandling of an interlocking machine by operator.

Strictly speaking, most false restrictive indications are not signal failures at all. Rather they are evidence that the signal system is operating as designed—failing safe.

Pursuant to an order of the Interstate Commerce Commission issued in 1954, railroads are required to report monthly all so-called false restrictive failures as well as actual signal failures. That order states:

> A false restrictive failure is a failure of a system, device or appliance to indicate or function as intended which results in greater restriction than is required.

I am not saying that there are no signal failures as such. They do occur, but they occur very infrequently. This speaks exceedingly well for railroad signal systems and signal employees.

Under the Commission's order, some signal failures are called false proceed failures and are defined as follows:

> A false proceed failure is a failure of a system, device, or appliance, to indicate or function as intended which results in less restriction than is required.

There are also "potential false proceed conditions" which are defined as:

> Potential false proceed conditions include conditions of apparatus existing when no train is present, under which a false proceed failure would have occurred had a locomotive or train approached or entered a section of track occupied by another train or where the safety of the track was impaired.

All of these must be reported to the Interstate Commerce Commission on a monthly basis. The following table shows signal system data for all railroads shown in the annual reports of the Section of Railroad Safety, Bureau of Safety and Service of the Interstate Commerce Commission for the last 5 years available.

(The table referred to follows:)

Signal system data, 1961–65, Railroad Safety Section, Bureau of Safety and Service, Interstate Commerce Commission

Fiscal year ending June 30—	False restrictive failures	False proceed failures	Potential false proceed conditions	Number of false proceed and false proceed conditions investigated
1961	23,884	56	7	31
1962	27,047	65	3	34
1963	27,173	65	14	76
1964	28,456	58	9	37
1965	28,082	52	5	39

You will notice in column 5 that the majority of the unsafe conditions are investigated by the Interstate Commerce Commission.

Mr. Clark, on page 8 of his statement, listed the false restrictive failures for 1961, 1962, 1963, and 1965 and erroneously listed the 1964 figure for 1965. Although available, Mr. Clark did not list the 1965 data, which, in fact, shows a decrease over 1964.

You will note that the real signal failures—the false proceeds and the potential false proceeds—columns 3 and 4—are very few in number and, moreover, have been decreasing since 1963.

You will also note that the Commission investigates a high percentage of these occurrences as shown in column 5. It is my understanding the Commission investigates all of the false proceeds and potential false proceeds for which the cause therefor is not clearly shown in the railroads' reports. It is also my understanding the Commission makes no attempt to investigate false restrictive failures.

Chairman Bush of the ICC testified before this subcommittee that he was unable to recommend the adoption of H.R. 5196. I am positive that if the ICC had any reason to suspect that there were any railroad accidents resulting from fatigue of signal employees, it would have supported the proposed legislation.

Under H.R. 5196, employees in the following classification would be covered by the hours of service law:

(The classifications follow:)

CLASSIFICATIONS OF RAILROAD EMPLOYEES COVERED BY THE HOURS OF SERVICE LAW

(a) Signal Shop Foreman—Supervises the work of signal employes in a signal shop.

(b) Signal Foreman—Supervises the work of signal employes not located in a signal shop.

(c) Signal Inspector—Principal duties are inspecting and testing signal apparatus, appliances and circuits and appurtenances.

(d) Assistant Signal Foreman—Assists a Signal Foreman.

(e) Assistant Signal Shop Foreman—Assists a Signal Shop Foreman.
(f) General Relay Repairman—Works with and supervises the work of relay repairmen and signalmen in a signal shop.
(g) General CTC Maintainer—Maintains CTC control machines, adjust and repairs CTC apparatus.
(h) Retarder Yard Maintainer—Maintains and repairs radar or computer controls in retarder yard.
(i) CTC Carrier Maintainer—Performs CTC signal work on an assigned district.
(j) Relay Repairman—Repairs and adjusts relays, signal apparatus and other signal applicances in a signal shop.
(k) Leading Signalman—Supervises and works with signalmen.
(l) CTC Maintainer—Maintains CTC signal apparatus on an assigned district.
(m) Interlocking Repairman—Repairs and maintains an interlocking plant on an assigned district.
(n) Signalman—Repairs and charges storage batteries; constructs, repairs, assembles and wire signal apparatus.
(o) Signal Maintainer—Performs signal work on an assigned district.
(p) Assistant Signalman—An employe in training for other signal positions.
(q) Signal Helpers Testman —Assist signalmen.
These classifications are not found on all railroads. For example, on the Union Pacific we do not have Signal Helpers.

The foregoing employees are classified under Interstate Commerce Commission reporting regulations in reporting divisions 44, 45, 46, 48, and 49. The number of employees in each such division for the year 1965, based on the midmonth count, are shown in the following table taken from ICC Statement No. M–300 for the year 1965:
(The table referred to follows:)

NUMBER OF RAILROAD EMPLOYEES IN ICC REPORTING DIVISIONS 44–49 FOR THE YEAR 1965

Division		*Number*
44	General and assistant general foremen, and inspectors (signal, telegraph, and electrical transmission)	1,507
45	Gang foremen (signal and telegraph skilled trades labor)	1,482
46	Signalmen and signal maintainers	6,994
48	Assistant signalmen and assistant signal maintainers	1,180
49	Signalmen and signal maintainer helpers	722
	Total	11,885

Reporting divisions Nos. 44 and 45 include some employees other than signal employees, but I estimate that the proposed legislation will affect approximately 11,000 employees.

While I would be the first to consider signal work an important factor in safety of rail operations, I know from actual experience that signal employees do not regularly work long and arduous hours. Generally, almost all signal employees in the United States work on regular assignments of 8 hours per day, 40 hours per week and 174 hours per month. For hours in excess of 8 per day and 40 per week, they receive overtime pay at time and one-half.

There are only a few exceptions to the foregoing. Signal foremen on the Reading Railroad, 8 men, signal inspectors on the Southern Pacific, 26 men, and signal foremen, signal inspectors and assistant signal foremen on the Union Pacific, 37 men, work 8 hours per day but they may work up to 48 hours per week and 210 hours per month. On

the Union Pacific, however, even these supervisory employees generally work only 40 hours per week.

No showing can be made that these employees work longer hours with any regularity. It is true, however, that in emergency situations signal employees are called back or held on duty to work additional hours, just as maintenance and repair employees in many public utility industries.

But these are exceptional situations and occur only in the event of an impairment of the signal system because of major disasters, storms, snow, sleet, floods, and tornadoes; also in the case of grade crossing accidents and derailments. In these situations, it is absolutely vital to safety of train operations that the signal system be restored as soon as possible.

There are also some instances of overtime in the case of rail replacement and new installation. But railroad management is keenly aware of the additional costs imposed by overtime work and every effort is made to keep such overtime at a minimum.

If the working time of signal employees were limited by law, the restoration of service and safety devices would be seriously delayed. The responsibility would of necessity often have to be delegated to persons who are unfamiliar with the territory and the work to be performed. Restrictions of this nature would simply mean that the railroad operations would be severely delayed in order to give the signal employees the required time off.

Each signal foreman or maintainer and his helper cover specific sections of the railroad. The length of the territory varies depending on what must be maintained. A section that contains CTC, interlocking plants or multiple main tracks requires more maintenance; therefore, the length of the section is shorter.

On the Union Pacific the average section covers about 25 miles and under normal conditions this can be maintained in an assigned 8-hour day. When a signal interruption or other condition arises that requires the services of these men, it is virtually impossible to know in advance the number of hours that will be required to make repairs. It would likewise be impossible to estimate the additional number of men that would be required for relief purposes.

The Chicago, Burlington & Quincy Railroad has furnished the following actual examples showing the effect of the enactment of H.R. 5196. Similar examples could be found on any railroad. While these occurrences are rare, they nevertheless occur and this bill would result in delays to train operations.

(Examples referred to follow:)

Example A.—Signal Gang started work at 7 a.m. regular assigned time, and were notified at 1 p.m. of a derailment and directed to go to this location to make repairs to restore Traffic Control and Cab Signal System. The gang worked until 12:30 a.m. the following day, which exceeded 16 hours and they did not get 8 consecutive hours off duty before regular starting time of 7 a.m. the next day. No other forces were available to move to this location in time to release the gang before expiration of either 12 or 16 hours. It would have been necessary to very seriously delay both passenger and freight trains until the signal gang had received 8 consecutive hours off duty and then returned and completed

restoration work. This was in three main track territory with very heavy passenger and freight train traffic.

Example B.—Signal Gang called 6 a.m. one hour before regular assigned starting time to remove signal apparatus ahead of rising flood waters. These men worked until 12 midnight which was in excess of 12 hours. If it had been necessary to release these men at the end of 12 hours there would have been many thousands of dollars of signal apparatus lost or seriously damaged due to flood waters since there was no other forces available to do this work ahead of rising flood waters. These men did not receive 8 consecutive hours off duty in the 24-hour period.

Example C.—Signal Gang reported at 7 a.m. regular assigned time and during their tour were instructed to assist in locating and repairing trouble in cable which contained control wires for Traffic Control System. This trouble was found to be due to cable having been shot by outside parties. Work was completed at 10:30 p.m. These men worked in excess of 12 hours. It it had been necessary to release these men at the end of 12 hours both passenger and freight trains would have been seriously delayed while the men were getting 8 consecutive hours off duty, returning to and completing the work since there were no other forces available to use.

Example D.—Signal Maintainer worked regular assigned tour of duty of 8 hours between 8:00 a.m. and 5:00 p.m. then called to repair signal apparatus at 11:00 p.m., repairs completed at 1:30 a.m. following day. He would not have received 8 consecutive hours of rest in 24-hour period before his regular assigned starting time of 8:00 a.m.

In an attempt to determine the need for and the effects of H.R. 5196, 15 large railroads were canvassed. It was felt that these railroads, while limited in number, would present a representative picture of the industry. The 15 railroads, employing more than half of all the signal employees in the United States are:

Railroad	*Number of signal employees*
Atchison, Topeka & Santa Fe	509
Baltimore & Ohio	449
Chesapeake & Ohio	321
Chicago & North Western	306
Chicago, Burlington & Quincy	150
Chicago, Rock Island & Pacific	175
Erie-Lackawanna	382
Gulf, Mobile & Ohio	54
Missouri Pacific	302
Norfolk & Western	497
Northern Pacific	223
Pennsylvania	1,481
Reading	135
Southern Pacific	525
Union Pacific	476
Total	5,985

The 15 railroads which I have named were asked to review their signal operations in 1965 and advise as to the frequency of the overtime situations. We inquired as to the number of times signal employees worked more than 16 and 12 continuous hours during 1965. The following is a tabulation of the replies:

(Table referred to follows:)

Railroad signal employees working more than 16 and 12 continuous hours during 1965

Railroad	Number of signal employees	Instances of 16 continuous hours on duty	Average number of instances of 16 continuous hours per employee during 1965
Atchison, Topeka & Santa Fe	509	[1] 375	.74
Baltimore & Ohio	449	275	.61
Chesapeake & Ohio	321	300	.93
Chicago & North Western	306	153	.50
Chicago, Burlington & Quincy	150	56	.37
Chicago, Rock Island & Pacific	175	62	.35
Erie-Lackawanna	382	4	.01
Gulf, Mobile & Ohio	54	2	.04
Missouri Pacific	302	169	.56
Norfolk & Western	497	[2]	
Northern Pacific	223	18	.08
Pennsylvania	1,481	[1] 4,000	2.70
Reading	135	[1] 150	1.11
Southern Pacific	525	139	.26
Union Pacific	476	53	.14
Total	5,985	5,756	.96

Railroad	Number of signal employees	Instances where more than 12 continuous hours on duty	Average number of instances of 12 continuous hours per employee during 1965
Atchison, Topeka & Santa Fe	509	1,468	2.88
Baltimore & Ohio	449	481	1.07
Chesapeake & Ohio	321	500	1.56
Chicago & North Western	306	523	1.71
Chicago, Burlington & Quincy	150	137	.91
Chicago, Rock Island & Pacific	175	115	.66
Erie-Lackawanna	382	47	.12
Gulf, Mobile & Ohio	54	156	2.89
Missouri Pacific	302	390	1.29
Norfolk & Western	497	[3]	
Northern Pacific	223	213	.96
Pennsylvania	1,481	11,500	7.77
Reading	135	300	2.22
Southern Pacific	525	1,325	2.52
Union Pacific	476	216	.45
Total	5,985	17,371	2.90

[1] Approximately.
[2] Rarely.
[3] Only in emergencies.

Thus, during 1965, on 15 of our largest railroads employing almost 6,000 signal employees, there was less than 1 instance per employee where 16 continuous hours were worked. The number of times employees worked 12 hours occurred less than 3 time per employee.

Plainly, H.R. 5196 cannot be justified on the basis of these relatively few instances of overtime work.

The 40-hour week under which substantially all of the signal employees work is the result of a collective bargaining agreement between the Nation's railroads and the Brotherhood of Railroad Signalmen. We believe that the hours of work of signal employees should continue to be determined by collective bargaining rather than through Federal legislation.

So far as I know, the Brotherhood of Railroad Signalmen has never filed a demand or notice under the provisions of the Railway Labor Act for this type of hours of work limitation. This brotherhood is one of the oldest, most vigorous labor organizations in the railroad fiield. Over the years it has represented the signal employees in a capable and aggressive manner.

If there were any justification for the limitations sought in this legislation, I am certain such a demand would have been filed before now.

I have reviewed the Signalmen's Journal for the past 2 years. This is a monthly publication published by the Brotherhood of Railroad Signalmen for its members. In none of those issues has there been an article advocating this type of legislation. I think this indicates the lack of interest in the rank and file for this legislation.

The fact is signal employees are not united in seeking the limitations which would be imposed under H.R. 5196. In President Clark's report to the 1961 Convention of the Brotherhood of Railroad Signalmen, the following appears at page 50:

> Our records show that at several past Conventions the Delegates have urged Grand Lodge to endeavor to have the Hours of Service Law amended and made applicable to the employees we represent.
>
> As reported to previous Conventions, we have experienced much difficulty in this endeavor as it was first necessary to get the organizations covered by the present law to agree on the necessary changes. That was finally accomplished, and a Bill was introduced in the last Congress but was not enacted.
>
> Because of the attitude of some of our people, and much other business necessary to be handled by the cooperating organizations, this proposed legislation has not been reintroduced in Congress at the close of this report.

Moreover, in my discussions with our own signal employees, many of them tell me they are not in favor of these maximum hours limitations.

It was in this same report in which Mr. Clark stated that this legislation would be beneficial to the brotherhood in that it would bring in additional members. This statement is found at pages 50–51 of the report to the 1961 convention:

> We likewise feel that all employees should have a minimum of eight hours rest between tours of duty, and we further feel that this is not only necessary for the protection of the health of the employees but that it would be very beneficial to our craft in bringing new employees into our department.
>
> Certainly answering calls and performing overtime service has enabled many of the carriers to actually reduce forces.

This statement, which was repeated in President Clark's report to the 1964 convention, must be compared with his assertions to this subcommittee that the "sole purpose" of the proposed legislation was the "promotion of safe working conditions."

President Clark, in his statement speaks of safety problems. He seems to be under the impression that merely to make the Hours of Service Act applicable to signal employees will eliminate these problems. In the same vein, Mr. Clark points out that signal employees

use track motorcars and infers that track motorcar accidents will be eliminated with the passage of this legislation.

There is no question but that track motorcar accidents are serious matters and railroad management is constantly seeking ways to reduce and eliminate these accidents. The two ICC accident reports cited by Mr. Clark concerning two collisions between a track motorcar and a train demonstrate that the imposition of hours-of-work limitation will not necessarily reduce accidents.

In Accident Report No. 3996, the report states that the engineer testified that the track supervisor on the motorcar did not look back toward the train before the accident occurred. The report also points out that the accident could have been avoided if signal indications had been observed by those on the motorcar:

> It is evident the track supervisor relied on his copy of the line-up for protection against No. 124. It is probable that had he looked at either signal 111 or 101, or to the rear, before he boarded the track motorcar at the tool house, he would have observed these signals displaying a restrictive aspect, or observed the approaching eastbound train, and could have removed the track motor car from the main track in sufficient time to clear No. 124 and thereby avoid the accident.

Neither of these ICC reports contain any suggestion that the accidents could have been avoided by making the Hours of Service Act applicable to signal employees. It is interesting to note that each accident occurred only a short while after the involved employees came on duty. They were not the result of long hours of work.

The American railroads are taking many steps to eliminate all types of accidents and especially those involving track motorcars. On the Union Pacific, for example, 87 percent of the track motorcars have been replaced by motor vehicles.

This was made possible by the construction of service roads wherever possible. Existing roads are being improved and on major projects such as relocations or line changes, new roads are being constructed. There are some territories where it is impossible to construct service roads adjacent or near to the tracks, thus track motorcars will remain in service in these few areas.

In conclusion, for the reasons I have outlined, we believe that the proposed extension of the hours limitations of the Hours of Service Act to signal employees is wholly unjustified.

Thank you for allowing me to testify before your subcommittee.

Mr. DINGELL. The committee will stand adjourned until the call of the Chair.

(Whereupon, at 12:05 p.m., the subcommittee was adjourned, subject to call.)

AMEND HOURS OF SERVICE ACT OF 1907

FRIDAY, SEPTEMBER 16, 1966

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

The subcommittee met at 10 a.m., pursuant to recess, in room 2218, Rayburn House Office Building, Hon. J. J. Pickle presiding.

Mr. PICKLE. The Subcommittee on Transportation and Aeronautics will now come to order.

The Chair is glad that the Congressman from New Hampshire could be here with us this morning. We appreciate your attendance.

In the beginning let me say that this session will conclude the hearings on the hours of service bill as per the request of the chairman of the committee.

We have two gentlemen to appear this morning as witnesses, Mr. B. R. Gould, vice president of the Union Railroad Co. of Pittsburgh, Pa., and Mr. William J. Ahearne of the Boston & Maine Railroad.

I understand that Mr. Philip Welsh of the Association of American Railroads is here and he will want to submit for the record the statement of four other persons.

Is Mr. Welsh here?

Mr. WELSH. Yes, sir.

Mr. PICKLE. You will be recognized later for that purpose.

Mr. WELSH. Thank you, Mr. Chairman.

Mr. PICKLE. In accordance with the persons who have been scheduled for hearing we will proceed then in the order in which they appear and which they have been scheduled.

Is Mr. B. R. Gould here?

Mr. GOULD. Yes, sir.

Mr. PICKLE. Mr. Gould, if you will take the chair then you may proceed if you are ready. We are very glad to have you here this morning. We are sorry these hearings have been so stretched out but there just seems to have been no other way to accomplish the purpose.

You may proceed.

Mr. GOULD. Thank you, sir.

STATEMENT OF B. R. GOULD, VICE PRESIDENT, UNION RAILROAD CO.

Mr. GOULD. My name is B. Ralph Gould and my business address is 664 Linden Avenue, East Pittsburgh, Pa.

I am vice president and general manager of the Union Railroad and have held this position since 1956. I am also vice president of the

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McKeesport Connecting Railroad and the Johnstown & Stony Creek Railroad. My testimony in the present hearing, however, will deal entirely with the Union Railroad.

My duties on the Union Railroad consist of general supervision of the operation and maintenance of the railroad and related activities.

I have had 40 years of railroad experience—23 on the Chesapeake & Ohio and 17 on the Union Railroad. On the C. & O. Railroad after a short experience in the maintenance of way department, I moved to the transportation department and served as transportation inspector, assistant terminal trainmaster, terminal trainmaster, assistant superintendent, and superintendent.

On the Union Railroad, after a few months as assistant to the president, I became general manager and in 1956 was appointed vice president and general manager.

In my experience on the C. & O. and on the Union Railroad, I have either been closely associated with or directly responsible for large terminal operations.

The Union Railroad is a class I switching and terminal railroad. It is a wholly owned subsidiary of the United States Steel Corp. and serves six large plants of this company.

In addition, the railroad serves a large General Motors Plant, a can plant, a slag processing plant, and numerous small industries.

On our railroad we handle about 2,200 carloads of freight per day. Of these about 1,700 use standard railroad equipment. The remaining 500 cars are loaded in special industry-owned equipment.

In recent years the traffic of the railroad amounted to about 45 million tons of freight which was handled in about 800,000 cars.

The Union Railroad is only 20 miles in length but in that distance we serve the large industrial plants listed and operate over a total of about 470 miles of tracks.

As a common carrier railroad, we are subject to the same laws and regulations which apply to the large trunkline roads. This includes the Railway Labor Act, the Interstate Commerce Act, the hours-of-service law and all of the other related acts.

The Union Railroad is a member of the Association of American Railroads and the American Short Line Railroad Association. Statements have been presented to your committee by representatives of both of these organizations.

We are in accord with these statements, but because of the importance of this proposed legislation and its effect on the Union Railroad, we want to present testimony regarding our own operations and the effect of the proposed changes on us.

If it is all right with you, rather than read this now I would like to just pick out the important parts and give it to you.

Mr. PICKLE. Mr. Gould, that would be quite all right. Would you like for the entire statement to be inserted?

Mr. GOULD. I would appreciate it, yes; and I will cover all the points in here.

Mr. PICKLE. That will be done and it will appear then in its entirety.

(Mr. Gould's full statement follows:)

STATEMENT OF B. R. GOULD, VICE PRESIDENT, UNION RAILROAD CO.

My name is B. Ralph Gould, and my business address is 664 Linden Avenue, East Pittsburgh, Pa. 15112.

I am Vice President and General Manager of the Union Railroad and have held this position since 1956. I am also Vice President of the McKeesport Connecting Railroad and the Johnstown & Stony Creek Railroad. My testimony in the present hearing, however, will deal entirely with the Union Railroad. My duties on the Union Railroad consist of general supervision of the operation and maintenance of the railroad and related activities. I have had 40 years of railroad experience—23 on the Chesapeake & Ohio and 17 on the Union Railroad. On the C&O Railroad after a short experience in the Maintenance of Way Department, I moved to the Transportation Department and served as Transportation Inspector, Assistant Terminal Trainmaster, Terminal Trainmaster, Assistant Superintendent, and Superintendent. On the Union Railroad, after a few months as Assistant to the President, I became General Manager, and in 1956 was appointed Vice President and General Manager. In my experience on the C&O and on the Union Railroad, I have either been closely associated with or directly responsible for large terminal operations.

The Union Railroad is a Class I switching and terminal railroad. It is a wholly owned subsidiary of the United States Steel Corporation and serves six large plants of this company. In addition, the railroad serves a large General Motors plant, a can plant, a slag processing plant and numerous small industries. On our railroad we handle about 2,200 carloads of freight per day. Of these, about 1,700 use standard railroad equipment. The remaining 500 cars are loaded in special industry owned equipment. In recent years the traffic of the railroad has amounted to about 45,000,000 tons of freight per year, which was handled in about 800,000 cars.

The Union Railroad is only 20 miles in length, but in that distance we serve the large industrial plants listed and operate over a total of about 470 miles of tracks. As a common carrier railroad, we are subject to the same laws and regulations which apply to the large trunk line roads. This includes the Railway Labor Act, the Interstate Commerce Act, and all of the other related acts.

The Union Railroad is a member of the Association of American Railroads and the American Short Line Railroad Association. Statements have been presented to your committee by representatives of both of these organizations. We are in accord with these statements, but because of the importance of this proposed legislation and its effect on the Union Railroad, we want to present testimony regarding our own operations and the effect of the proposed changes on us.

In statements made to congressional committees it has been said that long hours on duty are heavy contributing factors in railroad accidents. There have been inferences that the proposed lower limits of hours of service for operating employees will result in a reduction in accidents and personal injuries to railroad employes. In the statements I have read there has been no evidence to support these statements or inferences. Chairman Bush of the Interstate Commerce Commission has stated "Although there has been a recent upward trend in the number of train accidents, *no evidence has been found indicating that the length of time an employe was on duty is a significant factor in this adverse trend.*" From our experience on the Union Railroad, I can assure you that there is *absolutely no basis for concluding* that length of time on duty has any bearing on employes being injured.

On the Union Railroad the work performed by our switching crews is classified as yard work. The crew members normally are assigned to regular eight hour shifts, but they are subject to working overtime and when needed men do work a second eight hour tour of duty in a twenty-four hour period. The diesel locomotives used on the Union Railroad are similar to those used on the trunk line railroads in their yard and switching service. Our engineers and firemen have the same duties that the men on the trunk lines have. While we were not a party to the national case involving the firemen issue, we do have an agreement with the union representing the enginemen on our railroad which permits us to remove firemen by attrition. Currently, about 30% of our daily average 196 crews are working without firemen.

From our experience on the Union Railroad, I can say positively that there is no evidence that the proposed reduction in the permissible hours of service will result in any greater employe safety.—In the five year period, 1961 through

1965, and in the first seven months of 1966, 316,602 yard crews were worked on the Union Railroad. In this period there were 207 personal injuries to the crew members on these crews. These 316,602 crews included 5,274 employes who worked sixteen hours in a twenty-four hour period and numerous others who worked various amounts of overtime beyond their eight hour assignment. Of the 5,274 employes who worked sixteen hours in a twenty-four hour period, *there was not one single case where one of these employes was injured when working beyond eight hours.*

In order to analyze whether long hours on duty had any bearing on employes being injured, we checked the exact time of injury of each of the 207 employes injured. This analysis showed that 137 of them or 67% were injured in the first four hours that the employes were on duty. Of the entire group, there was only one injury which occurred after the employe was on duty more than eight hours. This happened forty minutes into the ninth hour. There was not a single case where one of the 5,274 employes working a second eight hour shift in a twenty-four hour period was injured when working beyond the twelve hour limit which would be imposed by this legislation.

Our experience about employe injuries indicates that they result from many causes. There is absolutely nothing in our experience, however, that indicates that the hours on duty in any way contributed to these personal injuries. Based on our analysis of the operations on our railroad for the past five years and seven months, the proposed reduced limitations of hours of service for operating employes would not have prevented a single injury. Our experience is exactly the same as found by the Interstate Commerce Commission and reported by Chairman Bush — "— no evidence has been found indicating that the length of time an employe was on duty is a significant factor".

An actual survey of the work of the crews on the Union Railroad shows that there is no basis or justification for limiting an engineer to nine hours on duty.— In some of the statements presented to this committee, witnesses have talked about fatigue and its possible effect on an engineer, particularly when the engineer is working without a fireman and is required to operate the engine for his entire tour of duty. There was no proof offered—only the inference that excessive fatigue might contribute to accidents.

In order to study and in some way measure the fatigue factor, we made an analysis of the work of the engineers on typical crews on the Union Railroad. The crews studied are representative of about 90 percent of the 196 crews worked daily on the Union Railroad. Let me repeat—I am talking about yard crews performing ordinary yard switching, industrial switching and transfer work. There are thousands of railroad crews doing similar work all over the United States every day.

In switching operations there is a large amount of time when the engine is standing and the engineer is performing no work. In yard and switching service, the crew gets a twenty minute relief for lunch during which period the engineer can leave the engine if he so desires. There are numerous times during an eight hour shift when the conductor is getting orders from the supervisor or checking with someone and numerous other occasions when the engineer has nothing to do but sit and wait. In order to evaluate the work of engineers we recently assigned time study men to check and analyze the work of typical crews on our railroad. This survey showed that out of an ordinary eight hour tour of duty the engineer is working only 57% of the time, or a total of four hours and thirty-four minutes. This working time includes both the time the engine is moving and the time that the engine is standing and the engineer has to be on the alert for signals. I am sure that if similar surveys were made on other railroads, that they would disclose that the yard engineers, generally, have a large amount of idle time.

In terminal and switching operations where the actual work of the engineer amounts to only four hours and thirty-four minutes out of eight hours on duty, there is no justification whatsoever for placing a maximum legal limit of nine hours on duty regardless of whether or not there is a fireman on the engine. Based on the survey on our railroad, an engineer who was on duty sixteen hours would only be working nine hours and eight minutes. In those cases where the engineer is on duty a continuous sixteen hours, there are rules in our labor agreements which require extra time off for additional meal periods so that the engineer would actually be working less than nine hours out of the sixteen.

From the analysis of personal injuries on our railroad based on our actual experience and from our study of the actual time that engineers are working

while on duty, there is no basis whatsoever for either the nine or the twelve hour limitation which is proposed in the amended Hours of Service Act.

The proposed reduction in the limits in the Hours of Service Law could seriously delay the movement of loaded and empty freight cars and could result in many wasted freight car days.—H.R. 5196—8476, et al. would, among other things, reduce the maximum permissible number of hours of continuous time on duty from sixteen to twelve and require that an employe must have had at least eight consecutive hours off duty during the previous twenty-four hour period before he may continue on duty or go on duty. In statements before this committee, there has been some reference to possible changes in the legislation which would result in limiting the aggregate time on duty in a twenty-four hour period to twelve hours. I am not informed as to the status of this suggested change in the bill. In considering the effect of the reduced limits under the Hours of Service Act, we have tried to calculate how we would be limited in working our men. There are many factors involved, including technical labor agreement restrictions, all of which would have a bearing on the final result. We have analyzed our experiences in the past five years and seven months and we can tell definitely from the past experiences in this period that these lower limits on the Hours of Service Law would have resulted in additional manpower shortages on many occasions. This would have reduced our ability to give prompt movement to loaded and empty freight cars.

Let me illustrate what I mean. Currently, on our railroad we are working an average of 196 crews per day. This varies, however, from around 170 on Saturdays and Sundays to as high as 205 on peak days of the week. We have to have enough men and locomotives to take care of the peak business on the peak days or somebody's cars are going to be delayed. In order to provide manpower for these peak days, we have among our operating employes what we call extra men. Most of our employes have regular assigned work weeks. Such regular switchmen have a five day work week. Our enginemen have a seven day work week. To take care of additional crews, however, and to provide replacements for men who have to lay off for sickness, personal business, vacations, etc., we have what we call extra lists. The men on these extra lists are called extra men. They hold themselves available and work as needed. Generally, they work about the same number of days a week as the regular men. For example, on the Union Railroad with an average of 196 crews working we have about 975 men who are on regular assigned jobs and about 300 men who are assigned to the extra lists. Even when men are available union agreements limit the number of men who can be placed on the extra lists. On any given day there may be an unusual demand for extra men, and if they are not available from the extra lists, a problem arises as to where we will get these men to fill the vacancies or to work the additional crews needed to move the loaded and empty freight cars.

Frequently, it is necessary, in order to take care of the manpower needs, that extra men work a second eight hour tour of duty in a twenty-four hour period. This may be two consecutive eight hour shifts, or it may be eight hours worked, eight hours off duty and eight hours on duty a second time in a twenty-four hour period. It has been necessary in the past to work a considerable number of men the second eight hours in a twenty-four hour period in order to take care of our business. In the five years and seven months period that we have studied, there were 1,039 days or 51% of the time when we had one or more yard crews working with one member of the crew working a second shift, or sixteen hours in a twenty-four hour period. During this period, we had a total of 5,274 crews which included on employe who was working two shifts. If the Hours of Service Law is amended so that it prohibits or limits working these men as we have in the past, it will increase our problems in getting crews to move the business on the same days that the cars are available to be moved.

In analyzing our manpower situation for the past five years and seven months I found 35 days when we were short more than 25 crew men and some employes had to work sixteen hours in order to man the crews. In the first seven months of 1966 we have had 196 men on our crews who worked sixteen consecutive hours to give us the men we needed at the time we needed them to move the business.

Each time our railroad or any railroad fails to work the switching crews it needs at the time they are needed, somebody's cars are going to be delayed. While I have made an extensive analysis of our manpower situation for the past five years and seven months, I have not been able to come up with the facts

needed to say definitely and exactly what the proposed legislation would have done to the Union Railroad. I know that during this period we had 5,274 crew members who worked sixteen hours in a twenty-four hour period. With the added restrictions proposed in this legislation there would have been a considerable number of crews that could not have been worked when needed.

It is my considered judgment that had the reduced work hour limits been in effect on the Union Railroad alone thousands of freight cars would have been delayed and tens of thousands of freight car days would have been lost.

During my discussion of manpower shortages you may have been wondering—why not hire more men? It is not that simple.

I would like to describe for you some of the periods of manpower shortage that we have had in recent years.

1. In periods when business is increasing, there is always a problem and at least a delay in hiring new men to take care of the needs of the increased business. Currently, we are in a period of manpower shortage around Pittsburgh. On one day in June, 1966, we were short 67 men for our yard crews. We continue to hire men, but this takes time and may extend over several months before we have completely filled out our forces. The time everyone recognizes as a time of manpower shortage is during the war periods. A little later I will tell you about our experience during World War II.

2. Our railroad employes have seniority which continues from the time they are employed. During periods of slack business, some men are furloughed and have to be recalled when business starts building up. On our railroad we have had frequent periods when there was a sudden, rapid increase in business following a low level of activity. This made it necessary to recall a large number of employes and get them back on the job as quickly as possible. Under the labor agreement rules with our labor unions, these men ordinarily have 30 days to return to work from a furlough. It is no consolation to know that we have men who will come back to work in a few days or a couple of weeks when we have more business to handle than we can handle with the available manpower. During such periods, we have customarily worked men sixteen hours in twenty-four hour periods in order to take car of the business. These same agreement rules will prevail in the future and we will be faced with the same problems in getting men on the job when they are needed.

3. There are numerous days during every year when, for various reasons, we are extremely short of men. These include days with bad weather such as snow storms, certain holidays and in our part of the country, the first day of hunting season is always a day when a lot of men lay off. Our customers have to have their inbound raw materials on schedule and they give us loaded freight cars which they hope we will deliver to their customers on schedule. It is our job to meet these periods of manpower shortages and still provide service. The plants that we serve generally work seven days a week, twenty-four hours a day, and on the railroad we are required to do the same. Any further restrictions in the hours of service limits will make it more difficult to meet the requirements and to keep cars moving.

War years present special problems for everyone, including those of us on the railroads. The present Hours of Service Law was in effect during World War II and earlier. We managed to move the business then and comply with the law. We do not have many records from our World War II operation in the early 40's, but I have talked with some of our people who were on the job during that period. I am advised that for an extended period of almost two years in 1944 and 1945 that approximately 30 crews per day or almost 10% of the switching crews worked were manned by men who were working sixteen hours in a twenty-four hour period. It was a regular thing for yardmen to perform such work in order to take care of the war needs. Our records do show that during the years of 1944 and 1945 the overtime hours worked by yardmen and enginemen more than tripled what they had been in the previous years. For example, in 1942 our yardmen and enginemen worked 62,457 hours, in 1943 they worked 174,938 hours, in 1944 613,225 hours, and in 1945 531,461 hours overtime work. In percentages, this jumped from 1.84% of the total work time in 1942 to 17.69% of the total work hours of this group in 1944.

It is my considered judgment, based on the information which is available, that if the proposed revised Hours of Service Law had been in effect during World War II, that the Union Railroad would have bogged down and would have been forced to limit the production of steel and other products in the plants on its line.

The Congress of the United States has been concerned this year about the shortage of freight cars on the railroads in this country. You have passed legislation setting up a new law that deals with the question of freight car controls. The proposed revisions to the Hours of Service Law would limit the ability of our railroad and other railroads to man crews to move cars and would undoubtedly create additional car delays. This in turn would result in greater car shortages. As I stated in the beginning, there is no basis for amending the Hours of Service Law from a safety standpoint and nothing would be gained safety-wise by putting further restrictions on the hours of service.

From our experience on the Union Railroad, there is absolutely no justification for reducing the hours of service limit from sixteen to twelve hours; there is no justification for reducing the hours of service for an engineer working without a fireman from sixteen to nine hours, and I urge that you reject these proposed amendments.

Mr. PICKLE. It would be fine, indeed, if you would just summarize and make whatever additional remarks you want to make.

Mr. GOULD. I have three points I want to make to the committee. The first is about safety. In statements that have been made to the committee it has been said that long hours on duty are heavy contributing factors in railroad accidents.

Mr. PICKLE. In making reference to these three points, if you can advise us what page you might make reference to in your testimony we could follow you a little more closely.

Mr. GOULD. I would be glad to do that.

There have been inferences that by reducing the hours of service limit from 16 to 12 that this would reduce personal injuries to the railroad employees and would improve safety to the employees and the general public.

In the statements that I have read, and I have not read all of them, but the ones that I did read I found no evidence to support these statements. They are inferences without support.

Chairman Bush of the Interstate Commerce Commission, when he testified before your committee, said, and I quote:

Although there has been a recent upward trend in the number of train accidents, no evidence has been found indicating that the length of time an employee was on duty is a significant factor in this adverse trend.

Well, I agree completely with the chairman and our experience on the Union Railroad has showed exactly the same thing.

Mr. PICKLE. Let me interrupt you again, and I am not going to do this all morning.

I want to inquire of the staff, as I recall the testimony submitted earlier in these hearings we asked the representative of the brotherhoods if they had any facts which would substantiate whether accidents had been caused by fatigue.

I am wondering if they have submitted that to the staff. Do you know?

Dr. STEVENSON. I do not know, sir.

Mr. PICKLE. If there are representatives of the brotherhood here this morning I want to point that out again. You don't have to do it now but be sure the staff has that information later if you have any figures on that point.

Thank you.

Now go ahead, Mr. Gould.

Mr. GOULD. The Union Railroad is a terminal and switching railroad, they sometimes brag they are the biggest one in the world. I

think probably that is true. While we only operate over 20 miles we have about 200 crews working in that area. Actually, the average recently has been 196 crews a day. Now, this is the yard switching, industrial switching, serving these large plants and what is commonly referred to in the railroad language as transfer runs short trains. Instead of running 100 miles like the road haul carriers do we may run 10 miles, 5 miles, 20 miles, but the work is the same work except we just don't run as far.

At the time I prepared this statement about 30 percent of our 196 crews a day were working without firemen. We are not a party to the national case which took the firemen off but we signed a voluntary agreement with the union representing our employees to take off our firemen by attrition.

Now from our experience on the Union Railroad I can say positively that there is no evidence that the proposed reduction in the permissible hours of service will result in any greater employee safety.

Now I am reading on page 4. These are the figures that back up this statement that I have given you.

In the 5-year period 1961 through 1965, and in the first 7 months of 1966, 316,602 yard crews were worked on the Union Railroad. In this period there were 207 personal injuries to the crewmembers on these crews. These 316,602 crews included 5,274 employees who worked 16 hours in a 24-hour period and numerous others who worked amounts of overtime beyond their 8-hour assignment.

Of the 5,274 employees who worked 16 hours in a 24-hour period, there was not one single case where one of these employees was injured when working beyond 8 hours.

Mr. FRIEDEL. Mr. Gould, when you say that there were 5,274 employees who worked 16 hours, are you talking now about the full 16 hours?

Do you mean approximately 16 hours or the full 16 hours?

Mr. GOULD. Well, what I mean there actually in order to comply with the law they worked 15 hours and 55 minutes.

Mr. PICKLE. How much larger would the figure be if they had worked, say 15 hours?

Mr. GOULD. This would be substantially the same.

Mr. PICKLE. All right. Go ahead.

Mr. GOULD. Of these employees many of them worked straight through a straight 16 hours, some of them had rest in between but our records were not such that I could separate this. Later on I do talk about some of the more recent ones where I was able to dig out figures that show exactly what we have done recently.

In order to analyze whether long hours on duty had any bearing on employees being injured, we checked the exact time of injury of each of the 207 employees injured. This analysis showed that 137 of them or 67 percent were injured in the first 4 hours on duty. Of the entire group there was only one injury which occurred after an employee was on duty more than 8 hours.

Now I am talking here about the switchmen and the enginemen on these crews. There was only one. This particular man was injured 40 minutes into the 9th hour, 8 hours and 40 minutes. But there was

not a single case where one of these 5,274 employees working the second 8 hours or the 16 hours was injured.

Consequently, whether he worked 12 or 16 hours it would have made no difference, he just was not injured.

Mr. PICKLE. You are saying they are in better shape after they work 8 hours than when they came on duty?

Mr. GOULD. No, I didn't say that, Mr. Chairman. No, I will have to say we have a pretty good group of employees and we don't have a great deal of trouble that way.

Mr. PICKLE. I see.

Mr. GOULD. Our experience about employee injuries shows that they result from many causes. There is nothing in here, however, that indicates that the hours on duty is involved.

I might just say here that a great majority of people who get hurt around the railroad are hurt in little simple things like slips, trips, and falls. It is surprising the number of people who get hurt just walking, it is surprising the number of people who get hurt when they step from a standing car to the ground, and this has no relation to hours of service.

Now my second point that I want to make with you is the matter of fatigue that involves the engineer.

The proposed legislation would require that an engineer working without a fireman would be limited to 9 hours on duty.

Now I am not in a position to talk about the trunkline railroads, but I do want to tell you about terminal and switching operations.

As I said, we operate the same kind of engines, the same kind of cars as the trunklines. Our engineers do the same as the trunkline people do.

Well, I just could not understand the statements that were made about fatigue. In some of the earlier testimony there was some talk about the engineer being fatigued. Well, in order to analyze our crews on our railroad I had some of our people make time studies of the work of the engineers, actually get out and ride with them for the full 8 hours to see what they did.

We covered enough crews—we could not cover all 196 but they sampled crews and when they got through they had covered crews that were typical of 90 percent of our operation.

Now, if you will turn to page 6, when we made this survey, we found out of an ordinary 8-hour tour of duty the engineer is working only 57 percent of the time, or a total of 4 hours 34 minutes.

Now that includes both the time the engine is moving and the time that the engine is standing and the engineer is required to be on the lookout looking for a signal from somebody or things of that kind.

You understand in switching operations the men on the ground have a lot of work to do—couple air hoses, make brake tests, the conductor has to go get orders, and that sort of thing, when the engineer just sits there.

So when we talk about fatigue for a man who sits in a chair—and our chairs are about as comfortable as this chair here, the men insist on it and properly I think it is the kind of a chair the man ought to have to sit there, and handling the throttle is no more work than

driving an automobile, in fact it is not nearly as much of a strain because he is on a rail and he does not have to turn the wheels.

So in the 8 hours he works 4 hours and 34 minutes. Well, that means if he is on duty for 16 hours that he works 9 hours 8 minutes out of that 16 hours.

Mr. PICKLE. Mr. Gould, one of the men who testified and presented pictures to us showing an engineer at work, that he had to maintain a sort of crouched position, looking out and keeping his foot on the brake or subject to, I guess, the brake at all times and that it was almost as if he was a football guard fixing to charge the line. Perhaps that is a slight exaggeration.

Now, do you differ with that?

Mr. GOULD. Yes. I assume what this witness had reference to is what is called the deadman control.

Mr. PICKLE. Yes, I believe this is correct.

Mr. GOULD. Some locomotives are equipped with a deadman control. On our railroad we do not have the deadman control and the union on our railroad insisted when we signed the agreement to take the firemen off that we not put them on and it is written into our agreement that we will not install deadman controls unless required to do so by law.

We have had no experience to indicate that they are needed and we don't have that problem. Personally, I am not familiar with the locomotives with deadman controls, I am not in a position to tell you what might be involved. I have heard lots of stories about people using bricks to do the job instead of their foot. I can't tell you that from my own experience.

Well, just concluding my point about the fatigue the fact that the engineer actually works 4 hours 34 minutes, there is nothing there that would cause a man to be injured, that would in any way lead to it. On our kind of a railroad, 9 hours 8 minutes work in switching and terminal operations is not going to fatigue that man.

The third point I want to make, you may wonder, well, why are we opposed to this? Well, Congress this year and others has been very much concerned about car supply and the Interstate Commerce Commission has been very much concerned about it.

We on the railroads right now are facing an order from the Interstate Commerce Commission that would, we think, do terrible things to us but they are honestly trying to move cars because we do have a car shortage in this country.

My third point is that if this law is changed, that on our railroad it will result in an inability to get men and man crews at the time we need them and is bound to result in delays to cars.

Now, let me explain this, and I am sorry that I was unable to reduce this to figures because at first I did and then I realized that with all the labor agreements and the rules about filling vacancies and working men that it was just impossible to take any given situation and say, well, this is the way it would work.

I have been able to get from our records figures that would substantiate what I want to say.

Well, now, over on page 8, currently on our railroad, as I told you, we are working 196 crews a day. This varies from 170 on Saturdays and Sundays to a high of 205 on peak days of the week.

Now, we have to have enough men and we have to have enough locomotives to take care of the peak. Sometimes we have problems convincing my boss that we can't run a railroad on averages. If we have 2,500 cars of freight to move today they have to be moved today, there is an Interstate Commerce Commission order out that requires that all cars be moved currently within 24 hours.

Well, now in order to have men to take care of these fluctuations we have what we call extra men. In New England I understand they call him a spare man but we call them extra men.

Now, most of our employees work a regular assigned week, 5-day week. The trainmen work a 5-day week. However, our enginemen are still on a 7-day week—that is by their choice. They can go to reduced workweek at any time they want but they prefer a 7-day week.

Now, we have to have men to take care of additional crews, these fluctuations from day to day. We have to take care of the men who lay off because of sickness, personal business, vacations, and so forth.

With 196 crews we have 975 men who are on regular assigned jobs and about 300 men who are assigned to the extra lists. Now, we have union agreements that limit the number of men who can be put on an extra list. It is not a case that if we need 100 men at a given hour on some day that we could put enough men on to do that.

The union says you can only get so many men on there. So if we get a big upsurge in business and we need five extra crews at 4 o'clock in the afternoon, if we don't have enough men on that extra list, then we have to what we call double the man through; that is, the man who has worked 8 hours works another 8 hours and that is a regular procedure on our railroad and on every railroad that experiences violent ups and downs in business or violent fluctuations in employment, people laying off for sickness, etc.

Take a snowstorm. With some snowstorms we have had situations that we would not let anyone go home, we just tell everybody, "You have to stay and work until your relief gets there."

Mr. PICKLE. The brotherhood wants these extra men and these men available but they don't want you to use the same men who have worked an 8-hour stretch.

Mr. GOULD. I will agree with them, I don't want to do it either but my point is there are times we cannot help it. If we don't use these men we have no men to use and if we are not allowed to work these men for the 16 hours, then we are going to just let the business sit there and 2 or 3 days later or a week later when we have men available we will move these cars.

Mr. PICKLE. Could you work them 12 hours?

Mr. GOULD. You just get half as much done in the 4 hours as we would in the 8. That is what would happen.

We have made the best analysis we could from our crew records for this 5-year, 7-month period. In this time there were 1,039 days

or 51 percent of the time when we had one or more yard crews working with one member of the crew working a second shift or 16 hours in a 24-hour period.

As I told you earlier, we had a total of 5,274 crews which included one employee working two shifts.

In analyzing the manpower situation for the last 5 years, 7 months, I have found 35 days when we were short more than 25 crewmen and some employees had to work 16 hours in order to man the crews.

Now let me be sure that that is clear. This means there were 35 days when on our railroad we were short 25 men and had this law been in effect we would have been short probably 25 crews.

Eventually we would get the crews, we would get the business moved but we would not get it moved that day.

In the first 7 months of 1966, that is right up to date, we have had 196 men on our crews who worked 16 consecutive hours to give us the men we needed at the time we needed them to move the business.

Now let me explain to you what this manpower shortage business is. It may be a little confusing, it is to me sometimes.

Over on page 11 I have put down the various things that enter into this manpower shortage.

In periods when business is increasing, there is always a problem and at least a delay in hiring new men to take care of the needs of the increased business.

Currently, we are in a period of manpower shortage around Pittsburgh in western Pennsylvania. On one day in June of this year 1966 we were short 67 men for our yard crews. These were the cases where we need to be able to work men for the 16 hours.

We continue to hire men but this takes time and during the build-up—and we are closely related to the steel business and as you undoubtedly know, the steel business has violent fluctuations, it goes up and it goes down, it moves very fast.

Well, now the second thing that brings about manpower shortages is the question of recall and here again we get into union agreements. Under the rules a man is furloughed and we have periods of slack business when we furlough people, this man has 30 days to come back to work after we recall him. Well, it does not help us today on Friday to know that we have 50 men there who will probably be back to work next week or the week after if we need those 50 men today.

So you can't hire those men, there is no point in hiring men because you know you have men coming but in this period we just have to make out by using the men we do have for more than 8 hours in 16. More than 8 hours a day.

Now this 30-day recall rule is pretty much a general rule and regardless of what the hours of service law is we are still going to face this thing that our men have 30 days to get back to work.

Then we have certain days of the year when men lay off. Around western Pennsylvania the first day of hunting season is a such day, in fact, some of the unions have asked that that day be made a holiday. When you are serving a continuing service industry you work every day, including Christmas, holidays, snowstorms.

Well, on these days when we have these snowstorms, hunting season, the men who don't want to hunt or the men who can get to work in

a snowstorm are generally cooperative and working 16 hours is a matter when these men are given the choice, it is not a case that we are ramming this down somebody's throat.

We say we need you and will you work and pretty generally our men want the money and want to work.

Well, now on this manpower shortage, I think it is particularly important that you think about the war situation. I was not with the Union Railroad during the war and our records have largely been destroyed but I talked with several people who were around the Union Railroad during the war period. They tell me that during the war period that practically 10 percent of our men on our crews were working 16 hours a day. Not necessarily the same men every day but out of some 300 crews about 30 crews a day were being manned by workingmen 16 hours a day.

Now I was able to find the overtime records and that is right illuminating as to what happened and how we did it. On page 13 I list that: In 1942, our yardmen and enginemen worked 62,000 overtime hours. In 1943, 174,000; in 1944, 613,000 overtime hours.

The percentages, the overtime worked jumped from 1.8 in 1942 to 17.7 in 1944. Well, now if we get into war and you have changed this law it just is going to make a very difficult, if not impossible situation.

Gentlemen, I urge that you file this law away and continue just as we are because as I have told you there is nothing in our record that shows that there has been any reason why this law should be changed.

Mr. PICKLE. When you make a reference to overtime work, are you talking about over 8 hours or——

Mr. GOULD. Are you talking about the war period?

Mr. PICKLE. You had reference to figures on page 13. You make reference to 531,461 hours overtime work. Just for matters of identification what do you mean by overtime work?

Mr. GOULD. That overtime includes time if we had a crew that worked more than 8 hours, say they worked 10 hours, that would be 2 hours overtime. If an individual worked——

Mr. PICKLE. Basically over the 8 hours?

Mr. GOULD. Eight hours and then for the second 8 hours he would be paid overtime. This includes both categories of overtime, it includes any category of overtime that was paid.

Mr. PICKLE. Mr. Gould, we appreciate your statement.

Mr. Huot, do you have any questions?

Mr. HUOT. You make remarks that this had no effect on the safety. Do you have any health records of the person working 16 hours a day, what effect that might have on the individual's health?

Mr. GOULD. I have personally never known of anyone having any adverse effects. I have no records though. During the war I was with the Chesapeake & Ohio and we had this same situation. I was trainmaster and assistant superintendent during that period and that is the way we got our men working men overtime.

I remember one individual who worked 30 consecutive days, 16 hours a day. That is not a recommended practice but he had the type of job where he could get a little nap in between and we didn't object if he got it.

Mr. HUOT. I think you indicated a problem you had with people with hunting on the first day of the season and so forth. I think this is not a problem that is unique with the railroads, I think this is a unique problem with everybody whether it is an 8-hour day or on the first day of hunting. We have it up our way because we have a lot or hunters up in my State.

That is all.

Mr. PICKLE. Well, we appreciate your giving us your testimony, Mr. Gould. The entire statement will be submitted for the record.

Mr. GOULD. Mr. Chairman, if it is not out of order, you are also considering House bill 5196 which is the bill extending the hours of service limits to the signal maintenance employees. May I say a word about that?

Mr. PICKLE. Yes. What length of a statement do you have?

Mr. GOULD. Well, about one page.

Mr. PICKLE. All right. You may proceed.

Mr. GOULD. The problem on a small railroad is much greater with these signal maintenance people than it is on a large one. If we have trouble we have 28 signal employees on our railroad including 3 supervisors.

On a big railroad if they get in trouble they can bring employees in from various points, if they have a sleetstorm someplace they can go to the other end of the railroad and bring in 50 people. When we get in trouble we don't have anyplace else to go.

Now a signal system is the greatest thing that has happened on the railroad for safety since the automatic airbrake came in. If you have trouble with the signal system the most important thing is to get it back in service.

If we could change this law to limit the hours of service of the maintenance man, I think it would be the most unsafe thing you could do. On our railroad we have recently been going through a complete changeover of our interlockers and when we change from one big system to another all the men involved go in there and work continuously until the job is completed because the signals are out and they may work 16, 24 hours.

If we get a snowstorm we have the same problem that these men come out and work until the job is done and if we are concerned about safety, let's let these signal maintenance people work until they can get their signal back in service. That is real safety and it exposes everybody else on the railroad to a much greater hazard if we say "You people have to go home and get some rest."

Mr. PICKLE. Are there safety systems—warning systems go out of order that often that they would be needed there?

Mr. GOULD. No, I am talking about two or three times a year, perhaps, that this happens. In snowstorms—the biggest problem we have on our railroad is snowstorms.

Mr. PICKLE. I was just making the point that you were making reference to the long hours to take care of the situation that happens two or three times a year.

Mr. GOULD. The point is that if under the law a signalman is out at an interlocking plant and he is doing the work necessary to keep the switch machines and all the equipment operating and he has been

on duty 9 hours, 12 hours, whatever the figure is, and you say "All right, now you have to go home," we don't have anything else to put there.

Mr. PICKLE. Does that complete your statement?

Mr. GOULD. That completes my statement.

Mr. PICKLE. Again, we want to tell you that we appreciate your coming to the committee and giving us your statement.

Mr. GOULD. Thank you, sir.

Mr. PICKLE. The next witness will be Mr. William J. Ahearne, associated with the Boston & Maine Railroad, Boston, Mass.

Mr. Ahearne, we welcome you to the committee. You may proceed to submit any statement. Do you want to submit in its entirety now and summarize it or do you wish to read your statement?

STATEMENT OF WILLIAM J. AHEARNE, DIRECTOR, LABOR RELATIONS AND PERSONNEL, BOSTON & MAINE CORP.

Mr. AHEARNE. Mr. Chairman, that is a rebuttal statement of the statement by Mr. W. P. Dunn who represented the Brotherhood of Locomotive Firemen in an appearance before this committee and in view of the fact that I answer some of the specific things that he presented, I would like to read it. It is 10 pages and I will try to get through it without delaying you too long.

Mr. PICKLE. That is permitted then, and you may proceed.

Mr. AHEARNE. Thank you.

My name is William J. Ahearne. I am director of labor relations and personnel of the Boston & Marine Corp., with offices in Boston, Mass. I have been in labor relations and personnel work with this corporation since April 1943, and have held my present position since October 1963.

My attention has been called to the statement of Walter P. Dunn representing the Brotherhood of Locomotive Firemen & Enginemen before this committee on June 24, 1966, in connection with H.R. 5196 and H.R. 8476, proposals to amend the Hours of Service Act of 1907.

Since receipt of a transcript of that hearing and a copy of Mr. Dunn's prepared statement, I have reviewed in some detail our corporation records and reports dealing with matters touched upon by Mr. Dunn.

As background I wish to state for the record that he entered the service of the Boston & Maine Corp. as a fireman on our Portland seniority district on August 30, 1941, and transferred to our Fitchburg division on November 2, 1941.

He served in the U.S. merchant marine during World War II, and after his return became a locomotive engineer on June 23, 1955. At the present time he is No. 36 out of 110 engineers on the engineers' seniority roster of our Fitchburg division.

Actually, since January 1, 1962, Mr. Dunn has only worked 150 calendar days as an engineer in better than 4½ years. My exhibit (exhibit A) listing the work performed by Mr. Dunn indicates that he worked 50 calendar days in 1962; he did not work at all in 1963 or 1964; in 1965, he worked 59 days and was paid for 3 holidays, and this year, until the day he testified, he worked 38 days and has been paid for 1 holiday.

(Exhibit A referred to follows:)

EXHIBIT A

Boston & Maine Corp. work record of Walter P. Dunn, locomotive engineer, years 1962, 1965, and 1966

Date	Job	Actual time worked			
		Straight time		Overtime	
		Hours	Minutes	Hours	Minutes
1962					
Jan. 2	B–3 and 4	8		7	55
3	House and emergency service	8		7	
4	House service	8		7	
5	B–9 and 10	8		7	05
6	Boston yard switcher	8		7	10
8	House and emergency service	8		7	
9	Boston yard switcher	8		7	45
10	do	8		7	
12	BM–5 [1]	11	32	7	
13	MB–6 [1]	9	55	7	
15	House and emergency service	8		7	
16	Boston yard switcher	8		7	30
17	do	8		7	30
18	do	8		5	00
19	do	8		5	30
22	House and emergency service	8			
23	do	8			
24	do	8			
25	Boston yard switcher	8			
26	do	8		5	30
27	do	8		5	40
29	do	8		5	30
30	do	8			
31	House and emergency service	8			
Feb. 1	B–9 and 10	8		1	40
2	B–3 and 4	8		5	25
4	Boston yard switcher	8		5	30
5	do			8	00
6	do	8		8	30
7	do	8			
8	do	8			
9	House and emergency service	8			
11	Passenger train [2]	8			
12	do [3]	8		1	49
12	do [3]	8		1	50
13	Boston yard switcher	8			30
14	do	8		7	30
15	do	8			30
26	do	8			15
27	BM–7 [1]	9	55		
28	MB–4 [1]	10	15		
Mar. 1	Boston yard switcher	8			
2	House and emergency service	8			
5	Boston yard switcher	8			
6	Freight extra	8		6	30
7	Boston yard switcher	8			
8	House and emergency service	8			
9	Boston yard switcher	8			
9	do			8	
11	House and emergency service	8			
12	Boston yard switcher	8			30
1965					
May 17	B–5 and 6	8		1	40
18	do	8		2	25
June 29	B–3 and 4	8		6	35
29	do	8		4	20
30	do	8		6	05
July 1	do	8		4	00
2	do	8		7	00
4	do	[3]	[3]		
6	B–5 and 6	8		7	50
7	do	8		3	50
8	do	8		5	55
9	do	8		3	55
10	do	8		2	10

See footnotes at end of table.

Boston & Maine Corp. work record of Walter P. Dunn, locomotive engineer, years 1962, 1965, and 1966—Continued

Date	Job	Actual time worked			
		Straight time		Overtime	
		Hours	Minutes	Hours	Minutes
1966					
Aug. 26	do	8		5	00
27	do	8		3	50
28	do	8			
30	B-3 and 4	8		7	59
31	do	8		7	59
Sept. 1	do	8		7	59
2	do	8		7	59
3	do	8		7	59
6	do	(3)	(3)		
7	do	8		7	59
Oct. 4	do	8		7	30
5	do	8		4	10
6	do	8		5	15
7	do	8		5	00
8	do	8		5	10
11	do	8		7	55
13	do	8		7	20
14	do	8		5	00
Nov. 1	do	8		6	50
2	do	8		6	40
3	do	8		5	05
4	do	8		6	25
5	do	8		7	00
8	do	8		7	45
10	do	8		6	55
12	do	8		7	55
15	do	8		7	25
16	do	8		4	05
17	do	8		7	50
18	do	8		5	40
22	do	8		7	20
23	do	8		6	00
24	do	8		7	10
25	do	(3)	(3)		
26	do	8		6	30
29	do	8		6	40
30	do	8		5	45
Dec. 1	do	8		5	20
2	do	8		5	15
20	do	8		7	30
21	do	8		6	20
22	do	8		6	55
23	do	8		6	00
24	do	8			
27	do	8		6	35
28	do	8		6	25
29	do	8			40
30	do	8		7	15
31	do	8			
1966					
Jan. 3	do	8		4	40
4	do	8		7	50
5	do	8		4	50
6	do	8		7	30
7	do	8		7	30
10	do	8		6	55
11	do	8		1	20
12	do	8		5	20
13	do	8		7	10
14	do	8		3	10
17	do	8		7	20
18	do	8		2	35
19	do	8		6	20
20	do	8		7	00
21	do	8		6	30
24	do	8		6	20
25	do	8		7	10
26	do	8		3	10
27	do	8		6	05
28	do	8		3	15
31	do	8		4	20

See footnotes at end of table.

Boston & Maine Corp. work record of Walter P. Dunn, locomotive engineer, years 1962, 1965, and 1966—Continued

Date	Job	Actual time worked			
		Straight time		Overtime	
		Hours	Minutes	Hours	Minutes
Feb. 1	do	8		7	58
2	do	8		7	59
3	do	8		5	30
4	do	8		7	25
7	do	8		7	59
8	do	8		4	25
9	do	8		3	50
10	do	8		7	59
11	do	8		7	00
14	do	8		7	50
15	do	8		5	25
16	do	8		6	00
17	do	8		6	30
18	do	8		7	57
21	do	8		7	15
22	do	[3]	[3]		
23	do	8		5	55
24	do	8		5	20

[1] Through freight assignment paid on mileage basis.
[2] Short turnaround passenger service.
[3] Paid for holiday not worked.

In 5 years, he has worked in railroad service the equivalent of what the average locomotive engineer works in about 6 months. I would say that he is not in very close touch with current-day operations.

On page 93 of the transcript of hearings on June 24, commencing on line 12, Mr. Dunn makes two statements which I believe deserve further comment. He stated:

> As is well-known to all railroad men, failure to comply with this basic rule can imperil one's employment with an individual carrier.

In the next sentence, he said in part:

> * * * the engine crewmen who at present are compelled to work up to 16 hours a day, day after day, are certainly unable to appropriately conform to this requirement.

It is true that any man in order to perform his job properly, must obtain proper rest. I am not sure as to exactly what rule in our "Operating Rule Book" Mr. Dunn is referring to as we have no rule that reads quite as Mr. Dunn has expressed himself.

We do, however, have a rule which prohibits an employee from engaging in other employment which interferes with the proper performance of his duties, and we have another rule which states that men should get ample rest in order to be physically and mentally fit to perform their duties.

The second portion of Mr. Dunn's statement quoted above is in my opinion absurb insofar as it refers to the Boston & Maine Corp.

His statement leaves the inference that many engine service employees "are required day after day to work 16 hours." I submit that this is incorrect.

Since Mr. Dunn appeared before this committee, I checked the records for the 6 payroll weeks since July 1 to determine the number of overtime hours worked by engine crews in local freight service.

The facts are that during that period of time 1,330 assignments—man-days—worked a total of 2,982 hours and 29 minutes. So that the average amount of overtime worked by local freight crews was actually 2 hours and 14 minutes per day.

On page 96 of the transcript, Mr. Dunn stated:

> This factor causes many unnecessary stops and delays to trains, thus confronting the engineer with the possibility of severe discipline should he be unable to locate and correct one or more of the hundreds of malfunctions which do occur to diesel-electric and electric locomotives in normal, everyday operation.

In my 26 years of service on the Boston & Maine, I have never heard of an engineer being disciplined by our management because of his failure to repair a locomotive which malfunctioned at some point en route.

It is true that certain minor duties and adjustments can be made by a locomotive engineer to keep his locomotive operating, but Mr. Dunn's statement would have you believe that the carrier expects locomotive engineers to correct "hundreds of malfunctions" which occur on a line of road. This, I submit, is gross exaggeration.

On page 97 of the transcript, Mr. Friedel asked Mr. Dunn:

> Do you know of any runs that are continuous runs, that run for 8 hours at a time, 12 hours at a time, or 16 hours at a time, any continuous runs where an engineer cannot get any relief whatsoever?

Mr. Dunn answered this question in the affirmative, but he did not detail any engineer's assignments on the Boston & Maine wherein an engineer is in continuous service without any relief whatsoever.

We would understand Congressman Friedel's question to mean: would the engine or train stop at any time during the 8, 12, or 16 hours so that an enginer might arise from his seat in the cab, or stretch his limbs, or walk around the cab before the engine resumed duty.

I submit that Mr. Dunn's statement is inaccurate and further review of his answer to Congressman Friedel points up his evasion of the question.

We submit that there are no assignments on the Boston & Maine wherein a man is in continuous service for 8, 12, or 16 hours in the manner in which the question was asked.

We suggest that his answer here be compared with his further answer to Congresman Friedel as set forth on page 102 of the record. There, on lines 9 through 11, Mr. Dunn stated:

> I was continuously involved in industrial switching of the industries at that point.

When questioned by Congressman Friedel, he further stated that he worked without letup, but finally it was brought out that he left the engine to go to lunch, but as he explained on page 104 of the record, this was not a rest period because he had a long distance to walk to a restaurant. It is interesting to note that during this period when he was so busy he did manage to maintain very detailed records of time worked by the local freight as indicated in his exhibit.

On page 103 of the record, Mr. Dunn stated in answer to Congressman Friedel:

> What I am trying to portray there is the excessive hours that I am compelled to work on this assignment five consecutive days a week * * *.

At this point I believe it necessary to explain that 5-day assignments are not normally bulletined for bid for locomotive engineers as the rules require generally that an assignment must work 6 days before it is open for bid.

By agreement negotiated with General Chairman E. C. Hopkins of the Brotherhood of Locomotive Engineers, it was agreed that we could bulletin for bid assignments in local freight and yard service which worked 5 days a week and which earned the equivalent of 6 days' pay.

The memorandum of agreement to which I am referring is identified as decision E–69. I would like to point out that Mr. Dunn voluntarily bid off local freight train B–3 and 4 on May 19, 1965. Because he was then engaged in brotherhood work, he did not actually cover this assignment until June 28. He last covered the assignment on July 3 at which time he was displaced by a senior engineer in accordance with the applicable rules.

Mr. Dunn then displaced a junior man from local freight train B–5 and 6 and covered that assignment until July 10 when he again marked off from work on a further notice basis.

He next returned to work on August 26, 1965, on local freight B–5 and 6 and when that assignment was changed on August 28 so that it would thereafter work 6 days, Mr. Dunn elected to displace back onto local freight B–3 and 4 which assignment is the basis of his complaint to this committee.

Questioning by Congressman Pickle commencing at the bottom of page 107 of the record and continuing onto page 108 brings out the fact that Mr. Dunn voluntarily selected the assignment which is the subject of his complaint, as Congressman Pickle stated to Mr. Dunn:

It seems to me you are asking for long periods and pretty good pay, but you bid on it.

At the bottom of the same page, Congressman Pickle asked Mr. Dunn why he did not bid on another assignment which would be more satisfactory to him, and at the top of page 109, Mr. Dunn answered:

I have no choice but the same type of job. This is the way in the terminal that I work from, which is Boston, most of the local freights on my division are similar to this.

In analyzing Mr. Dunn's statement we have checked work assignments of all engineers junior to Mr. Dunn. This check indicates that there were many assignments manned by men junior to Mr. Dunn that he could have displaced onto if he had elected to do so.

For example, when Mr. Dunn returned to work on May 17, 1965, after a prolonged absence, there were two junior engineers on other local freights; three junior engineers on passenger assignments; four junior engineers on yard switchers; and five junior engineers on spare board.

On August 30, 1965, when Mr. Dunn displaced back onto the local freight about which he now complains, there were two junior engineers on other local freights; six junior engineers on passenger assignments; five junior engineers on yard switchers; and five junior engineers on spare board.

As of July 1, 1966, if Mr. Dunn were to return to work, there were three junior engineers on other local freights; six junior engineers

on passenger assignments; four junior engineers on yard switchers; and six junior engineers on spare boards.

However, the fact remains that Mr. Dunn voluntarily chose local freight B–3 and 4, and we believe he did so for the plain and simple reason that the job had high daily earnings. Mr. Dunn actually worked 62 days in 1965, most of it on local freight B–3 and 4. He earned a total of $3,646.12, or an average of $58.80 per day.

In 1966, Mr. Dunn worked 39 days for which he was paid $2,169.69, averaging $55.63 per day. It is interesting to note that in 1962 when he worked but 49 days, he received $2,212.27, or an average of $45.10 per day.

Mr. Dunn's recollection of his weekly earnings on this assignment as set forth on page 107 of the record in answer to questions by Congressman Cunningham is a little faulty. On the basis of an average of $55.63 per day, it is readily apparent that for 5 days per week, Mr. Dunn earned $278.15 rather than the "over $200 a week" that he referred to.

Commencing on line 18 of page 109 of the record, Mr. Dunn was asked if the work performed by local freight B–3 and 4 was typical for this area of the country. His answer was that the assignment was typical. The officers of this carrier disagree with Mr. Dunn's answer.

The job Mr. Dunn is on handles on the average about 20 cars in each direction. On arrival on the branch, the train stops while the conductor gets his instructions and his switch list of work to be performed for the various consignees. At this point there is waiting time of 20 to 30 minutes. Before placing or taking cars from the sidetracks of the various industries, it is customary for the conductor to check with the consignee to be sure the cars are empty, that the consignee's employees are out of the cars and thatall ramps are removed. This is more waiting time for the other members of the crew and it happens all day long at every industry served.

Furthermore, this crew has a lunch period and coffee breaks. I therefore say to this committee that reports of constant movement, constant tension, constant pressure on the dead man pedal, and so forth, is simply not so.

On page 110, commencing on line 12, we believe that Mr. Dunn tried to leave the impression with your committee that a switcher had been taken off recently at Watertown, Mass. The fact is that there has been no switcher in this area for many, many years—at least more than 25.

Furthermore, if there were a switcher at Watertown, Mr. Dunn's job on local freight B–3 and 4 would not exist as any cars to be handled by a switcher at that point would be brought from Boston or some other terminal by a through freight assignment which would simply drop the cars at the main line junction point to be handled from there to the consignee by the switcher.

It is interesting to note that Mr. Dunn's exhibit showing the hours worked on local freight B–3 and 4 covers a period in midwinter when because of winter storms and cold weather, the hours worked in railroad service are longer than they are in midsummer.

As another exhibit—exhibit B—we attach a statement showing the hours worked on the assignment by those engineers who replaced Mr. Dunn after he left the job in February. Note if you will, please, the decline in the number of hours worked.

EXHIBIT B

Hours worked by local freight B–3–4 after Engineer Dunn left assignment until June 24, 1966

Date	Straight time		Overtime		Date	Straight time		Overtime	
	Hours	Minutes	Hours	Minutes		Hours	Minutes	Hours	Minutes
1966					*1966*				
Feb. 25	8		6		Apr. 26	8		4	55
26					27	7	30		
27					28	8		3	05
28	8		7	40	29	8		2	40
Mar. 1	8		5	30	30				
2	8		4		May 1				
3	8		3	45	2	8		6	10
4	8		1		3	8		2	30
5					4	8		3	10
6					5	8		2	10
7	8		6	15	6	8		2	40
8	8		5	35	7				
9	8				8				
10	8		2	40	9	8		6	10
11	8		4		10	8		2	30
12					11	8		3	10
13					12	8		2	10
14	8		7	35	13	8		5	
15	8		5	30	14				
16	8		5	20	15				
17	8		1	20	16	8		6	40
18	8		6	40	17	8		5	10
19					18	8		4	05
20					19	8		3	05
21	8		7	25	20	8		7	10
22	8		5		21				
23	8		2	30	22				
24	8		3	20	23	8		5	50
25	8		5	10	24	8		3	30
26					25	8		4	05
27					26	8		4	05
28	8		6	55	27	8		4	10
29	8		1	35	28				
30	8		3	45	29				
31	(1)	(1)	(1)	(1)	30				
Apr. 1	(1)	(1)	(1)	(1)	31	8		5	50
2	(1)	(1)	(1)	(1)	June 1	8		3	30
3	(1)	(1)	(1)	(1)	2	8		4	30
4	8		7	59	3	8		6	05
5	7	25			4				
6	8		4	55	5				
7	8		7	50	6	8		5	55
8	8		4	35	7	8		6	
9					8	8		6	20
10					9	8		4	30
11	8		7	35	10	8		4	30
12	8		3	45	11				
13	8		4		12				
14	8		3	50	13	8		7	
15	8		5	20	14	8		4	15
16					15	8		2	20
17					16	8		5	05
18	8		7	40	17	8		4	20
19	8		1	05	18				
20	8		3	40	19				
21	8		2	20	20	8		7	55
22	8		4	45	21	8		5	50
23					22	8		3	25
24					23	8		4	05
25	8		6	25	24	8		6	55

[1] Strike

On page 112 of the record, commencing on line 22, and on pages 17 and 18 of his prepared statement, Mr. Dunn speaks of engineers of his acquaintance indicating that they are willing to take a cut in overtime earnings as opposed to a cut in physical well-being.

As pointed out earlier in this statement, Mr. Dunn of his own volition, bid off the highest paying local freight assignment on the Boston & Maine.

If I might digress a moment from my prepared statement, within the last 2 weeks Mr. Dunn has been displaced from that job and as an indication of his own voluntary action he, in turn, displaced the engineer on the next best paying job on the railroad.

If he had wanted lesser earnings or better hours, he could well have taken any one of the numerous yard or passenger assignments which were held then, and are presently held, by engineers junior to him.

I would further point out to this committee that while Mr. Dunn may speak for himself, and as a representative of the Brotherhood of Locomotive Firemen & Enginemen I do not believe that he represents the feelings of locomotive engineers on the Boston & Maine.

The general chairman of the Brotherhood of Locomotive Engineers, Mr. E. C. Hopkins, who is the authorized representative of locomotive engineers on the Boston & Maine, has informed me personally on several occasions that his men on the Boston & Maine are opposed to the proposed legislation for the plain and simple reason that no engineer is compelled to work 16 hours a day as Mr. Dunn would have you believe.

As a matter of fact, we have difficulty on our railroad in getting engineers to "bid off" jobs which pay a minimum day's pay and the Brotherhood of Locomotive Engineers has approached us at various times asking that we cut down the number of assignments in order to make the remaining assignments better paying jobs.

On pages 8, 9, and 10 of his prepared statement, Mr. Dunn refers to the problems of vandalism and stoning of trains. I am sure that he and his committee know of our concern as managers of the railroad with this problem and the steps we have taken to alleviate the problem. The area to which he refers is, however, no more of a problem than two or three other locations on our railroad.

On page 10, Mr. Dunn states that on more than one occasion intoxicated hoodlums have entered the cab of his locomotive brandishing knives. I have caused a thorough check to be made of the records of the carrier and there is no record that at any time Mr. Dunn ever reported to the proper officials of the carrier, his division superintendent or to our police department, that his locomotive cab had been invaded.

I submit to you that Mr. Dunn was remiss in failing to advise the proper officers of the carrier of these so-called invasions. Certainly, in failing to do so, he has not made it possible for the carrier to take corrective measures, if such incidents ever did occur.

It is interesting to note that since the hearings at which Mr. Dunn testified, the organization which he represents has submitted to the railroads a notice under section 6 of the Railway Labor Act of their desire to negotiate a rule which would restrict locomotive firemen from working more than 6 hours per day without reduction in basic daily rates of pay or in the number of miles contemplated in the basic day. This would apply according to their notice to mean in local and through freight service and short turnaround passenger service.

I appreciate the opportunity to present this testimony to your committee and should there be any further information which you desire in connection with our railroad or my statement, I will be very happy to furnish it to you.

Mr. HUOT (presiding). Thank you very much, Mr. Ahearne.

I am sure your statement will be reviewed by other members of the committee who are not here and I would say that you probably shot some real holes in Mr. Dunn's statement and I am sure the other members of the committee will certainly take into consideration what you said here this morning.

Mr. AHEARNE. Thank you, Mr. Chairman.

Mr. HUOT. Thank you very much for appearing. I want to recognize Mr. Welsh. You are submitting statements for four others?

Mr. WELSH. Yes, sir. Mr. Chairman, there were four other railroad industry witnesses who have prepared statements on the hours-of-service bills who were not able to be here today and with the committee's permission, I would like to file those statements for inclusion in the record.

They are statements by first of all, Mr. Henry T. Nase, rules supervisor of the Norfolk & Western Railway Co., whose statement is filed on behalf of that railroad;

A statement by Mr. Edward M. Prouty, assistant to the vice president of operations in the Union Pacific Railroad Co., whose statement is filed on behalf of that railroad;

A statement by Mr. Philip A. Jordan, who is the supervisor of wage schedules on the Union Pacific Railroad Co., and this statement is filed on behalf of the Union Pacific;

And, finally, a statement by James C. Love on behalf of the Missouri Pacific Railroad.

We would be grateful, sir, if those could be included in the record and we would express the hope that they would be considered by the committee. They contain a good deal of factual information that we would like to bring before the committee for its consideration.

Mr. HUOT. I can assure you they will be entered into the record and that the committee will be cognizant of the statements made that you are submitting this morning.

Mr. WELSH. Thank you, sir.

(The statements referred to follow:)

STATEMENT OF HENRY T. NASE, RULES SUPERVISOR, NORFOLK AND WESTERN RAILWAY COMPANY

My name is Henry T. Nase and I am Rules Supervisor for the Norfolk and Western Railway Company with headquarters at 8 North Jefferson Street, Roanoke, Virginia. I have been employed entirely in the operating department of the Norfolk and Western since 1937 and have served in train dispatching, in the supervision of operating crews as an assistant trainmaster and, since 1961, have been the Rule Supervisor in charge of instructing our operating employees on all operating rules. I am familiar with the Hours of Service Act because I have worked directly with it for many years.

The few handpicked "horrible examples" which have been presented by the proponents of changes in the Act amount to selecting several grains of wheat out of a carload.

By contrast, we have made a detailed study of operations on the Norfolk and Western for the period October 1 through October 15, 1965, in order to provide you with a truly representative showing. It covers all trips in 12 classes of

service. It has 15 different breakdowns in the hours of service of our engineers covering all trips from less than 3 hours through 16 hours. To demonstrate the adverse effect on our employees, we have averaged the impact within each of the 12 classifications rather than burden you with hundreds of individual illustrations.

During this 15-day period, for engineers alone, we had a total of 18,954 trips. This is an average of 1,263 trips per day. If we project this for a full year, it would be approximately 461,200 trips in 365 days. From October 1 through October 15, 1965, on the Norfolk and Western, out of 18,954 trips, there were no trip violations of the Hours of Service Act. During the entire year from October 16, 1964, through October 15, 1965, there were only 3 trip violations of the Hours of Service Act on our entire system, or a percentage of .00065 of the projected total. It thus is quite clear that violations provide no justification for any changes in the Act insofar as the Norfolk and Western is concerned. Also, with the millions of trips made by all railroads in the United States during the course of a year, the number of violations would be significant.

The product that the railroads sell to the public is service. We are continually looking for ways to improve service in order to improve our business. If our service deteriorates, we lose business. During the process of this entire study, we have not found one instance where service would be improved. In some cases, the service would remain about the same but in many cases, it would suffer. Present employees would be adversely affected, and the company would be subjected to tremendous additional costs for which there just is no justification.

We have studied the various train classifications systemwide and the effect that changes in the present Hours of Service Law would have on our service as well as on our employees.

First, let's look at turnaround service on bona fide through freight trains. The length of these runs varies between 38 and 99 miles for one leg of the turnaround. Time spent at the turning point waiting for and/or assembling trains and making air tests averages 1 hour.

Approximately one-half or about 150 of the runs in this category have *total* round-trip mileage of less than 100 miles. For these runs, the proposed changes in the Hours of Service Act would cause no appreciable changes in operations. However, for the remaining 50% of these runs, it would be necessary to make these straightaway rather than turnaround, with 8 hours or more off-duty before making the return trip. There would be much delay compared with present service. Employees' time at away from home terminal would range from 8 to 16 hours, instead of none. Engineers would make $315 less per month and each member of the train crew $90 less.

On straightaway service, converted through freight trains, the length of runs varies between 71 and 134 miles with an average of 100 miles. These crews average 4 setoffs and/or pickups per trip, with an attendant delay of 2 hours. Approximately one-sixth of these runs do some switching at small intermediate yards where no yard engine is employed with an average delay of 30 minutes. Waiting for connections averages another 30 minutes and meeting other trains averages 1 hour.

To comply with the proposed changes, additional crews would have to be provided in order to maintain service. This would result in an average monthly reduction in earnings for present engineers of $250 and $60 each for the other crew members.

Now consider turnaround service on converted through freight trains. The length of runs in this group varies from 15 to 78 miles per leg with an average of 59 miles per leg or 118 miles for the round trip. About 75% of these runs operate in the coal fields and are used to deliver empties at accessible setoff points for mine runs and to move loaded cars into terminals. The average switching time per train is 4 hours with an additional hour for meeting and waiting for other trains. In this category, we would be unable to comply with reductions in hours of service unless we reduced the switching time and could eliminate delays in waiting for other trains and, in at least one district, would have to add two additional crews each day. Of course, service would suffer. The monthly earnings of each engineer would be reduced a total of $315 and each crew member would have his monthly earnings reduced by $145. The away from home terminal times for some crews would be 8 to 16 hours, where none is now involved.

Another classification is straightaway local freight trains. The length of these runs varies between 71 and 145 miles, with an average of 112 miles. Time

spent switching averages 4½ hours per trip and delays waiting for connections and other trains averages 1 hour and 30 minutes. We would have to establish eighteen more trains each day on a 6-day a week basis in order to maintain present service. In many instances, cars would be subject to an additional day's delay when the turnaround locals fail to connect with each other at their turning point. Operating expenses of the carrier would be tremendously increased because of an increase of 1,800 train miles per day and additional equipment requirements. The members of the train crews presently handling these trains would suffer reductions in earnings of $85 with engineers' earnings being reduced $275 per month. Eighteen crews would be away from home 12 to 16 hours per day, 6 days a week, when at present none of them are required to be away from home.

An additional important classification covers turnaround local freight trains. The length of these runs varies between 40 and 144 miles with an average of 80 miles. The territories covered are mostly rural but include many small towns and considerable industry. Time consumed in switching averages 5 hours per train and waiting for connections and clearing other trains averages 2 hours. To comply with proposed reductions in hours of service would require the addition of 18 turnaround locals per day to provide the minimum service considered necessary. In the great majority of the cases under this example, our service would suffer materially because the cars would be delayed 24 hours due to the inability to arrange for the various turnaround shifters to meet. The reduction in the earnings of the employees affected would average $320 per month per train crew member and $350 for each engineer, and 18 crews would have to be away from home 10 to 16 hours per day, 6 days a week, when at present none are required to be away. The carrier would have to operate 1,580 additional train miles per week which, naturally requires additional equipment and with the additional meals and lodging allowances, in this one category alone would average a *daily* cost increase of $2,777.

Now we will give you an idea as to the impact on crews in turnaround miscellaneous road freight trains which includes mine runs, industrial switching and pusher-helper service. The length of these runs varies between 20 and 88 miles with an average of 55 miles. Fifty-four percent of the total runs are mine runs and many of the runs are made in areas where there is considerable density of traffic. Six to 8 hours a day are spent in switching and another 2 hours in meeting and clearing trains. In this category alone, a minimum of 25 additional train crews and 50 additional engineers would be required 5 days a week. Service would be greatly complicated and train crew members presently involved in this service would have average monthly reductions in income of $260 and engineers would receive $370 less per month.

Yard and transfer crews is yet another classification. A total of 9,663 trips operated in this service during the 15-day check period. These crews operate exclusively within the various switching limits of yard and terminals. The type of work varies from hump switching, flat yard switching, industrial switching and transfer crews, etc. There are many instances in this class of service where a second tour of duty is worked. Standing time, waiting for connections or meeting or clearing trains are not factors. The proposed changes would require the addition of 58 additional crews *every day*.

This situation would be particularly aggravated during peak season periods because all of the second trips presently are being handled by allowing our present employees to work a second tour of duty. They prefer it this way.

Again, service would be worse and each yard engine man would lose $214 a month and yard trainmen would lose $117 per month.

While we do not like to burden you with a great many examples, it is the only way we can demonstrate just what this proposed legislation would do. From the foregoing examples, we can see nothing but harm to the present employees involved and to the company. We can find no benefits to anyone. All of the above are based upon averages within the class of service and that is the best way to illustrate the results. We can furnish you with any number of specific instances that you might desire, literally in the hundreds.

In addition to the foregoing, we would like to cite two local instances which we consider representative of their categories.

We have one trip we call the "Salem Shifter" which never goes more than 20 miles away from Salem, Virginia. The on-duty average of the crew in April 1966 was 13 hours, 6 days a week. The conductor on this particular shifter is No. 6 on the seniority list. The engineer is No. 17 on the seniority list. The

brakemen are Nos. 3 and 20 on their seniority list. These men have bid on this job, exercising their seniority because it is obviously considered a plum. They are paid 5 hours overtime each day and they *elect* to work 6 days a week. We do not require them to work 6 days a week. If they want to, they can work 2 days, 3 days, 4 days or 5 days. These men want this job because of the money they make out of it. These men average $12,824 per year. If the Act is changed, these men would lose an average of $6,767 per year. I am sure you will all agree there would be a substantial uproar from them if their earnings were reduced by close to $7,000 per year or more than ½ their pay if we were required to eliminate this 13-hour a day job, and there are many, many plums which men do not wish to lose.

Now let me give you another plum which covers a group of 8 trains engaged in the same operation but at different times. We will give you just one of them as an example but, generally speaking, the same situation prevails in each case. Train No. 86 covers 130 miles from Roanoke to Crewe. From reporting time in Roanoke until arrival at Crewe (not working time), a total of 5 hours and 30 minutes is consumed. Now bear in mind, during this entire period, the engineer has covered a total of 130 miles in 5 hours and 30 minutes but has been paid for 10 hours 24 minutes because the mileage exceeds the archaic 100-mile limitation with which we are forced to live. He then can remain there in very comfortable surroundings and watch television or sleep for which he is paid $4 for 5 hours and 45 minutes, and then he returns to Roanoke on what we call a "hot shot" train which takes only 5 hours, for which he is paid another 10 hours 24 minutes. So, he has actually been on duty, including reporting time, a total of 10 hours and 15 minutes, received pay for the period between the trains and he then is off duty for 31 hours before he is called again. To repeat, here's a man who has been on duty only 10 hours 24 minutes, but he has been paid for almost 21 hours which, if you want to compare with any other type of industry, is almost three days' pay for 10½ hours' work. With the payment for his television time, and the 31 hours he is off before he returns to work, it doesn't sound like a bad deal.

Now I am sure all of you will agree that that is quite a plum, and I might say that it is small wonder that our senior crews bid on it, so let's see what would happen to this plum under changed hours of service. This crew would report at the same time and would arrive at Crewe at about the same time, but, in order to match connections, instead of laying over in Crewe for 5 hours and 45 minutes, he would have to remain there for 13 hours. Then he would again return on a "hot shot" and be back in Roanoke in 5 hours, but he would be subject to call back in 26 hours instead of 31 hours.

As I mentioned before, there are 8 crews in this pool, so we have averaged them all out to show you the total impact. As presently operated, they are away from the home terminal 1 day and are off duty the next day; in other words, they make 2 days' railroad pay (10 hours 24 minutes each) in 1 day and are off the next day. Averaging the actual time on duty (not working time) runs 10 hours 45 minutes for these eight crews and the average time at the away from home terminal is 5 hours with the average time at home 32 hours 15 minutes. Again averaging, reassignment of these runs would result in time away from home of 17 hours instead of the present 5, and the time at home, would be decreased from an average of 32 hours 15 minutes to 20 hours 15 minutes.

I am sure all of you are very much confused by these examples, but they do show you how complicated railroad operations are and the problems involved for the men and the company if required to adjust to changes in the Hours of Service Act.

In many instances, if the real motive behind these proposed bills was to reduce hours of service, the number of men on the extra board could simply be increased and the present crews instead of electing or seeking their present assignments could not work as often, permitting the use of additional men from the extra board. However, generally speaking, by desire on the part of the brotherhood representatives to maintain a particular level of earnings for the present individuals and consent on the part of the company, the number of men on the extra board is limited.

The volume of train trips on the Norfolk and Western, as stated before, is enormous. Railroad employees have never been noted for being nonvocal and, with our tremendous number of employees, it simply is not logical to state that they are working under onerous conditions, otherwise, we would have been

flooded with complaints. The number of complaints that we get from our employees is so small that I couldn't cite even one until I read Mr. Holloway's testimony. By and large, our men work the number of hours they work because they want to work them. The majority of the trips on the N&W run from 8 to 15 hours. Almost half of these run 8 hours and less than 9 hours. The longer trips are the most sought after by our men which contradicts the allegations of the proponents.

We were amazed when we read the testimony of Miles H. Holloway, who is a locomotive engineer assigned on our Pittsburgh Division. First, I should say that Mr. Holloway is a very fine engineer. We always have considered him one of our best employees, and are at a loss to understand why he would complain about his present assignment when he holds it only because is is the number one senior engineer and bids for it in preference to all other assignments. Incidentally, I believe we should clarify "assignment." The company does not assign a crew to a job. These are designated "assigned" by their labor agreements. The company doesn't care which crew operates which trip. The men, by exercising their seniority, bid for these "assigned" jobs under their own union agreements.

There are many distortions in Mr. Holloway's testimony that we feel must be called to the attention of this committee.

First of all, Mr. Holloway will be 72 years old on December 13 of this year and could retire any time he wishes to. Evidently he doesn't want to retire, and obviously he works this particular job because he wants it. With Mr. Holloway's number one seniority he can call his own shots and his work record shows that he does.

There are two through freight assignments between Brewster and Cleveland, Ohio, which run to Cleveland one day and return to Brewster the next. The distance one way is approximately 76 miles. They are daylight assignments, and the run from Brewster normally reports at 9 A.M. and the one from Cleveland between 7:30 and 9 A.M.

We have a study of these two assignments for the month of June 1966, and the engineers' on-duty time for the run to Cleveland averaged 10 hours and 20 minutes. The time on the run from Cleveland to Brewster averaged 8 hours and 38 minutes, or an on-duty average time for both directions of 9 hours and 20 minutes.

If Mr. Holloway is seeking shorter working hours he could have had either of these two runs, since he is the senior man on the district. All he would have had to do was bid on either one of them, so the so-called "excessive hours on duty of the regular local freight assignment that I have worked on for many years" are strictly by Mr. Holloway's choice. He states this assignment works six days a week, Monday through Saturday. As a general rule that is true. But what Mr. Holloway did not tell the committee is that there have been a number of occasions when this assignment did not work six days a week, and he then exercised his seniority to work some other job.

Because of our amazement at Mr. Holloway's testimony, we painstakingly examined his work record day by day for the last five years. While he says the assignment works six days a week, it is very interesting to note that in the year 1961 he worked a 6-day week only four times. In 1962 there were only three weeks when he worked a 6-day week. In 1963 there were only five weeks when he worked a 6-day week. In 1964 there were only six weeks when he worked a 6-day week, and in 1965 there were only eight weeks when he worked a 6-day week.

As a matter of further interest, we noted that he worked seven straight days in July of 1961, and 9 straight days in July of 1965, both followed by extended off periods. In both of those instances, he would have had to bid on other jobs because his so-called "assigned" run doesn't operate 7 or 9 consecutive days.

To further show Mr. Holloway's work record, in the year 1961 he only worked 175 days out of 365, and incidentally was paid an average of $57.43 for each day's work. In 1962 he worked only 109 days out of 365, and his average compensation was $57.30 a day. In 1963 he worked 196 days, and his average compensation was $55.00 a day. In 1964 he worked 148 days; his average compensation was $62.32 a day. In 1965 he worked 147 days for an average of $67.99 per day. In other words, he was off 190 days in 1961, 256 days in 1962, 169 days in 1963, 217 days in 1964 and 218 days in 1965. In five years, he has averaged 154 days a year at work and 211 days off and has averaged $60.00 per day for the days he worked.

I believe there are few people who can work so few days a year and make so much money. This is the real reason why Mr. Holloway exercises his number one seniority for this particular job.

To go on with Mr. Holloway's testimony, he states: "Wholesale violations of the spirit and letter of the House of Service Law are being made daily —". As mentioned elsewhere in my testimony, we have found only three trip violations on the entire Norfolk and Western system during a full year, out of an estimated 450,000 trips.

He also states: "The carrier officials involved placed their own interpretation and application on the law —". We follow the Interstate Commerce Commission requirements to the letter, and it appears obvious that the Interstate Commerce Commission agrees. If it did not, we would be cited for violation of the Act.

Mr. Holloway further states that we instruct the operating employees not to show over 15 hours and 59 minutes as total time on duty. This is distorted and just plain is not true. Our employees are instructed to cut out before exceeding 16 hours, and they then perform no more duties. If they work 16 hours, they are disobeying instructions. They continue under pay until they are finally relieved at the terminal, but they do not do any work.

Mr. Holloway's testimony is misleading when he states: "This has the effect of denying the crews 10 hours' rest after working 16 consecutive hours." What Mr. Holloway does not tell you is that this job of his, like all other assigned runs, is set up by an agreement with his union. Under the terms of the agreement with his union, he is entitled to 8 hours' rest. The only way a crew gets 10 hours' rest is on unassigned service when they can specifically request it and get it, or if the Hours of Service Act is violated. The 8 hours' rest applies under the terms of his union agreement after he reaches the terminal. It does not apply from when he cuts out on line.

Mr. Holloway states: "time reports are changed by the company to prevent penalties for violation of the law." This statement is false. We do not change time reports.

Mr. Holloway states: "Threats of discipline and coercion are the order of the day." This, too, is false. We do not threaten our employees, and no disciplinary action has ever been taken—I repeat—no disciplinary action has ever been taken for exceeding 16 hours. We do conduct an inquiry to determine why the crew did not cut out as it was instructed to.

Mr. Holloway cites an example on May 10, 1966, wherein his crew was on 16 hours and 10 minutes and makes much of a hearing held on June 6 to determine why this occurred. What Mr. Holloway does not tell you is that we wanted to know why the crew exceeded 16 hours on duty *after the conductor was specifically instructed by telephone to notify the members of the crew to cut out.* In this particular instance, the excessive time was caused when Mr. Holloway pulled the train up to a point convenient for the conductor and flagman to remove their personal effects from the caboose. He then moved the train back so that their relief crew could continue the work at this point. This is what caused the violation. This really is a rather petty thing, but had the crew followed its instructions, there would have been no violation of the Act. All of our crewmen know the time they go on duty. They also know that they are instructed not to work 16 hours. In many cases, the crew itself determines how long a job takes. Some crews work slower than others.

He goes on to say: "The crews are required to work as near to 16 hours as possible." This is not true. Mr. Holloway states: "The carrier *requests* us to work 15 hours and 59 minutes on duty, but subjects us to disciplinary action if we actually do work 16 hours." Again, this is a distorted untruth. We instruct our employees to cut out before 16 hours, and no precise minute is specified nor do we request them to work 15 hours and 59 minutes.

Holloway continues: "Our operating rules require that a crew must turn over to the next crew the orders and instructions. . . ." This is set out in our rules, but what he does not tell you is that crews which are relieved on line are not subject to the rule and are not required to remain present to turn over their train orders, nor is there any requirement that this work be done after 16 hours on duty. He also does not tell you that on many occasions when he has marked 15 hours and 59 minutes he has done so at the completion of his trip—not out on the road as is inferred.

Another distortion occurs when he says a crew will be called to work 8 hours after its arrival at the terminal and that on occasion crews have been called for

an assignment 8 hours after being released on the road. Mr. Holloway isn't called on that basis. He does not point out to you that when he gets back to the terminal, he can mark off for as long as he wants to and he won't be called until he marks up again. His five-year record shows that he had marked off many times. Also, he doesn't point out to you that we are required to call him under the terms of his union agreement, and if we didn't and gave his next run to someone else, we would have to pay Mr. Holloway whether or not he worked. We are following the requirements of the union agreement.

He discussed crews between Brewster and Toledo, Ohio. Our investigation has determined that an average of one crew a week is deadheaded from Brewster to Toledo. These are crews whose home terminal is Toledo, and they are being deadheaded home, because they brought a train from Toledo and there is no train scheduled for a trip back. We checked the past 7 months and there has not been even one crew which was deadheaded from Brewster to Toledo which was called for a trip back to Brewster before having 8 hours or more off duty after arrival at Toledo. So, again Mr. Holloway's statement, "They are immediately assigned to a freight train which will operate back to Brewster," is false. Also, he neglects to mention that a crew deadheaded from Brewster to Toledo is paid an arbitrary 10 hours and 29 minutes for the ride, even though the trip may take only 6 hours.

Quoting Holloway further, he said: "On the Norfolk and Western some crews are required to work 16 hours each day, 7 days every week. I refer to the through freight pool which operates freight trains east and west out of Brewster." This is false. It is, of course, common knowledge that the railroads run 7 days every week. However, there are no crews on the Pittsburgh Division, or on the entire Norfolk and Western system which work 16 hours a day, 7 days a week. During our study period of October 1 through October 15, 1965, the average on-duty time for all road freight engineers in Mr. Holloway's division was 10 hours and 41 minutes per trip.

Mr. Holloway states: "I for one would be willing to accept a loss of some overtime earnings from excessive hours on duty for my own safety." This naturally caused us to wonder about his safety record, so we checked it carefully and found it to be exemplary.

He goes on to state: "On my present assignment, even with a reduction to 12 hours, I still would be able to earn 4 hours overtime in addition to my normal wage for a basic 8-hour day." This simply does not make sense. If 15 hours and 59 minutes were actually required, day after day, and a change in the Hours of Service Act were made, a carrier would not break this into one 12-hour run and one 3 hour and 59 minute run. It would be split in half and made into two 8-hour assignments, and under these circumstances Mr. Holloway's earnings would be $25.21 for his basic 8-hour day as compared to his aveage daily compensation of $67.99 in the year 1965.

Mr. Holloway comments: "Working 16 hours per day, day after day, becomes almost too much for an individual to bear." This must be a theoretical statement because his 5-year work record doesn't indicate any such pattern. Although I dislike to quibble, I feel I must comment on Mr. Holloway's frequent use of the figure "16." If what he said was true, we would have been cited for many, many Hours of Service violations. We again checked every day that Mr. Holloway has worked for the last 5 years. His time reports do not show 16 hours even one day in 1961 or 1962—they show two days in 1963, five days in 1964 and twelve days in 1965. His average daily earnings have increased from $57.43 in 1961 to $67.99 in 1965.

He frequently marks off for extended periods, anywhere from two weeks to almost 6 consecutive months, and we note in the past couple of years, all of January, February and March were taken off.

Mr. Holloway also remarks: "In my own case I sometimes find it necessary after working 16 hours on Monday, Tuesday, Wednesday and Thursday to lay off for the rest of the week and not work." He doesn't point out that he has been paid $276 for these 4 days, and he doesn't mention that some weeks his run only operates 4 days. Also this assignment which he has selected runs in 2-day increments in that he goes over to Zanesville one day and back the next day. So, to work this particular run, of necessity, he must work Monday, Tuesday—Wednesday, Thursday—Friday, Saturday, or any 2-day combinations thereof.

He also states: "An adequate rest period each day should become a matter of law." On this run that he has chosen, there are at least two hours spent in lunch

periods each day, and the average idle time of the crew will run approximately two hours per day so there are about 4 hours' rest each day.

We have gone into this detail regarding Miles Holloway's testimony simply to demonstrate the distortions that the proponents have submitted in their efforts to justify an amendment to the Hours of Service Act.

As I stated before, Miles Holloway is a fine engineer and has been a fine employee for many years.

In any business with the tremendous volume of the railroads, isolated instances can be selected which, unless compared with overall operations, could create a very unfavorable impression. This is what the proponents have done. We studied the entire year of 1965 to determine the average time on duty for all of our conductors and our engineers. Now, bear in mind, we are not attempting to pick out one run such as Miles Holloway did. We are operating more than 1,250 runs per 24-hour day.

On passenger trains our conductors average 5.1 hours per trip and 35.8 hours per week. Our engineers average 3.9 hours per trip and 27.1 hours per week.

On through freight trains our conductors average 5.4 hours per trip and 33.3 hours per week. Our engineers average 5.1 hours per trip and 31.3 hours per week.

On our local and way freights our conductors average 10.5 hours per trip and 62.1 hours per week. Our engineers average 10.8 hours per trip and 61.3 hours per week.

On our yard service our conductors average 8.5 hours per trip and 43.0 hours per week. Our engineers average 7.9 hours per trip and 49.3 hours per week.

It would be a gross injustice to follow the recommendations of the proponents based upon the isolated instances they have selected. The above comparisons clearly indicate that on the average, which is the only fair way to examine the situation, our crews do not put in excessive time, quite the contrary.

I think I should make one more comment regarding Mr. Holloway. He wrote a letter to Mr. H. A. Gilbert dated December 12, 1965, which Mr. Gilbert read into the record wherein he referred to the *sample* time claim reports posted June 1, 1962 (actually June 11, 1962). After complaints to the ICC which were found unjustified, this notice was posted at the request of an ICC inspector solely to demonstrate the proper method of filing time claims. It was designed to eliminate confusion in determining the actual time in train and engine service as opposed to travel time to the terminal. Travel time is separately shown under the remarks on the time claim reports and the totals of the two are used in computing the man's pay. The letter is a distortion of the actual practice and evidently is intended to convey the impression to the committee that the carrier is doing something improper. This just is not so—we are following ICC instructions.

We have not attempted to give you the overall specific costs to the Norfolk and Western of complying with the proposed changes. It is sufficient to say they would be staggering, but we can supply them if you so desire. It is obvious that the costs to the United States railroad industry would be in the millions. We do not believe that there is even the slightest indication that safety would be improved by the proposed changes, and it is a very weak excuse for the tremendous upset that would occur. We know very definitely that any downward revision in permissible hours would result in a decrease in the efficiency of our operations and would hurt our service. It certainly should be obvious to everyone that instead of providing any benefits to our present employees, the majority would be injured. They would suffer substantial reductions in present income, or they would have to moonlight to maintain their incomes.

It appears to us that by a very simple application of logic, the proposed amendments would do nothing but increase union membership and union dues receipts at the expense of present employees and by adding a great and completely unnecessary burden to the Railroads.

STATEMENT OF E. M. PROUTY, ASSISTANT TO VICE PRESIDENT, OPERATIONS, UNION PACIFIC RAILROAD COMPANY

My name is E. M. Prouty and my office address is 1416 Dodge Street, Omaha, Nebraska. I have been employed by the Union Pacific Railroad since April 16, 1925, in various operating department positions, and was appointed to my present position, Assistant to the Vice President of Operations, on January 1, 1952. Mr.

C. B. Lisher, also an Assistant to Vice President of Operations for the Union Pacific, conducted the "in-depth" study to determine the effects of the proposed hours of service legislation and was scheduled to appear here and present the results of his study. He, however, is incapacitated because of a heart attack. I am familiar with the study as well as with operations on the Union Pacific Railroad and would like to read my statement and answer any questions you may have about it.

It will be my purpose to tell you why the Union Pacific opposes H.R. 8476. We do not believe there is any necessity to amend the existing law and the enactment of H.R. 8476 will not further safe railroad operations. At the outset, I want to emphasize that the present hours and working conditions of the train and engine service employes have not contributed to any unsafe railroad operations. You have been told of isolated instances of long hours. We do not deny that these occur. But you have not been given any instances where accidents occurred as a result of these longer runs.

The Union Pacific operates from Council Bluffs, Iowa, and Kansas City, Missouri, to Los Angeles, California and from Green River, Wyoming, to Portland, Oregon, and Seattle, Washington. The train operations within this territory include every type of railroad operation. A brief description of the territory through which Union Pacific operates is as follows:

Nebraska Division extends from Council Bluffs, Iowa, to Cheyenne, Wyoming, and from Julesburg, Colorado, to LaSalle, Colorado. This division is mostly double-track territory on which approximately 15 to 25 freight trains are operated in each direction on each day. The division has 1,485.94 miles of trackage, of which 659.60 miles is main line and 826.34 miles is branch line trackage.

Wyoming Division extends from Cheyenne, Wyoming, to Ogden, Utah, and from Cheyenne, Wyoming, to Denver, Colorado. This division is also principally double-track territory with a high density of traffic and approximately 15 to 25 freight trains are operated each direction each day. The division has 969.44 miles of trackage, of which 628.23 miles is main line and 341.21 miles is branch line trackage.

Kansas Division extends from Kansas City, Kansas, to Grand Island, Nebraska, and from Kansas City, Kansas to Denver, Colorado. The division has a total of 1,364.20 miles of trackage, of which 852.30 miles is main line and 511.90 miles is branch line trackage.

Utah Division extends from Ogden, Utah, to Las Vegas, Nevada, and from Salt Lake City, Utah, to McCammon, Idaho. The division has a total of 1,021.6 miles of trackage, of which 762.6 miles is main line and 259 miles is branch line trackage.

California Division extends from Las Vegas, Nevada, to Los Angeles, California. The division has a total of 429.3 miles of trackage, of which 338.5 miles is main line and 90.8 miles is branch line trackage.

Idaho Division extends from Granger, Wyoming, to Huntington, Oregon, and from Pocatello, Idaho, to Butte, Montana. This is one of the principal traffic originating divisions of the system over which a great many local trains are operated. The division has 2,187.2 miles of trackage, of which 844.9 miles is main line and 1,342.3 miles is branch line trackage.

Oregon Division extends from Huntington, Oregon, to Seattle, Washington, and from Hinkle, Oregon, to Spokane, Washington. This division also has a great many branch lines on which a variety of originating traffic is gathered. The division has a total of 1,909.94 miles of trackage, of which 776.64 miles is main line and 1,133.30 miles is branch line trackage.

Union Pacific was one of the Class I railroads which conducted an "in-depth" study to determine the need for and effects of H.R. 8476. We also made an analysis of the impact on railroad operations of the changes which would be necessary if H.R. 8476 were enacted into law. In my testimony, I will briefly review the results of our study.

In conducting this study, we examined in detail our railroad operations on two divisions, the Idaho and the Oregon Divisions, for the week of October 18 to 24, 1965. Only engineers and conductors were studied because with very few exceptions brakeman work the same amount of hours as conductors. The trains which operated on those divisions during that period were constructively redispatched as if the changes proposed in the Hours of Service Law as found in H.R. 8476 became law.

Thus, it was assumed that all engineers in freight and yard service would work an aggregate of only 9 hours within 16 hours from the reporting time after

a rest period of 8 hours or more. All other members of the crew were assumed to have worked 12 hours within 16 hours from the reporting time. At this point, I should state that the proposed 9-hour limit on engineers who operate without a fireman seems obviously designed to penalize the railroads for having removed firemen pursuant to the provisions of Arbitration Board No. 282. This is demonstrated by the fact that no instance of an accident occurring because of the absence of a fireman has been cited to you.

While we made our studies on the basis that the engineers would work 9 hours and the balance of the crew 12 hours, this is actually an unrealistic approach and results in understating the costs. In railroad operations it would be impractical to work the members of the crew different periods of time. Indeed, in many instances it will not be possible to do so.

We also conducted studies at two terminals for the period January 10 through 16, 1966. During this period, at least on the Union Pacific, our terminal activity was much reduced. In order to obtain a more accurate picture during the heavier work periods we checked our records for the first two weeks of August of this year. During that period there were 1500 times that yard employes doubled or worked successive or extra periods beyond their normal 8-hour shift. Broken down this was 348 engineers, 151 firemen, 1001 yardmen.

For this extra period of work the employes receive 8 hours' pay at time and one-half. Doubling is occasioned because of manpower shortages and generally occurs during the summer and fall season—from May through October. I might state that while this is seasonal, it is also occasioned by the present war in Viet Nam, which is severely affecting our manpower situation. Doubling is permitted under existing law, but under the proposed legislation it would be impossible because of the 12-hour limit. Thus, under the legislation and with the manpower shortage, we would simply not be able to perform the necessary yard work—it would have to wait until the personnel was available.

Our study of road operations demonstrated that the proposed legislation would require many changes of operations to avoid violations of the law. Many train and engine service employes would spend more time at away-from-home terminals and would also find their earnings reduced. In some instances, the quality of our transportation service would be impaired. There is no question but that it would also result in a great deal of added expense to the railroads. This would inevitably result because additional train miles would be required, additional employes would be necessary, new equipment purchased and additional facilities built. All of these factors demand your careful consideration. However, the most serious result and one which would affect everyone, the public, the employes and the Union Pacific, is the possible and probable abandonment of some of our branch lines because of the increased expenses. As everyone knows, all railroads have branch line operations which at best can be described as marginal. Union Pacific is no exception. We have found that as a result of the increased expense incident to complying with the proposed legislation, some of these marginal operations will no doubt operate at a deficit and they will be definite candidates for early abandonment as a result of this legislation. Additionally, service to shippers will be necessarily reduced in many cases.

Notwithstanding all of these serious and harmful results, I am convinced that this legislation will not result in furthering safety of railroad operations.

Our studies show that under the proposed legislation we would be forced to run a great many additional train miles. This would be required because many of the present runs would have to be completely revamped. Thus, under the provisions of H.R. 8476 the Union Pacific would have to run 2,423,108 additional train miles in local freight operations and 985,500 miles in through freight. It will be seen that the major impact is, of course, in local freight service which directly serves the various industries along the Union Pacific. Local freight assignments are by their very nature time-consuming and many times exceed 9 and 12 hours. The latter, however, represents only a small percentage of our operations. While you have heard a lot of talk about these long runs and their alleged ill-effects, it is of major significance in evaluating these complaints to remember that these are the desired assignments among the employees. This is shown by the fact that a vast majority of these local freight assignments are manned by the senior, older employees who could easily obtain the shorter assignments but do not desire to do so.

In our local freight train operations (straightaway) on the Oregon Division, for example, there are 15 trains which would be affected in varying degrees by the proposed legislation. These changes would include additional crews and locomotives, construction of additional rest facilities, and other innova-

tions if we are to continue the present service. The majority of the local trains affected operate on branch lines over distances ranging up to 163 miles per trip, through mountainous territory at speed restrictions of 5 to 25 miles per hour because of the heavy grades, sharp curvature, light rail and ballast.

Some of the operating changes necessary to comply with the proposed restrictions would consist of substitution of two straightaway or turnaround locals where one now suffices, operation of two crews instead of one on numerous assignments and reassignment of territory to the detriment of service. Some of the employees now spending 8 or 9 hours at away-from-home terminals would lay over 24 or more hours between trips in cases of substitution of two crews for one; and their earnings would necessarily be reduced.

As an example, on our branch from La Grande, Oregon, to Joseph, Oregon, a crew departs La Grande on one day, lays over at Joseph and returns to La Grande the following day. The assignment operates through mountainous terrain of heavy grades. Trains are restricted to a speed of 10 to 15 miles per hour for long stretches because of the track structure. En route, the train will spend 6 to 7 hours switching the lumber mills and other industries at Island Park, Imbler, Elgin, Wallowa, Enterprise and Joseph, consuming a total of 12 to 15 hours for the 84-mile trip. Under this proposed legislation, it would be necessary to split this assignment into two segments, operating one crew between La Grande and Elgin or Wallowa, and the other crew between Joseph and Elgin or Wallowa, thereby incurring additional locomotive, wage, meal and lodging expenses and requiring construction of rest facilities at Elgin or Wallowa. This would also result in one-day delay to cars moving to or from the Branch.

On the Idaho Division, there are 17 turnaround local assignments which would have to be altered in order to meet the new restrictions. Some of these locals operate distances ranging up to 248 miles per trip, again generally over branch lines in mountainous territory with severe grades at minimal speeds due to the grades, curvature and light rail.

To continue the present level of service would require drastic operating changes and a heavy financial outlay for wage, meal and lodging expenses where none now exist, as well as additional train and locomotive miles, investment in locomotive purchases and the construction of additional rest facilities. Many crews would suffer loss in earnings due to the elimination of overtime and the addition of crews, and would spend layover periods of 16 or more hours at away-from-home terminals on assignments not now involving any layover.

The heavy expenditures necessary to maintain the present service would give rise to serious consideration to operational changes involving substitution of tri-weekly in lieu of daily turnaround service, or substitution of weekly in lieu of tri-weekly service on a number of branches on our line.

While it is clear that the greatest impact of the legislation would be on local service, through freight operations would also be adversely affected. For example, on the Third Subdivision of the Oregon Division (The Dalles, Oregon, to Hinkle, Oregon) freight crews operate 98 miles but, because of constructive payments, are allowed a minimum of 126 miles. The territory on this subdivision has only minor grade conditions on the main line, and crews perform relatively little station switching en route.

An average of 6 freight crews per day operate from the home terminal at The Dalles to the away-from-home terminal at Hinkle, consuming from 5 to 9 hours per trip, with the majority of them averaging 6 to 8 hours. Of the 6 crews operated into Hinkle per day, 3 of them now double back to The Dalles with less than 8 hours rest (they receive pay for two trips when this is done). Since practically none of these crews would have sufficient time remaining to double out of Hinkle, it would be necessary to permit these crews to obtain their rest and deadhead up to 3 crews per day from The Dalles to Hinkle. This operational change would entail wage, deadhead, meal, lodging and away-from-home expense for the 3 additional crews, and would result in a substantial reduction in the earnings of the present 6 crews per day by reason of adding an additional 3 crews, as well as additional held time of 8 hours or more to practically all crews at Hinkle. Many crews not now receiving meal and lodging expense would do so.

In order to obtain system-wide cost estimates that would result from the proposed legislation we obtained information from each crew district on the entire Union Pacific Railroad and our system cost figures are based upon that data.

On the following page I have itemized the additional cost estimates on an annual basis for the Union Pacific Railroad under H.R. 8476.

All operating employees

(*a*) Additional train miles[1]	$2,071,070.22
(*b*) Net additional crew expense not requiring additional train miles[2]	3,074,847.25
(*c*) Additional locomotive expense (investment in 74 additional locomotives)[3]	828,282.00
(*d*) Additional rest facilities	
(*e*) Additional meal and lodging allowances[4]	462,888.00
(*f*) Other cost items: 74 additional cabooses (investment)[3]	91,612.00
(*g*) Net additional cost (total of (*a*) through (*f*))	6,528,699.47
(*h*) Loss of earnings to present crews	3,581,849.20
(*i*) Loss of earnings to present crews which represents a savings to company[5]	2,963,735.12
(*j*) Additional employees required (train and enginemen and yardmen)	833

[1] Based on estimated cost for 1 diesel unit and 1 caboose of $0.6076 per train mile which includes expense of repairs, depreciation, fuel, water, lubricants, supplies and enginehouse expense for the diesel unit, and depreciation, repairs and lubricants for the caboose. In actual operation, very few road freight trains are operated with only 1 diesel unit.

[2] Additional wage costs included herein represent net increase in wages after deduction of overtime savings shown in (*i*).

[3] Based on purchase price of 74 general purpose GP–9 road switcher diesel units at $186,549 each and purchase of 74 cabooses at $20,632 each. Figures shown do not represent purchase price but represent annual interest of 6 percent on investment, or $11,193 per diesel unit and $1,238 per caboose.

[4] Based on meal allowance of $1.50 per crew member and system average lodging allowance of $3 per crew member.

[5] This represents the loss in wages at overtime rate in excess of limitations of proposed legislation.

It will be noted that we estimate an annual loss of earnings to present crews of over $3,000,000 annually. This figure represents the loss in wages to the affected employes, at the overtime rate in excess of the limitations proposed in H.R. 8476. While some of the employes' earnings loss would result in a saving to the Union Pacific, it would nevertheless be a real loss of earnings to individual employes.

I have heard that some of the proponents deny that this legislation will result in any reductions in earnings. This is simply not correct. I am told that it is asserted the monthly mileage provisions found in many railroad labor agreements covering the train and engine employes will prevent the employes from suffering losses in their take home pay. Let me state that as far as Union Pacific employes are concerned the mileage provisions will not operate to prevent the reductions in take home pay which we found would occur.

Union Pacific does not have any minimum mileage agreements. We do have agreements with some train and engine service unions which provide a maximum mileage of 3,800 miles per month. This results in placing a ceiling on the number of miles which an employe may run during a month. But it does not guarantee that any employe will run that many miles.

It must be understood that the only way in which those employes who will have their earnings reduced under this lesgilation can make up and maintain their present take home pay would be by the performance of more work, and in many instances they would not be able to perform such work. Admittedly, if the affected employes made additional runs, they would make more money and might be able to maintain their present take home pay. But, this will not always be possible. Indeed, in many instances it will be impossible. For example, most of the employes adversely affected are in local freight service which is on an assigned basis and employes cannot work any more than their assignment calls for except in an emergency. While the unassigned employes might be able to obtain some additional runs, I seriously question that they will be able to do so in a sufficient amount so as to maintain their present take home pay.

In short, for the proponents of this legislation to say take home pay may be maintained because of the mileage agreements is plainly incorrect. They might just as well tell you that the employes' take home earnings will not be reduced under this legislation because they can always go out and find a part-time job during the time they are not on duty.

Our studies on the Idaho and Oregon Divisions show the following number of employes who will have their pay reduced and the average amount of such reduction:

Class of service	Idaho division		Oregon division	
	Number of men affected	Average monthly loss	Number of men affected	Average monthly loss
Engineer	122 of 150	$192.58	81 of 110	$213.10
Conductor	71 of 129	115.77	45 of 97	83.58
Brakeman	142 of 258	109.24	90 of 194	77.92

The second figure under the column "Number of Men Affected" is the number of employes working in that seniority district. We believe these wage-loss estimates are accurate and will surely result because of the operational changes required by the proposed legislation. These reductions represent a very serious disadvantage to the employes—one which I feel certain cannot be compensated for by the assertions that this legislation will further safety of operations.

There is one further adverse effect which I would like to discuss briefly. Because of the revamping of a great portion of our freight train runs and the limitations imposed, many employes would be forced to spend additional time at away-from-home terminals. The result of our study in this regard is as follows:

Class of service	Idaho division		Oregon division	
	Number of men affected	Average monthly increase of elapsed time at other than home terminal	Number of men affected	Average monthly increase of elapsed time at other than home terminal
Engineer	122 of 150	17 minutes 48 seconds	81 of 110	29 minutes 44 seconds.
Conductor	71 of 129	8 minutes 48 seconds	45 of 97	22 minutes 20 seconsd.
Brakeman	142 of 258	8 minutes 48 seconds	90 of 194	22 minutes 20 seconds.

In conclusion, we seriously feel that there are little or no benefits which will result from the proposed legislation and no justification for imposing the burdens on the railroad industry which will result therefrom.

In summary, we are opposed to H.R. 8476 because:

1. It will definitely have an adverse effect on the service which we render to shippers and will further reduce efficient utilization of equipment and aggravate the already critical car shortage.

2. It will foster early abandonment of a number of branch lines which are now marginal as to earnings.

3. It will operate to reduce the wages of many train and engine service employes, thus making it more difficult to retain and obtain qualified employes.

4. It will increase the cost of operation on the Union Pacific approximately $6.5 million, for which we can see no benefits and certainly will not result in the furthering of safety of railroad operations.

Thank you for permitting me to appear before you.

Mr. Jordan has an additional statement to make concerning an investigation that he made concerning some alleged long-hour runs on the Union Pacific cited by Mr. Gilbert previously and is prepared to present that statement at this time.

STATEMENT OF P. A. JORDAN, SUPERVISOR OF WAGE SCHEDULES, UNION PACIFIC RAILROAD COMPANY

My name is P. A. Jordan and I live at Portland, Oregon. I have been employed by the Union Pacific since 1953, when I went to work as a Switchman. My present position with the Union Pacific Railroad Company is Supervisor of Wage Schedules in the Labor Relations Department. In this capacity, I represent the Union Pacific in handling grievance matters which arise under our collective bargaining agreements, administer those agreements, and meet with labor organizations in connection with all matters involving our labor relations. My work covers the Northwestern District, which extends from McCammon, Idaho, to Butte, Montana; Portland, Oregon, and Seattle and Spokane, Washington, to Granger, Wyoming; and includes the Union Pacific's railroad operations in Idaho, Wyoming, Montana, Oregon, and Washington.

In his testimony before this Subcommittee on June 24, 1966, President Gilbert of the Brotherhood of Locomotive Firemen and Enginemen cited the Union Pacific Railroad as one of four railroads requiring its operating employes to work "long-hour assignments." At pages 26 through 27(b) of Mr. Gilbert's prepared statement (page 37, Vol. 1, Transcript, June 24, 1966), he listed some 134 assignments on trains operating between Huntington, Oregon, and Glenns Ferry, Idaho, and between Pocatello, Idaho, and Glenns Ferry which he described as being representative of the many "long-hour" assignments on the Union Pacific. The period covered was May 5, 1965, to November 10, 1965.

In obtaining that data, the Brotherhood's local chairman at Glenns Ferry simply checked the Federal Train Register and extracted the date on runs operated by pool freight engineers during that period which exceeded 12 hours where there was a fireman and 9 hours where there was no fireman. In the vast majority of instances only one such alleged "long-hour" assignment occurred on any one day. I believe we may safely assume that Mr. Gilbert chose these instances as the most flagrant which could be found on the Union Pacific.

Mr. Gilbert's listing was designed to create the impression that the Union Pacific engineers at Glenns Ferry have long-hour runs almost every day. But this is not the case. Mr. Gilbert's data does not give anything approaching a correct picture as to the total work performance of any one employe. What may occur on one day does not tell the real story. This is especially true with the examples cited by Mr. Gilbert. In order to give you a more complete picture and to demonstrate that the instances on which certain engineers worked allegedly long hours are in fact quite isolated instances, we reviewed the time records of each employe shown by Mr. Gilbert in his so-called "long-hour" listing. The purpose of my testimony is to discuss the results of that study.

We have compiled the month's work record of each employe listed by Mr. Gilbert to show the days worked, hour on duty, rest periods and other pertinent data. I have available a few copies of these records, but they are so voluminous that I am not suggesting they should be made a part of the record. I will simply file them with your committee to be available for your review.

A study of these work records shows that the so-called long-hour assignments occurred only a few times in a month—at most 3 or 4 times per month out of approximately 18 to 22 trips. The average hours per tour of duty for the month cannot be termed long hours—the great majority ranged from 5 to 8 hours per trip. The following tabulation summarizes the month's work record of each employe:

Statement showing summary of month's work record of all Union Pacific employees listed by Mr. Gilbert as working long-hour assignments

Name	Month	Total time on duty during month	Average hours per tour of duty	Full days off duty	Earnings for month	Total earnings for 1965
Grow, C. R.	May	153'15"	7'17"	15	$1,009.16	$10,983.86
Joslyn, A. W.	do	120'00"	6'00"	15	936.35	8,834.71
McAnulty, L. C.	do	144'30"	7'13"	11	980.95	13,072.05
Norton, A. B.	do	120'10"	7'04"	16	870.26	12,397.22
Shrum, W. F.	do	118'10"	6'13"	12	900.25	10,391.26
Tripple, L. E.	do	112'40"	6'37"	15	832.32	12,180.56
Frazier, L. L.	June	36'20"	9'03"	26	193.95	10,012.30
Gaffner, W. E.	do	118'05"	6'34"	13	1,053.45	12,683.87
Grow, C. R.	do	76'45"	5'28"	19	746.14	10,983.86
Marley, W. R.	do	147'05"	7'21"	10	1,006.43	11,853.40
Shrum, W. F.	do	110'15"	8'28"	19	724.94	10,391.26
Tripple, L. E.	do	121'25"	7'08"	12	851.99	12,180.56
Allison, W.	July	123'15"	7'14"	17	861.29	11,710.58
Burbank, G. M.	do	112'25"	7'29"	18	791.59	9,537.21
Cartwright, E. R.	do	137'10"	6'32"	13	973.56	12,729.51
Downey, J. F.	do	248'18"	8'16"	5	1,355.91	13,269.49
Egusquiza, A. M.	do	147'05"	7'00"	14	1,063.22	12,172.96
Hukill, K. E.	do	22'25"	11'08"	28	99.47	10,016.90
Norton, A. B.	do	87'00"	6'41"	22	658.80	12,397.22
Powers, T. A.	do	163'10"	7'25"	10	1,147.86	12,522.37
Smith, B. E.	do	129'40"	6'10"	12	1,024.36	11,026.84
Thomas, M. F.	do	154'45"	7'21"	8	989.54	12,125.59
Thompson, L. T.	do	165'20"	7'31"	10	1,149.47	12,932.54
Tripple, L. E.	do	110'25"	6'53"	16	798.48	12,180.56
Allison, W.	August	143'40"	7'10"	14	985.42	11,710.58
Anderson, W. H.	do	205'00"	8'12"	10	1,148.91	13,496.97
Bloom, H. M.	do	152'35"	7'15"	14	1,118.74	7,963.37

Statement showing summary of month's work record of all Union Pacific employees listed by Mr. Gilbert as working long-hour assignments—Continued

Name	Month	Total time on duty during month	Average hours per tour of duty	Full days off duty	Earnings for month	Total earnings for 1965
Burbank, G. M	do	148'55"	8'15"	12	$957.88	$9,537.21
Burton, F. G	do	136'20"	6'49"	13	1,082.63	11,774.65
Carpenter, J. R	do	142'54"	5'56"	10	1,249.58	12,590.99
Egusquiza, A. M	do	131'05"	6'14"	14	1,014.36	12,172.96
Frazier, L. L	do	26'10"	8'42"	28	146.21	10,012.30
Grow, C. R	do	132'40"	7'47"	18	877.94	10,983.86
Jones, F. R	do	148'19"	6'44"	11	1,106.89	10,656.07
Joslyn, A. W	do	164'50"	7'29"	12	1,135.01	8,834.71
Laible, B. E	do	98'00"	6'32"	20	722.06	12,337.21
McGhee, G. E	do	22'00"	11'00"	29	101.84	11,354.37
Morris, G. E	do	239'27"	9'34"	7	1,264.81	13,410.95
Norton, A. B	do	110'45"	6'54"	15	871.61	12,397.22
Parry, S. E	do	137'10"	6'52"	13	1,057.96	11,711.99
Rhodes, R. H	do	119'35"	7'01"	14	937.52	10,706.94
Shrum, W. F	do	92'30"	6'35"	21	689.42	10,391.26
Smith, B. E	do	99'25"	8'16"	19	661.30	11,026.84
Steen, J. W	do	109'05"	7'47"	17	703.78	11,106.66
Tripple, L. E	do	140'35"	7'48"	14	982.29	12,180.56
Uhl, R. W	do	102'50"	7'53"	18	659.95	13,375.52
Allison, W	September	159'40"	7'15"	11	1,136.74	11,710.58
Bloom, H. M	do	161'05"	7'40"	13	1,024.53	7,963.37
Clark, R. D	do	166'35"	7'34"	11	1,162.80	10,898.12
Cartwright, E. R	do	127'45"	7'30"	13	902.07	12,729.51
Frazier, L. L	do	12'20"	12'12"		[1] 41.84	10,012.30
Joslyn, A. W	do	116'05"	7'44"	15	753.19	8,834.71
Norton, A. B	do	134'40"	6'07"	12	1,118.80	12,397.22
Parry, S. E	do	117'45"	7'50"	16	724.97	11,711.99
Paulsen, L. C	do	120'46"	6'41"	13	942.82	7,940.65
Rhodes, R. H	do	147'45"	7'01"	13	1,090.28	10,706.94
Shrum, W. F	do	74'25"	9'17"	23	372.86	10,391.26
Smith, B. E	do	128'35"	7'33"	18	841.79	11,026.84
Thompson, L. T	do	141'35"	7'04"	12	1,020.15	12,932.54
Tripple, L. E	do	99'25"	6'37"	17	783.44	12,180.56
Allison, W	October	83'50"	6'58"	19	595.56	11,710.58
Bailey, B. R	do	154'45"	7'21"	11	1,060.15	12,859.66
Bain, C. R	do	87'45"	7'57"	21	613.80	12,407.81
Bloom, H. M	do	121'15"	6'44"	16	868.77	7,963.37
Carpenter, J. R	do	140'35"	7'01"	12	969.62	12,590.99
Cartwright, E. R	do	114'15"	6'43"	16	950.24	12,729.51
Clark, R. D	do	134'30"	7'04"	15	961.29	10,898.12
Connelly, W. H	do	139'40"	6'58"	11	1,055.64	12,705.71
Cox, R. A	do	133'55"	6'04"	15	1,045.83	13,700.69
Davis, F	do	139'35"	6'58"	11	1,047.66	13,050.28
Eggers, L. H	do	39'05"	7'49"	26	266.12	10,215.52
Grow, C. R	do	126'15"	6'19"	14	984.66	10,983.86
Harmon, H. M	do	15'20"	7'36"	29	104.32	8,473.35
Hawk, G. W	do	128'15"	6'44"	13	1,047.28	11,186.48
Joslyn, A. W	do	139'50"	6'59"	12	1,013.15	8,834.71
Laible, B. E	do	105'50"	5'52"	17	942.33	12,337.21
Marley, W. R	do	145'45"	6'58"	12	1,119.60	11,853.40
McAnulty, L. C	do	112'25"	7'01"	18	750.32	13,072.05
Nelson, E. L	do	167'50"	6'26"	11	1,282.44	13,039.35
Norton, A. B	do	168'15"	7'38"	9	1,017.71	12,397.22
Powers, T. A	do	103'45"	6'05"	16	869.84	12,522.37
Rhodes, R. H	do	126'55"	7'02"	15	883.76	10,706.94
Ryan, R. M	do	243'50"	10'09"	9	1,230.35	11,422.41
Shrum, W. F	do	161'50"	6'44"	9	1,213.96	10,391.26
Steen, J. W	do	95'40"	7'20"	18	666.18	11,106.66
Thompson, L. T	do	134'40"	7'55"	14	909.37	12,932.54
Transtrum, D. W	do	220'55"	8'29"	12	1,155.61	13,626.24
Uhl, R. W	do	194'45"	6'56"	7	1,465.65	13,375.52
Williams, E	do	137'50"	5'44"	15	1,060.06	13,625.55
Wright, L. C	do	226'37"	10'47"	11	1,149.85	11,665.13
Burbank, G. M	November	128'45"	8'02"	17	802.29	9,537.21
Clark, R. D	do	150'35"	7'31"	15	1,022.64	10,898.12
Gaffner, W. E	do	121'10"	6'22"	10	1,040.30	12,683.87
Rhodes, R. H	do	153'40"	7'18"	12	1,089.16	10,706.94
Robertson, R. E	do	170'40"	8'07"	11	1,065.16	9,895.52
Starkey, K. A	do	45'05"	6'26"	23	333.19	12,228.88
Steen, J. W	do	126'25"	7'26"	15	878.61	11,106.66

[1] Frazier worked only 1 day as an engineer and the balance of September as a fireman.

I invite your attention especially to the column headed "Full Days Off Duty." Thus, it will be noted that the first engineer listed (page 4), C. R. Grow, had 15 full days of rest in May, 1965, yet his average hours per tour of duty was 7'17", and his earnings for that month were $1,009.16. This is not an isolated example as a brief review of this tabulation will demonstrate.

To present a yearly picture, we selected 3 of the engineers listed by Mr. Gilbert as engaging in these "long-hour assignments" and studied their work performance on a month-by-month basis for all of 1965. These employes were picked at random. As it turned out, however, each of the engineers selected appeared a number of times on Mr. Gilbert's "long-hour" list. The following statement shows the number of trips per month, total hours on duty per month, and average number of hours per tour of duty for the three typical pool freight engineers operating between Glenns Ferry, Idaho, and Huntington, Oregon, for 1965:

Name	Month	Number of trips	Total time on duty	Average time on duty per trip
W. Allison (listed 4 times in Mr. Gilbert's "long-hour" assignments); annual earnings, $11,710.58.	January	17	144'40"	8'30"
	February	14	118'40"	8'30"
	March	14	94'54"	6'45"
	April	16	94'50"	5'55"
	May	16	91'35"	5'45"
	June	13	97'40"	7'15"
	July	15	115'40"	7'43"
	August	19	147'35"	7'46"
	September	21	154'40"	7'22"
	October	11	80'40"	7'20"
	November	20	143'30"	7'10"
	December	21	141'35"	6'45"
Total		197	1,425'59"	[1] 7'14"
G. M. Burbank (listed 6 times in Mr. Gilbert's "long-hour" assignments); annual earnings, $9,537.21.	January	12	78'05"	6'30"
	February	11	90'25'	8'15"
	March	17	130'15"	7'40"
	April	2	18'50"	9'25"
	May	3	19'10"	6'25"
	June	16	108'50"	6'50"
	July	15	112'25"	7'30"
	August	17	144'20"	8'29"
	September	17	136'35"	8'00"
	October	16	99'40"	6'15"
	November	16	128'45"	8'03"
	December	15	108'45"	7'15"
Total		157	1,176'05"	[1] 7'29"
A. W. Joslyn (listed 6 times in Mr. Gilbert's "long-hour" assignments); annual earnings, $8,834.71.	January	None		
	February	None		
	March	None		
	April	17	120'30"	7'05"
	May	18	110'40"	6'09"
	June	18	113'09"	6'20"
	July	1	11'30"	11'30"
	August	22	164'50"	7'30"
	September	14	112'50"	8'03"
	October	20	139'50"	6'59"
	November	16	97'25"	6'05"
	December	19	142'40"	7'30"
Total		145	1,013'24"	[1] 6'59"

[1] Yearly average.

When the whole work record of these employes is considered instead of isolated instances, train and engine employes do not work the long hours you may have been led to believe. Indeed, when viewed in proper context, the few instances cited to you appear to be insignificant.

The average working times shown in the foregoing is consistent with the average working time per trip and per week of all engineers and conductors working for the Union Pacific during 1965:

	Average working time per week	Average working time per trip
	Hours	*Hours*
Through freight engineers	20.19	4.40
Local freight engineers	52.33	8.64
Through freight conductors	23.69	4.32
Local freight conductors	56.66	8.59
Yard engineers	48.18	8.40
Yard conductors	45.90	8.14

Source: Form A and B, Union Pacific RR., 1965.

There is some distortion in the above data between the average hours per week in local and through freight. This occurs because of the so-called "conversion" factor and the utilization of the mid-month count of employees by the Interstate Commerce Commission. When a through freight crew performs a certain amount of local work, e.g., switching en route, etc., it converts to the local freight rate of pay, which is a higher rate. The mid-month count is based upon the class of service performed by each employee on the 15th day of the month. Thus, if a through freight engineer converted to local freight on the 15th day, all of the employee's service during that entire month would be counted as local freight. This distortion is eliminated by combining through and local freight:

	Average working time per week	Average working time per trip
	Hours	*Hours*
Through and local freight engineers	32.93	5.68
Through and local freight conductors	27.48	5.59

Source: Form A and B, Union Pacific RR., 1965.

STATEMENT OF JAMES C. LOVE ON BEHALF OF MISSOURI PACIFIC RAILROAD

My name is James C. Love. I reside in Houston, Texas, and am employed as General Manager, Missouri Pacific Railroad Company. The headquarters of the Railroad is St. Louis, Missouri. It operates 9,181 miles of railroad in ten mid-western states. Its major subsidiary, the Texas and Pacific, operates another 1,847 miles. The main lines of these railroads extend from St. Louis through Little Rock to Houston, San Antonio and Laredo, Texas, from New Orleans through Dallas to El Paso, and from St. Louis through Kansas City to Pueblo, Colorado, and Omaha, Nebraska.

I have been employed by Missouri Pacific Railroad for 24 years in various capacities including Switchman, Yardmaster, Trainmaster, Assistant Superintendent, Superintendent, Assistant General Superintendent, Assistant General Superintendent of Transportation, and Assistant General Manager. In these positions, I have had direct supervision over the operation of trains and yard engines and their crews. I have held positions in all districts of the railroad and am familiar with its operations. By reason of this background, I feel I am qualified to speak on the effect of these bills on such operations.

In brief the Missouri Pacific is strongly opposed to the proposed amendments. There are many reasons for this opposition but fundamentally it boils down to the need for flexibility in conducting its operations in order to perform its duties as a common carrier and meet the requirements of the people it serves. A railroad is entirely different, in this need for great flexibility, from other industries. A railroad cannot perform the services required of it by dividing up these services into neat packages of 8 hours or 12 hours. Great flexibility is required to meet the needs of its patrons. The proposed amendments would destroy a large part of this flexibility by imposing arbitrary limits on hours of service. It would

do so at great cost to the railroads and without a corresponding benefit to the employees, as I shall try to show:

The need for flexibility in hours of service of train and yard crews is indicated by the many factors which determine their present hours:

(1) *The length of the line.* A railroad is a network of many lines, each of which is a different length. The longer the line the more time is needed to serve it.

(2) *The number of industries* to be served on the line.

(3) *The amount of switching* to be done at each industry, which varies from day to day and season to season.

(4) *The time when the industries require switching services.* Each industry has it own production and shipping routine and the railroad attempts to serve each industry to meet its schedule. A train or yard engine may be required to wait until the industry shipments are ready.

(5) *Terrain and track conditions.* The hillier the terrain the more grades, the more curves, the slower the speed at which trains can operate and the fewer tons it can handle. Speed is also determined by conditions of track and roadbed. Slow speeds are required at places where track and bridges are undergoing repairs.

(6) *The Weather.* Trains are often slowed down by adverse weather conditions. These conditions need not amount to an act of God to delay trains. Rain, snow and ice affect traction, switches and communications; fog reduces visibility. Any of these conditions requires slower speeds and causes delays.

(7) *Connections with other lines and meetings of trains* on our line.

If connections are delayed, our crews must wait. Likewise at points where our trains must pass, if one train is delayed, the other train must wait in a siding.

(8) *Provisions of collective bargaining agreements,* particularly the requirement that crews must be paid a minimum of 100 miles or 8 hours' wages. This means that in order to get a full day's work for a day's wages railroads must arrange runs, where possible, to work a crew at least 8 hours or 100 miles. If the run requires 12 hours, it is much more efficient to run a crew 12 hours and pay overtime than to run two crews for 6 each and pay for 8 hours each.

For all of these reasons hours of service must vary from run to run and from day to day. The railroads have divided their lines, established their terminals, arranged their schedules and made collective bargaining agreements all on the present legal basis of having flexibility in hours of service up to the present maximum of 16. The proposed amendments to reduce the maximum for all crews to 12 and for most crews to 9 hours would require a complete rearrangement of operations and schedules.

The fact that present law permits a *maximum* of 16 hours is no indication that the railroads are working their crews 16 hours. As a matter of fact, hours of service on the railroad are at least as low, on the whole, as in other industries. To prove this fact, the Missouri Pacific and its major subsidiary, Texas and Pacific, made a study of hours worked by *all* crews during the entire month of October, 1965. I attach as Exhibit A the results of such study. This exhibit, consisting of 8 pages, shows average hours and frequency distribution of 26,983 trips by engineers and conductors. It also shows average hours and frequency distribution of other classes of employees who might be affected by Section 3 of HR 8476 or by HR 5196.

Exhibit A shows that engineers average 7.61 hours per trip. The hours of firemen would correspond to engineers. The exhibit shows that 5.4% of the 26,893 trips made by engineers exceeded 12 hours, and that the vast majority of trips fell in the range of 4–10 hours (75%). There were more trips in the 2–4-hour range (6.8%) than in the 12–16-hour range (5.4%). This wide variance in the hours per trip demonstrates the need for greater flexibility than would be permitted by the proposed amendments.

Missouri Pacific also made studies in depth of two subdivisions and two yards as typical samples of our operations and then applied the results to other portions of our system in order to determine the total impact of the proposed amendments on operations and the cost. The two subdivisions studied were the St. Louis Subdivision from St. Louis to Jefferson City, Missouri, and the DeSoto Subdivision from St. Louis to Poplar Bluff, Missouri. The period of this study was October 4 to October 10, 1965, and included a study of every trip on these subdivisions during that time. The two yards studied were North Little Rock and Kansas City. The period of this study was January 10 to January 16, 1966.

In spite of the low percentage of runs which would be affected by the proposed amendments, many changes in operations would be required to avoid possible

violations. I use the term "possible violations" advisedly because violations are often unintentional and unavoidable by reason of the several variable factors I have previously stated. The railroad is not always able to anticipate and control the amount of time required by a particular train to perform its functions, and therefore must allow considerable leeway in order to avoid possible violations of the Act. For example, a run which might vary from day to day as much as 4 hours must be scheduled to take not more than 11 to 12 hours. If the maximum were reduced to 12 hours, the schedule would then have to be cut down to 8 hours to allow a 4-hour leeway.

The railroad takes every precaution to avoid violations. The crew clerk enters in a daily crew book the exact time when each crew goes off duty. When a new crew is called, he calls only those who have had the required amount of rest. He also informs the dispatcher of the exact time the crew goes on duty and the amount of rest between trips. The dispatcher in charge of the train operation makes sure that it will reach its terminal before it goes over the maximum hours. Violations under this system are extremely rare, averaging only one per month out of many thousands of operations.

The greatest impact of the amendments would be felt in local freight service, miscellaneous road service and in yard service. These are more likely to vary from day to day than through freight trains.

Local freight trains are those which serve industries located on the line of road between two terminals. Local freight trains are operated daily and are classified as either straightaway or turnaround service. Straightaway runs are operated from their home terminal to the away-from-home terminal, and after an interval of rest (8 hours or more) return to their home terminal on another train the following day. Because of the heavy amount of switching required on these local runs, and by reason of having to wait for loading and billing of shipments by the industries, meeting other trains, waiting for connections, etc., the hours on duty often exceed the proposed nine and even the proposed twelve-hour maximum. However, this is the most practicable and economical way to operate this service. It is also preferred by the employees, as indicated by the fact that the senior men bid these assignments because not only do they earn more income but also those in turnaround service can be at home with their families every night.

The fact that the employees prefer these assignments also furnishes proof that they do not consider them unduly arduous or dangerous. Even though they may be "on duty" longer than the average crew, much of their duty time is taken up with waiting, as previously mentioned.

To operate straightaway local freight under the proposed amendments, an additional crew, engine and caboose would be required in order to distribute the present work load between two crews instead of one. Such additional crew might be assigned to a traveling or road switch engine in order to take some of the heaviest switching burden off the present crew, or the new crew might be a turnaround or be used as an additional straightaway local, depending on circumstances.

Turnaround service under the proposed amendments would also require an additional crew, engine and caboose in all cases where the present service is unable to complete its assignment with the limitations, allowing ample leeway. Again depending on circumstances, the Superintendent might use the two crews to operate straightaway in opposite directions on alternate days, which would require that the employees spend every other night away from home. Or the two crews might operate in turnaround service from each end of the line to an intermediate point. Whether one or the other arrangement is adopted would depend on where the heaviest switching is required and the direction the traffic is to move.

An example of local straitghtaway service on the Northern District would be Train No. 529–530 which is assigned to do station switching between Falls City, Nebraska, and Kansas City, Missouri. This crew operates tri-weekly leaving Falls City, Nebraska, on Monday, Wednesday and Friday and leaving Kansas City, Misouri, on Tuesday, Thursday and Saturday with Sunday layover at Falls City, its home. The distance of this run is 102 miles with punitive rate of pay after 8 hours and 10 minutes. During the 15-day check period, 6 trips were over 12 hours and all were over 9 hours. This local now averages 3 hours and 25 minutes station switching, 26 minutes meeting other trains, 36 minutes for meal, with a total average time on duty of 12 hours and 15 minutes per day. The daily pay is $44.15 for engineer, $40.61 for conductor, and $36.66 for each brakeman. In spite of the fact that this is a relative short run, it cannot be

operated any faster because of the large number of industries and the amount of switching en route and also because of waiting on connections at Atchison, etc. To change this operation so as to avoid possible violation of the proposed Act would require an additional local operating in straightaway service in opposite direction from the present local on alternate days. Thus the work would be divided so that each train might make the run in 6 or 7 hours instead of the present 12¼ hours. This additional local would cost the carrier an annual expense of $86,952 and, in addition, would reduce the earnings of the employees involved by an annual amount of $25,584. This also illustrates the aspect of such an operation which I mentioned on page 3 because even though the runs may require only 6 hours, we must pay for 8 hours under the present collective bargaining agreements.

Turnaround service may be illustrated by our operation between Newport and Guion, Arkansas, a distance of 112 miles round trip. The average time on duty is now 11 hours 4 minutes. During the check period, 3 trips exceeded 12 hours and all exceeded 9 hours. Under the proposed limits, this operation would have to be converted to straightaway service and an additional train operated so that each train will then average only 5½ hours per day. The only alternative would be to curtail switching service to the industries on this line so that some will be served on less than a daily basis.

Another effect of the proposed limitation on hours would be the elimination of so-called aggregating of crews operating through freight trains. Aggregating may be defined as the use of a through freight train crew twice on the same day. In other words, the crew operates one train from its home terminal to an away-from-home terminal and after a period of rest less than 8 hours will return on the next through train in the opposite direction.

An example of aggregating is found on the St. Louis Subdivision between St. Louis and Jefferson City, Missouri. Four scheduled red ball freight trains operate in each direction daily. On these freight trains the crew's average time on duty is approximately 5 hours and 30 minutes per trip. Our present train operations make it necessary almost daily to aggregate one of these crews out of Jefferson City, Missouri, (away from home terminal point). In other words, the crew operating a train St. Louis-Jefferson City will pick up another train at Jefferson City and return to St. Louis without an intervening period of 8 or more hours.

For example, a crew which had been off duty at home terminal for 35 hours 40 minutes, departed St. Louis at 2 p.m. on October 5, 1965, arrived Jefferson City at 9:55 p.m. Total time on duty was 7 hours 55 minutes. This crew was then off duty at Jefferson City 5 hours 45 minutes. It returned to duty 3:40 a.m., and went off duty at St. Louis, Missouri, at 8:05 a.m.—another 4 hours and 25 minutes on duty. Its next service was performed after being at home 31 hours and 10 minutes. Compensation for this crew for the round trip was: Engineer $71.10, Conductor $55.15, Brakemen $50.10. If the proposed hours of service bill were enacted, this crew could not have made the return trip, not only because of the 9-hour and 12-hour limit, but also because of the provision of Section 2(a)(2) requiring 8 hours rest during the preceding 24. (This latter provision would have prohibited continuing on duty past 6 a.m., October 6.) Consequently, it would be necessary for this crew to remain off duty in Jefferson City 8 hours or more, and to have another crew rested and available at Jefferson City to work the return trip to St. Louis.

An example of the impact on yard service would be the yard assignment which works Imperial Sugar Refinery at Sugarland, Texas. This assignment works 6 days per week with assigned hours 8 a.m. to 4 p.m. and is off Sunday. This job goes to work at 8 a.m. for the purpose of spotting raw material and empty cars for the day's production. Many times this work has been completed by noon, but it is often necessary for this crew to remain on duty an average of 2 hours' overtime to pull the outbound loads, deliver interchange to Southern Pacific and AT&SF, and to make up outbound train. This overtime is necessary since the industry's billing is not complete, as orders are received throughout the day, and switching cannot be performed until after billing is received.

Under the proposed changes, the service of this customer would require the use of an unnecessary fireman in order to avoid the 9-hour limitation. This would require the payment of a day's wage to such a fireman even though he is required only because the operation may take only 1 hour or 2 hours beyond the 9-hour limit. This illustration is just one example of many yard assignments throughout the system.

Miscellaneous road service jobs are referred to as traveling switch engines. These jobs are principally established to take care of industries within a given area. Such an assignment begins work at 4 p.m. at Angleton, Texas. Its main function is to switch the Monsanto Chemical plant at Chocolate Bayou, Texas. During the check period, this job averaged 9 hours per day and was in excess of 12 hours on 3 days due to added switching required by the industry. There is no advance knowledge of the work to be performed at this plant. Under the proposed amendments, it would be necessary to use a fireman on a regular basis to avoid the 9-hour limitation. In those instances where the plant required more than 12 hours of switching, this crew would have to tie up before the work was finished. The Extra Board is located 200 miles away and there would not be enough advance notice of the work to be performed to call an extra crew to finish the job.

These examples of straightaway service, turnaround service, aggregating, and yard service may be multiplied many times. As before indicated (page 4), we have tried to determine the full impact of the proposed amendments by our "In Depth" studies, which is summarized in Exhibit B, attached hereto, consisting of three pages. In short, the following table shows the results of the 12-hour limitation and the 9-hour limitation.

	12-hour limitation			9-hour limitation		
	Engine-men	Train-men	Yard-men	Engine-men	Train-men	Yard-men
(a) Number of employees who would have earning opportunities restricted	431	657	16	589	972	53
(b) Average monthly reduction in earnings of affected employees	$136	$119	$136	$158	$138	$218
(c) Number of employees who would be required to spend additional time away from home	181	388	----------	211	435	----------
(d) Average away-from-home time for the affected employees (hours)	44	53	----------	62	86	----------
(e) Number of additional employees required	67	161	15	108	237	34

The increased cost to this carrier under the proposed 9-hour rule would be $4,897,344 and under the proposed 12-hour rule would be $2,849,213 annually.

The cost estimates resulting from our "In Depth" studies represent our net increase on an annual basis of items such as the wages and additional fringe benefits for the crews, their meals and lodging allowance away from home, the cost of additional rest facilities while away from home, the cost of fuel and lubricants for additional engines, the amortized purchase cost of new locomotives, cabooses, etc.

Safety.—In addition to the studies previously mentioned, Missouri Pacific also analyzed all accident reports for the months of May and November, 1965, to determine whether we could find any relationship between hours on duty and accidents. We found no such relationship. Of 39 accidents reported in May, none of the crews had been on duty in excess of 12 hours and only 4 had been on duty over 9 hours. Of 48 accidents reported in November, there was only one where the crew had been on duty over 12 hours (by 10 minutes) and only 5 where the crew was on duty over 9 hours. The vast majority of the accidents for these 2 months happened when the employees were on duty between 2 and 7 hours at the time of accident.

I would like to make it clear that the employees themselves, regardless of what their spokesmen may say, do not consider present hours as unsafe. Based on my personal knowledge and experience, the present system of assignments and hours is not regarded as unsafe. This conclusion is based on these facts:

(1) The senior and the older men prefer the longer runs and are assigned to them because of their seniority rights.

(2) The men will often deliberately slow down in their work if they believe they can thus run into overtime and thereby increase their earnings.

(3) Complaints by any of the men to this company that present hours are unsafe have been extremely rare.

(4) There has never been a demand for a collective bargaining agreement limiting hours of duty on this property.

I would like to make one additional observation: When the present Hours of Service Act was passed in 1907, the work of operating trains and switching cars was far more hazardous and far more strenuous than today. For example, in 1907 firemen spent their time actually shoveling coal; brakemen loaded, unloaded l.c.l. freight at every station. With modern locomotives and cabooses, automatic signaling and electronic yards, there is far more personal comfort and far less physical effort. The hazards are much less today than in 1907.

Service to shippers.—The proposed limitation on hours of service is bound to have an adverse effect on service to shippers. Present hours of service are geared to meet the demands of the railroad customers. Reduced hours will affect the availability of service or will greatly increase the cost of such service. Such increased costs will result in the abandonment of marginal operations and branch lines.

There are many petro-chemical plants in the Gulf Coast area which depend on Missouri Pacific Railroad for their transportation needs. When these plants are "on stream", immediate service is required to transport their products as they come off line. If a crew serving these plants must quit before they are through because of the arbitrary time limit on their hours, service must be delayed until a new crew and an engine can be obtained. This could shut down production. The cost of restarting operations and the cost of idle employees would create a serious problem for these industries.

In the heavy grain territory served by Missouri Pacific, such as Kansas and Nebraska, the large grain elevators need service promptly and in considerable volume when the harvest season is at its height. The railroad must be able to supply this service even though it means long hours of work during this season. It is completely impractical and uneconomical to employ a sufficient supply of trained manpower for the short period of time (normally about 30 days) for such peak demand. It is much more efficient and economical to use the regular employees overtime during these periods, rather than try to hire and train additional employees.

The problems created by an arbitrary limit on hours of service affect not only large industries but also the smaller industries in a terminal area which are all served by one crew. If one or two of these industries should have an unusually large need for transportation service on a given day, the time limit may run out before other industries have been served. These industries would then be without service until the next day unless another crew could be obtained on short notice.

As a result of poor or reduced service due to the arbitrary limit on hours, industries may have to curtail production or may have to pay increased costs of transportation in order to obtain the necessary service.

The railroad industry must have the flexibility it now has to properly serve the needs of its patrons. The only commodity that the railroad has to sell is "service" to its patrons. The shippers' needs dictate the hours in which railroad service is to be performed and requirements will vary on a day-to-day and season-to-season basis. There is no way that the railroad can always anticipate these needs.

The proposed limitation on hours of service will seriously hamper efficient service to shippers and greatly increase the cost of such service without any corresponding benefit to employees. These are the reasons we are opposed to the enactment of these bills.

EXHIBIT A

MISSOURI PACIFIC—TEXAS & PACIFIC

Engineers (October 1965)

Number of engineers receiving pay during month	1,499
Less those receiving vacation pay only	35
Net total engineers	1,464

Statistical data:

Average number of trips made (26,983 trips ÷ 1,464 engineers)	18.43
Average hours worked per trip (205,378 hours ÷ 26,983 trips)	7.61
Average monthly hours worked (205,378 hours ÷ 1,464 engineers)	140.29

Frequency distribution

	Frequency	Percent	Accumulative percent
Number of trips made:			
Over 40	6	0.4	0.4
31 to 40	82	5.6	6.0
21 to 30	674	46.0	52.0
11 to 20	353	24.1	76.1
1 to 10	349	23.9	100.0
Hours per trip:			
16 and over	7	.5	.5
14 to 16	17	1.2	1.7
12 to 14	55	3.7	5.4
10 to 12	185	12.6	18.0
8 to 10	584	39.9	57.9
6 to 8	256	17.5	75.4
4 to 6	260	17.7	93.1
2 to 4	99	6.8	99.9
Under 2	1	.1	100.0

Conductors (October 1965)

Number of conductors receiving pay during month	939
Less those receiving vacation pay only	29
Net total conductors	910
Statistical data:	
Average number of trips made (14,594 trips÷910 conductors	16.04
Average hours worked per trip (105,025 hours÷14,594 trips	7.20
Average monthly hours worked (105,025 hours÷910 conductors	115.41

Frequency distribution

	Frequency	Percent	Accumulative percent
Number of trips made:			
Over 40	9	1.0	1.0
31 to 40	66	7.3	8.3
21 to 30	301	33.1	41.4
11 to 20	187	20.5	61.9
1 to 10	347	38.1	100.0
Hours per trip:			
16 and over	1	.1	.1
14 to 16	28	3.1	3.2
12 to 14	56	6.2	9.4
10 to 12	114	12.5	21.9
8 to 10	161	17.7	39.6
6 to 8	222	24.4	64.0
4 to 6	264	29.0	93.0
2 to 4	59	6.5	99.5
Under 2	5	.5	100.0

Engine foremen (October 1965)

Number of engine foremen receiving pay during month	1,172
Less those receiving vacation pay only	25
Net total engine foremen	1,147
Statistical data:	
Average number of days worked (12,271 days÷1,147 foremen)	10.7
Average hours worked per day (104,823 hours÷12,271 days)	8.5
Average monthly hours worked (104,823 hours÷1,147 foremen)	91.4

Frequency distribution

	Frequency	Percent	Accumulative percent
Number of days worked:			
31	1	0.1	0.1
26 to 30	7	.6	.7
21 to 25	237	20.7	21.4
16 to 20	159	13.9	35.3
11 to 15	119	10.4	45.7
6 to 10	198	17.3	63.0
1 to 5	426	37.0	100.0
Hours per day worked:			
16 and over	7	.6	.6
14 to 16	13	1.2	1.8
12 to 14	26	2.3	4.1
10 to 12	85	7.4	11.5
8 to 10	990	86.3	97.8
6 to 8	20	1.7	99.5
4 to 6	6	.5	100.0
Under 4			

Dispatchers[1] *(October 1965)*

Number of dispatchers receiving pay during month	147
Less those receiving vacation pay only	2
Net total dispatchers	145
Average monthly hours worked (17,536 hours÷145)	120.94

[1] Includes chief and train dispatchers.

Frequency distribution

	Frequency	Percent	Accummulative percent
Monthly hours worked:			
Over 220	8	5.5	5.5
181 to 220	21	14.5	20.0
141 to 180	39	26.9	46.9
100 to 140	20	13.8	60.7
Under 100	57	39.3	100.0

Signalmen[1] *(October 1965)*

Number of signalmen receiving pay during month	481
Less those receiving vacation pay only	5
Net total signalmen	476
Average monthly hours worked (75,047.5 hours÷476)	157.66

[1] Includes general and assistant general foremen, inspectors, gang foremen, signalmen and signal maintainers, assistant signalmen and assistant signal maintainers, and signalmen and signal maintiners helpers.

Frequency distribution

	Frequency	Percent	Accumulative percent
Monthly hours worked:			
Over 220	26	5.5	5.5
181 to 220	33	6.9	12.4
141 to 180	327	68.7	81.1
100 to 140	29	6.1	87.2
Under 100	61	12.8	100.0

Station agents (October 1950)

Number of station agents receiving pay during month	453
Less those receiving vacation pay only	5
Net total station agents	448
Average monthly hours worked (66,417.7 hours÷448)	148.25

Frequency distribution

	Frequency	Percent	Accumulative percent
Monthly hours worked:			
Over 260	1	0.2	0.2
221 to 260	21	4.7	4.9
181 to 220	86	19.2	24.1
141 to 180	206	46.0	70.1
101 to 140	35	7.8	77.9
61 to 100	36	8.0	85.9
Under 60	63	14.1	100.0

Telegraphers[1] (October 1965)

Number of telegraphers receiving pay during month	243
Less those receiving vacation pay only	2
Net total telegraphers	241
Average monthly hours worked (33,801.2 hours÷241)	140.25

[1] Includes chief and assistant chief telegraphers.

Frequency distribution

	Frequency	Percent	Accummulative percent
Monthly hours worked:			
Over 300	1	0.4	0.4
261 to 300			.4
221 to 260	10	4.1	4.5
181 to 220	60	24.9	29.4
141 to 180	85	35.4	64.8
101 to 140	22	9.1	73.9
61 to 100	21	8.7	82.6
Under 60	42	17.4	100.0

Yardmasters[1] (October 1950)

Number of yardmasters receiving pay during month	218
Less: those receiving vacation pay only	3
Net total yardmasters	215

[1] Includes general and assistant yardmasters.

Average monthly hours worked (25,673.1 hours ÷ 215) 119.41.

Frequency distribution

	Frequency	Percent	Accummulative percent
Monthly hours worked:			
221 to 260	10	4.7	4.7
181 to 220	67	31.2	35.9
141 to 180	26	12.1	40.0
101 to 140	14	6.5	54.5
61 to 100	21	9.8	64.3
Under 60	77	35.7	100.0

EXHIBIT B

MISSOURI PACIFIC RAILROAD

Overall cost estimates—The impact on service and employees

	All operating employees		
	Assumption No. 1	Assumption No. 2	Assumption No. 3
(a) Additional train-miles	$794,177	$1,387,476	
(b) Additional crew expense not requiring additional train-miles	1,339,872	2,324,788	$383,295
(c) Additional locomotive expense (including investment in additional locomotives)	346,582	607,303	35,464
(d) Additional rest facilities	7,600	17,600	
(e) Additional meal and/or lodging allowances	81,634	139,418	14,749
(f) Other cost items	279,348	420,759	75,902
Total	2,849,213	4,897,344	509,410
Engineers:			
(a) Number of additional employees required	55	93	13
(b) Number of employees who would have their earning opportunities restricted			7
Average monthly reduction in earnings of the affected employees	12 $255	15 $202	$32
(c) Number of employees who would be required to spend additional time at other than home terminal	114	137	66
Average monthly amount of time for the affected employees	36′	43′	6′
Firemen:			
(a) Number of additional employees required	12	15	7
(b) Number of employees who would have their earning opportunities restricted	164	182	91
Average monthly reduction in earnings of the affected employees	$98	$107	$28
(c) Number of employees who would be required to spend additional time at other than home terminal	77	74	43
Average monthly amount of time for the affected employees	9′	18′	6′
Conductors:			
(a) Number of aditional employees required	50	76	13
(b) Number of employees who would have their earning opportunities restricted	244	348	137
Average monthly reduction in earnings of the affected employees	$223	$169	$26
(c) Number of employees who would be required to spend additional time at other than home terminal	110	126	62
Average monthly amount of time for the affected employees	37′	44′	7′
Brakemen:			
(a) Number of additional employees required	111	161	33
(b) Number of employees who would have their earning opportunities restricted	413	624	226
Average monthly reduction in earnings of the affected employees	$201	$151	$24
(c) Number of employees who would be required to spend additional time at other than home terminal	278	309	159
Average monthly amount of time for the affected employees (minutes)	32	37	7
Yard foremen:			
(a) Number of additional employees required	5	13	
(b) Number of employees who would have their earning opportunities restricted	7	21	
Average monthly reduction in earnings of the affected employees	$151	$243	
(c) Number of employees who would be required to spend additional time at other than home terminal			
Yard helpers:			
(a) Number of additional employees required	10	21	
(b) Number of employees who would have their earning opportunities restricted	9	32	
Average monthly reduction in earnings of the affected employees	$125	$202	
(c) Number of employees who would be required to spend additional time at other than home terminal			

Mr. HUOT. This will conclude the hearings on H.R. 5196 and H.R. 8746.

Thank you.

(The following supplemental information was submitted by Mr. H. E. Gilbert, Mr. R. R. Manion, and Mr. Jesse Clark:)

SUPPLEMENTAL STATEMENT OF H. E. GILBERT, PRESIDENT, BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN

The Subcommittee on Transportation and Aeronautics has recently held hearings on HR 8476, a bill "to improve the safety of railroad transportation under the jurisdiction of the Interstate Commerce Commission," which was introduced by Rep. Torbert Macdonald for the purpose of amending the Hours of Service Act. Approximately 90 members of the House have submitted like bills. A counterpart of HR 8476 was introduced in the Senate as S. 2180 and is co-sponsored by 23 members of the Senate. You will recall that I, as President of the Brotherhood of Locomotive Firemen and Enginemen, testified before the Subcommittee, along with a number of other witnesses, in support of HR 8476.

The case of the proponents of the bill was made with sufficient force in our initial presentation to justify, in our judgment, a favorable report from the Committee on Interstate and Foreign Commerce and passage of the measure, upon the Committee's recommendation, by the House. There are a few comments, however, that I wish to make to the Committee at this time on behalf of the operating employees consisting of locomotive engineers, firemen, hostlers and hostler helpers in all classes of railroad service, whom I represent, and hence I respectfully request that this communication be made a part of the record of proceedings concerning the bill.

As I stated in my testimony before the Subcommittee, the bill proposes to amend the Hours of Service Act which was enacted in 1907 and has remained in its original form without significant amendment during the interim of nearly sixty years. The changes proposed are sevenfold. For convenience in considering the contents hereof, these seven areas are set forth as follows. The bill would—

(1) Reduce from sixteen to twelve hours the maximum permissible hours of continuous time on duty;

(2) Make it unlawful for a railroad to permit an employee to continue on duty or go on duty when he has not had at least eight consecutive hours off duty during the preceding twenty-four hour period;

(3) Make it unlawful to require or permit locomotive engineers to continue on duty longer than nine hours when the crew of the engine consists solely of a locomotive engineer;

(4) Make it unlawful to work telegraphers (operators) and dispatchers more than nine hours, whether consecutive or in the aggregate within any twenty-four hour period where two or more shifts are employed, or more than eleven hours in a twenty-four hour period where only one shift is employed;

(5) Provide that only interim periods available for rest of more than three hours duration can be regarded as time off duty in computing time on duty;

(6) Provide that crews of wreck or relief trains may be permitted to remain on duty for a longer period than is otherwise permitted by the Act when necessary to clear the track at the scene of a wreck, but only until such time as the track is cleared sufficiently to permit the movement of trains;

(7) Prescribe a penalty of $500 for each violation of law.

In addition, an amendment to the bill provides that time spent deadheading will be considered time on duty and included in computing total time on duty for determining when an employe must be provided with a period for rest.

The Brotherhood of Locomotive Firemen and Enginemen considers the amendments to the Hours of Service law to be safety measures, pure and simple. The purpose of the bill is the promotion of safety in railroad transportation. The Brotherhood is in favor of this law because it promotes the general welfare of railroad employees. The organization has taken a leading part in promoting and strengthening this legislation because we look upon it as an important factor

in protecting the lives and limbs of the men whose responsibility it is to operate the trains.

A most substantial volume of testimony was adduced by the proponents of the bill. That testimony reveals that this is not a measure supported by my Brotherhood alone. It has the support of the AFL–CIO. Representatives of railway labor organizations other than the BLF&E testified for it. Mr. A. M. Lampley, vice-president—national legislative representative of the BLF&E, testified concerning the strong and widespread support of the changes among thousands of railroad employees, many of whom are members of organizations other than the BLF&E.

The Interstate Commerce Commission, to which Congress has delegated some powers inthe realm of railroad safety, has given unqualified support to certain provisions of the proposed bill to "promote railroad safety." The Commission, in its statement to the Subcommittee, does not oppose enactment of any suggested amendment to the existing law. The Commission indicated it did not possess sufficient information to express any opinion on the proposal to reduce the maximum permissible continuous time on duty for railroad employees similar to that which it recently adopted for motor carrier drivers. The Commission, pursuant to express statutory authority, limited the total time on duty of motor carrier drivers following an extensive hearing. The Commission does not have a similar responsibility to fix the maximum hours on duty for railroad employees, and has not conducted studies concerning railroad employees. In its appearance before the Subcommittee the Commission recognized that, "While conditions are somewhat different, alertness to surrounding conditions would seem absolutely essential for safety of operation of a heavy truck by a driver or a locomotive and train by an engineer."

The official spokesman for the Brotherhood of Locomotive Engineers indicated that that organization is clearly in favor of the concept of placing the number of work hours of a locomotive engineer in line with those hours worked by most nonoperating employees on the railroads and those worked by employees in other industries in the United States employed on shifts. The Brotherhood of Locomotive Engineers has suggested that "due to the complicated nature of the subject matter," the issues "should be resolved by collective bargaining." That organization further suggests that if Congress sees fit to amend the Hours of Service Act, the Congress should amend the Adamson Act so that compensation of railroad employees would not be reduced "by the amended limitations placed in the Hours of Service Act." Not one word, pro or con, is addressed by the Brotherhood of Locomotive Engineers to the subject of safety. That organization's statement is devoted almost entirely to economics of wages, a subject irrelevant to the safety aspects of the Hours of Service Law. Even the railroads have conceded that "This was not social or economic legislation, but safety legislation." The railroads have stated additionally that "the proponents of the pending bills—primarily the Brotherhood of Locomotive Firemen and Enginemen likewise affirm that these proposals are strictly predicated on considerations of safety. The railroads agree that safety of operations is a prime and proper objective."

As I have stated, the opposition of the BLE is laid in a narrowly circumscribed economic area except for its suggestion that the issues should be resolved by collective bargaining due to the complicated nature of the subject matter. Permit me to observe that no other organization or individual has characterized the subject matter of the pending legislation as complicated or as being difficult of comprehension. The members of Congress, in our judgment, possess all the knowledgeability necessary to grasp and resolve the issues presented by the proposed amendments.

In the course of attempting to relegate reduction in hours of service to the arena of collective bargaining, I believe the impression was sought to be created that at least the initial steps in the collective bargaining process have been initiated. Any such false impression is wholly dissipated by the testimony of Mr. J. E. Wolfe, Chairman of the National Railway Labor Conference, in the course of this testimony on September 9. During the hearings in the Senate Mr. Wolfe was questioned as to whether there were any labor organization or carrier proposals outstanding calling for modification of the sixteen hour rule. Mr. Wolfe stated categorically that no notices concerning collective bargaining on the subject have been served either by the unions or the carriers.

Although notices have been served by both engine service organizations to reduce the basic unit of work to six hours, this would only affect the pay struc-

ture of the employees. Even if the railroad companies should meet the demands of our notices in this respect in full, patently it would not work to bring about a diminution of the number of allowable hours of service. That these notices have been issued does not operate to lift from Congress its responsibilities for and jurisdiction over maximum permissible hours of service for railroad employees. It is my belief that reduction in hours of service is undoubtedly appropriate for imminent legislative consideration.

I should now like to discuss briefly the testimony of the railroads in opposition to the portion of the amendments relating to those persons actually engaged in or connected with the movement of a train. The only unqualified opposition emanates from the railroad companies. In view of the railroads' unbroken record of opposition to adoption of safety legislation, the posture of the railroads before Congress in respect to the bill was to have been anticipated and could have been foretold with complete accuracy. Much of the testimony has been repetitious. Since Mr. R. R. Manion, the first witness for the railroads, stated that his testimony would constitute a general or summarized statement of the railroad industry's position, I will direct my brief discussion to the main statement alone. Rebuttal to the arguments of the railroad industry is found in the statements read to the Subcommittee by me and other Brotherhood winesses. The railroad have advanced a number of arguments and suggestions all of which I believe have been answered by the BLF&E evidence already introduced. With the view of being of assistance to the Committee and its staff, I set forth below various propositions made by the railroad industry with references in the prepared statements to the pages on which they are made and to the pages of my prepared statement wherein the propositions are refuted.

The railroads assert that safety does not require reduction in the allowable working time of railroad employees and that an analysis of safety and safety trends shows no deterioration in railroad safety (Manion 13, 18) (Refuted Gilbert 32, 33, 34, 35). The railroads contend that the hours worked by operating employees as a whole are not excessive (Manion 20) (Refuted Gilbert 28, 41).

It is argued by the railroads that reduction in working limits would bring about practical problems of railroad operations (Manion 30) (Refuted Gilbert 41).

The railroads state that the bill would disadvantage railroad operating employees by lowering their pay, requiring them to spend more time away from home, and would require renegotiation of existing labor agreements (Manion 36–39) (Refuted Gilbert 41, 42).

The railroads claim that the bill would compel the hiring of more employees and that the firemen's brotherhood stands to gain by more jobs for engineers and firemen (Manion 39, 41) (Refuted Gilbert 40, 41).

The railroads argue that there is no justification for extending the Hours of Service Law to time spent deadheading (Manion 42) (Refuted Gilbert 14).

The railroad industry claims that its compliance with the existing Hours of Service Law has been satisfactory, that the number of violations of the law is minute, and that there is no need to increase the fines or penalties for violation (Manion 47, 48, 52) (Refuted Gilbert 8, 12, 13).

Foremost among the contentions of the railroad industry is that there has been no deterioration in railroad safety, notwithstanding Interstate Commerce Commission data to the contrary. The record in the Senate Commerce Committee's investigation into maladministration of Public Law 88–108 shows that therein the Commission expressed concern over the increase in railroad accidents.

At page 6 of his statement on HR 8476, Chairman Bush said "* * * There has been a recent upward trend in the number of train accidents * * *." In my original statement herein I quoted from the report dated April 27, 1966, of the Subcommittee on Government Activities of the House Committee on Government Operations. That quotation reads thus:

"Month after month, with tragic monotony, between 15 and 20 workers are killed on the Nation's railroads. Fifteen hundred more on an average are injured. Every year, over 1,000 people are killed in railroad grade-crossing accidents. The trend in these statistics continues relentlessly resulting not only in a tragic loss of life, but also a huge financial burden on the national economy. As late as 1962, accidents caused a staggering loss to the railroads of $150 million in personal injury and property damages."

At page 34 I further discussed the subject of accidents. I pointed out that from 1963 to 1965 there was an increase of 25.6% in train accidents. These are

accidents which are defined by the ICC as causing more than $750 damage to railroad property or equipment whether or not a casualty was involved. Within this group of train accidents, and for the same period from 1963 to 1965, the number of collisions involving railroad equipment, other than at grade crossings, was up more than 22%. I pointed out that collisions are a type of accident likely to result from undermanned crews or overworked employees.

In his statement, Mr. Bush said that "no evidence has been found indicating that the length of time an employee was on duty is a significant factor in this adverse trend." (Referring to the recent upward trend in the number of train accidents.) In connection with that portion of his statement, the Committee knows that the Commission has not conducted an investigation on its own account into the effect of excessive hours of work on railroad accidents and the deteriorating safety record. Hence it is clear that the fact that the Commission has no evidence in its files on the particular point, dependent as it is on its own investigation, which it has not conducted, or the reports of the railroad industry itself, is neither significant nor persuasive. What is more Mr. Bush said, after referring to the Commission's extensive hearings on limiting the hours of service of drivers of motor vehicles, "we have made no similar study to determine whether a locomotive engineer, alone in the cab of a locomotive, is subject to fatigue to the same or greater extent than is a driver of a truck."

The pragmatic fact is that the accident record is demonstrably bad. It is doubtless due to a number of elements or causes. Among these causes are undersized train and engine crews, excess hours of service, and undermaintenance of road and equipment. All of these causes demand recognition and correction. That is the view of the practical railroad employees who have testified heretofore. One of the causes of accidents needing treatment and correction in excessive hours of service. The legislation before you affords Congress the opportunity to make the correction which circumstances demand.

It is common knowledge, supported by medical testimony, that perception, alertness, and response to phenomena lessen with the onset and progress of fatigue. It is a simple fact of life, not requiring precise demonstration, that fatigue sets in long before the expiration of sixteen hours, whatever the work function of an individual may be. I submit that it is manfestly an unsafe practice to permit an operator of a vehicle, whether it be a railroad train, a truck, bus, or passenger automobile, to be at the controls for anything approaching sixteen hours.

Fatigue is an important contributing factor in the causation of accidents. Reports of studies by the Interstate Commerce Commission published prior to the adoption of the first Hours of Service Law back in 1907, recognize the need on the part of the railway industry to give consideration to the influence that excessive hours of labor had in the causation of railroad accidents. The Commission observed in this connection:

"If there is a reason for limiting the hours of labor in any employment it applies with peculiar force to the operation of railroad trains, since the safety of the traveling public is so largely dependent on the alterness and intelligence of train employees." [1]

Working 16 hours a day does not afford a railroad employee normal opportunities to secure rest. The duties of the engineman require his constant alertness on the job for his own safety as well as the safety of his train. Safety requires alertness of attention, speed of reaction, and qualities of alertness for sound judgment in the constantly changing spectrum of railroad operation conditions.

While many factors may operate to cause railroad accidents, long hours on duty have been shown to be a detrimental factor to efficiency and, therefore, the safety of railroad employees. Hours on duty is a controllable factor in respect to safety. Therefore, a reasonable limitation of the hours of service would reduce the number of employees with fatigue and act in the interest of promoting railroad safety.

As I examine the statements of the railroads, I feel that I do not distort their position when I say that it appears to me that they tacitly admit that sixteen hours of service is excessive. One of the subheadings in Mr. Manion's statement (page 20) is that "The hours worked by railroad operating employees *as a whole* are not excessive."

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[1] House Document No. 146, P. 105. Eighteenth Annual Report of the I.C.C., 58th Congress, 3rd Sesssion.

Figures submitted by the railroads are averages. But they say (Manion 22) "trips are found in all of the different hourly brackets from less than three hours up to sixteen." Averages do not, of course, reveal the number of longer trips. But the railroads admit their existence. The Hours of Service Law is designed to reach these longer trips and the amendments would reduce the maximum allowable hours per trip from sixteen to twelve, which I believe to be a modern concept.

Evidence adduced by the BLF&E in relation to the proposed amendments shows conclusively that the longer runs are most substantial in number. Our proposal is intended to reach this group of runs which indeed may be in the minority. Perhaps it might be appropriate to observe that criminal codes are enacted to curb the tendencies and activities of a minority of individuals. But no individual would urge the inutility of criminal codes simply because the vast proportion of the population is law abiding. The Hours of Service Law exists to curb the excessive and abnormal.

As a further matter, I wish to comment briefly on the contention of the railroads that reduction in Hours of Service would require the rescheduling of runs, the renegotiation of labor agreements, and other assorted adjustments in operating procedures. All of these consequences, it is alleged, are costly. Experience with the railroad industry has taught us that railroad officials possess the requisite ingenuity and inventiveness to adjust to changed conditions at minimum costs. Obviously, if railroad testimony approaches the truth, as to shortness of runs and hours of service, adjustments will be minimal.

I wish to bring to your attention an illustration of the ability of the railroads to adjust to changed circumstances. In the late 1940's and early 1950's certain railroad employees were put on a 40-hour week. The railroads had resisted this progressive step largely on the basis that it would add hundreds of millions of dollars to pay roll costs. It developed, as a matter of fact, that adjustments in employment and assignments made by the railroads soon eliminated practically all added costs so that pay roll changes were not substantially larger than before the hours in the work week were reduced.

It is my information that there are rules in some of our schedule agreements which were negotiated in contemplation of the existing Hours of Service Law. I take it that if the law is changed, and a rule be inconsistent therewith, the rule must give way to the law. Modifications of rules when and where needed can be negotiated in light of the law as modified.

Before concluding, I wish to discuss certain comments made during Subcommittee Hearings which I feel were designed to impugn motives of the BLF&E in supporting this legislation. The comments were calculated, it appears to me, to portray the BLF&E as fostering this legislation solely for the purpose of creating jobs for firemen and a potential new source of members.

I want to make it clear that neither financial circumstances nor the membership rolls impel the BLF&E to stultify itself or indeed the Americans who constitute its membership by promoting a current membership campaign in the guise of a safety program. Contrary to the erroneous impression sought to be created the BLF&E membership records and financial statements reveal the organization to be progressive, vital and prosperous.

In the first place, the movement to reduce hours of work is not of recent origin within the BLF&E. Brotherhood conventions since 1922 have evidenced their concern with reducing hours of service and have directed the officers of the organization to move accordingly. Our efforts to reduce hours of service are forty-years old and were not born as a result of the arbitration required by Public Law 88–108, or any recent vicissitudes suffered by the organization.

You will be interested in knowing that during the last three years BLF&E membership has held its own in light of the experience in the railroad industry and has recently increased. Incidentally, our membership is much larger than that of another union, which on occasion is described by some as the "competing" organization.

Of our 40,000 members in active railroad service, the second largest in the operating field, 15,109 are working as locomotive engineers. Many thousands more have been promoted to the position of locomotive engineer and are qualified engineers, even though presently working as firemen. The firemen of today is the engineer of tomorrow. Any suggestion in these proceedings that the BLF&E would undermine the working conditions of locomotive engineers is made irresponsibly. Having such a high proportion of working locomotive engineers, and members who will be the engineers of tomorrow, our purpose is to enhance the earnings and working conditions of locomotive engineers.

The BLF&E's strong record of membership testifies to the loyalty of its members throughout the years. This record demonstrates the endorsement given by both engineers and firemen to the programs and policies of the BLF&E. The Hours of Service Bill is a part of the program receiving the endorsement of these railroad workers—engineers as well as firemen.

The proponents of H.R. 8476 believe that the record is such as to demonstrate that the bill ought to be enacted into law at this session of Congress. Surely Congress cannot in these modern times condone any legal system which inheres permission to work employees, charged with the responsibility of safe transport of people and goods, continuously for sixteen hours.

I respectfully request your Committee to promptly report favorably on H.R. 8476 to the House, and that you use your good offices to bring the bill to a vote on the floor where I am confident it will be passed by a large majority.

MEMORANDUM SUBMITTED BY R. R. MANION, VICE PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS: PRINCIPAL ELEMENTS INCLUDED IN COST CATEGORIES CONTAINED IN "SUMMARY OF SYSTEMWIDE COST ESTIMATES UNDER THE PROVISIONS OF H.R. 8476"

ADDITIONAL TRAIN MILES

Includes the direct cost of the estimated additional train miles required, consisting of crew wages, running repairs to locomotives and cars, fuel, lubrication, and other expenses related to the operation of trains. Additional train miles would be necessary in instances where service is now being performed by a single train in a certain territory, but because of the proposed limitation on hours and the need for service it would be necessary to run an additional train in the territory now being covered by the single train. For example, a mine run crew leaves a terminal and serves two mines in the same general vicinity, each mine requiring about five hours switching. The road time enroute to the first mine requires about two hours, the movement to the second mine about 30 minutes, and the return to the terminal about two hours, a total elapsed time of 14½ hours. If the minimum hours were limited as proposed, two trains instead of one would be required to serve these mines, each requiring about 9 hours in elapsed time on duty (4 hours road time and 5 hours switching).

ADDITIONAL CREW EXPENSE NOT REQUIRING ADDITIONAL TRAIN-MILES

Includes wage costs for additional crew members required to operate the train miles presently operated. This additional expense arises primarily from the fact that the pay rules provide for a minimum of 8 hours or 100 miles for each tour of duty in freight service. Thus a crew operating a run of 150 miles, involving setting out, picking up, and station switching enroute, may be on duty more than 12 hours. For this service each member of the crew is paid 150 miles, and for all time on duty in excess of 12 hours. For this service each member of the crew is paid 150 miles, and for all time on duty in excess of 12 hours he is paid at the rate of time and one-half. If the present maximum hourly limitation were reduced, the railroad might be required to use two crews over the 150-mile territory. Each member of the crew would receive a minimum of 100 miles, plus overtime at the rate of time and one-half for all time on duty in excess of 8 hours. Thus the railroad would be required to pay 200 miles to the two crews involved, instead of 150 miles to the single crew operating over the entire territory. In addition to the direct cost of the additional 50 miles for each member of the crew, the additional employees required would entail additional payroll taxes and health and welfare payments, and other costs incident to maintaining a larger complement of train and engine service employees than is required under the existing hours of service limitation.

ADDITIONAL LOCOMOTIVE EXPENSES (INCLUDING AMORTIZED INVESTMENT IN ADDITIONAL LOCOMOTIVES)

Includes additional costs of maintaining repair facilities for the additional locomotives needed to operate the additional train miles, plus the annual amortized investment costs in additional locomotives. Thus, if an additional two-unit diesel locomotive were required, the actual cost of purchasing the additional units would be approximately $600,000. The cost elements reflected in this item

include only the annual depreciation, interest, and other charges incident to owning the additional two-unit diesel locomotive for one year.

ADDITIONAL REST FACILITIES

Includes the costs of additional rest facilities, either at points where crews now require rest, or at additional points where it is not now necessary to tie up crews for rest under the existing hours of service limitation.

ADDITIONAL MEAL AND/OR LODGING ALLOWANCES

Includes the costs incident to the additional crew members required to spend additional time at away-from-home terminals. These additional costs are brought about primarily because of the fact that crews who now double the road (aggregate) on the same day, with little or no time off at the away-from-home terminal would be required, under the proposed limitations, to rest at the away-from-home terminal at least 8 hours. Because of traffic requirements and fluctuations in the availability of trains for the crews to operate crews who now turn at away-from-home-terminal points with little or no rest would be required to remain at the away-from-home terminal at least 8 hours, and in many cases considerably in excess of 8 hours before a train became available to operate in return service to the home terminal.

OTHER COST ITEMS

Includes items such as the cost of maintaining and supplying additional cabooses, additional expense to provide transportation between rest facilities and points where crews report for duty, and other miscellaneous items.

Summary of systemwide cost estimates under the provisions of H.R. 8476, as pertaining to train and engine employees

Item	10 study roads	All class I line-haul railroads [1]
Annual operating expense:		
Additional train-miles	$21,682,322	$45,486,000
Additional crew expense not requiring additional train-miles	30,498,101	63,954,000
Additional locomotive expense (including amortized investment in additional locomotives)	22,919,294	48,051,000
Additional rest facilities	910,007	1,881,000
Additional meal and/or lodging allowances	3,483,909	7,182,000
Other cost items	2,109,774	4,446,000
Total	81,603,407	171,000,000
Gross additional investment:		
Locomotives	102,670,295	170,321,000
Cabooses	6,387,668	10,679,000
Total	109,057,963	181,000,000

[1] Annual operating expense items extrapolated on basis of 1965 actual operating expenses of the 10 study roads to all class I line-haul railroads. Gross additional investment items extrapolated on basis of 1965 actual gross expenditures for additions and betterments, equipment of the 10 study roads to all class I line-haul railroads.

BROTHERHOOD OF RAILROAD SIGNALMEN,
Chicago, Ill., August 2, 1966.

Re H.R. 5196, Hours of Service Act.

Hon. SAMUEL N. FRIEDEL,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN FRIEDEL: In connection with the current hearings before your sub-committee on H.R. 5196, H.R. 8476 and similar bills to amend the Hours of Service Act, it would be appreciated if this further written statement would be incorporated in the record of the subcommittee concerning H.R. 5196. At the hearing on June 24, 1966, my statement was filed with the subcommittee in support of H.R. 5196 to amend the Hours of Service Act to include the craft or class

of signalmen within the coverage of the law. During the hearing on June 29, 1966, the testimony of Mr. John W. Bush, Chairman, Interstate Commerce Commission, endeavored to minimize the need for including Signalmen under the Act. This further statement is in regard to the comments of Chairman Bush.

Chairman Bush testified that the Commission does not recommend that persons installing, repairing or maintaining signal system should have a 16-hour limitation upon continuous duty because: "This group of railroad employees is just a part of the maintenance and repair force of a railroad." However, he also stated:

"We recognize that employees responsible for installing, repairing, or maintaining signal systems play a vital role in safe train operations. Certainly signal systems must be operable at all times in order to assure safety on the rails. At present the on-duty time of these employees does not come within the Hours of Service Act, and we have not conducted a study to determine whether their hours should be restricted."

It is obvious this position is wholly inconsistent. Chairman Bush recognizes the importance of installing signal equipment, while in the next breath he simply relegates these workers to ordinary maintenance personnel, such as back shop employees. The record should be clarified to show the actual facts. It is evident that Mr. Bush does not realize the importance of proper installation and maintenance of signal facilities. The following shows that railroad management personnel as well as representatives of the Interstate Commerce Commission, including one of the recent members, the Honorable Everett Hutchinson, does not substantiate the position of Mr. Bush.

In an address delivered by Mr. S. N. Mills, Director of the Bureau of Safety and Service of the Interstate Commerce Commission to the meeting of the Signal Section, Association of American Railroads on September 30, 1953, he described several accidents that may have been caused by improper signal indication and stressed the importanc of correct wiring and installation of signal facilities and the alertness of the employes who install and maintain the equipment. Following are two direct quotes from his address:

"I greatly appreciated the privilege of attending this convention and of briefly addressing you. You are to be congratulated upon the progress which have been achieved in the development of improved systems and devices, and the utilization and application of these improvements so as to surround the operation of trains with all possible safeguards. Without these improvements, and their intelligent application to meet traffic requirements, it would not have been possible to attain and maintain the present high standards of safety in railroad operation."

* * * * * * *

"Proper maintenance always has been and always will be one of the major problems in connection with railroad signaling. The Signal Inspection Act places upon each railroad the duty and the responsibility of maintaining its signal installations 'in proper condition and safe to operate in the service to which it is put,' and authorizes the Commission to make inspections and tests of such systems and appliances to determine whether they are properly installed and maintained."

At a similar meeting held during September 1956 Mr. E. L. Potarf, Vice President of the Chicago Burlington and Quincy Railroad said in discussing the safe and efficient *operation* of the railroads:

"A successfully operated railroad demonstrates the ability to run trains safely and expeditiously. Every railroad man is concerned, in some degree, with the continuity of such performance and since the Signal Department has long contributed so much thereto, it is small wonder if the operating officer has come to feel that everything the Signal Engineer does is for the assistance of the former's department. On that basis, a recital of the Signal Engineer's obligations to the Operating Department becomes largely a summary of the Signal Engineer's duties, so if you find this to be merely a resume of the practices you have followed through the years, I can only point to the limitations imposed by the subject assignment. Therefore, I will talk about a few of the everyday things that operating officers have come to expect from you Signal Engineers, things we have come to depend upon because our problems are eased thereby."

* * * * * * *

"We rely upon your good counsel in formulating operating rules, for as signaling practices change, revision of related rules must be coincidental."

While it must be pointed out that Mr. Potarf was addressing a management meeting it must be kept in mind that the signal officials do not perform the actual

work of installing and maintaining the equipment. This is left to the employes we are seeking to have covered by the Hours of Service Act.

In his speech to the 60th annual meeting of the Signal Section A.A.R. in October 1959, Mr. G. B. Anderson, Assistant Chief of the I.C.C. Bureau of Safety and Service in discussing primarily one phase of signaling said:

"Since the inception of its accident investigation work under the Accident Reports Act the Commission has investigated a number of accidents caused by hot boxes or to use the more technical term, overheated journals. But there has been a vastly larger number of accidents due to this cause, which principally because they involved no serious injury or fatalities, the Commission did not investigate. These accidents, however, as are all accidents which occur on the railroads, have been reported to the Commission, as required by the act, and are included in accident statistics issued by the Commission's Bureau of Transport Economics and Statistics. These statistics show that during the past five years, 1954 to 1958, inclusive, a total of 2,974 accidents have occurred that have been attributed to this cause. During the same period our Bureau has investigated only four accidents of this kind, and in these four accidents, five persons were killed and 39 were injured.

"Needless to say, the property damage resulting from these accidents amounts to millions of dollars annually, and accordingly the railroad industry has constantly striven to develop means both to prevent these hot boxes from occurring and to detect them before they result in serious accidents."

* * * * * * *

"I know of no department on the railroad, however, that is better qualified, both from the standpoint of general know-how and trained personnel, to install and maintain these devices, than the signal department, and this seems to be the consensus of railroad management generally, since you appear to be stuck with the job. But what other department, except signals and communications, has such an intimate knowledge of electronics, or installs and maintains more different types of electronic devices. So it is only natural that this baby should be left on your doorstep. And from my experience of a lifetime in the signal business I know that when the signal department does anything it is done right and therefore the installation and maintenance of these hot box detectors could not be in better hands."

As pointed out above the Honorable Mr. Everett Hutchinson former member of the Interstate Commerce Commission and while serving as Chairman of Division 3 of the Commission, offered the following remarks to the A.A.R. Signal Section Meeting in October 1960. I think it is significant to note his comment with respect to "train operation" which again proves that the employes in charge of the installation and maintenance of these signal facilities are not just a part of the ordinary maintenance and repair force of a railroad as alleged by Mr. Bush:

"Since becoming Chairman of Division 3, I have been closely associated with the work of our Bureau of Safety and Service which, among other safety laws, administers Section 25 of the Interstate Commerce Act, better known to your membership as the Signal Inspection Act. In this connection I have had an opportunity to observe the art of railway signaling and to appreciate the important part it plays in the safe, efficient operation of a modern railroad.

"In reviewing the carriers' numerous applications for relief from the requirements of certain sections of the Commission's Rules, Standards, and Instructions, in the light of the many scientific advances and technological improvements that have occured in railway signaling, as well as in all other phases of industry during recent years, it has occurred to me that perhaps regulation has not entirely kept pace with developments in this era of electronics and automation. It has been 10 years since our rules have been revised, and I have wondered if further revisions are not now in order to make them key with new developments in the art and to insure that the Commission is doing all it can in this connection to assist the railroads, not only to promote safety, which is the prime consideration, but to increase operating efficiency.

"Much is being said and written these days about the use of electronics in practically every field of human endeavor, and I am pleased to say that the railroad industry is taking advantage of this valuable aid, especially in the art of railway signaling. I need not remind you gentlemen of the extent to which electron tubes, semi-conductors and transistors have been employed in railway signaling, especially in traffic control systems and continuous automatic train control and cab signal devices. Without electronics, the modern automatic car retarder systems would have been impossible and because the Commission exer-

cises no jurisdiction over such installations is not to say that we do not have a lively interest in them.

"With electronic equipment being used so extensively in modern signaling, I have looked in vain for some reference to electronics in our rules, standards and instructions. Extensive use of electronics in modern signaling appeared to me to be a further indication that perhaps the Commission had not kept abreast of modern developments in the art. But I have learned that the electronic devices which are used so extensively in signal work are employed principally in communication circuits, and by this I do not mean voice communication, but in transmitting information, such as control and indication codes in traffic control systems. I am told that they are not used in so-called vital circuits, the function of which affects the safety of train operation. I am sure that if and when they are so used, and I have no doubt that this will come about in the not too distant future, the Commission's Rules, Standards and Instructions will be revised to prescribe proper safeguards for their use."

Signaling has continued to advance and go forward since the date of Mr. Hutchinson's address in 1960 as he predicted. New technology is being employed and more and more electronic devices are being developed and used. As a matter of fact railroading is becoming so automated through signaling that tests are being made to determine if it would be feasible to operate completely automated trains. Frankly we do not believe we have advanced that far but we must face facts.

In summing up this statement we believe it fair and proper that we call your attention to the number of false proceed failures in signal indications as reported to the Interstate Commerce Commission by the carriers for the year ended June 30, 1965 as published by the Bureau of Safety in its annual report for that fiscal year, together with their causes.

The report shows there were 52 such failures—2 caused by sand, rust, or other deposit on rails—2 failures of relays and similar devices,—5 circuits open, crossed or grounded, foreign current et cetera,—16 apparatus broken, defective, or out of adjustment—10 failures of apparatus due to ice, sleet, snow, wet track, weather, or lightning—4 failures of apparatus due to obstruction,—13 errors in making connections or adjustments.

While it is obvious that some of these failures were unavoidable it must be pointed out that out of the 52 reported, 16 were caused by apparatus broken, defective, or out of adjustment and that 13 were caused by errors in making connections or adjustments.

In view of this record it seems logical to conclude that some of these failures, all of which are potential accidents or may have actually contributed to an accident, may have been caused by the fatigue of the signalmen. Perhaps the investigations of rail accidents by the I.C.C. should be more thorough to show such matters.

H.R. 5196 is necessary because signalmen are directly connected with the movement of trains as contemplated by the present law. Despite this, signalmen have not been regarded as coming within the scope of the law. H.R. 5196, by including signalmen within the coverage of the law, would be consistent with the original purpose of the law to promote the safety of employees and travelers upon railroads. It would expand the coverage of the law to include specifically an additional group of employees directly connected with the movement of trains.

Very truly yours,

JESSE CLARK, *President.*

(The following material was submitted for the record:)

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 21, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In connection with hearings by the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce on H.R. 8476 and similar legislation "to promote the safety of employees and travelers upon railroads by limiting the hours of service of em-

ployees thereon," I wish to express the support of the AFL–CIO for such legislation.

In 1907 the Congress passed the Hours of Service Act. However, through practice, legal interpretations, and otherwise, the railroads of the nation have been in a position to create undue hardships by working men long hours in continuous service, and more inhumane and devastating, requiring the employees to perform service in excess of 16 hours in a 24-hour period through aggregating without adequate time off for rest.

Such excessive work requirements impose intolerable physical and mental strain on engine service employees, as well as other railroad workers in high-speed long train railroad operations.

Therefore, we urge your support for enactment of legislation along the lines of H.R. 8476.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS,
Birmingham, Ala., August 31, 1966.

Hon. HARLEY STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: The purpose of this letter is to give you some authentic and realistic information relative to the proposed legislation in H.R. 8476 which would change the Hours of Service Law from sixteen to twelve hours.

I am an Assistant Grand Chief Engineer, Brotherhood of Locomotive Engineers, and for the past four years have been on active assignments in the southeastern and southwestern regions of the United States, which involves some of the largest railroads in this country. It is my duty to handle various types of grievances with top carrier officers, including contractual obligations, working conditions, and operational procedures necessary for the safe and efficient operation of a large trunk line railroad.

Congressman, I realize there have been several reasons given as to why this law should be changed, however, there are numerous reasons why it should not be changed, i.e.

1. A revised law will serve to reduce the earnings of operating employees:
2. Competely disrupt operational procedures which are necessary under unforeseen conditions and circumstances in connection with the handling and dispatching of trains;
3. Lenghten the the off-duty time at the away from home terminal.

On the surface it may appear the law should be changed, however, under the proposed changes the operating crafts would be penalized for the purpose of creating additional manpower needs on the carrier.

The Brotherhood of Locomotive Engineers is opposed to H.R. 8476 and request your able assistance in defeating the enactment of this bill.

Very truly yours,

DAN C. OWENS,
Assistant Grand Chief Engineer.

NORTHWESTERN PACIFIC RAILROAD CO.,
San Rafael, Calif., September 12, 1966.

Hon. SAMUEL N. FRIEDEL,
House of Representatives,
Washington, D.C.

DEAR MR. FRIEDEL: You are a member of the House Subcommittee on Surface Transportation and Aeronautics, engaged in holding hearings on H.R. 8476, which would reduce permissible hours of service to twelve hours for operating personnel and to nine hours for engineers working without a fireman.

In my opinion, this bill is not needed or required. Not only would it work a decided hardship on our railroads, it would not be in the best interests of our employees.

The American Short Line Railroad Association, the Association of American Railroads, the National Railway Labor Conference and most railroads in the United States, are in opposition to this bill.

Urge that negative action be taken on H.R. 8476.

Sincerely yours,

C. E. NEAL,
Vice President and General Manager.

RAILWAY LABOR EXECUTIVES' ASSOCIATION,
Washington, D.C., August 22, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR CHAIRMAN STAGGERS: Chairman Leighty has requested that I inform you of the action taken by the Railway Labor Executives' Association in connection with S. 2180, H.R. 8476 and H.R. 8477, bills to amend the Hours of Service Act. By unanimous vote on March 25 the Association adopted the following position:

"MOTION ADOPTED (unanimously) that those organizations that are free to do so will support S. 2180 H.R. 8476 and H.R. 8477."

In our discussion of this matter, only two of the Chief Executives stated that their organizations were not in a position to support these amendments at this time, but they also said they would not oppose them.

Sincerely yours,

DONALD S. BEATTIE,
Executive Secretary.

FREEPORT, PA., *June 6, 1966.*

Hon. HARLEY O. STAGGERS,
Chairman, House Interstate Foreign Commerce Committee,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN STAGGERS: I was glad to hear a person from West Virginia was chairman of this committee. My wife is a native of Oak Hill, West Virginia and I have visited West Virginia for the past 25 years and know the poverty that exists there.

I am a locomotive engineer on the Pennsylvania Railroad with twenty-five years experience in Road, Passenger and Yard service.

In my letter I hope to give you a sincere account of, why we need the twelve-hour law and passage of H.R.-8476 and 70 company bills.

First you will agree that railroaders should have at least the same consideration as animals and Pennsylvania has a "Hours of Labor of Animals, Section 945, (18 P. S. 4945, which reads in part, "whoever offers to lead, drive, ride or work any horse, mare, mule, ox, or any other animal for more than fifteen (15) hours in any twenty-four (24 hour period, or more than ninety (90) hours in any one week will pay a fine of $50 or serve three months in jail).

I work every hour of the day or night and many times I go to work not prepared as far as proper sleep during the day because I want to spend some time with my family, engage in church, civic and leisure activities which every American should be entitled to but then I go to work when I did not expect to get out.

This is where the trouble is as far as working, for a Locomotive Engineer, must always be alert, but alas, we are human, we get tired we get sleepy. Most of the time we work without a fireman, no relief, we can't get up to stretch and walk around and get fresh air to relieve us from diesel fumes and steady grind of the diesel motors which creates a hypnosis effect especially at a slow speed.

The railroad companies know that an engineer working long hours without a fireman is more likely to go to sleep or doze momentarily, so in the newer diesels they have developed a new type of "Deadman", instead of the conventional foot pedal which also was a failure because, even though it is against the rules there have been cases of engineers nullifying the pedal with their suitcase, flag stick, etc., because they are tired of the pressure on their leg. It is against the rules

but try holding your leg in one position for any length of time and you can see why they might do it.

The substitute for sleep and rest is a mild form of punishment to many engineers and a blessing to the engineer who is fighting sleep on a long tour of duty which can be 16 hours actual duty and maybe two or three more hours before he can get to bed, is "Alertor 65 (Deadman) Safety Control".

The "Alertor" is an electronic sensing device and to keep the train from stopping the engineer must acknowledge which means touch or release what he is holding as far as controlling throttle, whistle, etc.

While sitting in engineman's seat make contact with hand to any metallic object in the cab such as throttle, control stand, sanding or bell ringer valves, window sill, etc., at least once every 20 seconds, or if hand is in contact with a metallic object, the contact must be broken momentarily at least once every 20 seconds. Each time contact with metallic object is made or broken constitutes an acknowledgement and a new 20 seconds cycle is started. It is necessary to maintain contact with the *seat* since the antenna for this system is located there.

If the engineer does not perform the above instructions, then the air applies automatically on the train. Imagine doing this more than 180 times an hour with other things on your mind, watching the track, etc. To paraphrase this, it is like a punch drunk fighter every time he hears a bell he comes out fighting. Everytime an engineer hears a whistle he gets busy moving his hand or releasing his hand.

It is proven that truck drivers use "Bennies" to stay awake and the majority pull over to the side of the road and take a nap. If a railroad engineer would stop his train and take a nap he would be fired. We are supermen in the eyes of the railroad company.

Sure, I could make more money working 16 hours but the safety to myself, the public and my coming home to my family depends on reducing the hours of service from 16 to 12. I personally, feel that without a fireman we shouldn't work over nine hours.

Respectfully yours,

VICTOR J. RUTKOWSKI.

BROTHERHOOD OF LOCOMOTIVE ENGINEERS,
Dennison, Ohio, June 16, 1966.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR CONGRESSMAN STAGGERS: This refers to your notice of public hearing, dated June 8, 1966, dealing with the proposed amendments to the Hours of Service Act.

In accordance with the insrtuctions contained in said letter, please accept this as notice that the undersigned would like to accept the honor of appearing before your committee on June 27, 1966 to present the following testimony. My arguments are in favor of the proposed amendments of the Hours of Service Act from the present 16 hours to 12 hours.

As local chairman of Division 92 of the Brotherhood of Locomotive Engineers, I represent both engineer and fireman-helper members in the Dennison District, a point on the Buckeye Division of the Pennsylvania Railroad half way between Columbus, Ohio and Pittsburgh, Pa., said terminals being approximately 200 miles apart. Aside from various types of extra service, the primary assignments accruing to engine crews in this district cover the handling of coal and empties for one of the largest coal operations of its kind in the United States. I have been employed in engine service, excluding my army career, for over twenty-four years. During this time I have fired and operated various types of steam and diesel locomotives in both passenger and freight service. Thus, I feel qualified to speak on the subject at hand.

Since the turn of the century the Congress has seen fit to gradually recognize the problems affecting labor and more important have, from time to time, taken legislative action to rectify many of those shortcomings, ostensibly to promote the general welfare of the Nation. However, the railroader, whose labor relations are governed by the outmoded Railway Labor Act, a law once recognized as a model in the field of labor relations, has been woefully neglected, while other employees, coming under the provisions of the National Labor Relations Act and other statutes dealing with labor, have enjoyed marked improvements in their working conditions as the result, to a great degree, of said legislation.

The Hours of Service Act, admittedly a boon to the affected parties in the year 1916, still permits a carrier to work an operating employe for periods upwards to 16 hours a day. Moreover, management, acting within the scope of the present law, may require an employee, under the so-called "respite gimmick" to remain on duty for pay purposes for periods in excess of the 16 hour limitation. For instance, a crew could report at point "A", the home terminal, at 6:00 A.M. for a local switching turnaround job which may cover 100 miles. The work schedule may be heavy and at point "B", an intermediate yard, the crew could be on duty ten hours. At this location, a place where food and lodging is available, it could develop that certain cars would not be ready to move. In view of this, management could properly elect to "respite" the crew for three hours, thus breaking the continuity of the 16 hour law. The crew, after securing their train, would normally set out to find a restaurant and/or a place to lie down, i.e., if one would dare think that a crew member could acquire any rest under such circumstances. Under such conditions, the crew would be paid for the time in question and after the expiration of the three hours they (crew) could again resume duty, that is, with respect to the sixteen hour law. In such an instance, the employees could legally put in 19 hours. In other cases a road crew may be at the point of outlawing (16 hours on duty) and the train may be put in a siding. Management, remaining within the law, could inform the crew to relieve themselves, i.e. cease the performance of any duties beyond the sixteen hour limitation. Such a crew could find themselves miles from the nearest terminal and possibly have to wait for relief or transportation to a point where food and lodging are available. For one to attempt to cover in detail the radiation of the present 16 hour limitation, as it adversely affects the operating crews, would require a considerable amount of oral presentation together with voluminous written matter. Nevertheless, one may, in clear conscience, ask the question: Does the 16 hour law, in light of current working standards, fit into the general scheme of labor policies in vogue within the United States today?

The history of labor law is replete with the trend towards reduced hours, i.e., the eight hour day. Public Law 252 (Adamson) passed in 1916, covering employees of common rail carriers, was one of the earlier indications that the Nation's lawmakers were favorably inclined to the reduction of the hours in the railroad industry.

The argument that to amend the hours of service to 12 hours would be a hardship on the affected carriers is, in my opinion, completely unjustified as well as without foundation. Likewise, there are, no doubt, some among the rank and file who would advance the theory that to reduce the hours of service to 12 hours would be tantamount to a wage cut for such individuals, that is, the amount of potential overtime would be reduced accordingly or that a crew member could not double over from one assignment to another. Generally speaking, road crews operate on a basis of eight hours or 100 miles or less equals a day while most yard assignments are on a daily eight hour basis with the standard overtime provisions applicable. However, when one realizes that the labor force on the American railroads has fallen from a reported 1,439,000 in 1945 to 690,585 in 1963, or a loss of 748,415 in said period, it points up to the fact that the present sixteen hour law, as now constituted, has no doubt contributed to a degree to the lowering of job opportunities in the operating field, the pleas of the overtime and/or long hour proponents notwithstanding.

During the transition of the motive power from steam to diesel, the responsibilities and productivity of the train and engine crews rose to unprecedented heights. For instance, in 1940 (1957–59=100) the output per man hour (railroad transportation revenue traffic) rose from 50.3 in 1940 to 119.7 in 1961 or an increase of 69.4 covering the aforementioned transition period. This reflects upon the fact that a steam locomotive which had a two man crew, has been replaced by the diesel-electric locomotive, manned by one engineer and fireman-helper and in many cases, due to the compulsory Arb. Award 282, by one engineer. The diesel locomotive may be comprised of one to ten units that are capable of developing tremendous power. For example, consider a unit, approximately 60 feet in length with a rating of 1750 h.p. By comparing ten of these units together, one locomotive would be formed that would be nearly 600 feet long (exceeding in length the height of the Washington Monument) and one that would have an over-all rating of 17,500 h.p. This statement is in no way intended to imply that ten units, coupled in unison, is standard operating pro-

cedure. However, such a locomotive has been used. I would offer the opinion that it is not uncommon to see six or more units, operated as a single locomotive, moving one train. Such mechanical behemoths, a marvel in railroad technology, can easily move trains of 200 or more cars of upwards and in excess of 10,000 tons. Significantly, it is my understanding that new units are now being manufactured which have a rating of 3600 h.p. each.

To further emphasize the impact of this revolution and the attending ramifications it has had on the employees, both from a standpoint of lost jobs and added responsibility for those remaining, the following information may be of interest. On the Class 1 railroads in 1940 there were 40,041 steam locomotives and 797 diesel units in service. In 1960 it was reported that there were 374 steam locomotives remaining while 30,240 diesel units were listed and owned or leased by said carriers. This adds up to a reduction of some 10,224 such units in the motive power fleet. Further, during the period of 1940–1960, the tons (millions) carried one mile by the American railroads rose from 375,369 (1940) to 575,360 (1960), an increase of nearly 200,000. In the same period freight revenues (million of dollars) increased from 3,584 (1940) to 8,125 (1960), an increase of 4,568. The net income for said carriers, including lessors, rose from (millions of dollars) 243 in 1940 to 473 in 1960 or an increase of 230 for said period.

These few statistics may give a brief insight into the tremendous gains that the Nation's railroads have made during the periods in question. This data should likewise dispel any implications that the carriers would end up in the poor house or that their operations would be unduly affected by the reduction of the hours of service to 12 hours.

Our local supports the 12 hour amendment and I have yet to hear one voice in opposition from among men that I have talked to, men whose seniority extends over some 500 miles of railroad. Further, on July 11, 1962, the delegates to the Grand International Division of the Brotherhood of Locomotive Engineers, in convention assembled, adopted a resolution favoring the 12 hour amendment. Having been a delegate at said convention, I can attest to the fact that there was no opposition to the 12 hour proposal. In addition, Division 399 of the B. of L. E., Seattle, Washington, recently polled some 3,000 officers of the parent union on the issue of reducing the hours of service. The majority of those responding voted in favor of a change.

It is our understanding that the truck driver who is subject to the rules and regulations of the I.C.C. is restricted to ten consecutive hours of driving. Speaking with personal knowledge, there is no question that the handling of a big highway rig is a very tiring, responsible and demanding job. However, the duties of the engine crews, by comparison, are astronomical. For instance, the movement of 100,000 tons of freight between New York and San Francisco by highway is approximately 43,416 man days. To move this same tonnage between said points by rail would require some 3,220 man days.

Therefore, in light of what has been said, I earnestly petition this august committee to recommend to the Congress that the hours of service in question be reduced from the present 16 hours to 12 hours. Sixteen hours or more duty in a 24 hour period is not only unreasonable in this day and age but also highly incompatible with safety in operations.

Respectfully yours,

W. S. McGUIRE,
Local Chairman, Division 92.

ROANOKE, VA., *August 20, 1966.*

Congressman SAMUEL N. FRIEDEL,
Chairman, Subcommittee on Transportation and Aeronautics of Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN FRIEDEL: This letter is in reference to recent testimony of E. L. McCulloch, National Legislative Representative of the Brotherhood of Locomotive Engineers as made before your committee in reference to H.R. 8476 proposed changes in hours of Service Act, or better known on the rails as the 16 hour hog law.

I have read the full text of Mr. McCulloch's testimony as was printed in August 12, 1966 issue of the BLE official paper, the LOCOMOTIVE ENGINEER.

I am a member of the Brotherhood of Locomotive Engineers, an officer in that organization, being Local Chairman of BLE Division 301, at Roanoke, Virginia.

I am employed on the Norfolk & Western Railroad as an engineer. I have 24 years seniority as a Locomotive Fireman and 11 years seniority as a Locomotive Engineer.

I felt a great deal of embarrassment after reading the text of Mr. McCulloch's testimony before your committee. I want you to know that the Brotherhood of Locomotive Engineers is a fine labor organization, with a majority of its members being loyal, patriotic Americans. I respect Mr. McCulloch's right to speak for what he thinks is right, but I do not condone his use of distorted facts and figures as he used before your committee. His testimony is a black mark on the record of the Brotherhood of Locomotive Engineers.

Mr. McCulloch says that he speaks for 35,000 Locomotive Engineers, he is wrong, this figure should be 3,500 or 10% of the membership. In my opinion, 90% of the membership of the Brotherhood of Locomotive Engineers do not agree with P. S. Heath, Grand Chief Engineer of the BLE and his ideas on the proposed H.R. 8476, as Mr. McCulloch presented to your committee.

This proposed change in the Hours of Service Law is a hot issue in the BLE, due to the bullheaded attitude of P. S. Heath, Grand Chief Engineer, he will not listen to any suggestions, as his mind is already made up. NO! not P. S. Heath nor any of the 150 General Chairmen who voted as P. S. Heath wanted them to, has asked the rank and file members of the BLE as to their views on this H.R. 8476.

Mr. McCulloch mentions the mileage limitations as now in effect on most railroads, i.e., 3,200 miles to 3,800 miles. Now remember 100 miles is equivalent to an 8 hour day, and 3,800 miles is the maximum mileage an Engineer is allowed to make in any calendar month in freight service. Mr. McCulloch used the time book of Engineer C. A. Benjamin of the Erie-Lacwana R.R. for the month of October 1953. October 1953 was 13 years ago, a lot of changes have taken place in 13 years in the Railroad Industry. I wonder, and perhaps you have too, why not use Engineer C. A. Benjamin's earnings for October 1965?

Now let us refer to Mr. McCulloch's schedule of earnings of Engineer Benjamin for the month of October 1953. Engineer Benjamin worked 27 days out of 31, at 141 miles per day plus overtime, except on the 1st day of the month he made 143 miles. Now remember 3,800 miles is the maximum mileage Engineer Benjamin is allowed to make under his mileage agreement. Now multiply 27 days times 141 miles, plus the 2 extra miles he made on the 1st day of the month, and you get a total of 3,809 miles before any overtime is figured; he also made a total of 16 hours and 48 minutes overtime at time and one half, for an additional 315 miles, making a grand total of 4,124 miles for the month with wages of $954.32.

Mr. McCulloch is trying to show you how Engineer Benjamin will suffer a loss in wages. If Engineer Benjamin had marked off when he had in his 3,800 miles his wages would have been $872.10 instead of $954.32. Engineer Benjamin could have marked off when he came in on the 29th and his mileage for the month would have been 3,842 miles. Now let us refer to Mr. McCulloch's schedule of Earnings of Engineer Benjamin again in the column marked "Proposed with Fireman"; you will note on the 7th, 19, 20 and 28, Mr. McCulloch did not figure the minimum earnings of $32.36, i.e. $22.95 rate times 141 miles; nor did he take into consideration that on these days mentioned, Engineer Benjamin was on overtime and could have worked 12 hours for a total of $36.34 each day—141 miles is equivalent to 11 hr. 17 min. straight time, thus Engineer Benjamin could have made 43 min. overtime on the days mentioned. Taking the above mentioned adjustments into consideration in the column "proposed with fireman", you will get a grand total wages of $903.21 instead of the $850.40 as Mr. McCulloch presented. In other words Engineer Benjamin under the "proposed with fireman" can still make over 3,800 miles per month, which is the maximum mileage he is allowed to make.

Now taking all of the above figures into consideration, how in the heck, Congressman Friedel can Engineer Benjamin suffer a loss in income if the Hours of Service Act is amended to 12 hours. This is typical of the arguments P. S. Heath and the Grand Office of the BLE is presenting to support their short sighted stand on the H.R. 8476 and similar legislation; they are trying to fool you people in Washington, who they figure will believe all of these distorted facts and figures; on the other hand anyone who knows anything about railroading and Engineers duties and contracts, can tear Mr. Heath's arguments apart and show them up for what they are; they are full of loop holes and will not hold water.

In the railroad industry today, not all Engineers make the same mileage or wages for the month. The Engineers at the top of the seniority list have preference for the best jobs, thus the man at the bottom of the list has to take what is left, and he is in most instances the lowest paid man. But this picure changes, due to retirements etc., no man stays at the bottom always, he moves up the list to better assignments and more pay. Thus 10 to 20% of the Engineers are always on the bottom. The picture would not change a great deal if the Hours of Service Act was amended as per H.R. 8476.

Mr. McCulloch is trying to sell you people on the idea that the proposed H.R. 8476 will cause an Engineer to spend more time away from home. Under the present contracts, an Engineer is paid away-from-home expenses to cover meals and lodging if he is held away-from home relieved in a terminal as much as 4 hours. An engineer is paid overtime after the expiration of 16 hours held in a terminal away-from home terminal. When an engineer is employed on a railroad he knows from the start that he will spent part of his time away from home. I consider this a poor argument against H.R. 8476.

Under the present Hours of Service Law, an Engineer can be worked 16 hours a day, 365 days a year. In most states, the Society for the Prevention of Cruelty to Animals has caused legislation to be passed that limits the work day of a mule to 10 or 12 hours a day. Now Congressman Friedel, why can't you people in Washington pass legislation such as H.R. 8476 that will upgrade the Locomotive Engineer to equal standing with a mule?

Congressman Friedel, I would appreciate very much if you would take what I have tried to say into consideration, and give us a 12 hour limit on hours of service in the Railroad Industry.

Respectfully yours,

WILLIAM R. RUBLE,
Local Chairman, Brotherhood of Locomotive Engineers,
Division 301—Shenandoah Division.

SALIDA, COLO., *April 12, 1966.*

Senator WARREN G. MAGNUSON,
Chairman of Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SIR: As a railroad engineman, I appeal to you at this time to do all you can in support of the proposed changes in the hours of service law for railroad employees, as sponsored by Senator Gale W. McGee.

If this legislation could become law, it would simplify the solution of another pending railroad controversy; that of the extending of runs through present terminals. Certainly no employee should be forced to stay on the job and operate an engine or train up to a maximum of sixteen (16) hours without rest.

It is sure a gloomy future to look forward to, to know that we will be forced to jeopardize our health and personal safety every time we are called for an assignment.

Will you please report this Bill out of Committee favorably so the Senate as a whole can act on it while They are considering other transportation legislation.

Very respectfully,

PAUL E. COBERLY,
D&RGW RR Engineman.

BERWICK, PA., *June 27, 1966.*

DANIEL J. FLOOD,
New House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: As you know the House Subcommittee on Surface Transportation and Aeronautics will begin hearings on the Hours of Service Bill June 24, 1966.

I would like to take this opportunity to give you the views of the Association of Railroads of Pennsylvania concerning the above captioned Bill. We feel that the Bill to amend the Hours of Service Act is a very unfair piece of legislation. The proponents of the Bill state that the Bill will bring about more safety on the operation of railroads. We do not feel that this is the case.

The railroads feel that there is no connection between railroad safety on the one hand the hours worked by the operating employees on the other. The Inter-

state Commerce Commission has stated that it has no evidence that the length of time on duty of railroad employees is necessarily a significant cause of railroad accidents.

In addition we do not feel that the railroad employees work excessive periods of time. According to ICC figures, the average service hours per trip for train crews and passenger service range from a low of 5.9 hours per tip to a high of 7.3 hours per trip. The average service hours per week range from a low of 31.1 hours to a high of 37.1 hours.

In addition the imposition of lower hours of service limits would result in a tremendous disruption in service as it would be impossible to conduct a transportation operation with any degree of certainty insofar as service was concerned. An illustration of this is that you may have a crew in a turn-around service working 6½ hours to a certain point and then waiting for another train to come through to return to the original point. They may lay off 2½ hours during their stay waiting for the other crew which would give them then a total of 15½ hours on duty which would violate the act. If we were to cut down the hours they work or add another crew, this would disrupt service and be quite expensive in maintaining the additional crew.

Section 2(a)(1)–2180 provides that it shall be unlawful for a carrier where an engine crew consists solely of a locomotive engineer, to require or permit an engineer who has been continuously on duty for 9 hours to continue or go on duty until he has had 10 consecutive hours off duty. The railroads object to this provision on the ground that it is not based on an assumption or argument that there is a special hazard or danger in the operation of a locomotive by an engineer who is not accompanied by a fireman and who has worked 9 hours. There is no factual basis for this assumption. The question whether a fireman is essential to safety of operations has been explored by the Presidental Railroad Commission. The railroads believe that the real purpose of the 9 hour limit on continuous working time for engineers is to overcome Public Law 88–108 and the award rendered pursuant to it insofar as it relates to railroad fireman.

In addition the railroads object to this Bill because they feel that working time of employees "hours of work" should be determined by collective bargaining between employers and employees rather than by Federal Legislation. Railroads are ont aware of any effort by the railroad labor organizations to brgain about maximum working hours.

The cost of complying with the pending legislation would be extremely high and it is estimated that it might be in excess of $200,000,000.00 per year and this expenditure would contribute nothing to railroad safety.

There are many other arguments which the railroads have against this Bill but I do not want to burden you with a longer letter than this is but it is enough to say that we are opposed to the Bill generally on the grounds that we do not feel that it will contribute to railroad safety. We feel that hours of service as stated above is a matter for bargaining between the railroads and labor and that this is not presently an issue between them and we feel that is not the type of legislation which the Federal Government should pass inasmuch as it stifles collective bargaining. I certainly would appreciate your giving your views on this legislation and would be very happy to answer any questions concerning our position which you may have.

Sincerely yours,

FRANKLIN E. KEPNER,
Special Counsel, Associated Railroads of Pennsylvania.

BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN,
VIRGINIA STATE LEGISLATIVE BOARD,
Richmond, Va., January 12, 1966.

Hon. ARNOLD OLSEN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: This is in reference to the bill introduced by you to amend the Hours of Service Act.

With the enormous increase in railroad accidents in the past year, the members of the Brotherhood of Locomotive Firemen and Enginemen realize more than ever the greater need for safety.

Therefore, we join with you in your effort towards the passage of this bill which will provide better protection for all people.

With best wishes, I am,

Sincerely yours,

R. L. CARLTON, *Chairman.*

MISSOULA, MONT., *August 6, 1965.*

Hon. ARNOLD OLSEN,
Congressman from 1st District Montana,
New House Building, Washington, D.C.

Hon. ARNOLD OLSEN: Many of us here have heard of your bill to reduce the hours of service law from 16 to 12 hours.

In my opinion this is one of the best things that could happent to Railroaders.

The companies not only can, but do, work us 16 hours a day for days on end, with no chance of being able to lay off or get proper rest periods in between trips.

A person working under these conditions is more like a machine than a human being. I have experienced this here on the Rocky Mountain Division where for days on end I wouldn't even get a chance to see my children.

With the size of trains we are handling today and the lack of another experienced engineman in the cab this is a very dangerous situation. The public nor your fellow employees are not being propery protected when they are depending on a man who is drowzy and tired from overwork and the lack of proper sleep and rest.

I also believe that Congressman Torbert H. Macdonald of Massachusetts has introduced a very good bill, H.R. 8476. I would like to see these bills enacted to laws.

Sincerely yours,

EDMUND L. SIMMONS.

MISSOULA, MONT., *August 11, 1965.*

Hon. ARNOLD OLSEN,
Congressman from 1st District Montana,
Washington, D.C.

DEAR SIR: We, the members of Div. 243, O.R.C. & B. wish to express our hope that you are successful in your attempt to lower the hours of service from 16 to 12 hours.

Because of the long trains, high speed and lack of inspection over long stretches of track we believe it is imperative the hours of service be reduced, in spite of what the "Brave Engineers" think.

We believe the speed of trains should be increased, but more and better inspections be required and the track upon which we run be maintained in better condition.

We the members of the "Conductors" are therefore very much in favor of your stand and hope you are successful in this fight.

Yours truly,

J. C. MCDONALD,
Local Chairman, O.R.C. & B. Div. 243.

MISSOULA, MONT., *August 15, 1965.*

Hon. ARNOLD OLSEN,
Representative, U.S. Congress,
Washington, D.C.

HONORABLE SIR: I am a locomotive engineer on the Northern Pacific Ry. I work regularly in freight service between Missoula and Helena, Montana. I might add that I work without the assistance of a fireman since freight service was first to lose the firemen on this railroad after the effective date of Award 282.

I am writing you in support of H.R. 8476 introduced by you proposing a revision of the Hours of Service Law to a maximum of 12 hours instead of 16 hours. The time has long since passed for any need to require railroad operating personnel to work more than 12 hours continuous service. The carrier has perverted

the intent of the original law into an instrument to reduce the employee rolls by requiring men to double back from the away-from-home terminals without having had rest, relaxation or sleep.

With the speed and length of today's freight trains I find it exhausting to the point of personal inefficiency to be required to work 7 to 10 hours and then be required to again go on duty within 3 to 5 hours after tie-up for another 6 to 9 hours as is being done on this railroad. One can get no rest or sleep in such a case.

With all other industry looking forward to a 6 hour day in our time it is little enough to limit railroad personnel to a 12 hour day. I wholeheartedly support you in this endeavor and urge you to do your utmost to get H.R. 8476 passed this session of the Congress.

Sincerely,

C. L. BIRDSILL,
Locomotive Engineer, N.P. Ry.

HELENA, MONT., *November 27, 1965.*

Hon. ARNOLD H. OLSEN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN OLSEN: I have been informed that your office has been contacted by the National Legislative Representative of the Brotherhood of Locomotive Engineers and that he has grossly misrepresented the facts behind Montana railroaders' support of your H.R. 8477 which would reduce the Hours of Service Law from the present 16 hours to a maximum of 12 hours.

As B.L.E. National Legislative Representative, John W. Turner, is attempting to deceive you by stating that the change in the Hours of Service Law was cooked up in Montana by the B.L.F. & E. and Webb Sullivan for the purpose of making jobs for employees displaced by Award 282, I feel, that for your information, I must once again relate the facts leading up to Montana railroaders' support of this legislation.

On June 9, 1964 the Joint Legislative Board, Railway Brotherhoods of Montana convened in Helena. This Board is comprised of delegates representing the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors and Brakemen, the Brotherhood of Railroad Trainmen, the Brotherhood of Railway Clerks and the Brotherhood of Maintenance of Way Employees. Some 70 delegates representing these six crafts were present. Employees from Montana's four railroads (N.P., G.N., Milwaukee and B.A. & P.) were among the delegates. A resolution to advance legislation to reduce the hours a railroad operating employee may be required to work was introduced at this meeting, *not by the B.L.F. & E., not by Webb Sullivan*, but by *the Order of Railway Conductors and Brakemen*. This resolution was passed *unanimously* by the delegates representing the six railway labor unions.

Although Webb Sullivan has long been an exponent (as have I) of a reduction in the Hours of Service Law, and although Webb Sullivan helped (as did I) Park County Representative Warren W. Harper, Sr. draw up the Resolution (that was to become known as H.J.R. 3) to be introduced in the 1965 Montana State Legislative Assembly, he was no more responsible for this legislation than were hundreds of other Montana railroad union members representing the six separate crafts.

You, of course, are familiar that H.J.R. 3, which requested Congress to reduce the Hours of Service Law from the present 16 hours to 12 hours, passed the Montana House of Representatives by a vote of 77 to 12; passed the Montana State Senate by a vote of 32 to 23 and was signed by Governor Tim Babcock.

As former Chairman and Legislative Representative of the Brotherhood of Locomotive Engineers Montana State Legislative Board and, as former Chairman of the Joint Legislative Board, Railway Brotherhoods of Montana, I actively supported, and lobbied for, the passage of H.J.R. 3 in the 1965 Montana State Legislative Assembly. This was per instructions of the men I represented. Despite objections by the national officers of the Brotherhood of Locomotive Engineers, members of that organization in Montana have gone on record in support of this much needed legislation.

I am sure that when representatives of the Brotherhood of Locomotive Engineers approach you with distortions of the facts and request that you support

their horse-and-buggy philosophies, you will consider the afore-mentioned evidence in this matter and act accordingly.

Again, my thanks for introducing H.R. 8477.

With best personal regards, I am,

Sincerely yours,

ROBERT C. THEURER.

HOUSE OF REPRESENTATIVES
OF THE STATE OF MONTANA,
Helena, June 29, 1965.

Hon. ARNOLD OLSEN,
Congressman from Montana,
New House Office Building,
Washington, D.C.

DEAR CONGRESSMAN OLSEN: Sincere thanks for the introduction of HR 8477 in behalf of railroad workers throughout the United States.

I note with interest the comments made by Perry S. Heath, Grand Engineer of the Brotherhood of Locomotive Engineers, on your bill and the one by Rep. Torbert MacDonald of Massachusetts. Mr. Perry would be surprised at the great number of men who can not believe he would write or make such statements. They are very happy that we have men such as you to protect us.

If it would be helpful to send you a short report on why HR 8477 and HR 8476 are needed, being a railroad man, I can give you some good points if you desire.

Keep up the good work.

Yours very truly,

WARREN W. HARPER, Sr.

JOLIET, ILL., *June 9, 1965.*

Hon. ARNOLD OLSEN,
House of Representatives,
Washington, D.C.

DEAR MR. OLSEN: Have read your proposal to limit the hours of work of railroad employees, especially the operating department, which is incorporated in your bill No. HR 8477. After railroading forty years I think it is high time the hours of the workers be modernized. Inasmuch as they have stream lined and made high speed trains, longer trains, and less men to operate them. it is very commendable that men of your courage would propose these changes to give relief to the employees.

I understand this bill will be opposed not only by the railroads but by the Brotherhood of Locomotive Engineers. I am a member of this organization but I cannot go along with their thinking. I am in Yard service, and the particular job that I am on is a full eight hour job, if a man works 16 hours there are no rest breaks or coffee breaks—twenty minutes lunch in each eight hour period is it, and as we men who have been around 30 or 40 years are not getting any younger I am sure this particular legislation will be more than beneficial to us, especially since the management of railroads have been able to do away with the Firemen or Helpers, who as an apprentice Engineer and even promoted Engineers in many cases were able to give us a break in many instances.

Thanking you again for your interest in our welfare, I remain,

Respectfully yours,

HAROLD WATSON.

LAUREL, MONT., *August 7, 1965.*

Hon. ARNOLD OLSEN,
Congressman from 1st District Montana,
New House Building, Washington, D.C.

DEAR SIR: This letter is to inform you that I am very much in support of your bill to shorten the hours of service laws from 16 to 12 hours.

I am presently employed as a railroad Locomotive Engineer for the Northern Pacific Railway Company at Laurel, Montana. Due to the fact that many of us are now working alone in an engine most of the time and for the sake of safety, it would be a very good idea to reduce the service laws to 12 hours. Often times after working over 9 or 10 hours alone, I have a tendency to become tired and could possibly miss a signal given by one of the Switchmen and an accident could occur.

I will appreciate anything you can do to get this bill passed through the Congress.

Sincerely yours,

M. J. PARENTEAU.

LIVINGSTON, MONT., *August 13, 1965.*

HON. ARNOLD OLSEN,
Congressman from 1st District Montana,
New House Building, Washington, D.C.

DEAR ARNOLD: I write this letter as an appeal for the reduction in the hours of service laws that have been imposed for many years by railway companys and federal law against employees of the operating departments of such railways.

It seems to me, in this modern age of automation, that the human element has been completely forgotten.

In many ways, an employee in the operation of a trains movement over a portion of railway has become easier, yet, the demand for his personal attention, and alertness has increased many fold.

The day of the forty to fifty car train, moving at speeds of twenty to thirty miles per hour is over. Now we are faced with speeds from fifty-five to seventy miles per hour, and trains of such length that even the sharpest eyes available cannot possibly see the required distance to fully protect himself and his company's property from the disaster that could, and has occured from burnt off journals, or de-railment caused from equipment failure.

The companys, with full approval of our Government have seen fit to remove one pair of eyes from our crew consist, which, adds to the jeopardy of our safety. This, without doubt, has added to the burden of constant alertness required of each employee in the safe movement of his train.

I, therefore, believe that the hours of service law should be reduced to 12 hours from the present 16 hour law now in effect.

Sincerely,

DEAN R. SMITH.

GREAT FALLS, MONT., *January 25, 1966.*

HON. ARNOLD OLSEN.

SIR: This is to advise you that I request your support of S 2180 by McGee of Wyoming and HR 8477 by Olsen of Montana. These refer to the hours of service railroad men are required to work. I want you to know as an engineer and fireman that trying to stay alert and alive in excess of twelve hours is very difficult especially going up and down mountains between Clancy and Butte, Montana during the night alone, without a fireman to relieve you. This mountain country is not the only place it is hard. The two hundred twenty four mile district we operate over between Great Falls and Lauree isn't any joyous "hands in the Company's pocket" journey either. Any time an engineer is required to be alert and snappy for nine hours alone or twelve hours with a fireman, it is enough.

As far as "cutting one's pay" is concerned, I would rather work a day or two more a month than be buried before my time because I had to work longer than I was physically able on a given day. We work on a "mileage" basis anyway.

I speak as one who knows, as this is my livelihood. Please support these measures and give me my fireman back too.

Thank you,

PATRICK G. GALVIN,
Engineman GNRy.

SWITCHMEN'S UNION OF NORTH AMERICA, A.F.L.–C.I.O.,
Los Angeles, Calif., November 23, 1965.

HON. ARNOLD OLSEN,
House Office Building,
Washington, D.C.

DEAR SIR: Please find enclosed the latest edition of our local News Sheet.

I would like to call your attention to the article "Anatomy of an Accident". This incident took place here in Los Anegeles on October 19, 1965. The road local in question, the "Marne local", went on duty at approximately 8:30 am, while the incident took place at roughly 7:30 pm.

I add this because the entire sequence of events points up the need for H.R. 8466.

(I should like to point out that an accident was averted through the diligence of the herder by a mere 3 inches!)

Yours truly,

R. J. DURAND,
Committeeman, Committee to Survey Railroad Safety.

[The Snake Fang, Nov. 22, 1965; a publication of SUNA Local 164]

ANATOMY OF AN ACCIDENT—A CONDITION AND ITS ANALYSIS

Our story begins at the Links yard office where the yardmaster instructs the herder to line a road local with 70 cars up the Cornfield lead. Now, the herder is *not accustomed* to a road local coming up the Cornfield lead, since it is customary for only yard crews to use this lead, yet he does his duty and lines all the switches in the Links area as per *custom*.

After high balling the local, which is now proceeding slowly up the lead, the herder is informed by the YM that he must herd the local *all the way* up the Cornfield lead, which is well beyond the domain of the herder's customary duties; nevertheless, the herder dutifully re-boards the still moving local . . . But, by now the road local has entered a wrong switch beyond the customary domain and stops.

The yardmaster then contacts Mission Tower by speaker and prepares for a reverse movement. He contacts the train crew by radio and alerts them to a reverse movement in a message which is misconstrued, because without a signal from the herder, the local begins to back up. Our story ends with the horrified herder frantically waving washouts while the local backs up over a spring derail he is attempting to align for reverse movement. . .

In an analysis of this case, we are looking for the *ultimate* or *mediate* cause of the condition in addition to immediate rules considerations. Mediate considerations take us into a realm the ICC refers to as "human failing." Needless to say, there is nothing mystical or mysterious about this realm, especially in view of the laws of Psychology as we shall now see:

THE IMMEDIATE CAUSE OF THE CONDITION

Point 1. It is fairly well established that there is a bit of Pavlov's dogs in even the best of us. We are "conditioned" to think or act in a specific way regarding any matter and we don't change customary reaction unless we are forced to or told to—and for good reason.

We can see how this applies in this case. The YM reacted in the usual way to an unusual circumstance, and issued ordinary orders to cover an extra-ordinary condition. The herder, upon hearing ordinary instructions, reacted by performing his duties as per custom, and even though he was bothered by a noticeable difference in circumstances, the full impact of a changed condition was not projected on his mind by clear, precise instructions noting impending changes. Psychologically speaking, the herder was not properly motivated by the YM.

Point (1A). This point involves the relation of psychology and reality. Bear in mind that the railroads are attempting to recoup their lost position in the transportation industry. They are attempting this through the expediency of *change*.

In the operation of the railroads, there are and will be many experiments involving changes in order to develop the "best way." It is herein that the future dangers lie, and in order to meet these changes *safely*, those affected must be properly and completely forewarned. Up to now, there has been no effort on the part of Local management for this.

The crux of point 1A rests in the complaint of the private in the line company; "I'm the first to find out we're under attack, and the last to find out that they are coming."

THE IMMEDIATE CAUSE OF THE CONDITION

Point (1). Rule 535, Special Instructions, says in part: "When spring derails are in closed position they must not be left unattended."

Rule 535, Op. Dept., says in part: ". . . After trailing through a spring switch a reverse movement must not be made until it is known that points have been moved to proper position."

Rule 874 says in part: "enginemen must be alert in all matters pertaining to safety and while running must keep a vigilant lookout carefully noting all signals, . . ."

It is clear that the engineer did not see the herder's stop signal *while his attention was directed to the use of the radio.*

Point (2). A perusal of ICC accident investigations shows that the operation of trains by radio is becoming a contributing cause of accidents with *increasing frequency.* Information passed by radio is subject to being misconstrued.

Point (3). Switches on the cornfield lead are without switch lights. This hazard is in itself a possible cause for an accident involving those (road jobs) who are not familiar with this condition.

This analysis should be studied by all, and the points should be considered for application to other areas of railroad safety.

SWITCHMEN'S UNION OF NORTH AMERICA, A.F.L.–C.I.O.,
Los Angeles, Calif., November 11, 1965.

HON. ARNOLD OLSEN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN OLSEN: Enclosed is the Snake Fang published by Switchmen's Union Local 164.

I believe the letter on the front page and the editorial will be of interest to you.

Our interest in having Congressman Brown ride in control cab of Local Freight Train was so that on his return to Washington he would be in a position to make a factual report should Public Law 88–108 come up for a vote.

Yours truly,

CHARLES W. ZIES,
Local Chairman.

[The Snake Fang, Nov. 8, 1965; a publication of SUNA Local 164]

S.P. PRES. BIAGGINI SAYS NO! NO! TO CONGRESSMAN BROWN

PUBLIC UTILITIES COMMISSION,
San Francisco, Calif., October 27, 1965.

MR. LYN FRUIT,
Monterey Park,
Los Angeles, Calif.

DEAR LYN: Today by telephone I made request of Mr. Ben Biaggini, President of the Southern Pacific Company, to permit Congressman George E. Brown to ride in the control cab of a local freight train in the Los Angeles area.

Mr. Biaggini explained to me that the company policy against permitting non-employees to ride in such operating equipment is a firm one and that no exception is ever made for any person. I tried to impress upon him the keen desire of the Congressman to make such a trip but Mr. Biaggini stated that the company has never relented in its policy. He did offer to permit the Congressman to ride in a high rail car and even to drive the Congressman to the local freight yard to observe the activity. Riding in the train, however, was absolutely forbidden.

Best regards.

Sincerely,

WILLIAM M. BENNETT, *Commissioner.*

COMMENTARY ON BIAGGINI'S REFUSAL

Inasmuch as the fireman issue and the problems arising therefrom are receiving the attention of the Congress, some Congressmen have taken the trouble to attempt to investigate the situation first hand. In this regard, Congressman George E. Brown, Jr. (D–29, Calif.) made a request of BLFE Local Chairman Lynn Fruit to obtain permission from S. P. management to ride the engine cab of a Local freight train. The request eventually came to rest with California Pub'ic Utilities Commissioner William M. Bennett whose letter speaks for itself.

In view of the refusal of Mr. Biaggini, the question immediately arises, has railroading (without a fireman) become so hazardous that Mr. Brown would

in fact, be in danger riding in the cab of an engine? Or, is Mr. Biaggini concerned that Mr. Brown would find out that working without a fireman or with a reduced crew *is* a factor in the rise in accidents as the rail operating employees contend?

No matter what the answers to these questions, we feel that the quality of a solution to a problem depends on the degree of freedom of the investigation and that Mr. Biaggini's offer of a "guided tour" for Congressman Brown would result in little or no solution, let alone give a valid insight to the problem.

Of course, we must note that it is against S. P. policy to allow non-employees to ride the cab of an engine. On this matter, we recommend that the Congress pass a law to allow members of Congress to do so where it would be in the interest of National Transportation Policy.

We as switchmen have good cause for concern over the fireman issue. Remember that (1) switchmen along with other operating employees *and the public* must bear the brunt of the deaths, injuries, and property damage resulting from this condition, (2) it is the switchman who must stand accused of responsibility on an accident where the cause is obviously the lack of a fireman or other crew member; a condition created by the carriers.

It is most regrettable that a member of the Congress of the United States will not be able to judge this condition for himself, especially since he and his colleagues may be asked to vote on an extention of Public Law 88–108 in the next session.

[Editorial]

TOO LITTLE, TOO LATE

On Nov. 30, 1964, an accident occurred on the Great Northern which will be of interest to all who work without a Fireman, and which rates comment.

This accident occurred when a GN transfer train collided with the rear end of a standing freight train in yard limits. The transfer train engineer was killed and 3 others injured. The report, No. 4033, says; "The front brakeman stated that he maintained a lookout ahead as the train approached the curve immediately east of the accident point and first saw the rear end of XCNW 839 west at about 900 feet. He stated that he called a warning to the engineer and then heard a short exhaust of air from the automatic brake valve immediately afterward, indicating to him that the engineer had applied the brakes." (The rear end crew members said they felt no indication of air application.) "Shortly thereafter, according to his statements, the front brakeman realized that the train had insufficient distance to stop short of the preceding train and warned the engineer to apply the brakes in emergency." The collision occurred shortly thereafter. The Cause of the accident was assessed to be the failure of the Engineer *and the Front Brakeman* to apply the brakes. (Note how the brakeman complied with rules 7b 2nd sentence, 34, and 874, all that is *generally* expected of a brakeman or switchman in the cab.)

ICC investigations usually leave no stone unturned in their objectivity, yet in this type of accident, one point should be kept in mind—the human or psychological aspect. It is this aspect which the railroads in their haste to eliminate a craft have overlooked.

Bear in mind that from youth we are taught to respect authority; we're punished if we don't—all the way from the cradle to the grave. It is generally accepted that the engineer is *the* authority in the cab of an engine, and his judgment is tantamount to law. Now it's highly unlikely that a head brakeman, who is generally young in seniority as well as years and experience, is going to superimpose his judgment over a senior's—even though it might have been the best thing to do in the illustrated case.

Furthermore, a relatively inexperienced brakeman is generally not going to have the experience or the judgment in running a train that, say, a Fireman might have. After all, the fireman is much closer to the manner in which an engineer works, and a change in the engineer's behavior is going to be much more meaningful to a fireman.

Then too, if the head brakeman is going to start "big holeing" trains every time *he* thinks conditions warrant, (especially over the head of the engineer) someone is going to get hurt or into trouble.

It boils down to this: an experienced brakeman or switchman will never take a fireman's place, just like a machinist will never take a policeman's place, without proper training.

[Telegram]

LAKE GENEVA, WIS., *August 20, 1966.*

Hon. SAMUEL N. FRIEDEL,
House Office Building,
Washington, D.C.:

Defeat H.R. 8476 and S. 2180. This is an attempt of BLF & E members to bolster their rights.

ERVING F. KENNEDY,
Chairman, Wisconsin State Legislative Board, Brotherhood of Locomotive Engineers, Delavan, Wis.

[Telegram]

GRAND FORKS, N. DAK., *August 19, 1966.*

Hon. SAMUEL N. FRIEDEL,
Washington, D.C.:

Vote against H.R. 8476 unless it includes six hour basic day. Too much pay cut.

GEORGE A. GOODRIE,
State Chairman, BFL & E, North Dakota State Legislative Board.

(Whereupon, at 11:30 a.m., the subcommittee adjourned.)

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